

**CITY OF OVIEDO AGREEMENT FOR THE PURCHASE AND
DELIVERY OF FLUORIDE WITH
HARCROS CHEMICALS, INC.**

THIS AGREEMENT made and entered into the 1st day of October, 2019 by and between the City of Oviedo, Florida, whose address is 400 Alexandria Boulevard, Oviedo, Florida 32765, a municipal corporation of the State of Florida, holding tax exempt status, hereinafter referred to as the "CITY" and HARCROS CHEMICALS, INC., a foreign for-profit corporation whose principal address is 5200 Speaker Road, Kansas City, Kansas 66106, and local address is 5132 Trenton Street, Tampa, Florida 33619, hereinafter referred to as the "CONTRACTOR". The CITY and the CONTRACTOR are collectively referred to herein as the Parties.

WITNESSETH:

WHEREAS, the CITY desires to retain the CONTRACTOR for the work identified in the bid and/or proposal specifications outlined in the Invitation to Bid (ITB) # 19-36; and

WHEREAS, the CITY desires to retain the CONTRACTOR to provide FLUORIDE, as subsequently specifically set out in Purchase/Work Orders to be issued under this Agreement; and

WHEREAS, the CITY desires to employ the CONTRACTOR for the performance necessary to support the activities, programs and projects of the CITY upon the terms and conditions hereinafter set forth, and the CONTRACTOR is desirous of performing and providing such goods/services upon said terms and conditions; and

WHEREAS, the CONTRACTOR hereby warrants and represents to the CITY that it is competent and otherwise able to provide high quality goods and/or services to the CITY; and

WHEREAS, all CITY promulgated bid documents pertaining to the purchase and delivery of FLUORIDE and all submissions submitted by the CONTRACTOR in the proposals/bid submitted to the CITY are hereby incorporated herein to the extent not inconsistent with the terms and conditions as set forth herein.

WHEREAS, the CITY desires to retain the CONTRACTOR to provide all labor, materials, equipment, facilities and services in accordance with, but not limited to, the guidelines in the Scope of Work; and

WHEREAS, this Agreement is not subject to the provisions of the *Consultants Competitive Negotiations Act*; and

WHEREAS, the CITY desires to use the expertise and knowledge of the CONTRACTOR; and

WHEREAS, the CONTRACTOR recognizes the importance to the public of strict adherence to all laws, rules and regulations with particular regard to safety procedure and process; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by and between the parties hereto as follows:

SECTION 1: GENERAL PROVISIONS.

(a) The term "CONTRACTOR" as used in this Agreement is hereby defined herein as that person or entity, including employees, servants, partners, principals, agents and assignees providing services under this Agreement.

(b) The CONTRACTOR acknowledges that the CITY may retain other goods and/or service providers to provide the same goods and/or services for CITY projects. The CONTRACTOR acknowledges that the CITY, at the CITY's option, may request proposals from the CONTRACTOR and the other goods and/or service providers for CITY projects. The CITY reserves the right to select which provider shall provide goods and/or services for the CITY's projects.

(c) The CONTRACTOR agrees to provide and ensure coordination between goods/services providers.

(d) This Agreement is for the purchase and delivery of FLUORIDE, as set forth herein and as otherwise directed by the CITY to include all labor and materials that may be required.

(e) The recitals herein are true and correct and form and constitute a material part of this Agreement upon which the parties have relied.

(f) Each party hereto represents to the other that it has undertaken all necessary actions to execute this Agreement, and that it has the legal authority to enter into this Agreement and to undertake all obligations imposed on it. The person(s) executing this Agreement for the CONTRACTOR certify that he/she/they is/are authorized to bind the CONTRACTOR fully to the terms of this Agreement.

(g) Time is of the essence of the lawful performance of the duties and obligations contained in this Agreement to include, but not be limited to, each Purchase/Work Order. The parties covenant and agree that they shall diligently and expeditiously pursue their respective obligations set forth in this Agreement and each Purchase/Work Order.

(h) When the term "law" is used herein, said phrase shall include statutes, codes, rule and regulations of whatsoever type or nature enacted or adopted by a governmental entity of competent jurisdiction.

(i) Packages must be plainly marked with the shipper's name and the Purchase Order Number; charges are not allowed for boxing or crating unless previously agreed upon in writing.

(j) All materials must be shipped by the CONTRACTOR to the CITY. The CITY will not pay shipping, freight or express charges. The CONTRACTOR shall prepay shipping charges. Delivery must actually be affected within the time stated on the respective Purchase Order. The CITY reserves the right to cancel Purchase Orders and purchase elsewhere if delivery is not timely as stated on the Purchase Order. Deliveries shall be made between 8:00 A.M. and 5:00 P.M., Monday through Friday, unless otherwise stated. In case of default by the CONTRACTOR, the CITY may procure the articles or services covered by a Purchase Order from other sources and hold the CONTRACTOR responsible for any excess expense occasionally incurred thereby.

(k) The CONTRACTOR shall furnish the CITY with a current Material Safety Data Sheet (MSDS) on or before delivery or use of each and every hazardous chemical or substance purchased. Appropriate labels and MSDS's shall be provided for all shipments and relative to the usage of such materials.

(l) The CONTRACTOR hereby guarantees the CITY that all work and all material, supplies, services and equipment as listed on a Purchase Order meet the requirements, specifications and standards as provided for under the *Federal Occupations Safety and Health Act of 1970*, from time to time amended and in force on the date hereof.

(m) It is agreed that nothing herein contained is intended or should be construed as in any manner creating or establishing a relationship of co-partners between the parties, or as constituting the CONTRACTOR (including, but not limited to, its officers, employees, and agents) the agent, representative, or employee of the CITY for any purpose, or in any manner, whatsoever. The CONTRACTOR is to be and shall remain forever an independent contractor with respect to all services performed under this Agreement.

(n) Persons employed by the CONTRACTOR in the provision and performance of the goods and/or services and functions pursuant to this Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service or other employee rights or privileges granted to the CITY's officers and employees either by operation of law or by the CITY.

(o) No claim for goods and/or services furnished by the CONTRACTOR not specifically provided for herein or in a Purchase/Work Order shall be honored by the CITY.

SECTION 2: SCOPE OF SERVICES.

(a) The CONTRACTOR shall safely, diligently and in a professional and timely manner perform, with its own equipment and assets, and provide goods and/or services included in each subsequently entered Purchase/Work Order. Unless modified in writing by the parties hereto, the duties of the CONTRACTOR shall not be construed to exceed the provision of the goods and/or services pertaining to this Agreement.

(b) The CONTRACTOR shall provide the goods and/or services as generally set forth and described in Exhibit "A" to this Agreement and specifically detailed in various Purchase/Work Orders as may be issued from time-to-time by the CITY.

SECTION 3: PURCHASE/WORK ORDERS.

(a) The provision of goods and/or services to be performed under the provisions of this Agreement shall be commenced as set forth in the CITY's bid/procurement documents upon the execution of this Agreement and a Purchase/Work Order issued on a form provided by the CITY hereunder commencing the provision of goods and services. Additional services to be performed or goods to be provided by the CONTRACTOR to the CITY shall be authorized in written Purchase/Work Orders issued by the CITY on a form provided by the CITY. Purchase/Work Orders executed by the CITY shall include a detailed description of quantities, services and a completion schedule. The CONTRACTOR shall review Purchase/Work Orders and notify the CITY in writing of asserted inadequacies for the City's correction, if warranted. In every case, if work is completed by the CONTRACTOR without authorization by a purchase/work order or a change order, the CITY is not obligated to compensate the CONTRACTOR for the unauthorized work.

(b) If the services required to be performed by a Work Order are clearly defined, the Work Order shall be issued on a "Fixed Fee" basis. The CONTRACTOR shall perform all services required by the Work Order but, in no event, shall the CONTRACTOR be paid more than the negotiated Fixed Fee amount stated therein.

(c) If the services are not clearly defined, the Work Order may be issued on a "Time Basis Method" and contain a Not-to-Exceed amount. If a Not-to-Exceed amount

is provided, the CONTRACTOR shall perform all work required by the Work Order; but in no event, shall the CONTRACTOR be paid more than the Not-to-Exceed amount specified in the applicable Work Order.

