

## **City of Ann Arbor: General Terms and Conditions**

**The following General Terms and Conditions shall apply to all purchases by or on behalf of the City of Ann Arbor unless specifically provided otherwise on the front of this Document:**

**Tax Exemption:** The City of Ann Arbor is tax exempt, ID# 38-6004534.

**Acceptance of Contract:** This order is the City's contract to purchase the goods and services described on the Proposal for the Replacement of Power Supply Units #3 and #4 attached as Exhibit A ("the Proposal") which is expressly incorporated herein, but in the event of any conflict between the Proposal and these Terms & Conditions, the latter shall control. The City's placement of this order is expressly conditioned upon the Vendor's acceptance of all the terms and conditions of purchase contained on or attached to this purchase order and the incorporated Proposal.

**Duration:** This Contract is effective as of the date of the last party to sign it. ("Commencement Date"). This contract shall remain in effect until satisfactory completion of the services specified in Exhibit A unless terminated as provided in this Contract.

**Amendments:** No agreement or understanding to modify this contract shall be binding upon either party unless in writing and signed by the Vendor and City's authorized agent.

**Delivery:** All prices must be F.O.B. delivery point. Vendor agrees to deliver the goods and services in accordance with the estimated delivery schedule set forth in the Proposal. If delivery dates cannot be met, the Vendor agrees to advise the City, in writing of the earliest possible shipping date. The City reserves the right to cancel or purchase elsewhere as per provisions of termination for Cause of this Contract

The place of delivery specified herein shall be firm and fixed, provided that City may notify Vendor no later than forty-five (45) days prior to the scheduled shipment date of the Equipment of an alternate point of delivery. City shall compensate Vendor for any additional cost in implementing the change. If any part of the Equipment cannot be delivered when ready due to any cause not attributable to Vendor, City shall designate a climate-controlled storage location, and Vendor shall ship such Equipment to storage provided that Vendor notifies City of the inability to deliver the Equipment no later than thirty (30) days prior to the scheduled shipment date of the Equipment. Title and risk of loss shall thereupon pass to City and amounts payable to Vendor upon delivery or shipment shall be paid by City along with expenses incurred by Vendor. City shall pay directly all costs for storage and subsequent transportation.

Vendor shall not be liable nor in breach or default of its obligations under this contract to the extent performance of such obligations is delayed or prevented, directly or indirectly, due to causes beyond the reasonable control of Vendor, including, but not limited to: acts of God, natural disasters, unusually severe weather, fire, terrorism, war (declared or undeclared) epidemics, material shortages, insurrection, act (or omissions) of City or City's contractors/suppliers or agents, any act (or omission) by any governmental authority, strikes, labour disputes, or transportation shortages. The delivery or performance date shall be extended until the cause of the delay is resolved, .. plus such additional time as may be necessary to overcome the effect of the delay.. If Vendor is delayed by any acts (or omissions) of City, or by the prerequisite work of City's other contractors or suppliers, Vendor shall be entitled to an equitable adjustment in schedule and/or performance, as applicable.

**Risk of Loss:** Regardless of F.O.B. point, the Vendor agrees to bear all risk of loss, or destruction of goods and materials ordered herein which may for any reason occur prior to delivery or acceptance

by the City, whichever is later. No such loss, injury, or destruction shall release the Vendor from any obligations hereunder.

**Inspection:** Goods and materials must be properly packaged. Damaged goods and materials will not be accepted. The City reserves the right to inspect the goods at a reasonable time (within 5 days from delivery) subsequent to delivery where circumstances or conditions prevent effective inspection of the goods at the time of delivery and inform vendor of any physical damage or missing count. All rejected goods shall be returned to the Vendor at no cost to the City, whether the damage is readily apparent at the time of delivery or later during Inspection. The City's acceptance is conditioned on such inspection.

**Patents and Copyrights:** If an article sold and delivered to the City hereunder shall be protected by any applicable patent or copyright, the Vendor agrees to indemnify and save harmless the City, from and against any and all suits, claims, judgments, and costs instituted or recovered against it by any person whomsoever on account of the use of such articles by the City in violation or right under such patent or copyright.

City will not, without Vendor's advance written consent, subject Equipment to any type of reverse engineering. Vendor retains all intellectual property rights including copyright which it has in all drawings and data or other deliverables (including the Equipment) supplied or developed under this Agreement. City agrees that it will not file patent applications on the Equipment or any development or enhancement of the Equipment, or of processes and methods of using the Equipment, without Vendor's express prior written permission. City further agrees that in any event any such patents will not be asserted against Vendor or its other Buyers based upon purchase and use of such Equipment. Vendor grants to City a non-exclusive, non-terminable, royalty free license to use the intellectual property embedded in Equipment delivered to and paid for by the City, as well as any drawings, design or data delivered to and paid for by the City, for the purposes of owning, financing, using, operating and maintaining the relevant Equipment at City's site.

