

Contract Abstract

Contract Information

Contract & Solicitation Title: **Microclor® On-Site Hypochlorite Generation Systems Parts and Services**

Contract Summary: **CONTRACTOR agrees to provide, subject to and in accordance with the terms of this Contract, the parts ("Parts"), and services ("Services") described in Exhibit A for the Microclor® On-Site Hypochlorite Generation Systems ("OSHG Systems").**

Contract Number: **6515889** Solicitation Number: **N/A** Requisition Number: **SS2022079**

Replaces Expiring or Expired Contract? (Enter "No" or Contract No and Expiration Date): **No**

Type of Contract/PO: **IDIQ Contract** **Requires Council Legislation:** **Yes**

High Risk Contract (Per Finance Department Contract Risk Management Policy): **Yes**

Sexual Harassment Training Required (per BL2018-1281): **Yes**

Estimated Start Date: **01/20/2023** Estimated Expiration Date: **01/19/2033** Contract Term: **120 Months**

Estimated Contract Life Value: **\$10,000,000.00** Fund:* **67331** BU:* **65560210**

(*Depending on contract terms, actual expenses may hit across various departmental BUs and Funds at PO Levels)

Payment Terms: **Net 30** Selection Method: **Sole Source**

Procurement Staff: **Terri Ray** BAO Staff: **Jeremy Frye**

Procuring Department: **Metro Water Services** Department(s) Served: **Metro Water Services**

Prime Contractor Information

Prime Contracting Firm: **PSI Water Technologies, Inc** ISN#: **26200**

Address: **550 Sycamore Drive** City: **Milpitas** State: **CA** Zip: **95035**

Prime Contractor is a **Uncertified/Unapproved**: SBE ☐ SDV ☐ MBE ☐ WBE ☐ LGBTBE ☐ (select/check if applicable)

Prime Company Contact: **Guy Chadwell** Email Address: **gchadwell@ugsicorp.com** Phone #: **408-819-3043**

Prime Contractor Signatory: **Guy Chadwell** **Email Address:** **gchadwell@ugsicorp.com**

Business Participation for Entire Contract

Small Business and Service Disabled Veteran Business Program: **N/A**

Amount: **N/A** Percent, if applicable: **N/A**

Equal Business Opportunity (EBO) Program: **Program Not Applicable**

MBE Amount: **N/A** MBE Percent, if applicable: **N/A**

WBE Amount: **N/A** WBE Percent, if applicable: **N/A**

Federal Disadvantaged Business Enterprise: **No**

Amount: **N/A** Percent, if applicable: **N/A**

Note: Amounts and/or percentages are not exclusive.

B2GNow (Contract Compliance Monitoring): **No**

Summary of Offer

Offeror Name	MBE	WBE	SBE	SDV	LGBTBE	Score	Evaluated Cost	Result
	(check as applicable)					(RFP Only)		
PSI Water Technologies, Inc	☐	☐	☐	☐	☐	N/A	N/A	Approved Sole Source Form
	☐	☐	☐	☐	☐			Select from the Following:
	☐	☐	☐	☐	☐			Select from the Following:

Terms and Conditions

1. GOODS AND SERVICES CONTRACT

1.1. Heading

This contract is initiated by and between **The Metropolitan Government of Nashville and Davidson County (METRO)** and **PSI Water Technologies, Inc (CONTRACTOR)** located at **550 Sycamore Drive, Milpitas, CA 95035**, resulting from an approved sole source signed by Metro's Purchasing Agent (made a part of this contract by reference). This Contract consists of the following documents:

- *Any properly executed contract amendment (most recent with first priority),*
- *This document, including exhibits,*
 - *Exhibit A - Parts and Service Price List*
 - *Exhibit B - Service and Parts Terms and Conditions*
 - *Exhibit C - Affidavits*
- *The portion of Metro's Purchase Orders (and PO Changes) setting forth the Parts and or Services being ordered, the quantities thereof, and the prices therefor (disregarding any reference to terms and conditions and any provisions that conflict with any of the other Contract documents),*

In the event of conflicting provisions, all documents shall be construed in the order listed above.

2. THE PARTIES HEREBY AGREE TO THE FOLLOWING TERMS AND CONDITIONS:

2.1. Duties and Responsibilities

CONTRACTOR agrees to provide, subject to and in accordance with the terms of this Contract, the parts ("Parts"), and services ("Services") described in Exhibit A for the Microclor® On-Site Hypochlorite Generation Systems ("OSHG Systems").

2.2. Purchase Orders, Delivery and/or Installation.

All deliveries (unless otherwise stated in any purchase order) are F.O.B. Destination, Prepaid by Supplier, Inside Delivery, as defined by METRO.