(d) If the services are not clearly defined, the Work Order may be issued on a "Time Basis Method" and contain a Limitation of Funds amount. The CONTRACTOR is not authorized to exceed that amount without the prior written approval of the CITY. Said approval, if given by the CITY, shall indicate a new Limitation of Funds amount. The CONTRACTOR shall advise the CITY whenever the CONTRACTOR has incurred expenses on any Work Order that equals or exceeds eighty percent (80%) of the Limitation of Funds amount.

(e) For Work Orders issued on a "Fixed Fee Basis", the CONTRACTOR may invoice the amount due based on the percentage of total Work Order services actually performed and completed; but, in no event, shall the invoice amount exceed a percentage of the Fixed Fee amount equal to a percentage of the total services actually completed.

(f) For Work Orders issued on a "Time Basis Method" with a Not-to-Exceed amount, the CONTRACTOR may invoice the amount due for actual work hours performed but, in no event, shall the invoice amount exceed a percentage of the Not-to-Exceed amount equal to a percentage of the total services actually completed.

(g) Each Work Order issued on a "Fixed Fee Basis" or "Time Basis Method" with a Not-to-Exceed amount shall be treated separately for retainage purposes which shall be prescribed on the face of the Work Order. If the CITY determines that work is substantially complete and the amount retained is considered to be in excess, the CITY may, at its sole and absolute discretion, release the retainage or any portion thereof.

(h) For Work Orders issued on a "Time Basis Method" with a Limitation of Funds amount, the CONTRACTOR may invoice the amount due for services actually performed and completed. The CITY shall pay the CONTRACTOR one hundred percent (100%) of the approved amount on Work Orders issued on a "Time Basis Method" with a Limitation of Funds amount.

(i) Payments shall be made by the CITY to the CONTRACTOR when requested as work progresses for services furnished, but not more than once monthly. Each Work Order shall be invoiced separately. The CONTRACTOR shall render to the CITY, at the close of each calendar month, an itemized invoice properly dated, describing any services rendered, the cost of the services, the name and address of the CONTRACTOR, Work Order Number, Contract Number and all other information required by this Agreement.

SECTION 4: CONTRACTOR UNDERSTANDING OF GOODS/SERVICES REQUIRED.

Execution of this Agreement by the CONTRACTOR is a representation that the CONTRACTOR is familiar with the goods and/or services to be provided and/or performed and with local conditions. The CONTRACTOR shall make no claim for additional time or money based upon its failure to comply with this Agreement. The CONTRACTOR has informed the CITY, and hereby represents to the CITY, that it has extensive experience in performing and providing the services and/or goods described in this Agreement and to be identified in the Purchase/Work Orders, and that it is well acquainted with the work conditions and the components that are properly and customarily included within such projects and the requirements of laws, ordinance, rules, regulations or orders of any public authority or licensing entity having jurisdiction over the CITY's Projects. Execution of a Purchase/Work Order shall be an affirmative and irrefutable representation by the CONTRACTOR to the CITY that the CONTRACTOR is fully familiar with any and all requisite work conditions of the provisions of the goods and/or services.

SECTION 5: CHANGE ORDERS.

(a) The CITY may revise the scope of services or order for goods set forth in any particular Purchase/Work Order.

(b) Revisions to any Purchase/Work Order shall be authorized in writing by the CITY as a Change Order. Each Change Order shall include a schedule of completion for the goods and/or services authorized. Change Orders shall identify this Agreement and the appropriate Purchase/Work Order number. Change Orders may contain additional instructions or provisions specific upon certain aspects of this Agreement pertinent to the goods and/or services to be provided. Such supplemental instructions or provisions shall not be construed as a modification of this Agreement. An Agreement between the parties on and execution of any Change Order shall constitute a final settlement and a full accord and satisfaction of all matters relating to the change and to the impact of the change on unchanged goods and/or work, including all direct and indirect costs of whatever nature, and all adjustments to the CONTRACTOR's schedule.

SECTION 6: CONTRACTOR RESPONSIBILITIES.

(a) The CONTRACTOR shall be responsible for the professional quality, accepted standards, technical accuracy, neatness of appearance of employees, employee conduct, safety, and the coordination of all goods and/or services furnished by the CONTRACTOR under this Agreement as well as the conduct of its staff, personnel, employees and agents. For purposes of the Patient Protection and Affordable Care Act of 2010, including, but not limited to, Code Section 4980H (the "Employer Mandate"), CONTRACTOR hereby agrees that it is the common law employer of any Personnel provided by CONTRACTOR to the CITY. CONTRACTOR agrees to provide "affordable," "minimum value" health coverage to any and all Personnel determined to be "full-time employees" (as those terms are defined under the

Employer Mandate). In no event shall the CITY be considered the common law employer or a joint employer of Personnel for purposes of the Employer Mandate. The CONTRACTOR shall provide to the CITY a list of employee working days, times and assignments within two (2) hours of the CITY's request for such information and the CITY may request and the CONTRACTOR shall provide employee addresses and drivers' licenses. All CONTRACTOR employees shall at all times when performing work wear identification badges which, at a minimum, provides the name of the employee and the CONTRACTOR. The CONTRACTOR shall work closely with the CITY on all aspects of the provision of the goods and/or services. With respect to services, the CONTRACTOR shall be responsible for the professional quality, technical accuracy, competence, methodology, accuracy and the coordination of all of the following which are listed for illustration purposes only and not as a limitation: documents, analysis, reports, data, plans, plats, maps, surveys, specifications, and any and all other services of whatever type or nature furnished by the CONTRACTOR under this Agreement. The CONTRACTOR shall, without additional compensation, correct or revise any errors or deficiencies in his/her/its plans, analysis, data, reports, designs, drawings, specifications, and any and all other services of whatever type or nature. The CONTRACTOR's submissions in response to the subject bid or procurement processes are incorporated herein by this reference thereto.

(b) Neither the CITY's review, approval or acceptance of, nor payment for, any of the goods and/or services required shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement and the CONTRACTOR shall be and remain liable to the CITY in accordance with applicable law for all damages to the CITY caused by the CONTRACTOR's negligent or improper performance or failure to perform any of the goods and/or services furnished under this Agreement.

(c) The rights and remedies of the CITY, provided for under this Agreement, are in addition to any other rights and remedies provided by law.

(d) Time is of the essence in the performance of all goods and/or services provided by the CONTRACTOR under the terms of this Agreement and each and every Purchase/Work Order.

SECTION 7: CITY RIGHTS AND RESPONSIBILITIES.

(a) The CITY shall reasonably cooperate with the CONTRACTOR in a timely fashion at no cost to the CONTRACTOR as set forth in this Section.

(b) The CITY shall furnish a CITY representative, as appointed by the designated representative to administer, review and coordinate the provision of services under Purchase/Work Orders.

(c) The CITY shall make CITY personnel available where, in the CITY's opinion, they are required and necessary to assist the CONTRACTOR. The availability

and necessity of said personnel to assist the CONTRACTOR shall be determined solely at the discretion of the CITY.

(d) The CITY shall examine all of the CONTRACTOR's goods and/or services and indicate the CITY's approval or disapproval within a reasonable time so as not to materially delay the provisions of the goods and/or services of the CONTRACTOR.

(e) The CITY shall transmit instructions, relevant information, and provide interpretation and definition of CITY policies and decisions with respect to any and all materials and other matters pertinent to the services covered by this Agreement.

(f) The CITY shall give written notice to the CONTRACTOR whenever the CITY's designated representative knows of a development that affects the goods and/or services provided and performed under this Agreement, timing of the CONTRACTOR's provision of goods and/or services, or a defect or change necessary in the goods and/or services of the CONTRACTOR.

(g) The rights and remedies of the CITY provided for under this Agreement are in addition to any other rights and remedies provided by law. The CITY may assert its right of recovery by any appropriate means including, but not limited to, set-off, suit, withholding, recoupment, or counterclaim, either during or after performance of this Agreement as well as the adjustment of payments made to the CONTRACTOR based upon the quality of work of the CONTRACTOR.