**Uniform Commercial Code:** All applicable portions of the Michigan Uniform Commercial Code shall govern contracts for goods with the City of Ann Arbor; except as modified by contract documents.

**Non-waiver of Rights:** No failure of either party to exercise any power given to it hereunder or to insist upon strict compliance by the other party with its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof, nor any payment under this agreement shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.

**Material Safety Data Sheets:** Applicable Material Safety Data Sheets, in compliance with OSHA/MIOSHA hazard communication regulations/standards, must be provided by the Vendor to the City at the time of purchase.

**Assignments:** Both parties agree not to assign or transfer this contract or any part thereof without the written consent of the other party, acting through its authorized representative, such consent not to be unreasonably withheld . . .

**Laws Governing, Severability:** This contract shall be governed by and construed according to the laws of the State of Michigan. Vendor agrees to submit to the jurisdiction and venue of the Circuit Court of Washtenaw County, MI, or if original jurisdiction is established, the U.S. District Ct. for Eastern District of MI, Southern Division. The Vendor stipulates venues referenced are convenient and waives any claim of non-convenience. If any term herein is found to be ineffective, unenforceable or illegal under any present or future laws, such term shall be fully severable, and the remaining terms shall not be affected and shall remain full force and effect.

**Prevailing Wage:** It shall be the responsibility of the Vendor to comply, when applicable, with the prevailing wage requirements and/or the Davis-Bacon Act as amended.

**Living Wage:** It shall be the responsibility of the Vendor to comply, when applicable, with the City of Ann Arbor's Living Wage Ordinance as defined in Chapter 23, Section 1:811-1:821.

**Non-Discrimination:** It shall be the responsibility of the Vendor to comply, when applicable, with, all State, Federal and Local non-discrimination laws, including MCL 37.2209 and Section 9:158 of the City Code.

**Indemnification:** To the fullest extent permitted by law the Vendor shall indemnify, defend and hold the City, its officers, employees and agents harmless from all suits, claims, judgments and expenses including attorney's fees, for physical damage to third party property or injury to persons, including death, to the extent caused by Vendor's negligence, associated with Vendor's performance of this contract or anyone acting on the Vendor's behalf under this contract. The Vendor shall not be responsible to indemnify the City for losses or damages caused by or resulting from the City's sole negligence. This indemnity survives delivery and acceptance of the Vendor's goods and services.

**Warranty:** The Vendor warrants to the City that all goods and services furnished hereunder will conform in all respects to the terms of this contract, including the proposal attached as Exhibit A. Vendor further warrants that its equipment shall be free from defects in material workmanship for a period of Twelve (12) months following successful Start-Up/Commissioning or eighteen (18) months following delivery, whichever occurs first, as specified in Proposal (with the exception of any extended warranties included elsewhere in the Proposal). In addition, the Vendor warrants the goods and services are suitable for and will perform in accordance with the purposes for which they were specified and that the quality of services under this Contract shall be of the level of quality performed by persons regularly rendering this type of service.

City shall promptly notify Vendor in writing of any claim for breach of these warranties, and City shall make the defective item available to Vendor.

Vendor's warranty does not cover the results of improper handling, storage, installation, commissioning, operation or maintenance of the Equipment by City or third parties, repairs or alterations made by City without Vendor's written consent, influent water which does not comply with agreed parameters, or fair wear and tear.

**Warranty of Title:** Vendor warrants and guarantees that upon payment title to all equipment covered by any invoice submitted to the City will pass to the City free and clear of all liens.

**Payment Terms:** The City of Ann Arbor's payment terms are net 30. The payment date will be calculated based on the invoice receipt date.

**Payments:** All invoices for goods and services shall be emailed to [accountspayable@a2gov.org](mailto:accountspayable@a2gov.org). Mailed invoices shall be addressed to the City of Ann Arbor, Accounts Payable, P.O. Box 8647, Ann Arbor, MI 48107, as indicated on the front of this purchase order. Invoices must include the Vendor's name, phone number, and clearly listed item descriptions, quantities and units of measure. The Vendor acknowledges and understands that invoices not addressed as stated above shall have the net 30 begin once the invoice is received by Accounts Payable.

**Compliance with Laws:** The Vendor certifies that in performing this contract it will comply with all applicable provisions of Federal, State and Local laws, regulations, rules and orders.