METRO will issue purchase orders for Parts and Services in writing (via email: psi.service@ugsicorp.com); fax: 408/866-4660; U.S. mail; or overnight courier) specifying (i) the Parts and quantity and/or Services to be purchased, (ii) the requested shipment/Service performance date, (iii) the price for the Parts (determined in accordance with Exhibit A), and (iv) the total purchase price. Prior to sending each purchase order for Parts, METRO will contact CONTRACTOR's Customer Service Department by telephone (408/370-6540) or email (psi.service@ugsicorp.com) to determine the shipping cost for the Parts described in the purchase order. Within three (3) business days following receipt of each purchase order, CONTRACTOR will issue a written order acknowledgment to METRO confirming the Parts being purchased, the quantity purchased, the total purchase price, and the proposed shipment date. METRO assumes no liability for any goods delivered without a purchase order. All deliveries shall be made as defined in the purchase order and by the date specified in CONTRACTOR'S order acknowledgment.

Installation, if required by the purchase order shall be completed by the date specified in the order acknowledgment.

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CONTRACTOR will evaluate used electrolytic cells ("Cells") removed from the OSHG Systems and sent at METRO's cost to CONTRACTOR for evaluation. Prior to sending any used Cells for evaluation METRO shall obtain a Returned Materials Authorization ("RMA") from CONTRACTOR by contacting CONTRACTOR's Customer Service Department by telephone (408/370-6540) or email (psi.service@ugsicorp.com). Within five business days following receipt by CONTRACTOR of any used Cells delivered in accordance with an RMA, CONTRACTOR will provide a written quotation setting forth (i) the refurbished Cell price for each Cell submitted for refurbishment, (ii) the estimated number of days required to complete the repair of the refurbished Cells following receipt from METRO of a purchase order, and (iii) the shipping cost for the refurbished Cells. In no event will the cost of the refurbished Cell exceed ninety percent (90%) of the then prevailing cost of a new Cell as set forth on Exhibit A. Any such quotation will remain valid for 30 days from the date issued (the "Validity Period"). If METRO desires to proceed with refurbishment of the used Cells based on CONTRACTOR'Ss written quotation METRO will submit a purchase order to CONTRACTOR in writing prior to the last day of the Validity Period (via email: psi.service@ugsicorp.com); fax: 408/866-4660; U.S. mail; or overnight courier) specifying (i) the quantity of used Cells to be repaired, and (ii) the refurbished Cell price. Within three (3) business days following receipt of each purchase order, CONTRACTOR will issue a written order acknowledgment confirming the quantity of refurbishment Cells, and the refurbishment Cell price, and the proposed shipment date.

If METRO does not issue a service order prior to the end of the Validity Period, CONTRACTOR will, at METRO's option, either (i) return the used Cells, freight prepaid by METRO, or (ii) take ownership of the used Cells, including all responsibility for the proper and environmentally compliant disposal of the used Cells and all components thereof.

3. CONTRACT TERM

3.1. Contract Term

The Contract Term will begin on the date this Contract is approved by all required parties and filed in the Metropolitan Clerk's Office. The Contract Term will end one hundred twenty (120) months from the date of filing with the Metropolitan Clerk's Office. In no event shall the term of this Contract exceed one hundred twenty (120) months from the date of filing with the Metropolitan Clerk's Office.

4. COMPENSATION

4.1. Contract Value

This Contract has an estimated value of \$10,000,000.00. The pricing details are included in Exhibit A and are made a part of this Contract by reference. CONTRACTOR shall be paid as Parts are delivered and/or Services are performed and METRO is accordingly, invoiced.

4.2. Other Fees

Except as set forth in any accepted purchase order issued by METRO hereunder, there will be no other charges or fees for the performance of this Contract. METRO will make reasonable efforts to make payments within 30 days of receipt of invoice but in any event shall make payment within 60 days. METRO will make reasonable efforts to make payments to Small Businesses within 15 days of receipt of invoice but in any event shall make payment within 60 days.

4.3. Payment Methodology

Payment in accordance with the terms and conditions of this Contract shall constitute the entire compensation due CONTRACTOR for all goods and/or services provided under this Contract.

METRO will pay CONTRACTOR for Parts and Services supplied under this Contract based upon the pricing set forth in Exhibit A of this Contract. Subject to these payment terms and conditions, CONTRACTOR shall be paid for delivered Parts and/or Services performed per accepted purchase orders issued by METRO in accordance with this Contract.