(h) The CITY shall be entitled to recover any and all legal costs including, but not limited to, attorney fees and other legal costs that it may incur in any legal actions it may pursue in the enforcement of the terms and conditions of this Agreement or the responsibilities of the CONTRACTOR in carrying out the duties and responsibilities deriving from this Agreement.

(i) The failure of the CITY to insist in any instance upon the strict performance of any provision of this Agreement, or to exercise any right or privilege granted to the CITY hereunder shall not constitute or be construed as a waiver of any such provision or right and the same shall continue in force.

(j) Neither the CITY's review, approval or acceptance of, nor payment for, any of the goods and/or services required shall be construed to operate as a waiver of any rights under this Agreement nor or any cause of action arising out of the performance of this Agreement and the CONTRACTOR shall be and always remain liable to the CITY in accordance with applicable law for any and all damages to the CITY or the public caused by the CONTRACTOR's negligent or wrongful provision or performance of any of the goods and/or services furnished under this Agreement.

(k) All deliverable analysis, reference data, survey data, plans and reports or any other form of written instrument or document that may result from the CONTRACTOR's services or have been created during the course of the

CONTRACTOR's performance under this Agreement shall become the property of the CITY after final payment is made to the CONTRACTOR.

SECTION 8: COMPENSATION.

(a) Compensation to the CONTRACTOR shall be as set forth in each Purchase/Work Order which assigns goods to be provided or services to be accomplished by the CONTRACTOR.

(b) The CONTRACTOR shall be paid in accordance with the schedule of charges as set forth in Exhibit "B" attached hereto.

(c) There are no reimbursable expenses to be paid to the CONTRACTOR except as specifically set forth herein.

SECTION 9: INVOICE PROCESS.

(a) Invoices, which are in an acceptable form to the CITY and without disputable items, which are received by the CITY, will be processed for payment within thirty (30) days of receipt by the CITY.

(b) The CONTRACTOR will be notified of any disputable items contained in invoices submitted by the CONTRACTOR within fifteen (15) days of receipt by the CITY with an explanation of the deficiencies.

(c) The CITY and the CONTRACTOR will make every effort to resolve all disputable items contained in the CONTRACTOR's invoices.

(d) Each invoice shall reference this Agreement, the appropriate Purchase/Work Order and Change Order if applicable, and billing period.

(e) The *Florida Local Government Prompt Payment Act* shall apply when applicable. A billing period represents the dates in which the CONTRACTOR completed goods and/or services referenced in an invoice.

(f) Invoices are to be forwarded directly to:

**Finance Department
City of Oviedo
400 Alexandria Boulevard
Oviedo, Florida 32765**

SECTION 10: COMMENCEMENT/IMPLEMENTATION SCHEDULE OF AGREEMENT.

(a) The CONTRACTOR shall commence the provision of goods and/or services as described in this Agreement upon execution of this Agreement or execution of a Purchase/Work Order issued by the CITY.

(b) The CONTRACTOR and the CITY agree to make every effort to adhere to the schedules required by the CITY or as established for the various Purchase/Work Orders as described in each Purchase/Work Order. However, if the CONTRACTOR is delayed at any time in the provision of goods and/or services by any act or omission of the CITY, or of any employee, tumult of the CITY, or by any other contractor employed by the CITY, or by changes ordered by the CITY, or by strikes, lock outs, fire, unusual delay in transportation, terrorism, unavoidable casualties, or any other causes of *force majeure* not resulting from the inactions or actions of the CONTRACTOR and beyond the CONTRACTOR's control which would not reasonably be expected to occur in connection with or during performance or provision of the goods and/or services, or by delay authorized by the CITY pending a decision, or by any cause which the CITY shall decide to justify the delay, the time of completion shall be extended for such reasonable time as the CITY may decide in its sole and absolute discretion. It is further expressly understood and agreed that the CONTRACTOR shall not be entitled to any damages or compensation, or be reimbursed for any losses on account of any delay or delays resulting from any of the aforesaid causes or any other cause whatsoever.

SECTION 11: TERM/LENGTH OF AGREEMENT.

(a) The initial term of this Agreement shall be for a period of One (1) year.

(b) After the initial term, this Agreement may be renewed for four (4) additional one year periods if mutually agreeable to both parties.

(c) The maximum term for the contract and all renewals is a cumulative term of five (5) years.

SECTION 12: DESIGNATED REPRESENTATIVES.

(a) The CITY designates the City Manager or his/her designated representative, to represent the CITY in all matters pertaining to and arising from the work and the performance of this Agreement.

(b) The City Manager, or his/her designated representative, shall have the following responsibilities:

(1) Examination of all work and rendering, in writing, decisions indicating the CITY's approval or disapproval within a reasonable time so as not to materially delay the work of the CONTRACTOR;

(2) Transmission of instructions, receipt of information, and interpretation and definition of CITY's policies and decisions with respect to design, materials, and other matters pertinent to the work covered by this Agreement;

(3) Giving prompt written notice to the CONTRACTOR whenever the CITY official representative knows of a defect or change necessary in the project; and

(4) Coordinating and managing the CONTRACTOR's preparation of any necessary applications to governmental bodies, to arrange for submission of such applications.

(c) Until further notice from the City Manager the designated representative for this Agreement is:

Bobby Wyatt, Public Works Director
City of Oviedo
400 Alexandria Blvd.
Oviedo, Florida 32765
(407) 921-5648
Bwyatt@cityofoviedo.net

(d) The CONTRACTOR's designated representative is:

Gary Delk
Regional Manager
HARCROS CHEMICALS, INC.
5132 Trenton Street
Tampa, Florida 33619
813-247-4531
floridabids@harcros.com

SECTION 13: TERMINATION/SUSPENSION OF AGREEMENT.

(a) The CITY may terminate this Agreement or any Purchase/Work Order for convenience at any time or this Agreement or any Purchase/Work Order for any one (1) or more of the reasons as follows:

(1) If, in the CITY's opinion, adequate progress to be provided or under a Purchase/Work Order is not being made by the CONTRACTOR due to the CONTRACTOR's failure to perform; or

(2) If, in the CITY's opinion, the quality of the goods and/or services provided by the CONTRACTOR is/are not in conformance with commonly accepted professional standards, standards of the CITY, and the requirements of Federal and/or State regulatory agencies, and the CONTRACTOR has not corrected such deficiencies in a timely manner as reasonably determined by the CITY; or

(3) The CONTRACTOR or any employee or agent of the CONTRACTOR is indicted or has a direct charge issued against him/her for any crime arising out of or in conjunction with any work that has been performed by the CONTRACTOR; or

(4) The CONTRACTOR becomes involved in either voluntary or involuntary bankruptcy proceedings, or makes an assignment for the benefit of creditors; or

(5) The CONTRACTOR violates the Standards of Conduct provisions herein or any provision of Federal, State or local law or any provision of the CITY's Code of Conduct.

(b) In the event of any of the causes described in this Section, the CITY's designated representative may send a certified letter to the CONTRACTOR requesting that the CONTRACTOR show cause why the Agreement or any Purchase/Work Order should not be terminated. If assurance satisfactory to the CITY of corrective measures to be made within a reasonable time is not given to the CITY within seven (7) calendar days of the date of the letter, the CITY may consider the CONTRACTOR to be in default, and may then immediately terminate this Agreement or any Purchase/Work Order in progress under this Agreement.

(c) In the event that this Agreement or a Purchase/Work Order is terminated for cause and it is later determined that the cause does not exist, then this Agreement or the Purchase/Work Order shall be deemed terminated for convenience by the CITY and the CITY shall have the right to so terminate this Agreement without any recourse by the CONTRACTOR.

SECTION 14: TERMINATION BY CONTRACTOR FOR CAUSE.

(a) The CONTRACTOR may terminate this Agreement only if the CITY fails to pay the CONTRACTOR in accordance with this Agreement.

