

**CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND
PENCCO, INC. (FILE #6530)**

THIS CONTRACT is made and entered into this date _____, by and between Pencco, Inc., a corporation, whose address is 831 Bartlett Road, Sealy, TX 77474, hereinafter referred to as "Supplier," and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City," to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or his duly authorized designee.

For and in consideration of the covenants and agreements contained herein, and for the mutual benefits to be obtained hereby, the parties agree as follows:

SCOPE OF SERVICES

Supplier shall provide products in accordance with the City's IFB # 6530 Water and Wastewater Chemicals, a copy of which is on file at the office of Purchasing Agent and incorporated herein for all purposes. The Contract consists of this written agreement and the following items which are attached hereto, or on file, and incorporated herein by reference:

- (a) Special Terms and Conditions (**Exhibit "A"**);
- (b) City of Denton's IFB#6530 (**Exhibit "B" on file at the office of the Purchasing Agent**);
- (c) City of Denton Standard Terms and Conditions (**Exhibit "C"**);
- (d) Certificate of Interested Parties Electronic Filing (**Exhibit "D"**);
- (e) Supplier's Proposal. (**Exhibit "E"**);
- (f) Form CIQ – Conflict of Interest Questionnaire (**Exhibit "F"**)

These documents make up the Contract documents and what is called for by one shall be as binding as if called for by all. In the event of an inconsistency or conflict in any of the provisions of the Contract documents, the inconsistency or conflict shall be resolved by giving precedence first to the written agreement then to the contract documents in the order in which they are listed above. These documents shall be referred to collectively as "Contract Documents."

INDEMNITY

THE SUPPLIER REPRESENTS AND WARRANTS TO THE CITY THAT THE INTELLECTUAL PROPERTY SUPPLIED BY CONTRACTOR IN ACCORDANCE WITH THE SPECIFICATIONS IN THE CONTRACT WILL NOT INFRINGE, DIRECTLY OR CONTRIBUTORILY, ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET, OR ANY OTHER INTELLECTUAL PROPERTY RIGHT OF ANY KIND OF ANY THIRD PARTY, AND THAT NO CLAIMS HAVE BEEN MADE BY ANY PERSON OR ENTITY WITH RESPECT TO THE OWNERSHIP OR OPERATION OF THE INTELLECTUAL PROPERTY. MOREOVER, THE CONTRACTOR DOES NOT KNOW OF ANY VALID BASIS FOR ANY SUCH CLAIMS. THE CONTRACTOR SHALL, AT ITS SOLE EXPENSE, DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL LIABILITY, DAMAGES, AND COSTS (INCLUDING COURT COSTS AND REASONABLE FEES OF ATTORNEYS AND

OTHER PROFESSIONALS) ARISING OUT OF OR RESULTING FROM ANY CLAIM THAT THE CITY'S EXERCISE OF ITS LICENSE RIGHTS, AND ITS USE OF THE INTELLECTUAL PROPERTY, THE SUBJECT OF THIS CONTRACT, INFRINGES THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY, OR THE BREACH OF ANY OF REPRESENTATIONS OR WARRANTIES STATED IN THE CONTRACT DOCUMENTS. IN THE EVENT OF ANY SUCH CLAIM, THE CITY SHALL HAVE THE RIGHT TO MONITOR SUCH CLAIM OR AT ITS OPTION ENGAGE ITS OWN SEPARATE COUNSEL TO ACT AS CO-COUNSEL ON THE CITY'S BEHALF.

IN WITNESS WHEREOF, the parties of these presents have executed this agreement in the year and day first above written.

SUPPLIER

DocuSigned by:
BY: Sarah Duffy
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AUTHORIZED SIGNATURE

Date: 10/23/2017

Name: Sarah Duffy

Title: Bid Sec.

979-885-0005
PHONE NUMBER

sarah@pencco.com
EMAIL ADDRESS

2017-271722
TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: _____
TODD HILEMAN
CITY MANAGER

BY: _____

Date: _____

APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

DocuSigned by:
BY: Aaron Leal
5972538AC4584B9...

Exhibit A

Special Terms and Conditions

1. The Quantities

The quantities indicated on Exhibit E are estimates based upon the best available information. The City reserves the right to increase or decrease the quantities to meet its actual needs without any adjustments in the bid price. Individual purchase orders will be issued on an as needed basis.

2. Product Changes During Contract Term

The supplier shall not change specifications during the contract term without prior approval. Any deviation in the specifications or change in the product must be approved in advance by the City of Denton. Notice of a change shall be submitted in writing to dentonpurchasing@cityofdenton.com, with the above file number in the subject line, for review. Products found to have changed specifications without notification, and acceptance, will be returned at the supplier's expense. Products that have been installed will be replaced at the supplier's expense.

3. Authorized Distributor

The supplier shall be the manufacturer or authorized distributor of the proposed products. The distributor shall be authorized to sell to the City of Denton, and make available the manufacturer's representative as needed by the City.

4. Contract Terms

The contract term will be four (4) years, effective from date of award or notice to proceed as determined by the City of Denton Purchasing Department.

The contract term will be one (1) year, effective from the date that the City provides notice of the award to supplier ("effective date"). The contract shall automatically renew each year on the month and day of the effective date ("renewal date"), unless either party notifies the other party in writing prior to the renewal date that the contract will not be renewed or the contract is otherwise terminated or completed. This contract may only be automatically renewed for an additional three (3) one-year periods, subject to the terms herein, without City Council approval.

5. Price Escalation and De-escalation

On Supplier's request in the form stated herein, the City will implement an escalation/de-escalation price adjustment annually based on these special terms. The escalation/de-escalation will be based on the U.S Department of Labor, Bureau of Labor Statistics, Producer Price Index (PPI) for finished Chemicals (PCU212393212393). The stated eligible bid price will be increased or decreased based upon the annual percentage change in the PPI so long as the change is greater than the minimum threshold value of +/- 1%. The maximum escalation will not exceed +/- 8% for any individual year. **The Supplier must submit or make available the manufacturers pricing sheet used to calculate the bid proposal, to participate in the escalation/de-escalation clause.**

The Supplier's request must be submitted in writing with supporting evidence for need of such increase to the Purchasing Manager at least 60 days prior to the contract renewal date for each year. The Supplier should provide documentation as a percentage of each cost associated with the unit prices quoted for consideration. If no request is made, then it will be assumed that the current contract price will be in effect.

Upon receipt of such request, the City of Denton, at its sole option, reserves the right to either: (1) accept the escalation as competitive with the general market price at the time, and become effective upon the renewal date of the contract award; or, (2) reject the increase within thirty (30) calendar days after receipt of a properly submitted request. If a properly submitted increase is rejected, the Supplier may request cancellation of such items from the contract by giving the City of Denton written notice. Cancellation will not go into effect for 15 calendar days after a determination has been issued. The prices in effect prior to the increase request must be honored on orders dated up to the official date of the City of Denton approval and/or cancellation.

The request can be sent by e-mail to: purchasing@cityofdenton.com noting the solicitation number.

The City of Denton reserves the right to accept, reject, or negotiate the proposed price changes.

6. Total Contract Amount

The contract total shall not exceed \$3,200,000. Pricing shall be per Exhibit E attached.

7. Delivery Lead Time

Product or services shall be delivered to the City per the days/weeks noted in Exhibit E after receipt of the order.

Exhibit C
City of Denton
Standard Purchase Terms and Conditions

These standard Terms and Conditions and the Terms and Conditions, Specifications, Drawings and other requirements included in the City of Denton's contract are applicable to contracts/purchase orders issued by the City of Denton hereinafter referred to as the City or Buyer and the Seller or respondent herein after referred to as Contractor or Supplier. Any deviations must be in writing and signed by a representative of the City's Procurement Department and the Supplier. No Terms and Conditions contained in the seller's proposal response, invoice or statement shall serve to modify the terms set forth herein. If there is a conflict between the provisions on the face of the contract/purchase order these written provisions will take precedence.

The Contractor agrees that the contract shall be governed by the following terms and conditions, unless exceptions are duly noted and fully negotiated. Unless otherwise specified in the contract, Sections 3, 4, 5, 6, 7, 8, 20, 21, and 36 shall apply only to a solicitation to purchase goods, and sections 9, 10, 11, 22 and 32 shall apply only to a solicitation to purchase services to be performed principally at the City's premises or on public rights-of-way.

1. CONTRACTOR'S OBLIGATIONS. The Contractor shall fully and timely provide all deliverables described in the Solicitation and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.

2. EFFECTIVE DATE/TERM. Unless otherwise specified in the Solicitation, this Contract shall be effective as of the date the contract is signed by the City, and shall continue in effect until all obligations are performed in accordance with the Contract.

3. CONTRACTOR TO PACKAGE DELIVERABLES: The Contractor will package deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price unless otherwise provided in the Specifications or Supplemental Terms and Conditions, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address and purchase order or purchase release number and the price agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform to all the requirements of common carriers and any applicable specification. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

4. SHIPMENT UNDER RESERVATION PROHIBITED: The Contractor is not authorized to ship the deliverables under reservation and no tender of a bill of lading will operate as a tender of deliverables.

5. TITLE & RISK OF LOSS: Title to and risk of loss of the deliverables shall pass to the City only when the City actually receives and accepts the deliverables.

6. DELIVERY TERMS AND TRANSPORTATION CHARGES: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Supplemental Terms and Conditions. Unless otherwise stated in the Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth the purchase order.

7. RIGHT OF INSPECTION AND REJECTION: The City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the deliverables at delivery before accepting them, and to reject defective or non-conforming deliverables. If the City has the right to inspect the Contractor's, or the Contractor's Subcontractor's, facilities, or the deliverables at the Contractor's, or the Contractor's Subcontractor's, premises, the Contractor shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance to the City to facilitate such inspection.

8. NO REPLACEMENT OF DEFECTIVE TENDER: Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract.

9. PLACE AND CONDITION OF WORK: The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner, in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the contract. The Contractor hereby releases and holds the City harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

The contractor shall, at all times, exercise reasonable precautions for the safety of their employees, City Staff, participants and others on or near the City's facilities.

10. WORKFORCE

A. the Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.

B. The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Denton contract or on the City's property .

i. use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the contract; or

ii. use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.

C. If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

Immigration: The Contractor represents and warrants that it shall comply with the requirements of the Immigration Reform and Control Act of 1986 and 1990 regarding employment verification and retention of verification forms for any individuals hired on or after November 6, 1986, who will perform any labor or services under the Contract and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA") enacted on September 30, 1996.

11. COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS: The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

Environmental Protection: The Respondent shall be in compliance with all applicable standards, orders, or regulations issued pursuant to the mandates of the Clean Air Act (42 U.S.C. §7401 *et seq.*) and the Federal Water Pollution Control Act, as amended, (33 U.S.C. §1251 *et seq.*).

12. INVOICES:

A. The Contractor shall submit separate invoices in duplicate on each purchase order or purchase release after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.

B. Proper Invoices must include a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name, remittance address and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.

C. Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.

D. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.

E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount.

The City will furnish a tax exemption certificate upon request.

13. PAYMENT:

A. All proper invoices need to be sent to Accounts Payable. Approved invoices will be paid within thirty (30) calendar days of the City's receipt of the deliverables or of the invoice being received in Accounts Payable, whichever is later.

B. If payment is not timely made, (per paragraph A); interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches the shipment or delivery.

D. The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:

- i. delivery of defective or non-conforming deliverables by the Contractor;
- ii. third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;
- iii. failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;
- iv. damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;
- v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or damages for the anticipated delay;
- vi. failure of the Contractor to submit proper invoices with purchase order number, with all required attachments and supporting documentation; or
- vii. failure of the Contractor to comply with any material provision of the Contract Documents.

E. Notice is hereby given that any awarded firm who is in arrears to the City of Denton for delinquent taxes, the City may offset indebtedness owed the City through payment withholding.

F. Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.

G. The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of none or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

14. TRAVEL EXPENSES: All travel, lodging and per diem expenses in connection with the Contract shall be paid by the Contractor, unless otherwise stated in the contract terms. During the term of this contract, the contractor shall bill and the City shall reimburse contractor for all reasonable and approved out of pocket expenses which are incurred in the connection with the performance of duties hereunder. Notwithstanding the foregoing, expenses for the time spent by

the contractor in traveling to and from City facilities shall not be reimbursed, unless otherwise negotiated.

15. FINAL PAYMENT AND CLOSE-OUT:

A. If a DBE/MBE/WBE Program Plan is agreed to and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Purchasing Manager no later than the 15th calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements as accepted by the City.

B. The making and acceptance of final payment will constitute:

i. a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

16. SPECIAL TOOLS & TEST EQUIPMENT: If the price stated on the Offer includes the cost of any special tooling or special test equipment fabricated or required by the Contractor for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the City and shall be identified by the Contractor as such.

17. RIGHT TO AUDIT:

A. The City shall have the right to audit and make copies of the books, records and computations pertaining to the Contract. The Contractor shall retain such books, records, documents and other evidence pertaining to the Contract period and five years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents and other evidence shall be available, within ten (10) business days of written request. Further, the Contractor shall also require all Subcontractors, material suppliers, and other payees to retain all books, records, documents and other evidence pertaining to the Contract, and to allow the City similar access to those documents. All books and records will be made available within a 50 mile radius of the City of Denton. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

B. Failure to comply with the provisions of this section shall be a material breach of the Contract and shall constitute, in the City's sole discretion, grounds for termination thereof. Each of the terms "books", "records", "documents" and "other evidence", as used above, shall be construed to include drafts and electronic files, even if such drafts or electronic files are subsequently used to generate or prepare a final printed document.