4.4. Escalation/De-escalation

This Contract is eligible for annual escalation/de-escalation adjustments. The request for adjustment must be made by the CONTRACTOR in accordance with Exhibit A and submitted by CONTRACTOR to the Purchasing Agent no less than sixty (60) days prior to the **annual anniversary** of the filing of this Contract with the METRO Clerk's Office. Any such adjustment, if approved by the Purchasing Agent, shall become effective on the anniversary of the filing of this Contract with the METRO Clerk's Office and Exhibit A shall be updated accordingly. If CONTRACTOR and METRO are unable to reach agreement on the terms of annual price adjustments, CONTRACTOR may, at its sole option, cease to supply as of the next succeeding anniversary date of the Contract any Parts and/or Services for which such price adjustments have not been agreed.

4.5. Electronic Payment

All payments shall be effectuated by ACH (Automated Clearing House).

4.6. Invoicing Requirements

CONTRACTOR shall submit invoices for payment in a format acceptable to METRO. CONTRACTOR shall submit invoices as Parts are shipped and shall submit invoices for Services rendered no more frequently than monthly. Invoices shall detail this Contract Number accompanied by any necessary supporting documentation as reasonably required by METRO in accordance with the terms of any accepted purchase order. CONTRACTOR shall submit all invoices for Services no later than ninety (90) days after the Services have been delivered/performed.

Payment of submitted invoices shall be made in accordance with Section 4.2 hereof. Payment of an invoice by METRO shall not waive METRO's rights of revocation of acceptance due to non-conformity or the difficulty of discovery of the non-conformance. METRO will have fifteen (15) days from the date METRO receives any Parts to inspect and reject such Parts for apparent defects and nonconformance, after which METRO will be deemed to have irrevocably accepted the Parts; provided that METRO retains all warranty rights as set forth in Section 8.2 below.

4.7. Subcontractor/Subconsultant Payments

When payment is received from METRO, CONTRACTOR shall within fourteen (14) calendar days pay all subcontractors, subconsultants, laborers, and suppliers the amounts they are due for the work covered by such payment. In the event METRO becomes informed that CONTRACTOR has not paid a subcontractor, subconsultant, laborer, or supplier as provided herein, METRO shall have the right, but not the duty, to issue future checks and payments to CONTRACTOR of amounts otherwise due hereunder naming CONTRACTOR and any such subcontractor, subconsultant, laborer, or supplier as joint payees. Such joint check procedure, if employed by METRO, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit METRO to repeat the procedure in the future. If persistent, this may be determined to be a material breach of this Contract.

5. TERMINATION

5.1. Breach

Should CONTRACTOR fail to fulfill in a timely and proper manner its obligations under this Contract or if it should violate any of the terms of this Contract, METRO shall identify the breach and CONTRACTOR shall cure the performance within thirty (30) days in accordance with this Contract. If CONTRACTOR fails to satisfactorily provide cure in accordance with this Contract, METRO shall have the right to immediately terminate this Contract upon written notice to CONTRACTOR. Such termination shall not relieve CONTRACTOR of any liability to METRO for damages sustained by virtue of any prior breach by CONTRACTOR.

5.2. Lack of Funding

Should funding for this Contract be discontinued, METRO shall have the right to terminate this Contract immediately upon written notice to CONTRACTOR; provided, however, that termination pursuant to this Section 5.2 shall not relieve METRO of its obligation to take delivery of any Parts and/or pay for any Parts or Services provided in accordance with the terms of any purchase order accepted by CONTRACTOR prior to receipt of written notice of termination.

5.3. Notice

METRO may terminate this Contract at any time upon thirty (30) days written notice to CONTRACTOR; provided, however, that termination pursuant to this Section 5.3 shall not relieve METRO of its obligation to take delivery of any Parts and/or pay for any Parts or Services provided in accordance with the terms of any purchase order accepted by CONTRACTOR prior to receipt of written notice of termination.

6. NONDISCRIMINATION**6.1. METRO's Nondiscrimination Policy**

It is the policy of METRO not to discriminate on the basis of race, creed, color, national origin, age, sex, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities.

6.2. Nondiscrimination Requirement

No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in METRO's contracted programs or activities, on the grounds of race, creed, color, national origin, age, sex, disability, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with METRO or in the employment practices of METRO's CONTRACTORS. CONTRACTOR certifies and warrants that it will comply with this nondiscrimination requirement. Accordingly, all offerors entering into contracts with METRO shall, upon request, be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

6.3. Equal Business Opportunity (EBO) Program Requirement

The Equal Business Opportunity (EBO) Program is not applicable to this Contract.

6.4. Covenant of Nondiscrimination

All offerors have committed to the Covenant of Nondiscrimination when registering with METRO to do business. To review this document, go to METRO's website.