(b) In the event of the cause described in Subsection (a), the CONTRACTOR shall send a certified letter requesting that the CITY show cause why the Agreement should not be terminated. If adequate assurances are not given to the CONTRACTOR within fifteen (15) days of the receipt by the CITY of said show cause notice, then the CONTRACTOR may consider the CITY to be in default, and may immediately terminate this Agreement.

SECTION 15: TERMINATION BY THE CITY WITHOUT CAUSE.

(a) Notwithstanding any other provision of this Agreement, the CITY shall have the right at any time to terminate this Agreement in its entirety without cause, or terminate any specific Purchase/Work Order without cause, if such termination is

deemed by the CITY to be in the public interest, in writing of deficiencies or default in the performance of its duties under the Agreement and the CONTRACTOR shall have ten (10) days to correct same or to request, in writing, a hearing.

(b) Failure of the CONTRACTOR to remedy said specified items of deficiency or default in the notice by either the CITY's designated representative within ten (10) days of receipt of such notice of such decisions, shall result in the termination of the Agreement, and the CITY shall be relieved of any and all responsibilities and liabilities under the terms and provisions of the Agreement.

(c) The CITY shall have the right to terminate this Agreement without cause with a one-hundred twenty (120) day written notice to the CONTRACTOR. The CITY reserves the right to terminate any Agreement for cause with a five (5) day written notice to the CONTRACTOR. Notice shall be served to the parties as specified in the Agreement.

(d) In the event that this Agreement is terminated, the CITY shall identify any specific Purchase/Work Order(s) being terminated and the specific Purchase/Work Order(s) to be continued to completion pursuant to the provisions of this Agreement.

(e) This Agreement will remain in full force and effect as to all authorized Purchase/Work Order(s) that is/are to be continued to completion.

(f) In the event that after the CITY's termination for cause for failure of the CONTRACTOR to fulfill its obligations under this Agreement it is found that the CONTRACTOR has not so failed, the termination shall be deemed to have been for convenience and without cause.

SECTION 16: PAYMENT IN THE EVENT OF TERMINATION.

In the event this Agreement or any Purchase/Work Order is terminated or canceled prior to final completion without cause, payment for the unpaid portion of the services provided by the CONTRACTOR to the date of termination and any additional services shall be paid to the CONTRACTOR.

SECTION 17: ACTION FOLLOWING TERMINATION.

Upon receipt of notice of termination given by either party, the terminated party shall promptly discontinue the provision of all goods and/or services, unless the notice provides otherwise.

SECTION 18: SUSPENSION.

(a) The performance or provision of the CONTRACTOR's goods and/or services under any Purchase/Work Order or under this Agreement may be suspended by the CITY at any time.

(b) In the event the CITY suspends the performance or provision of the CONTRACTOR's services hereunder, the CITY shall so notify the CONTRACTOR in writing, such suspension becoming effective within seven (7) days from the date of mailing, and the CITY shall pay to the CONTRACTOR within thirty (30) days all compensation which has become due to and payable to the CONTRACTOR to the effective date of such suspension. The CITY shall thereafter have no further obligation for payment to the CONTRACTOR for the suspended provision of goods and/or services unless and until the CITY's designated representative notifies the CONTRACTOR in writing that the provision of the goods and/or services of the CONTRACTOR called for hereunder are to be resumed by the CONTRACTOR.

(c) Upon receipt of written notice from the CITY that the CONTRACTOR's provision of goods and/or services hereunder are to be resumed, the CONTRACTOR shall continue to provide the services to the CITY.

SECTION 19: EQUAL OPPORTUNITY EMPLOYMENT/NON-DISCRIMINATION.

All services, programs and activities of the CITY are offered and solicited without regard to race, color, national origin, age, sex, religion, disability or family status in accordance with the CITY's Title VI Nondiscrimination Policy, Plan and Procedures. The CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, national origin or disability and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age, national origin or disability. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or their forms or compensation; and selection for training, including apprenticeship. The CONTRACTOR, moreover, shall comply with all the requirements as imposed by the *Americans with Disability Act*, the regulations of the Federal government issued thereunder, and any and all requirements of Federal or State law related thereto.

SECTION 20: INDEMNITY

CONTRACTOR shall defend, indemnify and hold harmless the CITY and all of its officials, officers, agents and employees from and against all claims, liability, loss and expense, including reasonable costs, collection expenses, attorneys' fees, and court costs which may arise because of the negligence (whether active or passive), misconduct, or other fault, in whole or in part (whether joint, concurrent, or contributing), of the CONTRACTOR, its officers, agents or employees in performance or non-performance of its obligations under the Agreement. To the fullest extent permitted by law, CONTRACTOR will further hold harmless, defend and indemnify the CITY, its Affiliates and its and their officers, directors, agents, employees, subcontractors and customers from and against any Claims in any way arising from or related to a failure of

the CONTRACTOR's failure to offer health coverage to personnel which failure results in the assessment of a penalty against the CITY.

The CONTRACTOR recognizes the broad nature of this indemnification and hold harmless clause, as well as the provision of a legal defense to the CITY when necessary, and voluntarily makes this covenant and expressly acknowledges the receipt of such good and valuable consideration provided by the CITY in support of these indemnification, legal defense and hold harmless contractual obligations in accordance with the laws of the State of Florida. This clause shall survive the termination of this Agreement. Compliance with any insurance requirements required elsewhere within this Agreement shall not relieve the CONTRACTOR of its liability and obligation to defend, hold harmless and indemnify the CITY as set forth in this section of the Agreement.

Nothing herein shall be construed to extend the CONTRACTOR's liability beyond that provided in Section 768.28, Florida Statutes.

SECTION 21: INSURANCE.

The CONTRACTOR shall, at its sole cost and expense, procure and maintain throughout the term of this contract, Comprehensive General Liability and Worker's Compensation insurance, including Employer Liability insurance with minimum policy limits as set forth below, or to the extent and in such amounts as required and authorized by Florida law, and will provide endorsed certificates of insurance generated and executed by a licensed insurance broker, brokerage or similar licensed insurance professional evidencing such coverage, and name the CITY as a named, additional insured, as well as furnishing the CITY with a certified copy, or copies, of said insurance policies. Certificates of insurance and certified copies of these insurance policies must accompany this signed contract. Said insurance coverages procured by the CONTRACTOR as required herein shall be considered, and the CITY agrees that said insurance coverages it procures as required herein shall be considered, as primary insurance over and above any other insurance, or self-insurance, available to the CITY, and that any other insurance, or self-insurances available to the CITY shall be considered secondary to, or in excess of, the insurance coverages(s) procured by the CONTRACTOR as required herein.

Nothing herein shall be construed to extend the CITY's liability beyond that provided in Section 768.28, Florida Statutes.

(1) Workers Compensation/Employer Liability: The CONTRACTOR shall provide Worker's Compensation for all employees at limits not less than the following:

- \$500,000 Each Accident
- \$500,000 Each Employee
- \$500,000 Policy Limit for Disease

(2) Commercial General Liability: The CONTRACTOR will provide coverage for all operations including, but not limited to, contractual, products and complete operations and personal injury at limits not less than the following:

- \$1,000,000 Bodily Injury & Property Damage - each occurrence
- \$1,000,000 Personal & Advertising Injury - each occurrence
- \$2,000,000 General Aggregate
- \$2,000,000 Products/Completed Operations Aggregates limit
- \$ 5,000 Medical Payments
- \$ 100,000 Fire Damage Legal Liability

(3) Commercial Business Automobile Liability: The CONTRACTOR shall provide complete coverage for owned and non-owned vehicles for limits not less than \$1,000,000 CSL or its equivalent.

SECTION 22: STANDARDS OF CONDUCT.

(a) The CONTRACTOR warrants that it has not employed or retained any company or person, other than a *bona fide* employee working solely for the CONTRACTOR, to solicit or secure this Agreement and that the CONTRACTOR has not paid or agreed to pay any person, company, corporation, individual or firm other than a *bona fide* employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award of making this Agreement.

(b) The CONTRACTOR shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement or violate any laws pertaining to civil rights, equal protection or discrimination.