All permits, authorizations, and licenses which are required to construct, install and/or operate City's facility or equipment, to use the Equipment, or to manage and dispose of any wastes, discharges, and residues resulting from City's use of the Equipment, shall be obtained and maintained by City at City's sole expense.

**Termination for Cause:** In the event the Vendor fails, at any time, to comply with, fully perform or strictly adhere to any covenant, condition or representation contained within the contract, the City shall have the right to give written notice to Vendor of such failure. Shall Vendor fail to propose cure plan to the City's satisfaction within ten (10)

business days from the time of delivery to Vendor of such notice, the City shall have the right to terminate immediately without the requirement of a further notice.

**Bonds:** Bonds will be required from the Vendor as follows: (1) a Performance Bond to the City of Ann Arbor for the total amount of the Contract; (2) a Labor and Material Bond to the City of Ann Arbor for the total amount of the Contract. Bonds shall be executed on forms supplied by the City in a manner and by a Surety Company authorized to transact business in Michigan and satisfactory to the City Attorney. Forms of Bonds are attached as Exhibit B.

**Insurance Requirements:** The Vendor shall procure and maintain from the Commencement Date, through the conclusion of this Contract, such insurance policies for an amount, as specified those set forth in Exhibit C, as will protect itself and the City from all claims for bodily injuries, death or property damage that may arise under this Agreement; whether the act(s) or omission(s) giving rise to the claim were made by the Vendor, any subcontractor, or anyone employed by them directly or indirectly. Prior to the Commencement Date of this Contract, Vendor shall provide to the City documentation satisfactory to the City, through City-approved means (currently myCOI), demonstrating that it has obtained the policies and endorsements required by Exhibit C.

Any insurance provider of Vendor shall be authorized to do business in the State of Michigan and shall carry and maintain a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A-" Overall and a minimum Financial Size Category of "V." Insurance policies and certificates issued by non-authorized insurance companies are not acceptable unless approved in writing by the City.

**[REMAINDER OF PAGE LEFT BLANK; SIGNATURE PAGE FOLLOWS]**

**VEOLIA WATER TECHNOLOGIES—  
TREATMENT SOLUTIONS USA, INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF ANN ARBOR**

By: \_\_\_\_\_

Name: Milton Dohoney Jr.

Title: City Administrator

Date: \_\_\_\_\_

**Approved as to substance:**

By: \_\_\_\_\_

Name: Jordan Roberts

Title: Public Services Area  
Administrator

Date: \_\_\_\_\_

**Approved as to form:**

By: \_\_\_\_\_

Name: Atleen Kaur

Title: City Attorney

Date: \_\_\_\_\_

*(Signatures continue on following page)*

**CITY OF ANN ARBOR**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Mayor\_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: City Clerk\_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit A- Proposal**

**Exhibit B- Bonds**

**PERFORMANCE BOND**

- (1) \_\_\_\_\_ of \_\_\_\_\_ (referred to as "Principal"), and \_\_\_\_\_, a corporation duly authorized to do business in the State of Michigan (referred to as "Surety"), are bound to the City of Ann Arbor, Michigan (referred to as "City"), for \$ \_\_\_\_\_, the payment of which Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, by this bond.
- (2) The Principal has entered a written Contract with the City entitled \_\_\_\_\_ and this bond is given for that Contract in compliance with Act No. 213 of the Michigan Public Acts of 1963, as amended, being MCL 129.201 et seq.
- (3) Whenever the Principal is declared by the City to be in default under the Contract, the Surety may promptly remedy the default or shall promptly:
- (a) complete the Contract in accordance with its terms and conditions; or
- (b) obtain a bid or bids for submission to the City for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, arrange for a Contract between such bidder and the City, and make available, as work progresses, sufficient funds to pay the cost of completion less the balance of the Contract price; but not exceeding, including other costs and damages for which Surety may be liable hereunder, the amount set forth in paragraph 1.
- (4) Surety shall have no obligation to the City if the Principal fully and promptly performs under the Contract.
- (5) Surety agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder, or the specifications accompanying it shall in any way affect its obligations on this bond, and waives notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work, or to the specifications.
- (6) Principal, Surety, and the City agree that signatures on this bond may be delivered electronically in lieu of an original signature and agree to treat electronic signatures as original signatures that bind them to this bond. This bond may be executed and delivered by facsimile and upon such delivery, the facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party.