6.5. Americans with Disabilities Act (ADA)

CONTRACTOR assures METRO that all services provided shall be completed in full compliance with the Americans with Disabilities Act ('ADA') 2010 ADA Standards for Accessible Design, enacted by law March 15, 2012, as has been adopted by METRO. CONTRACTOR will ensure that participants with disabilities will have communication access that is equally effective as that provided to people without disabilities. Information shall be made available in accessible formats, and auxiliary aids and services shall be provided upon the reasonable request of a qualified person with a disability.

7. INSURANCE

7.1. Proof of Insurance

During the term of this Contract, for any and all awards, CONTRACTOR shall, at its sole expense, obtain and maintain in full force and effect for the duration of this Contract, including any extension(s), the types and amounts of insurance identified below. Proof of insurance shall be required naming METRO as additional insured and identifying either the project name, RFQ, Purchase Order, or Contract number on the ACORD document.

7.2. Products Liability Insurance

In the amount of one million (\$1,000,000.00) dollars.

7.3. Automobile Liability Insurance

In the amount of one million (\$1,000,000.00) dollars.

7.4. General Liability Insurance

In the amount of one million (\$1,000,000.00) dollars.

7.5. Worker's Compensation Insurance

CONTRACTOR shall maintain workers' compensation insurance with statutory limits required by the State of Tennessee or other applicable laws and Employer's Liability Insurance with limits of no less than one hundred thousand (\$100,000.00) dollars, as required by the laws of Tennessee.

7.6. Such insurance shall:

Contain or be endorsed to contain a provision that includes METRO, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed insureds.

For any claims related to this Contract, CONTRACTOR's insurance coverage shall be primary insurance with respects to METRO, its officers, officials, employees, and volunteers. Any insurance or self-insurance programs covering METRO, its officials, officers, employees, and volunteers shall be in excess of CONTRACTOR's insurance and shall not contribute with it.

Automotive Liability insurance shall include vehicles owned, hired, and/or non-owned. Said insurance shall include coverage for loading and unloading hazards. Insurance shall contain or be endorsed to contain a provision that includes METRO, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of CONTRACTOR.

CONTRACTOR shall maintain Workers' Compensation insurance (if applicable) with statutory limits as required by the State of Tennessee or other applicable laws and Employers' Liability insurance. CONTRACTOR shall require each of its subcontractors to provide Workers' Compensation for all of the latter's employees to be engaged in such work unless such employees are covered by CONTRACTOR's Workers' Compensation insurance coverage.

7.7. Other Insurance Requirements

Prior to commencement of Services, CONTRACTOR shall furnish METRO with original certificates and amendatory endorsements effecting coverage required by this section and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on 30 days' prior written notice to:

PROCUREMENTCOI@NASHVILLE.GOV

Provide certified copies of endorsements and policies if requested by METRO in lieu of or in addition to certificates of insurance.

Replace certificates, policies, and/or endorsements for any such insurance expiring prior to completion of Services.

Maintain such insurance from the time Services commence until Services are completed. Failure to maintain or renew coverage and to provide evidence of renewal may be treated by METRO as a material breach of this Contract.

Said insurance shall be with an insurer licensed to do business in Tennessee and having A.M. Best Company ratings of no less than A-. Modification of this standard may be considered upon appeal to the METRO Director of Risk Management Services.

Require all subcontractors to maintain during the term of this Contract, Commercial General Liability insurance, Business Automobile Liability insurance, and Worker's Compensation/ Employers Liability insurance (unless subcontractor's employees are covered by CONTRACTOR's insurance) in the same manner as specified for CONTRACTOR. CONTRACTOR shall require subcontractor's to have all necessary insurance and maintain the subcontractor's certificates of insurance.

Any deductibles and/or self-insured retentions greater than \$10,000.00 must be disclosed to and approved by METRO **prior to the commencement of Services.**

If CONTRACTOR has or obtains primary and excess policy(ies), there shall be no gap between the limits of the primary policy and the deductible features of the excess policies.

8. GENERAL TERMS AND CONDITONS

8.1. Taxes

The amount of any sales, excise or other taxes, duties or governmental charges (collectively, "Taxes"), if any, applicable to the sale, delivery, consumption or use of the Parts and/or Services will be added to the purchase price and will be paid by METRO unless METRO provides CONTRACTOR with a tax-exempt certificate.

8.2. Warranty

(a) Except as set forth below, the Parts and Services provided to Metro under this Contract are warranted in accordance with terms set forth in Section 9 of Exhibit B, which is hereby incorporated into the Contract in its entirety by this reference.