(c) The CONTRACTOR hereby certifies that no undisclosed (in writing) conflict of interest exists with respect to the Agreement, including, but not limited to, any conflicts that may be due to representation of other clients, customers or vendees, other contractual relationships of the CONTRACTOR, or any interest in property that the CONTRACTOR may have. The CONTRACTOR further certifies that any conflict of interest that arises during the term of this Agreement shall be immediately disclosed in writing to the CITY. Violation of this Section shall be considered as justification for immediate termination of this Agreement.

(d) The CONTRACTOR shall ensure that all taxes due from the CONTRACTOR are paid in a timely and complete manner including, but not limited to, occupational license tax.

(e) If the CITY determines that any employee or representative of the CONTRACTOR is not satisfactorily performing his/her assigned duties or is

demonstrating improper conduct pursuant to any assignment or work performed under this Agreement, the CITY shall so notify the CONTRACTOR, in writing. The CONTRACTOR shall immediately remove such employee or representative of the CONTRACTOR from such assignment.

(f) The CONTRACTOR shall not publish any documents or release information regarding this Agreement to the media without prior approval of the CITY.

(g) The CONTRACTOR shall certify, upon request by the CITY, that the CONTRACTOR maintains a drug free workplace policy in accordance with Section 287.0878, *Florida Statutes*. Failure to submit this certification may result in termination of this Agreement.

(h) If the CONTRACTOR or an affiliate is placed on the convicted vendor list following a conviction for a public entity crime, such action may result in termination of this Agreement by the CITY. The CONTRACTOR shall provide a certification of compliance regarding the public crime requirements set forth in State law upon request by the CITY.

(i) The CITY reserves the right to unilaterally terminate this Agreement if the CONTRACTOR refuses to allow public access to all documents, papers, letters, or other materials subject to provisions of *Chapter 119, Florida Statutes*, and other applicable law, and made or received by the CONTRACTOR in conjunction, in any way, with this Agreement.

(j) The CONTRACTOR shall comply with the requirements of the *Americans with Disabilities Act* (ADA), and any and all related Federal or State laws which prohibits discrimination by public and private entities on the basis of disability.

(k) The CITY will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e) Section 274A(e) of the *Immigration and Nationally Act (INA)*. The CITY shall consider the employment by the CONTRACTOR of unauthorized aliens, a violation of Section 274A(e) of the *INA*. Such violation by the CONTRACTOR of the employment provisions contained in Section 274A(e) of the *INA* shall be grounds for immediate termination of this Agreement by the CITY.

(l) The CONTRACTOR agrees to comply with Federal, State, and local environmental, health, and safety laws and regulations applicable to the goods and/or services provided to the CITY. The CONTRACTOR agrees that any program or initiative involving the work that could adversely affect any personnel involved, citizens, residents, users, neighbors or the surrounding environment will ensure compliance with any and all employment safety, environmental and health laws.

(m) The CONTRACTOR shall ensure that all goods and/or services are provided to the CITY after the CONTRACTOR has obtained, at its sole and exclusive expense, any and all permits, licenses, permissions, approvals or similar consents.

(n) If applicable, in accordance with Section 216.347, *Florida Statutes*, the CONTRACTOR shall not use funds provided by this Agreement for the purpose of lobbying the Legislature, the judicial branch or State agency.

(o) The CONTRACTOR shall advise the CITY in writing if it has been placed on a discriminatory vendor list, may not submit a bid on a contract to provide goods or services to a public entity, or may not transact business with any public entity.

(p) The CONTRACTOR shall not engage in any action that would create a conflict of interest in the performance of that actions of any CITY employee or other person during the course of performance of, or otherwise related to, this Agreement or which would violate or cause others to violate the provisions of Part III, Chapter 112, *Florida Statutes*, relating to ethics in government.

SECTION 23: ACCESS TO RECORDS/AUDIT/PUBLIC RECORDS.

(a) The CONTRACTOR shall maintain books, records, documents, time and costs accounts and other evidence directly related to its provision or performance of services under this Agreement. All time records and cost data shall be maintained in accordance with generally accepted accounting principles.

(b) The CONTRACTOR shall maintain and allow access to the records required under this Section for a minimum period of five (5) years after the completion of the provision or performance of goods and/or services under this Agreement and date of final payment for said goods and/or services, or date of termination of this Agreement.

(c) The CITY may perform, or cause to have performed, an audit of the records of the CONTRACTOR before or after final payment to support final payment under any Purchase/Work Order issued hereunder. This audit shall be performed at a time mutually agreeable to the CONTRACTOR and the CITY subsequent to the close of the final fiscal period in which goods and/or services are provided or performed. Total compensation to the CONTRACTOR may be determined subsequent to an audit as provided for in this Section, and the total compensation so determined shall be used to calculate final payment to the CONTRACTOR. Conduct of this audit shall not delay final payment as required by this Section.

(d) In addition to the above, if Federal, State, County, or other entity funds are used for any goods and/or services under this Agreement, the Comptroller General of the United States or the Chief Financial Officer of the State of Florida, or Seminole County, or any representatives, shall have access to any books, documents, papers, and records of the CONTRACTOR which are directly pertinent to goods and/or services

provided or performed under this Agreement for purposes of making audit, examination, excerpts, and transcriptions.

(e) In the event of any audit or inspection conducted reveals any overpayment by the CITY under the terms of the Agreement, the CONTRACTOR shall refund such overpayment to the CITY within thirty (30) days of notice by the CITY of the request for the refund.

(f) The CONTRACTOR agrees to fully comply with all State laws relating to public records.

(g) The CONTRACTOR agrees to fully comply with all State laws relating to public records. In order to comply with Section 119.0701, Florida Statutes, the CONTRACTOR must: (1). Keep and maintain public records required by the City to perform the service, (2). Upon request from the City's custodian of public records, provide the public with a copy of the public records requested or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law, (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the CONTRACTOR does not transfer the records to the City, (4) Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of the CONTRACTOR or keep and maintain public records required by the City to perform the service. If the CONTRACTOR transfers all public records to the City upon completion of this Agreement, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of this Agreement, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City, and (5). If the CONTRACTOR does not comply with a public records request, the City shall enforce any and all Agreement provisions in accordance with this Agreement and the CONTRACTOR shall be subject to all rights and remedies of the City and the public under controlling State law.

A request to inspect or copy public records relating to this Agreement must be made directly to the City. If the City does not possess the requested records, the City shall immediately notify the CONTRACTOR of the request, and the CONTRACTOR must provide the records to the City or allow the records to be inspected or copied within a reasonable time. Failure by the CONTRACTOR to grant such public access and comply with public records requests shall be grounds for immediate unilateral cancellation of this Agreement by the City. The CONTRACTOR shall promptly provide the City with a copy of any request to inspect or copy public records in possession of the CONTRACTOR and shall promptly provide the City with a copy of the CONTRACTOR's response to each such request.

The CONTRACTOR agrees that if any litigation, claim, or audit is started before the expiration of the record retention period established above, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S (CONTRACTOR'S) DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (407) 971-5504, BARBARA BARBOUR, MMC, CITY CLERK, CITY HALL, CITY OF OVIEDO, 400 ALEXANDRIA BOULEVARD, OVIEDO, FLORIDA 32765, BBARBOUR@CITYOFOVIEDO.NET.

SECTION 24: CODES AND DESIGN STANDARDS.

(a) All goods and/or services to be provided for performed by the CONTRACTOR shall, at a minimum, be in conformance with commonly accepted industry and professional codes and standards, standards of the CITY, and the laws of any and all Federal, State and local regulatory agencies.

(b) The CONTRACTOR shall be responsible for keeping apprised of any changing laws, applicable to the goods and/or services to be performed under this Agreement.

SECTION 25: ASSIGNABILITY.

(a) The CONTRACTOR shall not sublet, assign or transfer any interest in this Agreement, or claims for the money due or to become due out of this Agreement to a bank, trust company, or other financial institution without written CITY approval. When approved by the CITY, written notice of such assignment or transfer shall be furnished promptly to the CITY.

(b) The CONTRACTOR agrees to reasonably participate in the contract "piggybacking" programs pertinent to local governments.

SECTION 26: SUBCONTRACTORS.