18. SUBCONTRACTORS:

A. If the Contractor identified Subcontractors in a DBE/MBE/WBE agreed to Plan, the Contractor shall comply with all requirements approved by the City. The Contractor shall not initially employ any Subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in

writing. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Procurement Manager, no later than the tenth calendar day of each month.

B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the

Contract, and shall contain provisions that:

- i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
- ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;
- iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;
- iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and
- v. require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.

C. The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.

D. The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.

19. WARRANTY-PRICE:

A. The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

B. The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

C. In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

20. WARRANTY – TITLE: The Contractor warrants that it has good and indefeasible title to all deliverables furnished under the Contract, and that the deliverables are free and clear of all liens, claims, security interests and encumbrances. The Contractor shall indemnify and hold the City harmless from and against all adverse title claims to the deliverables.

21. WARRANTY – DELIVERABLES: The Contractor warrants and represents that all deliverables sold the City under the Contract shall be free from defects in design, workmanship or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Solicitation, to any samples furnished by the Contractor, to the terms, covenants and conditions of the Contract, and to all applicable State, Federal or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned.

A. Recycled deliverables shall be clearly identified as such.

B. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.

C. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

D. If the Contractor is unable or unwilling to repair or replace defective or non-conforming deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such deliverables from another source.

E. If the Contractor is not the manufacturer, and the deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall assist and cooperate with the City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.

22. WARRANTY – SERVICES: The Contractor warrants and represents that all services to be provided the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.

A. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.

B. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the Acceptance Date. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.

C. If the Contractor is unable or unwilling to perform its services in accordance with the above

standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

23. ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES: If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

24. RIGHT TO ASSURANCE: Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

25. STOP WORK NOTICE: The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

26. DEFAULT: The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 24, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.

27. TERMINATION FOR CAUSE: In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and any Offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

28. TERMINATION WITHOUT CAUSE: The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.

29. FRAUD: Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

30. DELAYS:

A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in paragraph 49. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

B. Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

31. INDEMNITY:

A. Definitions:

i. "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for: (1) damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or (2) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties), ii. "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct or a breach of any legally imposed strict liability standard.

B. THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS,

EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.

32. INSURANCE: The following insurance requirements are applicable, in addition to the specific insurance requirements detailed in **Appendix A** for services only. The successful firm shall procure and maintain insurance of the types and in the minimum amounts acceptable to the City of Denton. The insurance shall be written by a company licensed to do business in the State of Texas and satisfactory to the City of Denton.

A. General Requirements:

- i. The Contractor shall at a minimum carry insurance in the types and amounts indicated and agreed to, as submitted to the City and approved by the City within the procurement process, for the duration of the Contract, including extension options and hold over periods, and during any warranty period.
- ii. The Contractor shall provide Certificates of Insurance with the coverage's and endorsements required to the City as verification of coverage prior to contract execution and within fourteen (14) calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or hold over period is exercised, as verification of continuing coverage.
- iii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iv. The Contractor must submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.
- v. The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of **A- VII or better**. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.
- vi. All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall contain the solicitation number and the following information:

City of Denton
Materials Management Department
901B Texas Street
Denton, Texas 76209

- vii. The "other" insurance clause shall not apply to the City where the City is an additional

insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.

viii. If insurance policies are not written for amounts agreed to with the City, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

ix. The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

x. The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.

xi. The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

xii. The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.

xiii. The Contractor shall endeavor to provide the City thirty (30) calendar days' written notice of erosion of the aggregate limits below occurrence limits for all applicable coverage's indicated within the Contract.

xiv. The insurance coverage's specified in within the solicitation and requirements are required minimums and are not intended to limit the responsibility or liability of the Contractor.

B. Specific Coverage Requirements: Specific insurance requirements are contained in the solicitation instrument.

33. CLAIMS: If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse affect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Denton City Attorney. Personal delivery to the City Attorney shall be to City Hall, 215 East McKinney Street, Denton, Texas 76201.

34. NOTICES: Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the Contractor shall be sent to the address specified in the Contractor's Offer, or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to the City at 901B Texas Street, Denton, Texas 76209 and marked

to the attention of the Purchasing Manager.

35. RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL: All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, and Texas Government Code.

36. NO WARRANTY BY CITY AGAINST INFRINGEMENTS: The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the deliverables and (ii) the deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the deliverables and the Contractor does not know of any valid basis for any such claims. The Contractor shall, at its sole expense, defend, indemnify, and hold the City harmless from and against all liability, damages, and costs (including court costs and reasonable fees of attorneys and other professionals) arising out of or resulting from: (i) any claim that the City's exercise anywhere in the world of the rights associated with the City's ownership, and if applicable, license rights, and its use of the deliverables infringes the intellectual property rights of any third party; or (ii) the Contractor's breach of any of Contractor's representations or warranties stated in this Contract. In the event of any such claim, the City shall have the right to monitor such claim or at its option engage its own separate counsel to act as co-counsel on the City's behalf. Further, Contractor agrees that the City's specifications regarding the deliverables shall in no way diminish Contractor's warranties or obligations under this paragraph and the City makes no warranty that the production, development, or delivery of such deliverables will not impact such warranties of Contractor.

37. CONFIDENTIALITY: In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Agreement, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

38. OWNERSHIP AND USE OF DELIVERABLES: The City shall own all rights, titles, and

interests throughout the world in and to the deliverables.

A. Patents. As to any patentable subject matter contained in the deliverables, the Contractor agrees to disclose such patentable subject matter to the City. Further, if requested by the City, the Contractor agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to execute, acknowledge, and deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by the City, to the City upon request by the City.

B. Copyrights. As to any deliverables containing copyrightable subject matter, the Contractor agrees that upon their creation, such deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such deliverables, provided however, that nothing in this Paragraph 38 shall negate the City's sole or joint ownership of any such deliverables arising by virtue of the City's sole or joint authorship of such deliverables. Should by operation of law, such deliverables not be considered works made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of) all worldwide right, title, and interest in and to such deliverables. With respect to such work made-for-hire, the Contractor agrees to execute, acknowledge, and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-made-for-hire agreement, in a form to be reasonably approved by the City, to the City upon delivery of such deliverables to the City or at such other time as the City may request.

C. Additional Assignments. The Contractor further agrees to, and if applicable, cause each of its employees to, execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns and nominees, the sole and exclusive right, title, and interest in and to the deliverables. The Contractor's obligations to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this Paragraph 38 a., b., and c. shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms of Paragraph 37 above.

39. PUBLICATIONS: All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

40. ADVERTISING: The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.

41. NO CONTINGENT FEES: The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition

to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

42. GRATUITIES: The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Denton with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

43. PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS: No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City. The Contractor shall complete and submit the City's Conflict of Interest Questionnaire.

44. INDEPENDENT CONTRACTOR: The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City of Denton, Texas for the purposes of income tax, withholding, social security taxes, vacation or sick leave benefits, worker's compensation, or any other City employee benefit. The City shall not have supervision and control of the Contractor or any employee of the Contractor, and it is expressly understood that Contractor shall perform the services hereunder according to the attached specifications at the general direction of the City Manager of the City of Denton, Texas, or his designee under this agreement. The contractor is expressly free to advertise and perform services for other parties while performing services for the City.

45. ASSIGNMENT-DELEGATION: The Contract shall be binding upon and ensure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there are no third party beneficiaries to the Contract.

46. WAIVER: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as,

or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

47. MODIFICATIONS: The Contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any the Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.

48. INTERPRETATION: The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

49. DISPUTE RESOLUTION:

A. If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

B. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option; the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Denton County Alternative Dispute Resolution Program (DCAP). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

50. JURISDICTION AND VENUE: The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this

Contract shall be resolved in the courts of Denton County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

51. INVALIDITY: The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

52. HOLIDAYS: The following holidays are observed by the City:

New Year's Day (observed)
MLK Day
Memorial Day
4th of July
Labor Day
Thanksgiving Day
Day After Thanksgiving
Christmas Eve (observed)
Christmas Day (observed)
New Year's Day (observed)

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday. Normal hours of operation shall be between 8:00 am and 4:00 pm, Monday through Friday, excluding City of Denton Holidays. Any scheduled deliveries or work performance not within the normal hours of operation **must be approved** by the City Manager of Denton, Texas or his authorized designee.

53. SURVIVABILITY OF OBLIGATIONS: All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.

54. NON-SUSPENSION OR DEBARMENT CERTIFICATION:

The City of Denton is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Denton Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Denton.

55. EQUAL OPPORTUNITY

A. Equal Employment Opportunity: No Offeror, or Offeror's agent, shall engage in any

discriminatory employment practice. No person shall, on the grounds of race, sex, sexual orientation, age, disability, creed, color, genetic testing, or national origin, be refused the benefits of, or be otherwise subjected to discrimination under any activities resulting from this RFQ.

B. Americans with Disabilities Act (ADA) Compliance: No Offeror, or Offeror's agent, shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

56. BUY AMERICAN ACT-SUPPLIES (Applicable to certain federally funded requirements)

The following federally funded requirements are applicable. A. Definitions. As used in this paragraph –

i. "Component" means an article, material, or supply incorporated directly into an end product.

ii. "Cost of components" means -

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

iii. "Domestic end product" means-

(1) An unmanufactured end product mined or produced in the United States; or

(2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

iv. "End product" means those articles, materials, and supplies to be acquired under the contract for public use.

v. "Foreign end product" means an end product other than a domestic end product.

vi. "United States" means the 50 States, the District of Columbia, and outlying areas.

B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.

C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Offeror shall submit documentation with their Offer demonstrating that the article is on an approved Governmental list.

D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled "Buy American Act Certificate".

57. RIGHT TO INFORMATION: The City of Denton reserves the right to use any and all information presented in any response to this contract, whether amended or not, except as prohibited by law. Selection or rejection of the submittal does not affect this right.

58. LICENSE FEES OR TAXES: Provided the solicitation requires an awarded contractor or supplier to be licensed by the State of Texas, any and all fees and taxes are the responsibility of the

respondent.

59. PREVAILING WAGE RATES: The contractor shall comply with prevailing wage rates as defined by the United States Department of Labor Davis-Bacon Wage Determination at <http://www.dol.gov/whd/contracts/dbra.htm> and at the Wage Determinations website www.wdol.gov for Denton County, Texas (WD-2509).

60. COMPLIANCE WITH ALL STATE, FEDERAL, AND LOCAL LAWS: The contractor or supplier shall comply with all State, Federal, and Local laws and requirements. The Respondent must comply with all applicable laws at all times, including, without limitation, the following: (i) §36.02 of the Texas Penal Code, which prohibits bribery; (ii) §36.09 of the Texas Penal Code, which prohibits the offering or conferring of benefits to public servants. The Respondent shall give all notices and comply with all laws and regulations applicable to furnishing and performance of the Contract.

61. FEDERAL, STATE, AND LOCAL REQUIREMENTS: Respondent shall demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2's to common law employees. Respondent is responsible for both federal and State unemployment insurance coverage and standard Workers' Compensation insurance coverage. Respondent shall ensure compliance with all federal and State tax laws and withholding requirements. The City of Denton shall not be liable to Respondent or its employees for any Unemployment or Workers' Compensation coverage, or federal or State withholding requirements. Contractor shall indemnify the City of Denton and shall pay all costs, penalties, or losses resulting from Respondent's omission or breach of this Section.

62. DRUG FREE WORKPLACE: The contractor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 ET SEQ.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the contractor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

63. RESPONDENT LIABILITY FOR DAMAGE TO GOVERNMENT PROPERTY: The Respondent shall be liable for all damages to government-owned, leased, or occupied property and equipment caused by the Respondent and its employees, agents, subcontractors, and suppliers, including any delivery or cartage company, in connection with any performance pursuant to the Contract. The Respondent shall notify the City of Denton Procurement Manager in writing of any such damage within one (1) calendar day.

64. FORCE MAJEURE: The City of Denton, any Customer, and the Respondent shall not be responsible for performance under the Contract should it be prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of the City of Denton. In the event of an occurrence under this Section, the Respondent will be excused from any further performance or observance of the requirements so affected for as long as such circumstances prevail and the Respondent continues to use commercially reasonable efforts to recommence performance or observance whenever and to

whatever extent possible without delay. The Respondent shall immediately notify the City of Denton Procurement Manager by telephone (to be confirmed in writing within five (5) calendar days of the inception of such occurrence) and describe at a reasonable level of detail the circumstances causing the non-performance or delay in performance.

65. NON-WAIVER OF RIGHTS: Failure of a Party to require performance by another Party under the Contract will not affect the right of such Party to require performance in the future. No delay, failure, or waiver of either Party's exercise or partial exercise of any right or remedy under the Contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy. A waiver by a Party of any breach of any term of the Contract will not be construed as a waiver of any continuing or succeeding breach.

66. NO WAIVER OF SOVEREIGN IMMUNITY: The Parties expressly agree that no provision of the Contract is in any way intended to constitute a waiver by the City of Denton of any immunities from suit or from liability that the City of Denton may have by operation of law.