**SIGNED AND SEALED** this \_\_\_\_\_ day of \_\_\_\_\_, 2025

\_\_\_\_\_  
(Name of Surety Company)

By \_\_\_\_\_

(Signature)

Its \_\_\_\_\_

(Title of Office)

\_\_\_\_\_  
(Name of Principal)

By \_\_\_\_\_

(Signature)

Its \_\_\_\_\_

(Title of Office)

Approved as to form:

Name and address of agent:

\_\_\_\_\_  
Atleen Kaur, City Attorney

**LABOR AND MATERIAL BOND**

- (1) \_\_\_\_\_ of \_\_\_\_\_ (referred to as "Principal"), and \_\_\_\_\_, a corporation duly authorized to do business in the State of Michigan, (referred to as "Surety"), are bound to the City of Ann Arbor, Michigan (referred to as "City"), for the use and benefit of claimants as defined in Act 213 of Michigan Public Acts of 1963, as amended, being MCL 129.201 et seq., in the amount of \$ \_\_\_\_\_, for the payment of which Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, by this bond.
- (2) The Principal has entered a written Contract with the City entitled \_\_\_\_\_, and this bond is given for that Contract in compliance with Act No. 213 of the Michigan Public Acts of 1963 as amended;
- (3) If the Principal fails to promptly and fully repay claimants for labor and material reasonably required under the Contract, the Surety shall pay those claimants.
- (4) Surety's obligations shall not exceed the amount stated in paragraph 1, and Surety shall have no obligation if the Principal promptly and fully pays the claimants.
- (5) Principal, Surety, and the City agree that signatures on this bond may be delivered electronically in lieu of an original signature and agree to treat electronic signatures as original signatures that bind them to this bond. This bond may be executed and delivered by facsimile and upon such delivery, the facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party.

**SIGNED AND SEALED** this \_\_\_\_\_ day of \_\_\_\_\_, 2025

\_\_\_\_\_  
(Name of Surety Company)

By \_\_\_\_\_

(Signature)

Its \_\_\_\_\_

(Title of Office)

\_\_\_\_\_  
(Name of Principal)

By \_\_\_\_\_

(Signature)

Its \_\_\_\_\_

(Title of Office)

Approved as to form:

\_\_\_\_\_  
Atleen Kaur, City Attorney

Name and address of agent:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### **Exhibit C- Insurance Requirements**

From the Commencement Date of this Contract, and continuing without interruption during the term of this Contract, Vendor shall have the following insurance, including all endorsements necessary for Vendor to have or provide the required coverage.

The Vendor shall have insurance that meets the following requirements:

A. Worker's Compensation Insurance in accordance with all applicable state and federal statutes. Further, Employers Liability Coverage shall be obtained in the following amounts:

Bodily Injury by Accident - \$500,000 each accident  
Bodily Injury by Disease - \$500,000 each employee  
Bodily Injury by Disease - \$500,000 each policy limit

B. Commercial General Liability Insurance equivalent to, as a minimum, Insurance Services Office form CG 00 01 04 13 or current equivalent. The City of Ann Arbor shall be an additional insured but only in respect of work performed by or on behalf of the named insured, and only to the extent that the additional insured is held liable for the negligence or other culpability of Vendor. Coverage under Vendor's policy does not extend to liability arising out of the additional insured's own negligence. There shall be no added exclusions or limiting endorsements that diminish the City's protections as an additional insured under the policy. Further, the following liability are required:

\$1,000,000	Each occurrence as respect Bodily Injury Liability or Property Damage Liability, or both combined
\$2,000,000	Per Project General Aggregate
\$1,000,000	Personal and Advertising Injury

C. Motor Vehicle Liability Insurance equivalent to, as a minimum, Insurance Services Office form CA 00 01 10 13 or current equivalent. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles. There shall be no added exclusions or limiting endorsements that diminish the City's protections as an additional insured under the policy. Further, the limits of liability shall be \$1,000,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.

Insurance required under A.3 and A.4 above shall be considered primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance. Further, the Vendor agrees to waive any right of recovery by its insurer against the City for any insurance listed herein.

Insurance companies and policy forms are subject to approval of the City Attorney, which approval shall not be unreasonably withheld. Documentation must provide and demonstrate an unconditional and unqualified 30-day written notice of cancellation in favor of the City of Ann Arbor. Further, the documentation must explicitly state the following: (a) the policy number(s); name of insurance company; name(s); email address(es), and address(es) of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts; (b) that the policy conforms to the requirements specified. Vendor shall furnish the City with satisfactory certificates of insurance and endorsements prior to commencement of any work. If any of the above coverages expire by their terms during the term of this Contract, the Vendor shall deliver proof of renewal and endorsements to the Administering Service Area/Unit at least ten days prior to the expiration date.