(a). The CONTRACTOR may subcontract certain specialty services as set forth in this Agreement as approved by the CITY provided; however, that, the main

work performed under the Agreement shall, in all respected, be performed by the CONTRACTOR.

(b). No subcontract shall be construed or interpreted, under any circumstances, to relieve the CONTRACTOR of its liability and obligations under this Agreement.

(c). The CITY shall work directly with the CONTRACTOR in terms of the provision of the services to the CITY and the CITY shall not have any obligation to work directly with any subcontractor and, should the CITY communicate with any subcontractor in any way, it shall continue to be the obligation of the CONTRACTOR to ensure that all services are provided to the CITY as set forth in this Agreement in every respect.

(d). It shall, at all times, be the CONTRACTOR's responsibility to ensure that subcontractors have in place the same liability coverage as the CONTRACTOR and that such liability coverage is available to fully protect the CITY under the Agreement; provided, however, that, in the event that any coverage fail to adequately protect the CITY, the CONTRACTOR shall ensure that its liability coverage so protects the CITY. This shall be a continuing obligation of the CONTRACTOR.

SECTION 27: CONTROLLING LAWS/VENUE/INTERPRETATION.

(a) This Agreement is to be governed by the laws of the State of Florida.

(b) Venue for any legal proceeding related to this Agreement shall be in the Eighteenth Judicial Circuit Court in and for Seminole County, Florida.

(c) This Agreement is the result of *bona fide* arms length negotiations between the CITY and the CONTRACTOR and all parties have contributed substantially and materially to the preparation of the Agreement. Accordingly, this Agreement shall not be construed or interpreted more strictly against any one party than against any other party.

SECTION 28: FORCE MAJEURE.

Neither party shall be considered in default in performance of its obligations hereunder to the extent that performance of such obligations, or any of them, is delayed or prevented by *Force Majeure*. *Force Majeure* shall include, but not be limited to, hostility, terrorism, revolution, civil commotion, strike, epidemic, fire, flood, wind, earthquake, explosion, any law, proclamation, regulation, or ordinance or other act of government, or any act of God or any cause whether of the same or different nature, existing or future; provided that the cause whether or not enumerated in this Section is beyond the control and without the fault or negligence of the party seeking relief under this Section.

SECTION 29: EXTENT OF AGREEMENT/INTEGRATION/AMENDMENT.

(a) This Agreement, together with the exhibit(s), if any, constitutes the entire integrated Agreement between the CITY and the CONTRACTOR and supersedes all prior written or oral understandings in connection therewith. This Agreement, and all the terms and provisions contained herein, including without limitation the exhibits hereto, constitute the full and complete agreement between the parties hereto to the date hereof, and supersedes and controls over any and all prior agreements, understandings, representations, correspondence and statements whether written or oral.

(b) This Agreement may only be amended, supplemented or modified by a formal written amendment.

(c) Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing and duly signed by the parties.

SECTION 30: NOTICES.

(a) Whenever either party desires to give notice unto the other, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this Section.

(b) For the present, the parties designate the following as the representative places for giving of notice, to-wit:

For the CITY:

City Manager
City of Oviedo
400 Alexandria Boulevard
Oviedo, Florida 32765

For the CONTRACTOR:

Gary Delk
Regional Manager
HARCROS CHEMICALS, INC.
5132 Trenton Street
Tampa, Florida 33619
813-247-4531
floridabids@harcros.com

(c) Written notice requirements of this Agreement shall be strictly construed and such requirements are a condition precedent to pursuing any rights or remedies hereunder. The CONTRACTOR agrees not to claim any waiver by CITY of such notice requirements based upon CITY having actual knowledge, implied, verbal or constructive notice, lack of prejudice or any other grounds as a substitute for the failure of the CONTRACTOR to comply with the express written notice requirements herein. Computer notification (e-mails and message boards) shall not constitute proper written notice under the terms of the Agreement.

SECTION 31: WAIVER.

The failure of the CITY to insist in any instance upon the strict performance of any provision of this Agreement, or to exercise any right or privilege granted to the CITY hereunder shall not constitute or be construed as a waiver of any such provision or right and the same shall continue in force.

SECTION 32: NO GENERAL CITY OBLIGATION.

(a) In no event shall any obligation of the CITY under this Agreement be or constitute a general obligation or indebtedness of the CITY, a pledge of the *ad valorem* taxing power of the CITY or a general obligation or indebtedness of the CITY within the meaning of the *Constitution of the State of Florida* or any other applicable laws, but shall be payable solely from legally available revenues and funds.

(b) The CONTRACTOR shall not have the right to compel the exercise of the *ad valorem* taxing power of the CITY.

SECTION 33: EXHIBITS.

Each exhibit referred to and attached to this Agreement is an essential part of this Agreement. The exhibits and any amendments or revisions thereto, even if not physically attached hereto, shall be treated as if they are part of this Agreement.

SECTION 34: CAPTIONS.

The Section headings and captions of this Agreement are for convenience and reference only and in no way define, limit, describe the scope or intent of this Agreement or any part thereof, or in any way affect this Agreement or construe any provision of this Agreement.

SECTION 35: SEVERABILITY/CONSTRUCTION.

(a) If any term, provision or condition contained in this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable, shall not be affected thereby, and each term, provision and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law when consistent with equity and the public interest.

(b) All provisions of this Agreement shall be read and applied in *para materia* with all other provisions hereof.

SECTION 36: ALTERNATIVE DISPUTE RESOLUTION (ADR).

(a) In the event of a dispute related to any performance or payment obligation arising under this Agreement, the parties agree to exhaust any alternative dispute resolution procedures reasonably imposed by the CITY prior to filing suit or otherwise pursuing legal remedies.

(b) The CONTRACTOR agrees that it will file no suit or otherwise pursue legal remedies based on facts or evidentiary materials that were not presented for consideration to the CITY in alternative dispute resolution procedures or which the CONTRACTOR had knowledge and failed to present during the CITY procedures.

(c) In the event that CITY procedures are exhausted and a suit is filed or legal remedies are otherwise pursued, the parties shall exercise best efforts to resolve disputes through voluntary mediation. Mediator selection and the procedures to be employed in voluntary mediation shall be mutually acceptable to the parties. Costs of voluntary mediation shall be shared equally among the parties participating in the mediation.

SECTION 37: COUNTERPARTS.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: the CITY through its City Council taking action on the 16th day of September, 2019, and the CONTRACTOR signing by and through its duly authorized corporate officer having the full and complete authority to execute same.

ATTEST:

Carla Brindwell

HARCROS CHEMICALS, INC.

By: 
Gary Delk, Regional Manager

Date: 9/24/19

ATTEST:


City Clerk

CITY OF OVIEDO

By: 
Dominic Persampiere, Mayor

Date: 10/3/2019

For the use and reliance of the City of Oviedo only. Approved as to form and legal sufficiency.

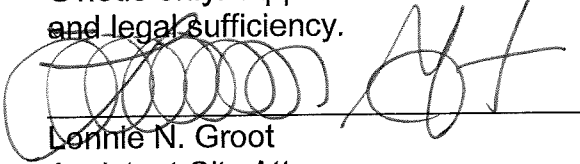

Lonnie N. Groot
Assistant City Attorney

EXHIBIT A

SPECIFICATIONS

A. Description of Services

The City of Oviedo is seeking qualified contractor(s) to provide Plant Chemicals as indicated in the specifications and requirements of this solicitation. Authorization for performance of services and delivery of products under this Agreement shall be in the form of written purchase orders, issued by the City on an as-needed basis. Chemicals shall be delivered to City properties, and shall include all labor, materials and supplies necessary to deliver and unload these materials.

The quantities contained in this bid and on the bid form are estimates and in no way represents a guaranteed procurement.

Upon award, the successful bidder(s) shall obtain and furnish to the City of Oviedo a copy of the insurance certificate naming the City of Oviedo as an additional insured and provide a copy of the endorsement, in accordance with these bid documents and subsequent agreement(s).

The City of Oviedo does not pay Federal excise and State sales taxes. Our tax exemption number is 85-8013573053C-0 and is also listed on all of our Purchase Orders.