67. RECORDS RETENTION: The Respondent shall retain all financial records, supporting documents, statistical records, and any other records or books relating to the performances called for in the Contract. The Respondent shall retain all such records for a period of four (4) years after the expiration of the Contract, or until the CPA or State Auditor's Office is satisfied that all audit and litigation matters are resolved, whichever period is longer. The Respondent shall grant access to all books, records and documents pertinent to the Contract to the CPA, the State Auditor of Texas, and any federal governmental entity that has authority to review records due to federal funds being spent under the Contract.

Should a conflict arise between any of the contract documents, it shall be resolved with the following order of precedence (if applicable). In any event, the final negotiated contract shall take precedence over any and all contract documents to the extent of such conflict.

- 1. Final negotiated contract**
- 2. RFP/Bid documents**
- 3. City's standard terms and conditions**
- 4. Purchase order**
- 5. Supplier terms and conditions**

Exhibit D

CERTIFICATE OF INTERESTED PARTIES**FORM 1295**

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
CERTIFICATION OF FILING**

Certificate Number:
2017-271722

Date Filed:
10/12/2017

Date Acknowledged:
10/23/2017

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Pencco, Inc.
San Felipe, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Denton

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

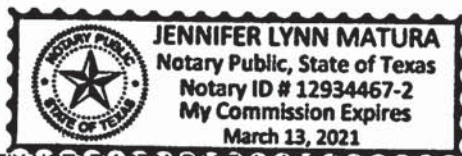
Contract 6530
Supply & Deliver Chemicals

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.

**6 AFFIDAVIT**

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



AFFIX NOTARY STAMP/ SEAL ABOVE

Sarah Duffy
 Signature of authorized agent of contracting business entity

Sworn to and subscribed before me, by the said Sarah DUFFY, this the 13th day of October, 2017, to certify which, witness my hand and seal of office.

Jennifer Matura
 Signature of officer administering oath

Jennifer Matura
 Printed name of officer administering oath

TX Notary
 Title of officer administering oath

EXHIBIT E

IFB #6530

**Supply of Water & Waste Water Treatment
Chemicals**

Due: 09.21.17

Submission by:

Pencco, Inc.

PO Box 600

San Felipe, TX 77473

Sarah Duffy, Bid Sec.

979.885.0005

979.885.3208 (fax)

www.Pencco.com

sarah@pencco.com

EXHIBIT E

IFB # 6530 EXHIBIT 1 - PRICING SHEET FOR SUPPLY OF WATER / WASTEWATER TREATMENT CHEMICALS					
(PRICING SHALL INCLUDE ALL COSTS TO DELIVER GOODS AS SPECIFIED F.O.B DESTINATION):					Respondent: Location:
ITEM#	EST. ANNUAL QTY	UOM	PRODUCT DESCRIPTION	DELIVERY LOCATION / PLANT	DEPT/ PLANT
SECTION A WATER TREATMENT CHEMICALS					
10a	2,500,000	Wet Lbs.	Liquid Ferric Sulfate 12% as FE+3 60% Solution (3,500-4,000 gallon truckloads)	LLWTP	WATER /LLWTP
10b	2,500,000	Wet Lbs.	Liquid Ferric Sulfate 12% as FE+3 60% Solution (3,500-4,000 gallon truckloads)	RRWTP	WATER / RRWTP
SECTION A WATER TREATMENT CHEMICALS				SECTION A TOTAL	
SECTION B WASTE WATER TREATMENT CHEMICALS					
1	300,000	Wet Lbs.	Sodium Hypochlorite 10% Solution (Bulk 3,500-5,000 gallon truckloads)	PCWTRP	WWTR /PCWTRP
2	130,000	Lbs.	Cationic Polymer 40% Solution (Bulk - 1,500 - 1,800 gallons)	PCWTRP	WWTR /PCWTRP
3	4,250,000	Wet Lbs.	Liquid Ferric Chloride 40% Solution	PCWTRP	WWTR /PCWTRP
SECTION B WASTE WATER TREATMENT CHEMICALS				SECTION B TOTAL	
GRAND TOTAL				GRAND TOTAL ANNUALLY	
				ESTIMATED FOR FOUR YEARS	
ABBREVIATIONS					
SWEST	Southwest Elevated Storage Tank- 11490 H. Lively Rd, Ponder TX 76259				
LLWTP	Lake Lewisville Water Treatment Plant 1701-B Spencer Rd, Denton TX 76205				
RRWTP	Lake Ray Roberts Water Treatment Plant 9401 Lake Ray Roberts Dam Rd, Aubrey TX 76227				
PCWTRP	Pecan Creek Water Reclamation Plant- 1100 S Mayhill Rd, Denton TX 76205				

	Pencco, Inc. Sealy, TX		
UNIT PRICE	EXTENDED PRICE	ESTIMATED DELIVERY DAYS ARO (DAYS)	NSF60 Certified Yes or No
\$ 0.07200	\$ 180,000.00	5	Yes
\$ 0.07200	\$ 180,000.00	5	Yes
	\$ 360,000.00		
\$ 0.09400	\$ 399,500.00	5	Yes
	\$ 399,500.00		
	\$ 759,500.00		
	\$ 3,200,000.00		

EXHIBIT E

City of Denton
IFB #6530

ATTACHMENT A-BUSINESS OVERVIEW QUESTIONNAIRE AND FORMS

1. Contract Information (for formal contracting purposes):

The following information will be used to write a contract, should your firm be selected for award.

- Firm's Legal Name: **Pencco, Inc.**
- Address: **PO Box 600, San Felipe, TX 77473**
- Agent Authorized to sign contract (Name): **Sarah Duffy**
- Agent's email address: **sarah@pencco.com**

2. Subsidiary of: **N/A**

3. Organization Class (circle):

Partnership

☒ Corporation

Individual

Association

4. Tax Payer ID#: **74-2333384**5. Date Established: **09.04.84**6. Historically Underutilized Business: Yes or ☒ No7. Does your company have an established physical presence in the State of Texas, or the City of Denton? Yes or No, in which? **State of Texas**8. Please provide a detailed listing of all products and/or services that your company provides.
Hydrofluorosilicic Acid, Ferrous Sulfate, Ferric Sulfate, Ferrous Chloride, Ferric Chloride, Green Iron, Sulfend, Hydrochloric Acid9. Has your company filed or been named in any litigation involving your company and the Owner on a contract within the last five years under your current company name or any other company name? If so provide details of the issues and resolution if available. Include lawsuits where Owner was involved. (Notice: Failure to disclose this information during proposal submission, and later discovered, may result in contract termination at the Owner's option.) **None**

10. Have you ever defaulted on or failed to complete a contract under your current company name or any other company name? If so, where and why? Give name and telephone number of Owner.

None

EXHIBIT E

City of Denton
IFB #6530

11. Have you ever had a contract terminated by the Owner? If so, where and why? Give name and telephone number (s) of Owner (s). **None**

12. Has your company implemented an Employee Health and Safety Program compliant with 29 CFR 1910 "General Industry Standards" and/or 29 CFR 1926 "General Construction Standards" as they apply to your Company's customary activities?

http://www.osha.gov/pls/oshaweb/owasrch.search_form?p_doc_type=STANDARDS&p_toe_level=1&p_keyvalue=1926

Yes

13. Resident/Non-Resident Bidder Determination:

Texas Government Code Section 2252.002; Non-resident bidders. Texas law prohibits cities and other governmental units from awarding contracts to a non-resident firm unless the amount of such a bid is lower than the lowest bid by a Texas resident by the amount the Texas resident would be required to underbid in the non-resident bidders' state. In order to make this determination, please provide the name, address and phone number of:

- a. Responding firms principle place of business:
Pencco, Inc. PO Box 600, San Felipe, TX 77473 (mailing)
Pencco, Inc. 831 Bartlett Road, Sealy, TX 77474 (physical)
- b. Company's majority owner principle place of business:
Pencco, Inc. PO Box 600, San Felipe, TX 77473 (mailing)
Pencco, Inc. 831 Bartlett Road, Sealy, TX 77474 (physical)
- c. Ultimate Parent Company's principle place of business:
Pencco, Inc. PO Box 600, San Felipe, TX 77473 (mailing)
Pencco, Inc. 831 Bartlett Road, Sealy TX 77474 (physical)

EXHIBIT ECity of Denton
IFB #6530**14. Provide details on how firm meets the minimum qualifications stated in this Main document****Section 3.**

- a. The details must be completed on this form, and shall not point to another document in the respondent's proposal.
- b. Sign below and return form with final submission.

Pencco has been a provider of water and wastewater treatment chemicals and services to municipalities for over 30 years. We have extensive experience in tailoring unique solutions to each customer's need. Our delivery times have different ARO's based on the chemical you are ordering. Ferric Sulfate and ferric chloride ARO is 3-5 days and for fluosilicic acid it ranges from 7-14 days. Delivery quantities are full truckloads – 40,000 – 45,000 lbs. We have provided the requested 3 references and can provide more if requested. We are a Texas corporation and have submitted documentation as such. We are a manufacturer of ferric sulfate and ferric chloride. We are an authorized distributor of fluosilicic acid.

I certify that our firm meets the minimum qualifications as stated in this Main document, section 3.


Signature


Company


Date

EXHIBIT E

City of Denton
IFB #6530

ATTACHMENT C-SAFETY RECORD QUESTIONNAIRE

The City of Denton desires to avail itself of the benefits of Section 252.0435 of the Local Government Code, and consider the safety records of potential contractors prior to award of City contracts. Pursuant to Section 252.0435 of the Local Government Code, the City of Denton has adopted the following written definition and criteria for accurately determining the safety record of a respondent prior to awarding City contracts.

The definition and criteria for determining the safety record of a respondent for this consideration shall be:

The City of Denton shall consider the safety record of the respondent in determining the responsibility thereof. The City may consider any incidence involving worker safety or safety of the citizens of the City of Denton, be it related or caused by environmental, mechanical, operational, supervision or any other cause or factor. Specifically, the City may consider, among other things:

- a. Complaints to, or final orders entered by, the Occupational Safety and Health Review Commission (OSHRC), against the respondent for violations of OSHA regulations within the past three (3) years.
- b. Citations (as defined below) from an Environmental Protection Agency (as defined below) for violations within the past five (5) years. Environmental Protection Agencies include, but are not necessarily limited to, the U.S. Army Corps of Engineers (USACOE), the U.S. Fish and Wildlife Service (USFWS), the Environmental Protection Agency (EPA), the Texas Commission on Environmental Quality (TCEQ), the Texas Natural Resource Conservation Commission (TNRCC) (predecessor to the TCEQ), the Texas Department of Health (TDH), the Texas Parks and Wildlife Department (TPWD), the Structural Pest Control Board (SPCB), agencies of local governments responsible for enforcing environmental protection or worker safety related laws or regulations, and similar regulatory agencies of other states of the United States. Citations include notices of violation, notices of enforcement, suspension/revocations of state or federal licenses or registrations, fines assessed, pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, and judicial final judgments.
- c. Convictions of a criminal offense within the past ten (10) years, which resulted in bodily harm or death.
- d. Any other safety related matter deemed by the City Council to be material in determining the responsibility of the respondent and his or her ability to perform the services or goods required by the solicitation documents in a safe environment, both for the workers and other employees of respondent and the citizens of the City of Denton.

In order to obtain proper information from respondents so that City of Denton may consider the safety records of potential contractors prior to awarding bids on City contracts, City of Denton requires that respondents answer the following three (3) questions and submit them with their submissions:

EXHIBIT ECity of Denton
IFB #6530**QUESTION ONE**

Has the respondent, or the firm, corporation, partnership, or institution represented by the respondent, or anyone acting for such firm, corporation, partnership or institution, received citations for violations of OSHA within the past three (3) years?

YES ☒ NO ☐

If the respondent has indicated YES for question number one above, the respondent must provide to City of Denton, with its submission, the following information with respect to each such citation:

Date of offense, location of establishment inspected, category of offense, final disposition of offense, if any, and penalty assessed.

QUESTION TWO

Has the respondent, or the firm, corporation, partnership, or institution represented by the respondent, or anyone acting for such firm, corporation, partnership or institution, received citations for violations of environmental protection laws or regulations, of any kind or type, within the past five years? Citations include notice of violation, notice of enforcement, suspension/revocations of state or federal licenses, or registrations, fines assessed, pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, and judicial final judgments.

YES ☒ NO ☐

If the respondent has indicated YES for question number two above, the respondent must provide to City of Denton, with its submission, the following information with respect to each such conviction:

Date of offense or occurrence, location where offense occurred, type of offense, final disposition of offense, if any, and penalty assessed.

QUESTION THREE

Has the respondent, or the firm, corporation, partnership, or institution represented by respondent, or anyone acting for such firm, corporation, partnership, or institution, ever been convicted, within the past ten (10) years, of a criminal offense which resulted in serious bodily injury or death?

YES ☐ NO ☒

If the respondent has indicated YES for question number three above, the respondent must provide to City of Denton, with its submission, the following information with respect to each such conviction:

Date of offense, location where offense occurred, type of offense, final disposition of offense, if any, and penalty assessed.

EXHIBIT E

Safety Record Questionnaire – Supplemental Information

Question One:

Pencco, Inc. received Notices of Violation from the Texas Commission on Environmental Quality as follows:

July 23, 2014: Pencco's Bardwell, Texas plant, soil samples near the plant indicated concentrations of iron above background levels. In addition, pH levels of the on-site pond revealed storage of non-hazardous industrial waste.

No assessed penalty. Pencco excavated and disposed of the soil at the properly licensed landfill. In addition, Pencco registered the pond as a containment unit with TCEQ.