(b) The warranty for new Cells supplied hereunder in replacement of Cells that are no longer covered under warranty provided at the time of original purchase of the OSHG System shall be as follows (the "Replacement Cell Warranty"):

(i) CONTRACTOR warrants to METRO that each new and unused Electrolytic Cell purchased by METRO (each, a "Replacement Cell") will be free from defects in material and workmanship for a period beginning on the date of shipment of the Replacement Cell to METRO ("Shipment Date") and ending 36 months thereafter. If the claimed defect is reported to CONTRACTOR within the first 12 months of the warranty period and subsequently verified by CONTRACTOR, then, as the sole and exclusive remedy of METRO for breach of this Replacement Cell Warranty, CONTRACTOR will repair the defective Replacement Cell free of charge and return the repaired Replacement Cell to METRO F.O.B. METRO's facility. If the claimed defect is reported to CONTRACTOR after the first 12 months of the warranty period (the "Pro-Rated Warranty Period") and is subsequently verified by CONTRACTOR, then, as the sole and exclusive remedy of METRO for breach of this Replacement Cell Warranty, CONTRACTOR will, at METRO's option and subject to METRO's payment of the prorated Cell Replacement Price (as defined below), either (i) repair the defective Replacement Cell (as repaired, a "Refurbished Replacement Cell") and return the Refurbished Replacement Cell to METRO F.O.B. METRO's facility, or (ii) provide a new Replacement Cell F.O.B. METRO's facility. Cell Replacement Price means (i) for a Refurbished Replacement Cell, the amount quoted in writing by CONTRACTOR for the repair following CONTRACTOR's inspection of the defective Replacement Cell, and (ii) for a new Replacement Cell, the price set forth in the then current version of Exhibit A for a new, unused Electrolytic Cell at the time of replacement. The prorated portion of the Cell Replacement Price to be paid by METRO with respect to defects reported during the Pro-Rated Warranty Period shall be calculated as follows:

[Number of full months (but not to exceed 36) elapsed since the Shipment Date / 36] × Cell Replacement Price

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(ii) Any Refurbished Replacement Cell returned to METRO hereunder will be warranted as set forth in the Refurbished Cell Warranty set forth in Section 8.2(c), and any new Replacement Cell provided to METRO hereunder shall be subject to this Section 8.2(b).

(iii) This Replacement Cell Warranty is subject to the provisions of, and to compliance with the warranty claim procedure set forth in, Parts III-VII of CONTRACTOR's Microclor® Warranty Attachment, which is incorporated herein by this reference, as if each reference therein to a Principal Component is a reference to the Non-Warranty Replacement Cell. A copy of the Microclor® Warranty Attachment can be downloaded from [http://ugsicorp.com/PSI Microclor Warranty Attachment 2021.php](http://ugsicorp.com/PSI%20Microclor%20Warranty%20Attachment%202021.php).

(iv) TO THE EXTENT PERMITTED BY STATE LAW THIS REPLACEMENT CELL WARRANTY IS CONTRACTOR'S SOLE AND EXCLUSIVE WARRANTY WITH RESPECT TO THE REPLACEMENT CELL. CONTRACTOR MAKES NO OTHER WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE REPLACEMENT CELL, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE, OR ANY WARRANTIES THAT MIGHT ARISE FROM COURSE OF DEALING OR USAGE OF TRADE. NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY, TO THE EXTENT PERMITTED BY STATE LAW, CONTRACTOR WILL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR OTHER INDIRECT DAMAGES, AND CONTRACTOR'S TOTAL LIABILITY ARISING AT ANY TIME FROM THE SALE, FURNISHING OR USE OF THE REPLACEMENT CELL WILL NOT EXCEED THE THEN CURRENT LIST PRICE OF THE REPLACEMENT CELL. THESE LIMITATIONS APPLY WHETHER THE LIABILITY IS BASED ON CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY.

(c) The warranty for refurbished Cells supplied hereunder for Cells that are within the pro-rated warranty period provided at the time of original purchase of the OSHG System or pursuant to Section 8.2(b) (the "Pro-Rated Warranty Period") shall be as follows (the "In-Warranty Refurbished Cell Warranty"):

(i) This In-Warranty Refurbished Cell Warranty applies to any defective Cell (including any defective Refurbished Cell) that is repaired by CONTRACTOR during the Pro-Rated Warranty Period applicable to such Cell (each such Cell, as repaired, a "Refurbished Cell"). (ii) CONTRACTOR warrants to METRO that the Refurbished Cell will be free from defects in material and workmanship for a period of 90 days from the date of shipment of the Refurbished Cell to METRO or the remainder of the applicable Pro-Rated Warranty Period, whichever is longer. If the claimed defect occurs within 90 days from the date of shipment of the Refurbished Cell to METRO and is verified by Seller, then, as METRO's sole and exclusive remedy for the breach of this Refurbished Cell Warranty, CONTRACTOR will repair the defective Refurbished Cell free of charge and return the repaired Refurbished Cell to METRO F.O.B. METRO's facility. If the claimed defect occurs during the Pro-Rated Warranty Period but more than 90 days after the date of shipment of the Refurbished Cell to METRO, and is verified by Seller, then Customer's sole and exclusive remedy for the breach of this Refurbished Cell Warranty shall be as provided in the Pro-Rated Cell Warranty.