Orders and deliveries will be coordinated through the City's Water, Wastewater and Recreation and Parks Personnel. Payment will be accomplished by submission of invoices by location and purchase order number and mailed to:

City of Oviedo
Accounts Payable
400 Alexandria Blvd.
Oviedo, FL 32765

The successful bidder must supply M.S.D.S. (Material Safety Data Sheets) on the product and supply the City with copies of the manufacturer's shipping and handling safety procedures.

Purchasing these chemicals from a State Purchase Contract, Sicop Bid, or any other State or Local Governmental entities bid or contract, if doing so is in the best interest of the City of Oviedo, will not waive or void any of the terms and conditions contained in the Agreement.

The Florida Local Government Prompt Payment Act shall apply to the payment of all invoices.

B. Product and Delivery Requirements

Supplier is responsible for all connections and adapters required to match the City's piping at the delivery/discharge location.

Bidder must submit a certificate of compliance and certified analysis as to the composition of the product with the bid. This requirement is included on the bid form checklist.

A Certificate of Analysis must be provided to the City with each delivery.

Deliveries will be between the hours of 7am and 2pm Monday through Friday with exception of holidays.

Delivery must be made within one week after receipt of order.

Suppliers shall provide a 48-hour notice prior to delivery.

Contractor shall be responsible for any spills resulting from the failure of its or its subcontractor's delivery equipment or from poor performance of delivery personnel. Proper performance shall require delivery attendant's constant inspection and observation of unloading operations and knowledgeable response to problems or emergencies.

1. Sodium Hypochlorite 12.5% (10% by weight = 12.5% by trade)

Estimated Quantity: 527,000 gallons annually, more or less (This includes approximately 390,000 gallons for use at the Water Plant, 120,000 gallons for the Wastewater plant and approximately 17,000 for swimming pool application). These are estimated volumes and in no way obligates the City to purchase any minimum amount.

Product Requirements: The City of Oviedo is seeking a firm price per gallon (delivered) for the purchase of Sodium Hypochlorite 12.5% (10% by weight = 12.5% by trade) for use at the City's Water Treatment Plant located at 250 West Mitchell Hammock Road, Oviedo, Florida 32765 and at the City's Wastewater Reclamation Facility located at 1067 McKinnon Avenue. The City's Recreation and Parks Department also utilizes this contract for two City swimming pools located within the City's corporate boundaries. Product must be approved for drinking water application and meet or exceed the American Water Works Association (AWWA) and National Sanitation Foundation (NSF) standards.

Deliverable Quantities: 5,000 tanker gallons for the City's Water Treatment Plant and 4,000 gallons for the City's Wastewater Reclamation Facility, and 1,000 gallons at each of the two swimming pool locations.

2. **Sodium Hydroxide 50%**

Estimated Quantity: 54,500 gallons more or less. This is an estimated volume and in no way obligates the City to purchase any minimum amount.

Product Requirements: The City of Oviedo is seeking a firm price per gallon (delivered) for the purchase of Sodium Hydroxide 50% for use at the City's Water Treat Plant located at 250 West Mitchell Hammock Road, Oviedo, Florida, 32765. Product must be approved for drinking water application and meet or exceed the American Water Works Association (AWWA) and National Sanitation Foundation (NSF) standards.

Deliverable Quantity: 3,500 gallons.

3. **Ammonia Hydroxide 19%**

Estimated Quantity: 14,400 gallons, more or less. This is an estimated volume and in no way obligates the City to purchase any minimum amount.

Product Requirements: The City of Oviedo is seeking a firm price per gallon (delivered) for the purchase of Ammonia Hydroxide 19% for use at the City's Water Treatment Plant located at 250 West Mitchell Hammock Road, Oviedo, Florida, 32765. Product must be approved for drinking water application and meet or exceed the American Water Works Association (AWWA) and National Sanitation Foundation (NSF) standards.

Deliverable Quantity: 1,200 gallons.

4. **Carbon Dioxide (liquid CO₂)**

Estimated Quantity: 480,000 lbs., more or less. This is an estimated volume and in no way obligates the City to purchase any minimum amount.

Product Requirements: The City of Oviedo is seeking a firm price per pound (delivered) for the purchase of Carbonic Dioxide (liquid CO₂) for use at the City's Water Treatment Plant located at 250 West Mitchell Hammock Road, Oviedo, Florida, 32765. Product must be approved for drinking water application and meet or exceed the American Water Works Association (AWWA) and National Sanitation Foundation (NSF) standards.

Deliverable Quantity: full tanker, 38,000 lbs.

5. **Sulfuric Acid 93%**

Estimated Quantity: 8,400 gallons, more or less. This is an estimated volume and in no way obligates the City to purchase any minimum amount.

Product Requirements: The City of Oviedo is seeking a firm price per gallon

(delivered) for the purchase of Sulfuric Acid 93% for use at the City's Water Treatment Plant located at 250 West Mitchell Hammock Road, Oviedo, Florida, 32765. Product must be approved for drinking water application and meet or exceed the American Water Works Association (AWWA) and National Sanitation Foundation (NSF) standards.

Deliverable Quantity: 700 gallons

6. **Fluoride 23%**

Estimated Quantity: 8,400 gallons, more or less. This is an estimated volume and in no way obligates the City to purchase any minimum amount.

Product Requirements: The City of Oviedo is seeking a firm price per gallon (delivered) for the purchase of Fluoride 23% for use at the City's Water Treatment Plant located at 250 West Mitchell Hammock Road, Oviedo, Florida, 32765. Product must be approved for drinking water application and meet or exceed the American Water Works Association (AWWA) and National Sanitation Foundation (NSF) standards.

Deliverable Quantity: 700 gallons

END OF SECTION



8813 Highway 41 South
Riverview, FL 33569
www.mosaicco.com

Phone: 813-677-9111
Fax: 813-671-6146

Product Compliance Certification

We certify that the Fluorosilicic Acid supplied by Mosaic Co. will meet the specifications of AWWA Standard B703a-08 and further that it has been certified by NSF to meet the ANSI/NSF Standard 60 for treatment of potable water and has been produced within the continental limits of the United States.

A handwritten signature in black ink, reading "Art M. Espinosa". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Art M. Espinosa, Florida Quality Control Lab Manager



Industrial Fluorosilicic Acid (FSA)

CHEMICAL ANALYSIS (TYPICAL)

Specifications	Range	Typical	Guarantee (%)
H ₂ SiF ₆	23 - 26%	24%	23%
F (equivalent total)	18 - 21%	19%	18%
Free Acid	1.0 % max	0.4%	

Product meets AWWA Standard B703 and it is NSF-60 Certified. Maximum Use 6 mg/L

Physical Properties (Typical)

Description	Water white to amber solution
Color, APHA color units	200 maximum (APHA) in accordance with method 2120B, visual comparison
Specific Gravity, at 25% & 60° F	1.224 (water = 1)
Bulk Density, at 25% & 60° F	10.2 (Lbs/Gal)

Containers

Tank Truck	20-25 tons net weight (approximate)
Rail Cars	100 tons net weight (approximate)

Freight Description

DOT Shipping Classification	Class 8 (Corrosive)
DOT Shipping Name	Fluorosilicic Acid
Packing Group	II
Placard	Corrosive
DOT / UN Number	UN1778



Certified to
NSF/ANSI 60

Product analyses are typical as tested at shipment. Typical analysis is not guaranteed for any particular shipment. Handling and transportation may affect the analysis of the delivered product



The Public Health and Safety Organization

NSF Product and Service Listings

These NSF Official Listings are current as of **Monday, July 29, 2019** at 12:15 a.m. Eastern Time. Please contact NSF to confirm the status of any Listing, report errors, or make suggestions.