Question Two:

Pencco, Inc. received a Notice of Violation from the Occupational Safety & Health Administration (OSHA) as follows:

August 5, 2014: Citation 1, Item 1. Pertaining to the Bardwell plant fire alarm system. 29CFR 1910.106(h)(6)(iii). OSHA withdrew this alleged violation because the Bardwell plant did not have the threshold number of employees to trigger this statutory requirement. 29 CFR 1910.165(b)(5). In spite of the withdrawal, Pencco installed fire alarms at the Bardwell plant.

Citation 1, Item 2. OSHA alleged that Pencco had not taken precautions to prevent the ignition of flammable vapors in its ferrous manufacturing process. 29 CFR 1910.106(h)(7)(i)(a). OSHA withdrew this alleged violation

January 20, 2017: Notice of alleged violation for failure to maintain onsite and make readily available for review a copy of the stormwater pollution prevention plan (SWP3) for the most current permit.

Pencco updated and submitted the current permit. No assessed penalty.

EXHIBIT E**City of Denton
IFB# 6530****ATTACHMENT D-REFERENCES**

Please list three (3) Government references, other than the City of Denton, who can verify the quality of service your company provides. The City prefers customers of similar size and scope of work to this solicitation.

REFERENCE ONE

GOVERNMENT/COMPANY NAME: North Texas Municipal Water District

LOCATION: Wylie, Texas

CONTACT PERSON AND TITLE: Kathy Richmond, Administrative Technician

TELEPHONE NUMBER: 972.442.5405

EMAIL ADDRESS: krichmond@ntmwd.com

SCOPE OF WORK: Supply & Deliver Ferric Sulfate

CONTRACT PERIOD: 2014 - 2017

REFERENCE TWO

GOVERNMENT/COMPANY NAME: City of Fort Worth

LOCATION: Fort Worth, TX

CONTACT PERSON AND TITLE: Cristina Camarillo, Buyer

TELEPHONE NUMBER: 817.392.8355

EMAIL ADDRESS: cristina.camarillo@fortworthtexas.gov

SCOPE OF WORK: Supply & Deliver Ferric Sulfate; Supply & Deliver Hydrofluosilicic Acid

CONTRACT PERIOD: 2011 - 2017 2010 - 2017

REFERENCE THREE

GOVERNMENT/COMPANY NAME: City of Dallas

LOCATION: Dallas, TX

CONTACT PERSON AND TITLE: Farouk Hashem, Buyer III

TELEPHONE NUMBER: 817.392.8355

EMAIL ADDRESS: farouk.hashem@dallascityhall.com

SCOPE OF WORK: Supply & Delivery Ferrous Sulfate; Ferrous Chloride; Supply & Deliver Hydrofluosilicic Acid

CONTRACT PERIOD: 2008 - 2017 2009 - 2017

EXHIBIT E



PO Box 600 San Felipe, Texas 77473
(979) 885-0005 Fax: (979) 885-3208

BOARD OF DIRECTORS MEETING

Prior Notice was waived and a meeting of the Directors was held on August 15, 2014. The following resolution was adopted in respects to the official signing of bids on behalf of Pencco, Inc.

BE IT RESOLVED by the Board of Directors of Pencco, Inc. in a meeting duly assembled that Monica Avila, former Bid Secretary of the Corporation, no longer has authority to negotiate for and sign any bid proposals and/or contracts on behalf of the Corporation.

BE IT FURTHER RESOLVED that Sarah Duffy, Bid Secretary, of the Corporation has authority to negotiate for and sign any bid proposals and/or contracts which the Corporation might enter into for the furnishing of services for the Corporation under such terms, conditions, and stipulations, and for such consideration as she may deem to be in the best interest of the Corporation.

No further business was necessary and the meeting was concluded.



Ron L. Horne, President

EXHIBIT E

Corporations Section
P.O.Box 13697
Austin, Texas 78711-3697



Nandita Berry
Secretary of State

Office of the Secretary of State

Certificate of Fact

The undersigned, as Secretary of State of Texas, does hereby certify that the document, Articles Of Incorporation for PENCCO, INC. (file number 71918600), a Domestic For-Profit Corporation, was filed in this office on September 04, 1984.

It is further certified that the entity status in Texas is in existence.

In testimony whereof, I have hereunto signed my name officially and caused to be impressed hereon the Seal of State at my office in Austin, Texas on April 14, 2014.



NANDITA BERRY

Nandita Berry
Secretary of State

9/19/2017

EXHIBIT E
Franchise Search Results**Franchise Tax Account Status**

As of : 09/19/2017 11:19:48

This Page is Not Sufficient for Filings with the Secretary of State

PENCCO, INC.	
Texas Taxpayer Number	17423333842
Mailing Address	PO BOX 600 SAN FELIPE, TX 77473-0600
Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	09/04/1984
Texas SOS File Number	0071918600
Registered Agent Name	RON L HORNE
Registered Office Street Address	831 BARTLETT ROAD SAN FELIPE, TX 77473

EXHIBIT E
City of Denton
IFB# 6530

-ACKNOWLEDGEMENT

The undersigned agrees this submission becomes the property of the City of Denton after the official opening.

The undersigned affirms he has familiarized himself with the specification, drawings, exhibits and other documents; the local conditions under which the work is to be performed; satisfied himself of the conditions of delivery, handling and storage of materials and equipment; and all other matters that will be required for the work before submitting a response.

The undersigned agrees, if this submission is accepted, to furnish any and all items/services upon which prices are offered, at the price(s) and upon the terms and conditions contained in the specification. The period for acceptance of this submission will be 120 calendar days unless a different period is noted.

The undersigned affirms that they are duly authorized to execute this contract, that this submission has not been prepared in collusion with any other respondent, nor any employee of the City of Denton, and that the contents of this submission have not been communicated to any other respondent or to any employee of the City of Denton prior to the acceptance of this submission.

Respondent hereby assigns to the City any and all claims for overcharges associated with this contract which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Com. Code, Section 15.01, et seq.

The undersigned affirms that they have read and do understand the specifications, all exhibits and attachments contained in this solicitation package.

The undersigned agrees that the solicitation package posted on the website are the official specifications and shall not alter the electronic copy of the specifications and/or pricing sheet (Exhibit 1), without clearly identifying changes.

The undersigned understands they will be responsible for monitoring the City of Denton Purchasing Website at: <http://www.cityofdenton.com/index.aspx?page=397> to ensure they have downloaded and signed all addendum(s) required for submission with their response.

I certify that I have made no willful misrepresentations in this submission, nor have I withheld information in my statements and answers to questions. I am aware that the information given by me in this submission will be investigated, with my full permission, and that any misrepresentations or omissions may cause my submission to be rejected.

Acknowledge receipt of following addenda to the solicitation:


Addendum No 1 Dated 9-6-17
 Addendum No 2 Dated 9-6-17
 Addendum No 3 Dated _____

Received 9-14-17
 Received 9-15-17
 Received _____

NAME AND ADDRESS OF COMPANY:

Pencco, Inc.
PO Box 600
San Felipe, TX 77473
Tel. No. 979.885.0005
Email. sarah@pencco.com

AUTHORIZED REPRESENTATIVE:

Signature 
 Date 09.18.17
 Name Sarah Duffy
 Title Bid Sec.
 Fax No. 979.885.3208



The Public Health and Safety Organization

NSF Product and Service Listings

These NSF Official Listings are current as of **Wednesday, September 13, 2017** at 12:15 a.m. Eastern Time. Please contact NSF International 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=penco&>

NSF/ANSI 60 Drinking Water Treatment Chemicals - Health Effects

PENCCO, Inc.

831 Bartlett Road

Sealy, TX 77474

United States

800-864-1742

979-885-0005

Visit this company's website (<http://www.penco.com>)

Facility : Vernon, CA

Ferric Chloride

Trade Designation

Ferric Chloride

Product Function

Coagulation & Flocculation

Max Use

600mg/L

Ferrous Chloride

Trade Designation

Ferrous Chloride

Product Function

Coagulation & Flocculation

Max Use

500mg/L

Facility : Distribution Center - Willow Springs, IL

EXHIBIT E		
Trade Designation	Product Function	Max Use
Fluorosilicic Acid	Fluoridation	6mg/L
Fluosilicic Acid	Fluoridation	6mg/L
Hydrofluosilicic Acid	Fluoridation	6mg/L

Facility : Distribution Center - Westborough, MA

Hydrofluosilicic Acid

Trade Designation	Product Function	Max Use
Fluorosilicic Acid	Fluoridation	6mg/L

Facility : Middlesex, NC

Ferric Sulfate

Trade Designation	Product Function	Max Use
50% Ferric Sulfate	Coagulation & Flocculation	650mg/L
60% Ferric Sulfate	Coagulation & Flocculation	650mg/L
Ferric Sulfate	Coagulation & Flocculation	650mg/L
Penn 3202	Coagulation & Flocculation	650mg/L
Poly Ferric Sulfate	Coagulation & Flocculation	650mg/L

Hydrofluosilicic Acid

Trade Designation	Product Function	Max Use
Hydrofluorosilicic Acid	Fluoridation	6mg/L

Facility : Distribution Center - Bardwell, TX

Ferric Chloride

Trade Designation	Product Function	Max Use
Ferric Chloride	Coagulation & Flocculation	600mg/L
Pencco 3012	Coagulation & Flocculation	600mg/L

Ferric Sulfate

Trade Designation	Product Function	Max Use
Ferric Sulfate Solution	Coagulation & Flocculation	650mg/L

Ferrous Chloride

Trade Designation	Product Function	Max Use
Product #6530- Pencco Inc.		40

Ferrous Chloride

Pencco 0210

Hydrofluosilicic Acid**Trade Designation**

Hydrofluorosilicic Acid

Facility : Ennis, TX**Ferric Chloride****Trade Designation**

Ferric Chloride

Pencco 3012

Ferric Sulfate**Trade Designation**

50% Ferric Sulfate

60% Ferric Sulfate

Ferric Sulfate

Ferric Sulfate Solution

Poly Ferric Sulfate

Ferrous Chloride**Trade Designation**

Ferrous Chloride

Pencco 0210

Ferrous Sulfate**Trade Designation**

Ferrous Sulfate

GreenIron

SafeIron

Hydrofluosilicic Acid**Trade Designation**

Hydrofluorosilicic Acid

Corrosion Control**EXHIBIT E****Coagulation & Flocculation****Corrosion Control****Coagulation & Flocculation****Product Function**

Fluoridation

500mg/L

500mg/L

Max Use

6mg/L

Product Function

Coagulation & Flocculation

Coagulation & Flocculation

Max Use

600mg/L

600mg/L

Product Function

Coagulation & Flocculation

Coagulation & Flocculation

Coagulation & Flocculation

Coagulation & Flocculation

Coagulation & Flocculation

Max Use

650mg/L

650mg/L

650mg/L

650mg/L

650mg/L

Product Function

Corrosion Control

Coagulation & Flocculation

Corrosion Control

Coagulation & Flocculation

Max Use

500mg/L

500mg/L

Product Function

Coagulation & Flocculation

Coagulation & Flocculation

Coagulation & Flocculation

Max Use

150mg/L

150mg/L

150mg/L

Product Function

Fluoridation

Max Use

6mg/L

EXHIBIT E

Ferric Sulfate

Trade Designation	Product Function	Max Use
50% Ferric Sulfate	Coagulation & Flocculation	650mg/L
60% Ferric Sulfate	Coagulation & Flocculation	650mg/L
Ferric Sulfate	Coagulation & Flocculation	650mg/L
Ferric Sulfate Solution	Coagulation & Flocculation	650mg/L
Penn 3202	Coagulation & Flocculation	650mg/L
Poly Ferric Sulfate	Coagulation & Flocculation	650mg/L

Hydrofluosilicic Acid

Trade Designation	Product Function	Max Use
Fluorosilicic Acid	Fluoridation	6mg/L
Fluosilicic Acid	Fluoridation	6mg/L
Hydrofluosilicic Acid	Fluoridation	6mg/L

Number of matching Manufacturers is 1
Number of matching Products is 40
Processing time was 1 seconds

EXHIBIT E

PENCCO, INC.
Pioneer Engineering Chemical Company

AFFIDAVIT OF COMPLIANCE

This is to certify that the Hydrofluorosilicic Acid supplied by our company meets AWWA Standard B703-11 or the latest revision, and is certified to NSF/ANSI Standard NSF-60.