(iii) This In-Warranty Refurbished Cell Warranty is subject to the provisions of, and to compliance with the warranty claim procedure set forth in, Parts III-VII of CONTRACTOR's Microclor® Warranty Attachment, which is incorporated herein by this reference, as if each reference therein to a Principal Component is a reference to the Refurbished Cell. A copy of the Microclor® Warranty Attachment can be downloaded from [http://ugsicorp.com/PSI Microclor Warranty Attachment 2021.php](http://ugsicorp.com/PSI%20Microclor%20Warranty%20Attachment%202021.php).

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(iv) TO THE EXTENT PERMITTED BY STATE LAW, THIS IN-WARRANTY REFURBISHED CELL WARRANTY IS CONTRACTOR'S SOLE AND EXCLUSIVE WARRANTY WITH RESPECT TO THE IN-WARRANTY REFURBISHED CELL AND THE REPAIR THEREOF. CONTRACTOR MAKES NO OTHER WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE IN-WARRANTY REFURBISHED CELL OR THE REPAIR THEREOF, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE, OR ANY WARRANTIES THAT MIGHT ARISE FROM COURSE OF DEALING OR USAGE OF TRADE. NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY AND TO THE EXTENT PERMITTED BY STATE LAW, CONTRACTOR WILL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR OTHER INDIRECT DAMAGES, AND CONTRACTOR'S TOTAL LIABILITY ARISING AT ANY TIME FROM THE REPAIR, SALE, FURNISHING, OR USE OF THE IN-WARRANTY REFURBISHED CELL WILL NOT EXCEED THE THEN CURRENT LIST PRICE OF A NEW, SIMILARLY SIZED ELECTROLYTIC CELL. THESE LIMITATIONS APPLY WHETHER THE LIABILITY IS BASED ON CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY.

(d) The warranty for refurbished Cells supplied hereunder for Cells that are no longer covered by the pro-rated warranty provided at the time of original purchase of the OSHG System shall be as follows (the "Out-of-Warranty Refurbished Cell Warranty"):

(i) This Out-of-Warranty Refurbished Cell Warranty applies to any out-of-warranty Cell that is repaired by CONTRACTOR (each such Cell, as repaired, an "Out-of-Warranty Refurbished Cell").

(ii) CONTRACTOR warrants to METRO that the Out-of-Warranty Refurbished Cell will be free from defects in material and workmanship for a period of 90 days from the date of shipment of the Out-of-Warranty Refurbished Cell to METRO. If the claimed defect occurs within 90 days from the date of shipment of the Out-of-Warranty Refurbished Cell to METRO and is verified by CONTRACTOR, then, as METRO's sole and exclusive remedy for the breach of this Out-of-Warranty Refurbished Cell Warranty, CONTRACTOR will repair the defective Out-of-Warranty Refurbished Cell free of charge and return the repaired Out-of-Warranty Refurbished Cell to METRO F.O.B. METRO's facility.

(iii) This Out-of-Warranty Refurbished Cell Warranty is subject to the provisions of, and to compliance with the warranty claim procedure set forth in, Parts III-VII of CONTRACTOR's Microclor® Warranty Attachment, which is incorporated herein by this reference, as if each reference therein to a Principal Component is a reference to the Refurbished Cell. A copy of the Microclor® Warranty Attachment can be downloaded from <http://ugsicorp.com/PSI/Microclor/WarrantyAttachment2021.php>.

(iv) TO THE EXTENT PERMITTED BY STATE LAW THIS OUT-OF-WARRANTY REFURBISHED CELL WARRANTY IS CONTRACTOR'S SOLE AND EXCLUSIVE WARRANTY WITH RESPECT TO THE OUT-OF-WARRANTY REFURBISHED CELL AND TO THE REPAIR THEREOF. CONTRACTOR MAKES NO OTHER WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE OUT-OF-WARRANTY REFURBISHED CELL OR THE REPAIR THEREOF, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE, OR ANY WARRANTIES THAT MIGHT ARISE FROM COURSE OF DEALING OR USAGE OF TRADE. NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY AND TO THE EXTENT PERMITTED BY STATE LAW, CONTRACTOR WILL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR OTHER INDIRECT DAMAGES, AND CONTRACTOR'S TOTAL LIABILITY ARISING AT ANY TIME FROM THE REPAIR, SALE, FURNISHING, OR USE OF THE OUT-OF-WARRANTY REFURBISHED CELL WILL NOT EXCEED THE THEN CURRENT LIST PRICE OF A NEW, SIMILARLY SIZED ELECTROLYTIC CELL. THESE LIMITATIONS APPLY WHETHER THE LIABILITY IS BASED ON CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY.