Alert: NSF is concerned about fraudulent downloading and manipulation of website text. Always confirm this information by clicking on the below link for the most accurate information: <http://info.nsf.org/Certified/PwsChemicals/Listings.asp?CompanyName=mosaic&ChemicalName=Hydrofluosilicic+Acid&PlantState=Florida+FL&>

NSF/ANSI 60 Drinking Water Treatment Chemicals - Health Effects

The Mosaic Company

13830 Circa Crossing Drive

Lithia, FL 33547

United States

813-671-6223

Visit this company's website

(<http://www.mosaicco.com>)

Facility : Distribution Center - 4 Mulberry, Florida

Fluorosilicic Acid

Trade Designation

FSA

Product Function

Fluoridation

Max Use

6mg/L

Fluorosilicic Acid	Fluoridation	6mg/L
Fluosilicic Acid	Fluoridation	6mg/L
HFS	Fluoridation	6mg/L
Hexafluorosilicic Acid	Fluoridation	6mg/L
Hexafluosilicic Acid	Fluoridation	6mg/L
Hydrofluorosilicic Acid	Fluoridation	6mg/L
Hydrofluosilicic Acid	Fluoridation	6mg/L

Facility : Riverview, FL**Fluosilicic Acid**

<i>Trade Designation</i>	<i>Product Function</i>	<i>Max Use</i>
FSA	Fluoridation	6mg/L
Fluorosilicic Acid	Fluoridation	6mg/L
Fluosilicic Acid	Fluoridation	6mg/L
HFS	Fluoridation	6mg/L
Hexafluorosilicic Acid	Fluoridation	6mg/L
Hexafluosilicic Acid	Fluoridation	6mg/L
Hydrofluorosilicic Acid	Fluoridation	6mg/L
Hydrofluosilicic Acid	Fluoridation	6mg/L

Number of matching Manufacturers is 1

Number of matching Products is 16

Processing time was 0 seconds



The Public Health and Safety Organization

NSF Product and Service Listings

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<http://info.nsf.org/Certified/PwsChemicals/Listings.asp?>

[CompanyName=harcros&ChemicalName=Hydrofluosilicic+Acid&PlantState=Florida+FL&](http://info.nsf.org/Certified/PwsChemicals/Listings.asp?CompanyName=harcros&ChemicalName=Hydrofluosilicic+Acid&PlantState=Florida+FL&)

NSF/ANSI 60 Drinking Water Treatment Chemicals - Health Effects

Harcros Chemicals Inc.

5200 Speaker Road

Kansas City, KS 66106

United States

913-321-3131

Visit this company's website

(<http://www.harcroschem.com>)

Facility : Tampa, FL

Hydrofluosilicic Acid

<i>Trade Designation</i>	<i>Product Function</i>	<i>Max Use</i>
Hydrofluorosilicic Acid 23%	Fluoridation	6mg/L

NOTE: Only products bearing the NSF Mark on the product, product packaging, and/or documentation shipped with the product are Certified.

Number of matching Manufacturers is 1

Number of matching Products is 1

Processing time was 0 seconds



8813 Hwy 41 South
Riverview, FL
Telephone: (813) 677-9111 - TELX52666

This product was produced at the
Production Plant - Riverview facility

CAR NO: 1004094613

Deliveries: 1004094613

Material: Our / Your reference
200011 FLUOROSILICIC ACID /

Quality Certificate

Date
07/29/2019
Purchase order item/date
740028143 / 07/16/2019
Delivery item/date
1004094613 000010 / 07/23/2019
Order item/date
2586458 000010 / 07/16/2019
Customer number
5005707

Inspection lot 100000097401 from 07/22/2019

Characteristic	Result	Unit
Chemical Analysis		
Net H ₂ SiF ₆	24.37	%
P ₂ O ₅	0.05	%
Free Acid	0.27	%
Arsenic	41.75	ppm
Physical Analysis		
Specific Gravity	1.2220	
Color (APHA)	20	CU



Certified to
NSF/ANSI 60

Max Use 6 mg/L

"We Certify that Product
Shipped with this Certification
of Analysis meets AWWA

Alan Shobert / QC Lab Manager

EXHIBIT B

BID FORM (Page 1 of 2)

To: City of Oviedo, Purchasing Department
400 Alexandria Boulevard
Oviedo, FL 32765

The undersigned hereby declares that after carefully examining these bid documents, they are fully aware of all conditions affecting such work/items, for which bids were advertised to be returned by July 30, 2019 and does hereby submit the following bid for completion of said work/item.

The undersigned hereby certifies that all information contained in this Invitation to Bid is truthful to the best of their knowledge and belief and further certifies that they are duly authorized to submit this bid on behalf of the contractor as its act and deed and that the contractor is ready, willing and able to perform if awarded this Bid.

The City reserves the right to accept any or all bids, to waive informalities, and to reject all or any part of any bid as they may deem to be in the best interest of the City.

This Bid Form is a mandatory form to ease bid tabulation and analysis; however, it can be accompanied by additional supportive forms. An officer or representative who has official authorization to sign bids **MUST** sign this Bid Form. Failure to sign in the space provided below will result in the bid being rejected.

The Bidder hereby acknowledges receipt of the following Addenda, if any:

No. <u>1</u>	Dated <u>7/16/19</u>
No. <u>2</u>	Dated <u>7/23/19</u>
No. _____	Dated _____

The following required information has been completed and is included with the bid submittal:

	Bidder's Initials
1. Bid Form	<u>GD</u>
2. Proof of Florida Registration (Sunbiz)	<u>GD</u>
3. Statement of Insurance Compliance	<u>GD</u>
4. Non-Collusion Affidavit	<u>GD</u>
5. Conflict of Interest Statement	<u>GD</u>
6. Disputes Disclosure Form	<u>GD</u>
7. Drug Free Workplace Certification Form	<u>GD</u>
8. List of References	<u>GD</u>
9. Company Information Form	<u>GD</u>
10. Certificate of compliance and certified analysis as to the composition of the product(s) bidding on	<u>GD</u>

BID FORM (Page 2 of 2)

As requested in the Instructions to Bidders, attached is one marked duplicate copy of the original Bid Form and ALL attachments. ____ Yes ____ No (check one)

Contractors are not required to provide pricing for all Bid Categories, but are to provide pricing for all categories in which they are able to supply. Please list the total annual cost of each Bid Category. All changes must be initialed in ink. This bid form must be used to submit your bid.

Item	Produce Description	Deliverable Quantity		Estimated Annual Quantity	Units	Unit Cost (Delivered)
1	Sodium Hypochlorite	5,000	Water Plant	390,000	gal	\$ NB
		4,000	Wastewater Plant	120,000	gal	
		1,000	Swimming Pool Use	17,000	gal	
2	Sodium Hydroxide	3,500	Water Plant	54,500	gal	\$ NB
3	Ammonia Hydroxide	1,200	Water Plant	14,400	gal	\$ NB
4	Carbon Dioxide	38,000	Water Plant	480,000	lbs.	\$ NB
5	Sulfuric Acid	700	Water Plant	8,400	gal	\$ NB
6	Fluoride	700	Water Plant	8,400	gal	\$ 2.121

Company Name Harcros Chemicals Inc
FEIN or SS# 43-1935062
Name of Owner/Partner/Officer Gary Delk
Title/Position of Owner/Partner/Officer Gary Delk
Signature of Owner/Partner/Officer Gary Delk
Business Telephone 813-247-4539
Email address floridabids@harcros.com
Business Address 5132 Trenton Street, Tampa, FL 33619

COMPANY INFORMATION

(Please Print or Type)

Company Name: Harcros Chemicals Inc

Street Address: 5132 Trenton Street

Mailing Address: Same

Address of facility that will provide materials: Same

City, State & Zip: Tampa, FL 33619

Phone No.: 813. 247. 4531

Phone No. for ordering materials: Same / email for orders: ordertampa@harcros.com

Contact Person: Sales/tech support: Urpiana Koklonis - 786.230.9852

E-Mail Address: Sales/tech support: U Koklonis@harcros.com; Contract/bid - floridabids@harcros.com

No. of Years in Business: + 75

No. of Employees: local - 15

No. of delivery vehicles available for performance of this contract: 2+

Harcros Chemicals, Inc
Company Name (Please Print)


Authorized Signature

Cary Delk, Regional Manager
Printed Name and Title

**** THIS FORM MUST BE COMPLETED AND RETURNED WITH YOUR BID.**