R L Horne
Signature

R. L. Horne, President
Name and Title of Official

1/4/2016
Date

EXHIBIT E**Hydrofluorosilicic Acid**

Safety Data Sheet

217

Revision date: 04/30/2015

Version: 1.0

SECTION 1: Identification of the substance/mixture and of the company/undertaking**1.1. Product identifier**

Product form : Mixture
Product name : Hydrofluorosilicic Acid
Product code : HFSA
Formula : H_2SiF_6 (aq)
Synonyms : HFSA, Fluorosilicic acid

1.2. Relevant identified uses of the substance or mixture and uses advised against

Use of the substance/mixture : Industrial use

1.3. Details of the supplier of the safety data sheet

PCS Sales (USA), Inc.
1101 Skokie Blvd.
Suite 400
Northbrook, IL 60062
T 800-241-6908 / 847-849-4200

Suite 500
122 1st Avenue South
Saskatoon, Saskatchewan Canada S7K7G3
T 800-667-0403 (Canada) / 800-667-3930 (USA)

SDS@PotashCorp.com - www.PotashCorp.com

1.4. Emergency telephone number

Emergency number : 800-424-9300
CHEMTREC

SECTION 2: Hazards identification**2.1. Classification of the substance or mixture****GHS-US classification**

Acute Tox. 4 (Oral)	H302
Acute Tox. 4 (Inhalation:dust,mist)	H332
Skin Corr. 1A	H314
Eye Dam. 1	H318
Aquatic Acute 3	H402

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2.2. Label elements**GHS-US labelling**

Hazard pictograms (GHS-US)



Signal word (GHS-US)

: Danger

Hazard statements (GHS-US)

: H302 - Harmful if swallowed
 H314 - Causes severe skin burns and eye damage
 H318 - Causes serious eye damage
 H332 - Harmful if inhaled
 H402 - Harmful to aquatic life

Precautionary statements (GHS-US)

: P260 - Do not breathe fume, mist, vapours, spray
 P264 - Wash hands and forearms thoroughly after handling
 P270 - Do not eat, drink or smoke when using this product
 P271 - Use only outdoors or in a well-ventilated area
 P273 - Avoid release to the environment
 P280 - Wear eye protection, face protection, protective gloves, protective clothing
 P301+P330+P331 - IF SWALLOWED: Rinse mouth. Do NOT induce vomiting
 P303+P361+P353 - IF ON SKIN (or hair): Remove/Take off immediately all contaminated clothing. Rinse skin with water/shower
 P304+P340 - IF INHALED: Remove person to fresh air and keep comfortable for breathing
 P305+P351+P338 - If in eyes: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing
 P310 - Immediately call a POISON CENTER or doctor
 P312 - Call a POISON CENTER or doctor if you feel unwell
 P363 - Wash contaminated clothing before reuse
 P405 - Store locked up
 P501 - Dispose of contents/container according to local, regional, national, and international regulations

2.3. Other hazards

Hazardous to the aquatic environment

No additional information available

SECTION 3: Composition/information on ingredients**3.1. Substances**

Not applicable

3.2. Mixture

Name	Product identifier	%	GHS-US classification
Fluorosilicic acid	(CAS No.) 16961-83-4	24	Acute Tox. 3 (Oral), H301 Acute Tox. 2 (Inhalation:dust,mist), H330 Skin Corr. 1A, H314

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			Eye Dam. 1, H318 Aquatic Acute 3, H402
Water	(CAS No.) 7732-18-5	76	Not classified
Fluorides, as F		19	Not classified

SECTION 4: First aid measures**4.1. Description of first aid measures**

- First-aid measures general : If exposed or concerned: Get medical advice/attention. If you feel unwell, seek medical advice (show the label where possible).
- First-aid measures after inhalation : Using proper respiratory protection, immediately move the exposed person to fresh air. Keep at rest and in a position comfortable for breathing. Give oxygen or artificial respiration if necessary. Seek immediate medical advice. Symptoms may be delayed.
- First-aid measures after skin contact : Remove/Take off immediately all contaminated clothing. Rinse immediately with plenty of water (for at least 15 minutes). Seek medical attention immediately if exposure is severe. Obtain medical attention if irritation develops or persists. Wash contaminated clothing before reuse.
- First-aid measures after eye contact : Immediately rinse with water for a prolonged period (at least 15 minutes) while holding the eyelids wide open. Seek medical attention immediately if exposure is severe. Obtain medical attention if irritation develops or persists.
- First-aid measures after ingestion : If swallowed, do not induce vomiting. Seek medical advice immediately and show this container or label.

4.2. Most important symptoms and effects, both acute and delayed

- Symptoms/injuries : Corrosive. Causes burns. Harmful if swallowed. Harmful if inhaled.
- Symptoms/injuries after inhalation : Causes severe respiratory irritation if inhaled. Symptoms may include: Burning of nose and throat, constriction of airway, difficulty breathing, shortness of breath, bronchial spasms, chest pain, and pink frothy sputum. Contact may cause immediate severe irritation progressing quickly to chemical burns. May cause pulmonary edema. Symptoms may be delayed.
- Symptoms/injuries after skin contact : Contact may cause immediate severe irritation progressing quickly to chemical burns.
- Symptoms/injuries after eye contact : Contact may cause immediate severe irritation progressing quickly to chemical burns. Can cause blindness.
- Symptoms/injuries after ingestion : May cause burns or irritation of the linings of the mouth, throat, and gastrointestinal tract. Swallowing a small quantity of this material will result in serious health hazard.
- Chronic symptoms : Repeated or prolonged inhalation may damage lungs. Prolonged and repeated contact will eventually cause permanent tissue damage. Repeated and prolonged exposure to fluorine containing compounds may cause fluorosis, a condition characterized by changes in bone density and strength, accompanied by stiffness and pain in joints.

4.3. Indication of any immediate medical attention and special treatment needed

No additional information available

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SECTION 5: Firefighting measures**5.1. Extinguishing media**

- Suitable extinguishing media : Use extinguishing media appropriate for surrounding fire.
- Unsuitable extinguishing media : Do not get water inside containers. Do not apply water stream directly at source of leak. Do not use a heavy water stream. A direct water stream will cause violent splattering and generation of heat.

5.2. Special hazards arising from the substance or mixture

- Fire hazard : Not flammable. Under conditions of fire this material may produce: Silicon oxides. Hydrogen fluoride. Tetrafluorosilane. Decomposes above 108 °C (227 °F)

- Explosion hazard : Product is not explosive.

5.3. Advice for firefighters

- Firefighting instructions : Keep upwind. Use water spray or fog for cooling exposed containers.
- Protection during firefighting : Firefighters must use full bunker gear including NIOSH-approved positive-pressure self-contained breathing apparatus to protect against potential hazardous combustion and decomposition products.
- Other information : Do not allow run-off from fire fighting to enter drains or water courses.

SECTION 6: Accidental release measures**6.1. Personal precautions, protective equipment and emergency procedures****6.1.1. For non-emergency personnel**

- Protective equipment : Use recommended respiratory protection. Wear suitable protective clothing, gloves and eye/face protection.
- Emergency procedures : Stop leak if safe to do so. Eliminate ignition sources. Evacuate unnecessary personnel. Ventilate area. Keep upwind.

6.1.2. For emergency responders

- Protective equipment : Use recommended respiratory protection. Wear suitable protective clothing, gloves and eye/face protection.
- Emergency procedures : Stop leak if safe to do so. Eliminate ignition sources. Evacuate unnecessary personnel. Ventilate area.

6.2. Environmental precautions

If spill could potentially enter any waterway, including intermittent dry creeks, contact the U.S. COAST GUARD NATIONAL RESPONSE CENTER at 800-424-8802. In case of accident or road spill notify CHEMTREC at 800-424-9300. In other countries call CHEMTREC at (International code) +1-703-527-3887.

6.3. Methods and material for containment and cleaning up

- For containment : Contain any spills with dikes or inert absorbents to prevent migration and entry into sewers or streams. Do not allow into drains or water courses or dispose of where ground or surface waters may be affected.

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Methods for cleaning up : Ventilate area. Small quantities of liquid spill: take up in non-combustible inert absorbent material and shovel into container for disposal. Collect absorbed material and place into a sealed, labelled container to be disposed at an appropriate disposal facility according to current applicable laws and regulations and product characteristics at the time of disposal.

Liquid spill: neutralize with powdered limestone or sodium bicarbonate.

Practice good housekeeping – spillage can be slippery on smooth surface either wet or dry.

6.4. Reference to other sections

No additional information available

SECTION 7: Handling and storage**7.1. Precautions for safe handling**

Precautions for safe handling : Avoid all eyes and skin contact and do not breathe vapour and mist. Wear recommended personal protective equipment. Ensure there is adequate ventilation. Keep away from heat and open flame. Employ good maintenance practices to prevent leaks. Use good process control measures to prevent releases.

Hygiene measures : Handle in accordance with good industrial hygiene and safety procedures. Emergency eye wash fountains and safety showers should be available in the immediate vicinity of any potential exposure. Wash contaminated clothing before reuse.

7.2. Conditions for safe storage, including any incompatibilities

Incompatible materials : Reacts with many metals to produce flammable and explosive hydrogen gas.

Prohibitions on mixed storage : Keep away from strong acids and bases, chlorites, organic peroxides, combustible materials, and metals.

Storage area : Store in dry, cool area. Store in a well-ventilated place away from heat and sources of ignition. Large tanks should be bermed and electrically grounded. Keep away from combustible materials. Avoid using glass, metal, or stoneware containers.

7.3. Specific end use(s)

Industrial use.

SECTION 8: Exposure controls/personal protection**8.1. Control parameters**


Fluorides		
USA ACGIH	TWA	2.5 mg/ m ³
USA OSHA	TWA	2.5 mg/ m ³
USA NIOSH	TWA	2.5 mg/ m ³

8.2. Exposure controls

Appropriate engineering controls : Ensure adequate ventilation, especially in confined areas.

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Personal protective equipment	: Protective goggles. Face shield. Gas mask at concentration in the air > > TLV. Protective clothing.
	
Hand protection	: Impermeable protective gloves, such as: nitrile, neoprene, or PVC. Wear gauntlet gloves. Check glove manufacturer's permeation / degradation information.
Eye protection	: Chemical safety goggles. Face shield. Do not wear contact lenses.
Skin and body protection	: Wear suitable protective clothing. Chemical resistant suit. Rubber apron, boots.
Respiratory protection	: Use a NIOSH-approved respirator or self-contained breathing apparatus whenever exposure may exceed established Occupational Exposure Limits. Use respirator approved for acid fumes and mist.
Environmental exposure controls	: Emergency eye wash fountains and safety showers should be available in the immediate vicinity of any potential exposure.

SECTION 9: Physical and chemical properties**9.1. Information on basic physical and chemical properties**

Physical state	: Liquid
Colour	: Water white to straw yellow.
Odour	: Pungent
Odour threshold	: No data available
pH	: 1.5 - 2
pH solution	: 10 %
Molecular mass	: 144 g/mol (Hydrofluorosilicic acid)
Relative evaporation rate (butylacetate=1)	: No data available
Melting point	: -18 - -20 °C (-1 - -4 °F)
Freezing point	: No data available
Boiling point	: 136 - 163 °C (277 - 326 °F)
Flash point	: No data available
Self ignition temperature	: No data available
Decomposition temperature	: 108 °C (227 °F)
Flammability (solid, gas)	: No data available
Vapour pressure	: 24 mm Hg at 25 °C (77 °F)
Relative vapour density at 20 °C	: No data available
Relative density	: 1.2 at 24 °C (75 °F)
Density	: 10.3 lb/gal
Solubility	: Water: Miscible
Log Pow	: No data available

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Log Kow	: No data available
Viscosity	: No data available
Explosive properties	: No data available
Oxidising properties	: No data available
Explosive limits	: No data available

9.2. Other information

No additional information available

SECTION 10: Stability and reactivity**10.1. Reactivity**

May react violently with water.

10.2. Chemical stability

Stable at standard temperature and pressure.

10.3. Possibility of hazardous reactions

Hazardous polymerization will not occur.

10.4. Conditions to avoid

Temperatures above 108 °C (227 °F).

10.5. Incompatible materials

Keep away from strong acids and bases, chlorites, organic peroxides, combustible materials, and metals. Attacks glass and stoneware.

10.6. Hazardous decomposition products

Thermal decomposition generates : Silicon oxides. Hydrogen fluoride. Tetrafluorosilane.

SECTION 11: Toxicological information**11.1. Information on toxicological effects**

Acute toxicity : Harmful if swallowed. Harmful if inhaled.

Fluorosilicic acid (16961-83-4)	
LD50 oral rat	125 mg/kg
LC50 inhalation rat (mg/l)	0.28 mg/l (reported as 1.11 mg/l/1h)

Skin corrosion/irritation : Causes severe skin burns and eye damage.
pH: 1.5 - 2Serious eye damage/irritation : Causes serious eye damage.
pH: 1.5 - 2

Respiratory or skin sensitisation : Not classified

Germ cell mutagenicity : Not classified

Carcinogenicity : Not classified

Fluorosilicic acid (16961-83-4)	
IARC group	3

Reproductive toxicity : Not classified

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Specific target organ toxicity (single exposure) : Not classified
 Specific target organ toxicity (repeated exposure) : Not classified
 Aspiration hazard : Not classified

SECTION 12: Ecological information**12.1. Toxicity**

Ecotoxicity	EPA Ecological Toxicity rating :	No data available.
	Acute Toxicity to Fish:	No data available.
	Chronic Toxicity to Fish:	No data available.
	Acute Toxicity to Aquatic Invertebrates:	(Frog) Subcutaneous: LD ₅₀ = 140 mg/kg.
	Chronic Toxicity to Aquatic Invertebrates:	No data available.
	Acute Toxicity to Aquatic Plants:	No data available.
	Toxicity to Soil Dwelling Organisms:	No data available.
	Toxicity to Terrestrial Plants:	No data available.
Environmental Fate:	Stability in Water:	Product is NSF certified to ANSI Standard 60 for the fluoridation of municipal water supplies.
	Stability in Soil:	No data available.
	Transport and Distribution:	No data available.
Toxicity:	No data available	
Degradation Products:	Biodegradation:	No data available.
	Photodegradation:	No data available.