8.3. Software License

CONTRACTOR warrants and represents that it is the owner of or otherwise has the right to and does hereby grant METRO a license to use any software provided for the purposes for which the software was obtained or proprietary material set forth in METRO's solicitation and/or CONTRACTOR's response to the solicitation.

8.4. Confidentiality

Tennessee Code Annotated § 10-7-504(i) specifies that information which would allow a person to obtain unauthorized access to confidential information or to government property shall be maintained as confidential. "Government property" includes electronic information processing systems, telecommunication systems, or other communications systems of a governmental entity subject to this chapter. Such records include: (A) Plans, security codes, passwords, combinations, or computer programs used to protect electronic information and government property; (B) Information that would identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, the services provided by a governmental entity; and (C) Information that could be used to disrupt, interfere with, or gain unauthorized access to electronic information or government property.

The foregoing listing is not intended to be comprehensive, and any information which METRO marks or otherwise designates as anything other than "Public Information" will be deemed and treated as sensitive information, which is defined as any information not specifically labeled as "Public Information". Information which qualifies as "sensitive information" may be presented in oral, written, graphic, and/or machine-readable formats. Regardless of presentation format, such information will be deemed and treated as sensitive information.

CONTRACTOR, and its Agents, for METRO, may have access to sensitive information. CONTRACTOR, and its Agents, are required to maintain such information in a manner appropriate to its level of sensitivity. All sensitive information must be secured at all times including, but not limited to, the secured destruction of any written or electronic information no longer needed. The unauthorized access, modification, deletion, or disclosure of any METRO information may compromise the integrity and security of METRO, violate individual rights of privacy, and/or constitute a criminal act.

Upon the request of METRO, CONTRACTOR shall return all information in whatever form in a format chosen by METRO. In the event of any disclosure or threatened disclosure of METRO information, METRO is further authorized and entitled to immediately seek and obtain injunctive or other similar relief against CONTRACTOR, including but not limited to emergency and ex parte relief where available.

Notwithstanding the foregoing, this Contract is Public Information.

8.5. Information Ownership

All METRO information is and shall be the sole property of METRO. CONTRACTOR hereby waives any and all statutory and common law liens it may now or hereafter have with respect to METRO information. Nothing in this Contract or any other agreement between METRO and CONTRACTOR shall operate as an obstacle to such METRO's right to retrieve any and all METRO information from CONTRACTOR or its agents or to retrieve such information or place such information with a third party for provision of services to METRO, including without limitation, any outstanding payments, overdue payments and/or disputes, pending legal action, or arbitration. Upon METRO's request, CONTRACTOR shall supply METRO with an inventory of METRO information that CONTRACTOR stores and/or backs up. Notwithstanding the foregoing, neither this Contract nor any of the parts hereof shall be considered to be METRO Information subject to the provisions of this Section 8.5.

Any information provided to the CONTRACTOR, including information provided by METRO customers or citizens, is only to be used to fulfill the contracted services. Any additional information that is inferred or determined based on primary information that is provided to the CONTRACTOR, i.e. "second-order data", is only to be used to fulfill accepted purchase orders. This information is not to be used for marketing or commercial purposes and the CONTRACTOR asserts no rights to this information outside of fulfilling accepted purchase orders. Storage of this information is not allowed outside United States' jurisdiction.

8.6. Information Security Breach Notification

In addition to the notification requirements in any Business Associate Agreement with METRO, when applicable, CONTRACTOR shall notify METRO of any data breach within 24 hours of CONTRACTOR's knowledge or reasonable belief (whichever is earlier) that such breach has occurred (Breach Notice) by contacting the METRO ITS Help Desk. The Breach Notice should describe the nature of the breach, the scope of the information compromised, the date the breach occurred, and the identities of the individuals affected or potentially affected by the breach (provided that such individuals are associated with METRO) as well as specific information about the data compromised so that METRO can properly notify those individuals whose information was compromised. CONTRACTOR shall periodically update the information contained in the Breach Notice to METRO and reasonably cooperate with METRO in connection with METRO's efforts to mitigate the damage or harm of such breach.

8.7. Virus Representation and Warranty

CONTRACTOR represents and warrants that Products and/or Services, or any media upon which the Products and/or Services are stored, do not have, nor shall CONTRACTOR or its Agents otherwise introduce into METRO's systems, network, or infrastructure, any type of software routines or element which is designed to or capable of unauthorized access to or intrusion upon, disabling, deactivating, deleting, or otherwise damaging or interfering with any system, equipment, software, data, or the METRO network. In the event of a breach of this representation and warranty, CONTRACTOR shall compensate METRO for any and all harm, injury, damages, costs, and expenses incurred by METRO resulting from the breach.