SECTION 13: Disposal considerations**13.1. Waste treatment methods**

Sewage disposal recommendations : This material is hazardous to the aquatic environment. Keep out of sewers and waterways.
 Waste disposal recommendations : Place in an appropriate container and dispose of contaminated material at a licensed site.
 Additional information : Dispose of waste material in accordance with all local, regional, national, and international regulations.

SECTION 14: Transport information

In accordance with DOT / TDG / ADR / RID / ADNR / IMDG / ICAO / IATA

14.1. UN number

UN-No.(DOT) : 1778
 DOT NA no. UN1778

14.2. UN proper shipping name

DOT Proper Shipping Name : Fluorosilicic acid
 Department of Transportation (DOT) : 8 - Class 8 - Corrosive material 49 CFR 173.136
 Hazard Classes

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Hazard labels (DOT) : 8 - Corrosive substances



Packing group (DOT) : II - Medium Danger

DOT Special Provisions (49 CFR 172.102)

: A6 - For combination packagings, if plastic inner packagings are used, they must be packed in tightly closed metal receptacles before packing in outer packagings.

A7 - Steel packagings must be corrosion-resistant or have protection against corrosion.

B2 - MC 300, MC 301, MC 302, MC 303, MC 305, and MC 306 and DOT 406 cargo tanks are not authorized.

B15 - Packagings must be protected with non-metallic linings impervious to the lading or have a suitable corrosion allowance.

IB2 - Authorized IBCs: Metal (31A, 31B and 31N); Rigid plastics (31H1 and 31H2); Composite (31HZ1). Additional Requirement: Only liquids with a vapor pressure less than or equal to 110 kPa at 50 C (1.1 bar at 122 F), or 130 kPa at 55 C (1.3 bar at 131 F) are authorized.

N3 - Glass inner packagings are permitted in combination or composite packagings only if the hazardous material is free from hydrofluoric acid.

N34 - Aluminum construction materials are not authorized for any part of a packaging which is normally in contact with the hazardous material.

T8 - 4 178.274(d)(2) Normal..... Prohibited

TP2 - a. The maximum degree of filling must not exceed the degree of filling determined by the following: (image) Where: t_r is the maximum mean bulk temperature during transport, t_f is the temperature in degrees celsius of the liquid during filling, and α is the mean coefficient of cubical expansion of the liquid between the mean temperature of the liquid during filling (t_f) and the maximum mean bulk temperature during transportation (t_r) both in degrees celsius. b. For liquids transported under ambient conditions may be calculated using the formula: (image) Where: d_{15} and d_{50} are the densities (in units of mass per unit volume) of the liquid at 15 C (59 F) and 50 C (122 F), respectively.

TP12 - This material is considered highly corrosive to steel.

DOT Packaging Exceptions (49 CFR 173.xxx) : None

DOT Packaging Non Bulk (49 CFR 173.xxx) : 202

DOT Packaging Bulk (49 CFR 173.xxx) : 242

14.3. Additional information

Emergency Response Guide (ERG) Number : 154

Other information : No supplementary information available.

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Overland transport

No additional information available

Transport by sea

DOT Vessel Stowage Location : A - The material may be stowed "on deck" or "under deck" on a cargo vessel and on a passenger vessel.

Air transport

DOT Quantity Limitations Passenger : 1 L
aircraft/rail (49 CFR 173.27)

DOT Quantity Limitations Cargo : 30 L
aircraft only (49 CFR 175.75)

IATA ERG Number : 8L

SECTION 15: Regulatory information**15.1. US Federal regulations**

Hydrofluorosilicic Acid	
SARA Section 311/312 Hazard Classes	Immediate (acute) health hazard Delayed (chronic) health hazard
Fluorosilicic acid (16961-83-4)	
Listed on the United States TSCA (Toxic Substances Control Act) inventory	

15.2. US State regulations

The following states have an OSH program approved by OSHA. If you are located in any of these states you may be under state jurisdiction rather than federal jurisdiction and your state may have more stringent requirements than OSHA. You should consult your state regulations to ensure compliance.

Alaska	Indiana	Minnesota	North Carolina	Utah
Arizona	Iowa	Nevada	Oregon	Vermont
California	Kentucky	New Mexico	Puerto Rico	*Virgin Islands
*Connecticut	Maryland	*New Jersey	South Carolina	Virginia
Hawaii	Michigan	*New York	Tennessee	Washington
*Illinois				Wyoming

*The state plans in these states apply only to public sector employers. In these states private sector employers are subject to USOL – OSHA jurisdiction. All other state plans apply to both public and private sector employers.

Fluorosilicic acid (16961-83-4)
U.S. - Massachusetts - Oil & Hazardous Material List - Groundwater Reportable Conc. - Reporting Category 1
U.S. - Massachusetts - Oil & Hazardous Material List - Groundwater Reportable Conc. - Reporting Category 2
U.S. - Massachusetts - Oil & Hazardous Material List - Reportable Quantity
U.S. - Massachusetts - Oil & Hazardous Material List - Soil Reportable Concentration - Reporting Category 1
U.S. - Massachusetts - Oil & Hazardous Material List - Soil Reportable Concentration - Reporting Category 2
U.S. - Massachusetts - Right To Know List
U.S. - New Jersey - Right to Know Hazardous Substance List
U.S. - New Jersey - Special Health Hazards Substances List
U.S. - Texas - Effects Screening Levels - Long Term

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U.S. - Texas - Effects Screening Levels - Short Term

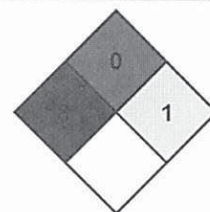
15.3. Canadian regulations

Hydrofluorosilicic Acid	
WHMIS Classification	Class D Division 1 Subdivision A - Very toxic material causing immediate and serious toxic effects Class E - Corrosive Material
Fluorosilicic acid (16961-83-4)	
Listed on the Canadian DSL (Domestic Substances List) inventory.	
Listed on the Canadian Ingredient Disclosure List – Disclosure at 1%.	

This product has been classified in accordance with the hazard criteria of the Controlled Products Regulations (CPR) and the MSDS contains all of the information required by the CPR.

SECTION 16: Other information

- NFPA health hazard : 3 - Short exposure could cause serious temporary or residual injury even though prompt medical attention was given.
- NFPA fire hazard : 0 - Materials that will not burn.
- NFPA reactivity : 1 - Normally stable, but can become unstable at elevated temperatures and pressures or may react with water with some release of energy, but not violently.



Full text of H-phrases:

Acute Tox. 2 (Inhalation:dust,mist)	Acute toxicity (inhalation:dust,mist) Category 2
Acute Tox. 3 (Oral)	Acute toxicity (oral) Category 3
Acute Tox. 4 (Inhalation:dust,mist)	Acute toxicity (inhalation:dust,mist) Category 4
Acute Tox. 4 (Oral)	Acute toxicity (oral) Category 4
Eye Dam. 1	Serious eye damage/eye irritation Category 1
Skin Corr. 1A	skin corrosion/irritation Category 1A
H301	Toxic if swallowed
H302	Harmful if swallowed
H314	Causes severe skin burns and eye damage
H318	Causes serious eye damage
H330	Fatal if inhaled
H332	Harmful if inhaled

Previous PotashCorp MSDS Number : MSDS 52 – Hydrofluorosilicic Acid

SDS US (GHS HazCom 2012)

EXHIBIT E**Hydrofluorosilicic Acid**

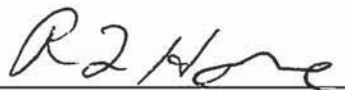
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PENCCO, INC.
Pioneer Engineering Chemical Company

AFFIDAVIT OF COMPLIANCE

This is to certify that the Liquid Ferric Sulfate supplied by our company meets AWWA Standard B406-14 or the latest revision, and is certified to NSF/ANSI Standard NSF-60.



Signature

R. L. Horne, President

Name and Title of Official

1/4/2016

Date

EXHIBIT E



Customer Service 800-864-1742
FAX 888-273-6226

Safety Data Sheet (SDS) Ferric Sulfate Solution

SECTION 1 – Chemical Identification and Supplier's Information

Product ID: Ferric Sulfate Solution
Use: Water Treatment Chemical
Chemical Formula: $\text{Fe}_2(\text{SO}_4)_3$
Chemical Family: Inorganic Iron Salts
CAS #: 10028-22-5

Supplier's Name & Address:

Pencco, Inc.
P.O. Box 600
San Felipe, TX 77473

Emergency Phone:

Pencco (979) 885-0005
CHEMTREC (800) 424-9300 – 24 hours a day

SECTION 2 – Hazards Identification

GHS Information

Signal Word: **Warning**

Hazard Class: Corrosive to Metals (H290)

Hazard Category: 1

Hazard Statement: Toxic if Swallowed
(H301)

Appearance and Odor: Reddish-brown liquid with a slightly acidic odor.

Emergency Overview: A corrosive chemical. Harmful or fatal if swallowed. Harmful if inhaled. Eye or skin contact may cause irritation. Contact with liquid or vapor form of this chemical may cause severe injury. Avoid overexposure.

Pictograms:Health Hazards

Acute Toxicity, Oral – Category 4. Toxic if ingested. May cause irritation to the mouth and stomach. Higher doses may lead to abnormal liver function with nausea or vomiting, stomach pain, diarrhea, fast and weak pulse, lethargy, pallor, shock, hypertension, dilated pupils, fever, coma, and even death. Individuals with pre-existing liver diseases may have increased susceptibility to the toxicity of exposure.

Acute Toxicity, Dermal – Category 4. Prolonged contact may cause irritation and, possibly, burns.

Eye Contact – Irritation and, possibly, burns.

Inhalation – May cause irritation of the upper respiratory tract, resulting in difficulty breathing.

Precautionary StatementsPrevention

- Wash skin thoroughly after handling. (P264)

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Customer Service 800-864-1742
FAX 888-273-6226

- Do not eat, drink, or smoke when using this product. (P270)
- Avoid release to the environment. (P273)

Carcinogenicity: None of the components of this material are listed as a carcinogen by IARC, NTP, OSHA, or ACGIH.

Response

- If swallowed: Rinse mouth. (P301+P330)
 - Call a POISON CENTER/doctor/physician. (P312)
 - Collect spillage (P391)

Fire and Explosion Hazards: Substance itself does not burn, but may decompose upon heating to produce corrosive and/or toxic fumes. Not considered a fire or explosion hazard.

Disposal Considerations

- Dispose of this material and its container to hazardous or special waste collection point in accordance with local, regional, national, and/or international regulation. (P501)

	NFPA Rating	HMIS Rating	4 = Extreme / Severe
Health	2	2	3 = High / Serious
Reactivity	0	0	2 = Moderate
Flammability	0	0	1 = Slight

SECTION 3 – Composition/Information on Ingredients

Chemical Identity: $\text{Fe}_2(\text{SO}_4)_3$

Common Name and synonyms: Ferric Sulfate. No other synonyms known.

Ingredient	CAS #	Weight Percentage	ACGIH TLV	OSHA PEL	STEL
Ferric Sulfate	10028-22-5	35-60%	1 mg/m ³	1 mg/m ³	N/A
Sulfuric Acid	7664-93-9	< 1.0%	TWA: 0.2 mg/m ³	1 mg/m ³	N/A
Water	7732-18-5	39-65%	N/A	N/A	N/A

SECTION 4 – First Aid Measures

Eye Contact First Aid: Immediately flush eyes for 15 minutes with large amounts of water while holding eyelids apart. Washing within one minute is essential to achieve maximum effectiveness. Obtain medical attention IMMEDIATELY after flushing.

Skin Contact First Aid: Flush skin with water. Remove contaminated clothing; wash before reuse. If irritation is still present, seek medical attention IMMEDIATELY.

Inhalation First Aid: Remove to fresh air. If not breathing, give artificial respiration. If breathing is difficult, give oxygen. Obtain medical attention IMMEDIATELY.

Ingestion First Aid: DO NOT INDUCE VOMITING. Give 1 or 2 glasses of water or milk. Never give anything by mouth to an unconscious individual. **Obtain medical attention IMMEDIATELY.**



SECTION 5 – Fire Fighting Measures

Flash Point: Not applicable.

Upper/Lower Explosion Limits in Air: Not applicable.

Auto Ignition Temperature: Not applicable.

Extinguishing Media: Will not burn; use materials appropriate for surrounding fire.

Fire and Explosion Hazards: Substance itself does not burn, but may decompose upon heating to produce corrosive and/or toxic fumes, such as SO_x and iron fumes.

Fire Fighting Instructions: Firefighters should wear proper protective equipment and self-contained breathing apparatus with full face-piece operated in a positive pressure mode. Move exposed containers from fire area if it can be done without risk. Use water to keep fire-exposed containers and tanks cool.

Hazardous Product of Decomposition or Combustion: SO_x and iron fumes

SECTION 6 – Accidental Release Measures

Review safety precautions before proceeding with cleanup. Use appropriate personal protection equipment. Do not touch spilled material. Neutralize spill with lime (calcium hydroxide), limestone (calcium carbonate), or soda ash (sodium carbonate). Restrict access to area until completion of clean up.

Caution: limestone and soda ash will evolve CO₂; ventilation should be provided in enclosed areas. Dike area around spill to prevent spreading, and use absorbent material to pick up spill.

CERCLA Reportable Discharge (RQ): 1000 lbs. (454 kg), Based on anhydrous ferric sulfate. Divide by solution concentration to obtain solution weight.

Disposal: Under the Resource Conservation and Recovery Act (RCRA), it is the responsibility of the user to determine whether a substance should be classified as a hazardous waste at the time of disposal. This is due to the fact that product use, transformation, synthesis, mixtures, etc. may change the nature of the product. Dispose of waste in accordance with applicable federal, state, and local laws.

RCRA: Test waste material for corrosivity, D002, prior to disposal.

Steps To Be Taken In Case Material Is Released Or Spilled: Notify the appropriate environmental authorities. Note that spills may need to be reported to the National Response Center ((800) 424-8802)

SECTION 7 – Handling and Storage

Handling: Store and handle in corrosion-proof materials (and area). Use FRP or PVC pipes. Be cautious of substance residue in empty containers. Act according to precautions and warnings set forth.



Storage: Store in a tightly closed container. Fiberglass, plastic, rubber-lined, or type 316 (or better grades of steel) tanks may be used for storage. Protect from damage and keep separated from incompatible substances in Section 10.

SECTION 8 – Exposure Controls and Personal Protection

Respiratory Protection: Adequate general ventilation should be provided to keep vapor and mists below exposure limits. The exposure limits for product components are listed in Section 2. Wear a NIOSH/OSHA approved respirator with a dust/mist cartridge if there is potential of exposure to mists in excess of applicable limits, in any situation where product vapor or mists may be present, such as in confined spaces.

Eye Protection: Wear splash resistant goggles and/or safety glasses with side shields. Wear a full face shield if possibility of material splashing or spraying exists. Maintain eye wash fountain. Water should be supplied through insulated and heat-traced lines to prevent freeze-ups in cold weather.

Skin Protection: Where there is possibility of skin contact, use the following as appropriate, to avoid skin contact: gloves impervious to material, apron, boots, hood, pants, and jacket. Maintain a safety shower with quick opening valves. Water should be supplied through insulated and heat-traced lines to prevent freeze-ups in cold weather.

SECTION 9 – Physical and Chemical Properties

Boiling Point:	100-113°C (212-236°F)	pH:	< 2.0
Melting Point:	N/A	Solubility in Water:	Complete
Specific Gravity:	1.4 – 1.6	Vapor Pressure:	N/A
% Volatile:	39 – 65 (Water)	Evaporation Rate:	N/A
Vapor Density (Air = 1):	N/A	Molecular Weight:	399.88
Appearance:	Red/Brown Colored Liquid	Odor:	Slightly acrid

SECTION 10 – Stability and Reactivity

Stability: Stable at normal conditions

Polymerization: Will not occur.

Decomposition: Decomposes upon heating to produce corrosive and/or toxic fumes, such as SO_x, iron, and acid fumes.

Incompatibility: Corrodes cast iron, bronze, and brass. Avoid contact with nylon, aluminum/aluminum alloys, carbon steel, stainless steel, galvanized steel, and copper / copper alloys.

SECTION 11 – Toxicological Information

Chronic Effects: Repeated dosage may cause hemosiderosis, including possible damage to liver and pancreas. Chronic eye contact may cause local brown discoloration.

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Toxicological Data: Anhydrous Ferric Sulfate Solid Oral LD₅₀ (rat) = 500 mg/kg
Sulfuric Acid Oral LD₅₀ (rat) = 2140 mg/kg
Sulfuric Acid Inhalation LD₅₀ (rat) = 510 mg/m³ in 2 hr.

Carcinogenicity: None of the components of this material are listed as a carcinogen by IARC, NTP, OSHA, or ACGIH.

Reproductive Effects: No reproductive effects are known.

Target Organs: No data available.

SECTION 12 – Ecological Information

Ecotoxicological Information: No ecological effects of this product are known. Safely store product to avoid release to the environment.

SECTION 13 – Disposal Considerations

Under the Resource Conservation and Recovery Act (RCRA), it is the responsibility of the user to determine whether a substance should be classified as a hazardous waste at the time of disposal. This is due to the fact that product use, transformation, synthesis, mixtures, etc. may change the nature of the product. Product containers should be thoroughly emptied before disposal. Dispose of waste in accordance with applicable federal, state, and local laws.

SECTION 14 – Transportation Information

DOT Shipping Name: Corrosive Liquid, Acidic, Inorganic, n.o.s (contains Ferric Sulfate)

Hazard Class: 8 – Corrosive Material

UN Number: UN 3264

Packing Group: III

Reportable Quantity: 1000 lbs (454 kg)

SECTION 15 – Regulatory Information

OSHA: Hazardous Corrosive Liquid – 29 CFR 1920.1200

OSHA Process Safety (29 CFR 1910.119): No

CERCLA: Hazardous Substance – Reportable Quantity (RQ) = 1000 lbs (454 kg)

SARA Regulations: 313 and 40 CFR 372: No

SARA Hazard Categories, SARA Sections 311/312 (40 CFR 370.21):

Acute: Yes; Chronic: No; Fire: No; Reactive: No; Sudden Release: No

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Clean Water Act: Designated as a hazardous substance under Section 311(b)(2)(A) of the Federal Water Pollution Control Act; ferric sulfate is also regulated by the Clean Water Act Amendments of 1977 and 1978. This chemical is subject to regulations regarding its discharge.

TSCA Inventory Status: Yes

California Proposition 65: No

Right-To-Know Lists: Massachusetts, California, Pennsylvania, New Jersey. This substance does not contain nor is manufactured with ozone-depleting substances.

Canadian Regulations: CPR: Corrosive, Class E; DSL: Listed

SECTION 16 – Other Information

Revision Date: May 22, 2015

Pencco provides the information contained in each SDS, technical data sheet ("TDS"), product information brochure and/or information contained herein (including data and statements) in good faith and makes no representations as to its comprehensiveness or accuracy as of the date of publication. The SDSs, TDSs, and product information brochures are referred to collectively as the "Data Sheets". It is the responsibility of the user to obtain and use the most recent version of the Data Sheets. Each Data Sheet relates only to the specific product designated therein and may not be valid where such product is used in combination with any other materials or in any process. Further, since the conditions and methods of use of the product and information are beyond the control of Pencco, Pencco expressly disclaims any and all liability as to any consequential damages or results obtained or arising from any use of the products or the information contained in the Data Sheets. NO WARRANTY OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED, IS MADE AS CONCERNS THE DATA SHEETS OR THE RELATED PRODUCTS.

No statement made in the Data Sheets or by any employee or agent of Pencco shall be construed as a permission or recommendation for the use of any product in a manner that might infringe existing patents. No employee, agent, distributor, or sales representative is authorized to vary the terms of the above paragraph, to make any statements, representations, or warranties inconsistent with the above paragraph, or to provide any information that is at variance with the above paragraph. All materials related to the product are subject in all respects to the above paragraph and to the extent that they are inconsistent with the above paragraph, the terms of the above paragraph shall control.

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PENCCO, INC.
Pioneer Engineering Chemical Company

AFFIDAVIT OF COMPLIANCE

This is to certify that the Liquid Ferric Chloride supplied by our company meets AWWA Standard B407-12 or the latest revision, and is certified to NSF/ANSI Standard NSF-60.



Signature

R. L. Horne, President

Name and Title of Official

1/4/2016

Date

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FAX 888-273-6226

Safety Data Sheet (SDS) Ferric Chloride Solution

SECTION 1 – Chemical Identification and Supplier's Information

Product ID: Ferric Chloride Solution
Product Use: Water Treatment Chemical
Product Formula: FeCl_3
Chemical Family: Inorganic Iron Salts
CAS #: 7705-08-0

Supplier's Name and Address:

Pencco, Inc.
P.O. Box 600
San Felipe, TX 77473

Emergency Phone Number:

PENCCO (979) 885-0005
CHEMTREC (800) 424-9300 – 24 hours a day

SECTION 2 – Hazard Identification

GHS Information

Signal Word: **Warning**

Hazard Class: Corrosive to Metals (H290)

Hazard Category: 1

Hazard Statement: Toxic if Swallowed (H301)
Causes severe skin damage and eye damage. (H314)

Appearance and Odor: Reddish-brown liquid with a slightly acidic odor.

Emergency Overview: A corrosive chemical. Harmful or fatal if swallowed. Harmful if inhaled. Eye or skin contact may cause irritation. Contact with liquid or vapor form of this chemical may cause severe injury. Avoid overexposure.

Pictograms:Health Hazards

Acute Toxicity, Oral – Category 4. Toxic if ingested. May cause irritation to the mouth and stomach. Higher doses may lead to abnormal liver function with nausea or vomiting, stomach pain, diarrhea, fast and weak pulse, lethargy, pallor, shock, hypertension, dilated pupils, fever, coma, and even death. Individuals with pre-existing liver diseases may have increased susceptibility to the toxicity of exposure.

Acute Toxicity, Dermal – Category 4. Prolonged contact may cause irritation and, possibly, burns.

Eye Contact – Irritation and, possibly, burns.

Inhalation – May cause irritation of the upper respiratory tract, resulting in difficulty breathing.

Precautionary StatementsPrevention

- Wash skin thoroughly after handling. (P264)

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- Do not eat, drink, or smoke when using this product. (P270)
- Avoid release to the environment. (P273)

Response

- If swallowed: Rinse mouth. (P301+P330)
 - Call a POISON CENTER/doctor/physician. (P312)
 - Collect spillage (P391)

Disposal Considerations

- Dispose of this material and its container to hazardous or special waste collection point in accordance with local, regional, national, and/or international regulation. (P501)

Carcinogenicity: None of the components of this material are listed as a carcinogen by IARC, NTP, OSHA, or ACGIH.

Fire and Explosion Hazards: Substance itself does not burn, but may decompose upon heating to produce corrosive and/or toxic fumes. Not considered a fire or explosion hazard.

	NFPA Rating	HMIS Rating	4 = Extreme / Severe
Health	2	2	3 = High / Serious
Reactivity	0	0	2 = Moderate
Flammability	0	0	1 = Slight

SECTION 3 – Composition/Information on Ingredients

Chemical Identity: FeCl_3

Common Name and Synonyms: Ferric chloride; no known synonyms

Ingredient	CAS #	Weight Percentage	ACGIH TLV	OSHA PEL	STEL
Water	7732-18-5	58 – 72%	N/A	N/A	N/A
Ferric Chloride	7705-08-0	28 – 42%	1 mg/m ³	1 mg/m ³	N/A
Ferrous Chloride	7758-94-3	<0.5%	1 mg/m ³	1 mg/m ³	N/A
Hydrochloric Acid	7647-01-0	<0.5%	5 ppm	5 ppm	N/A

Section 313 Supplier Notification: The hydrochloric acid mentioned above is subject to the reporting requirements of SARA TITLE III Section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 (40 CFR 372). This notification must be included in all MSDS's that are copied and distributed for this material.

SECTION 4 – First Aid Measures

Eye Contact First Aid: Immediately flush eyes for 15 minutes with large amounts of water while holding eyelids apart. Washing within one minute is essential to achieve maximum effectiveness. Obtain medical attention IMMEDIATELY after flushing.

Skin Contact First Aid: Flush skin with water. Remove contaminated clothing; wash before reuse. If irritation is still present, seek medical attention IMMEDIATELY.

Inhalation First Aid: Remove to fresh air. If not breathing, give artificial respiration. If breathing is difficult, give oxygen. Obtain medical attention IMMEDIATELY.

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Ingestion First Aid: DO NOT INDUCE VOMITING. Give 1 or 2 glasses of water or milk. Never give anything by mouth to an unconscious individual. Obtain medical attention IMMEDIATELY.

SECTION 5 – Fire Fighting Measures

Flash Point: Not applicable.

Upper/Lower Explosion Limits in Air: Not applicable.

Auto Ignition Temperature: Not applicable.

Extinguishing Media: Will not burn; use materials appropriate for surrounding fire.

Fire and Explosion Hazards: Substance itself does not burn, but may decompose upon heating to produce corrosive and/or toxic fumes, such as hydrogen chloride and phosgene gas. Ferric chloride can react with metals to form flammable and potentially explosive hydrogen gas.

Fire Fighting Instructions: Firefighters should wear proper protective equipment and self-contained breathing apparatus with full face-piece operated in a positive pressure mode. Move exposed containers from fire area if it can be done without risk. Use water to keep fire-exposed containers and tanks cool.

Hazardous Product of Decomposition or Combustion: Hydrogen chloride, hydrogen, phosgene.

SECTION 6 – Accidental Release Measures

Review safety precautions before proceeding with cleanup. Use appropriate personal protection equipment. Do not touch spilled material. Neutralize spill with lime (calcium hydroxide), limestone (calcium carbonate), or soda ash (sodium carbonate). Restrict access to area until completion of clean up.

Caution: limestone and soda ash will evolve CO₂; ventilation should be provided in enclosed areas. Dike area around spill to prevent spreading, and use absorbent material to pick up spill.

CERCLA Reportable Discharge (RQ): 1000 lbs. (454 kg), Based on anhydrous ferric chloride. Divide by solution concentration to obtain solution weight.

Disposal: Under the Resource Conservation and Recovery Act (RCRA), it is the responsibility of the user to determine whether a substance should be classified as a hazardous waste at the time of disposal. This is due to the fact that product use, transformation, synthesis, mixtures, etc. may change the nature of the product. Dispose of waste in accordance with applicable federal, state, and local laws.

RCRA: Test waste material for corrosivity, D002, prior to disposal.

Steps To Be Taken In Case Material Is Released Or Spilled: Notify the appropriate environmental authorities. Note that spills may need to be reported to the National Response Center ((800) 424-8802)

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SECTION 7 – Handling and Storage

Handling: Store and handle in corrosion-proof materials (and area). Use FRP or PVC pipes. Be cautious of substance residue in empty containers. Act according to precautions and warnings set forth.

Storage: Store in a tightly closed container. Do not store in metal containers. Fiberglass, plastic, or rubber-lined tanks may be used for storage. Protect from damage and keep separated from incompatible substances.

SECTION 8 – Exposure and Personal Protection

Respiratory Protection: Adequate general ventilation should be provided to keep vapor and mists below exposure limits. The exposure limits for some components are listed in Section 2. Wear a NIOSH/OSHA approved respirator with a dust/mist cartridge if there is potential of exposure to mists in excess of applicable limits, in any situation where product vapor or mists may be present, such as in confined spaces.

Eye Protection: Wear splash resistant goggles and/or safety glasses with side shields. Wear a full face shield if possibility of material splashing or spraying exists. Maintain eye wash fountain. Water should be supplied through insulated and heat-traced lines to prevent freeze-ups in cold weather.

Skin Protection: Where there is possibility of skin contact, use the following as appropriate, to avoid skin contact: gloves impervious to material, apron, boots, hood, pants, and jacket. Maintain a safety shower with quick opening valves. Water should be supplied through insulated and heat-traced lines to prevent freeze-ups in cold weather.

SECTION 9 – Physical and Chemical Properties

Boiling Point:	106°C (223°F)	pH:	< 2.0
Melting Point:	N/A	Solubility in Water:	Complete
Specific Gravity:	1.2 – 1.6	Vapor Pressure:	40 mm Hg @ 20°C
% Volatile:	60 – 75 (Water)	Evaporation Rate:	N/A
Vapor Density (Air = 1):	N/A	Molecular Weight:	162.2
Appearance:	Red/Brown Colored Liquid	Odor:	Slightly acrid

SECTION 10 – Stability and Reactivity

Stability: Stable at normal conditions

Polymerization: Will not occur.

Decomposition: Decomposes upon heating to produce corrosive and/or toxic fumes, such as hydrogen chloride. Contact with metals may evolve flammable hydrogen gas.

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Incompatibility: Rapidly corrodes most metals (titanium is one exception); may generate flammable, potentially explosive hydrogen gas. Avoid contact with nylon, aluminum/aluminum alloys, carbon steel, stainless steel, and copper / copper alloys. Metals, bases, halocarbons, acids, and combustible materials can be considered incompatible.

SECTION 11 – Toxicological Information

Chronic Effects: Repeated dosage may cause hemosiderosis, including possible damage to liver and pancreas.

Toxicological Data: Anhydrous Ferric Chloride Solid Oral LD₅₀ (rat) = 450 mg/kg

Carcinogenicity: None of the components of this material are listed as a carcinogen by IARC, NTP, OSHA, or ACGIH.

Reproductive Effects: TDLo Rat 1 day (intratesticular) 12976 µg/kg; TDLo Rat 1 day (intravaginal) 29 mg/kg pre-pregnancy continuous.

Target Organs: No data available.

SECTION 12 – Ecological Information

Ecotoxicological Information: TLm Daphnia 15 ppm/96 hr fresh water/conditions of bioassay not specified.

Persistence and Degradation: No data available

SECTION 13 – Disposal Considerations

Under the Resource Conservation and Recovery Act (RCRA), it is the responsibility of the user to determine whether a substance should be classified as a hazardous waste at the time of disposal. This is due to the fact that product use, transformation, synthesis, mixtures, etc. may change the nature of the product. Product containers should be thoroughly emptied before disposal. Dispose of waste in accordance with applicable federal, state, and local laws.

SECTION 14 – Transportation Information

DOT Shipping Name: Ferric Chloride Solution

Hazard Class: 8 – Corrosive Material

UN Number: UN 2582

Packing Group: III

Reportable Quantity: 1000 lbs (454 kg)

Shipping Containers: Rubber-lined steel tank cars/trucks; polyethylene drums, bottles.

Storage Conditions: Keep containers closed.

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SECTION 15 – Regulatory Information

OSHA: Hazardous Corrosive Liquid – 29 CFR 1920.1200

OSHA Process Safety (29 CFR 1910.119): No

CERCLA: Hazardous Substance – Reportable Quantity (RQ) = 1000 lbs (454 kg)

SARA Regulations: 313 and 40 CFR 372: No

SARA Hazard Categories, SARA Sections 311/312 (40 CFR 370.21):

Acute: Yes; Chronic: No; Fire: No; Reactive: No; Sudden Release: No

Clean Water Act: Designated as a hazardous substance under Section 311(b)(2)(A) of the Federal Water Pollution Control Act; ferric chloride is also regulated by the Clean Water Act Amendments of 1977 and 1978. This chemical is subject to regulations regarding its discharge.

TSCA Inventory Status: Yes

California Proposition 65: No

Right-To-Know Lists: Massachusetts, California, Pennsylvania, New Jersey. This substance does not contain nor is manufactured with ozone-depleting substances.

SECTION 16 – Other Information

IMPORTANT! Read this MSDS before use or disposal of this product. Pass along the information to employees and any other persons who could be exposed to the product to be sure that they are aware of the information before use or other exposure.

Revision Date: May 22, 2015

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**ADDENDUM #1 IFB#65301
SUPPLY OF WATER AND WASTEWATER TREATMENT CHEMICALS FOR
CITY OF DENTON**

1. Can we get a bid tabulation from the previous bid?

Response to Question:

You will need to file an open records request to access that information.

[https://dentontx.mycusthelp.com/WEBAPP/rs/\(S\(w5i0db0zdxiwcdjzg5kdrv5v\)\)/SupportHome.aspx](https://dentontx.mycusthelp.com/WEBAPP/rs/(S(w5i0db0zdxiwcdjzg5kdrv5v))/SupportHome.aspx)

2. What are the sizes of the Liquid Oxygen tanks at the locations?

Response to Question:

LRRWTP (1) tank 21,250 gallons

LLWTP (2) tanks 18,000 gallons each

3. IFB #6530 Exhibit 1 Pricing Sheet, Section A Water Chemicals, Item #12A & 12B :

Sodium Permanganate (19.5 to 21.5% solution). A question was asked if the strength of this chemical was correct.

Response to Question:

The correct strength of the solution should be Sodium Permanganate at 40% solution, in the 275 gallon IBC, for approximately 6,000 lb. shipments to both locations. Please use IFB #6530 Addendum #1, Exhibit 1 Pricing sheet for your response

4. IFB #6530 Exhibit 3 Scope of Work, Section A Water Chemicals, item #12:

Sodium Permanganate (19.5 to 21.5% solution). A question was asked if the strength of this chemical was correct.

Response to Question:

The correct strength of the solution should be Sodium Permanganate at 40% solution, in the 275 gallon IBC, for approximately 6,000 lb shipments to both locations. Please use IFB #6530 Addendum #1, Exhibit 1 Pricing sheet for your correct pricing response for this chemical.

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ADDENDUM #1 IFB#65301
SUPPLY OF WATER AND WASTEWATER TREATMENT CHEMICALS FOR
CITY OF DENTON

NO OTHER CHANGES AT THIS TIME

All Documents can be obtained by accessing the City of Denton's Materials Management website at:

[https:// www.cityofdenton.com/business/solicitations-contracting](https://www.cityofdenton.com/business/solicitations-contracting)

This form must be signed and returned with your proposal.

Name: Sarah DUFFY

Signature: Sarah Duffy

Company: Pencco Inc

Title: Bid Sec Date: 9/19/17

Addendum #1 to be returned with Proposal

EXHIBIT E

**ADDENDUM #2 IFB#6530
SUPPLY OF WATER AND WASTEWATER TREATMENT CHEMICALS FOR
CITY OF DENTON**

1. What are the sizes of the Liquid Oxygen tanks at the locations?

Addendum #1 incorrectly stated an answer to this question.

The correct Response to the Question Is:

LRRWTP (1) tank 21,250 gallons

LLWTP (2) tanks @ 9,000 gallons each; Total Capacity of 18,000 gallons

All Documents can be obtained by accessing the City of Denton's Materials Management website at:

[https:// www.cityofdenton.com/business/solicitations-contracting](https://www.cityofdenton.com/business/solicitations-contracting)

This form must be signed and returned with your proposal.

Name: Sarah DUFFY

Signature: Sarah Duffy

Company: Pencco Inc

Title: Bid Sec Date: 9/19/17

Addendum #1 to be returned with Proposal

EXHIBIT ☐

City of Denton
IFB# 6530

CONFLICT OF INTEREST QUESTIONNAIRE

CONFLICT OF INTEREST QUESTIONNAIRE -

FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

1 Name of vendor who has a business relationship with local governmental entity.

Pencco, Inc.

2 ☐ Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information in this section is being disclosed.

N/A

Name of Officer

This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes

☒ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐ Yes

☒ No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of one percent or more?

☐ Yes

☒ No

D. Describe each employment or business and family relationship with the local government officer named in this section.

4 ☒ I have no Conflict of Interest to disclose.

5

Sarah Duff
Signature of vendor doing business with the governmental entity

09.18.17

Date

Certificate Of Completion

Envelope Id: 8F8DF1CB6F704C68AF1954C2D74D3A00	Status: Sent
Subject: Please DocuSign: City Council Contract 6530- Pencco Inc	
Source Envelope:	
Document Pages: 75	Signatures: 2
Certificate Pages: 6	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Robyn Forsyth
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	robyn.forsyth@cityofdenton.com
	IP Address: 129.120.6.150

Record Tracking

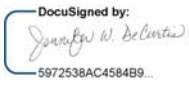
Status: Original	Holder: Robyn Forsyth	Location: DocuSign
10/23/2017 1:41:15 PM	robyn.forsyth@cityofdenton.com	

Signer Events

Signer Events	Signature	Timestamp
Robyn Forsyth robyn.forsyth@cityofdenton.com Buyer City of Denton Security Level: Email, Account Authentication (Optional)	Completed Using IP Address: 129.120.6.150	Sent: 10/23/2017 1:45:49 PM Viewed: 10/23/2017 1:46:07 PM Signed: 10/23/2017 1:47:04 PM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Sarah Duffy sarah@pencco.com Bid Sec. Security Level: Email, Account Authentication (Optional)	 Using IP Address: 209.34.30.88	Sent: 10/23/2017 1:47:07 PM Viewed: 10/23/2017 1:52:11 PM Signed: 10/23/2017 1:53:54 PM
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Electronic Record and Signature Disclosure:
Accepted: 10/23/2017 1:52:11 PM
ID: 93c041b5-6a53-4a81-8570-80b2e0cd8e45

Jennifer DeCurtis jennifer.decurtis@cityofdenton.com Deputy City Attorney City of Denton Security Level: Email, Account Authentication (Optional)	 Using IP Address: 129.120.6.150	Sent: 10/23/2017 1:53:59 PM Viewed: 10/23/2017 3:18:46 PM Signed: 10/23/2017 3:19:01 PM
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Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Julia Winkley julia.winkley@cityofdenton.com Contracts Administration Supervisor City of Denton Security Level: Email, Account Authentication (Optional)		Sent: 10/23/2017 3:19:04 PM
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Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Todd Hileman Todd.Hileman@cityofdenton.com Security Level: Email, Account Authentication (Optional)	
Electronic Record and Signature Disclosure: Accepted: 7/25/2017 9:02:14 AM ID: 57619fbf-2aec-4b1f-805d-6bd7d9966f21	

Signer Events	Signature	Timestamp
<p>Jennifer Walters</p> <p>jennifer.walters@cityofdenton.com</p> <p>Security Level: Email, Account Authentication (Optional)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>		
Person Signer Events	Signature	Timestamp
Editor Deliver Events	Status	Timestamp
Agent Deliver Events	Status	Timestamp
Intermediary Deliver Events	Status	Timestamp
Certified Deliver Events	Status	Timestamp
Carbon Cop Events	Status	Timestamp
<p>Sherri Thurman</p> <p>sherri.thurman@cityofdenton.com</p> <p>Security Level: Email, Account Authentication (Optional)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<div>COPIED</div>	<p>Sent: 10/23/2017 1:53:57 PM</p>
<p>Julia Winkley</p> <p>julia.winkley@cityofdenton.com</p> <p>Contracts Administration Supervisor</p> <p>City of Denton</p> <p>Security Level: Email, Account Authentication (Optional)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<div>COPIED</div>	<p>Sent: 10/23/2017 1:53:58 PM</p>
<p>Jane Richardson</p> <p>jane.richardson@cityofdenton.com</p> <p>Security Level: Email, Account Authentication (Optional)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>		
<p>Robin Fox</p> <p>Robin.fox@cityofdenton.com</p> <p>Security Level: Email, Account Authentication (Optional)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>		
<p>Jennifer Bridges</p> <p>jennifer.bridges@cityofdenton.com</p> <p>Security Level: Email, Account Authentication (Optional)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>		
<p>Jane Richardson</p> <p>jane.richardson@cityofdenton.com</p> <p>Security Level: Email, Account Authentication (Optional)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>		

Car on Cop Events	Status	Timestamp
Randy Markum randy.markum@cityofdenton.com Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Rusty Willard rusty.willard@cityofdenton.com Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Ronnie Hammons rhammons@pencoco.com Security Level: Email, Account Authentication (Optional) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Motor Events	Signature	Timestamp
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Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none">•Allow per session cookies•Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

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