For CONTRACTOR managed systems, CONTRACTOR shall install and maintain ICSA Labs certified or AV-Test approved Antivirus Software and, to the extent possible, use real time protection features. CONTRACTOR shall maintain the Anti-virus Software in accordance with the Antivirus Software provider's recommended practices. In addition, CONTRACTOR shall ensure that:

- Anti-virus Software checks for new Anti-virus signatures no less than once per day, and;
- Anti-virus signatures are current and no less recent than two versions/releases behind the most current version/release of the Anti-virus signatures for the Anti-virus Software

8.8. Copyright, Trademark, Service Mark, or Patent Infringement

CONTRACTOR shall, at its own expense, be entitled to and shall have the duty to defend any suit that may be brought against METRO to the extent that it is based on a claim that the Parts or Services furnished under this Contract infringe a Copyright, Trademark, Service Mark, or Patent, provided however that CONTRACTOR shall not have any obligations or liability under this Section 8.8 with respect to any non-proprietary Parts supplied hereunder. CONTRACTOR shall further indemnify and hold harmless METRO against any award of damages and costs made against METRO by a final judgment of a court of last resort in any such suit. METRO shall provide CONTRACTOR immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority to enable CONTRACTOR to do so. No costs or expenses shall be incurred for the account of CONTRACTOR without its written consent. METRO reserves the right to participate in the defense of any such action at its own cost. CONTRACTOR shall have the right to enter into negotiations for and the right to effect settlement or compromise of any such action, but no such settlement or compromise shall be binding upon METRO unless approved by the METRO Department of Law Settlement Committee and, where required, the METRO Council.

If the Parts or Services furnished under this Contract are likely to, or do become, the subject of such a claim of infringement, then without diminishing CONTRACTOR's obligation to satisfy the final award, CONTRACTOR may at its option and expense:

Contract 6515889

- Procure for METRO the right to continue using the Parts or Services
- Replace or modify the alleged infringing Parts or Services with other equally suitable Parts or Services that are satisfactory to METRO, so that they become non-infringing
- Remove the Parts or discontinue the Services and cancel any future charges pertaining thereto

Provided; however, that CONTRACTOR will not exercise the Remove option above until CONTRACTOR and METRO have determined that the Procure and/or Replace options are impractical. CONTRACTOR shall have no liability to METRO; however, if any such infringement or claim thereof is based upon or arises out of:

- The use of the Parts or Services in combination with apparatus or devices not supplied or else approved by CONTRACTOR;
- The use of the Parts or Services in a manner for which the Parts or Services were neither designated nor contemplated; or,
- The claimed infringement in which METRO has any direct or indirect interest by license or otherwise, separate from that granted herein.

8.9. Maintenance of Records

CONTRACTOR shall maintain documentation for all charges against METRO. The books, records, and documents of CONTRACTOR, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by METRO or its duly appointed representative. The records shall be maintained in accordance with generally accepted accounting principles. In the event of litigation, working papers and other documents shall be produced in accordance with applicable laws and/or rules of discovery. Breach of the provisions of this paragraph is a material breach of this Contract.

8.10. Monitoring

CONTRACTOR's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation, at Metro's expense, by METRO, the Department of Finance, the Division of Internal Audit, or their duly appointed representatives.

METRO shall have the option, at its expense, of reviewing and performing a security assessment of the information security management practices of CONTRACTOR. METRO shall have the right, at its expense, during normal business hours and with reasonable advance notice, to evaluate, test, and review at CONTRACTOR's premises the Parts and/or Services to ensure compliance with the terms and conditions of this Contract. METRO shall have the right to conduct such audits by use of its own employees and internal audit staff, or by use of outside consultants and auditors.

8.11. METRO Property

Any METRO property, including but not limited to METRO's books, records, and equipment that are in CONTRACTOR's possession shall be maintained by CONTRACTOR in good condition and repair, and shall be returned to METRO by CONTRACTOR upon termination of this Contract.

8.12. Modification of Contract

This Contract may be modified only by written amendment executed by all parties and their signatories hereto. All change orders, where required, shall be executed in conformance with section 4.24.020 of the Metropolitan Code of Laws.

8.13. Partnership/Joint Venture

This Contract shall not in any way be construed or intended to create a partnership or joint venture between the Parties or to create the relationship of principal and agent between or among any of the Parties. None of the Parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No Party shall become liable for any representation, act, or omission of any other Party contrary to the terms of this Contract.

8.14. Waiver

No waiver of any provision of this Contract shall affect the right of any Party to enforce such provision or to exercise any right or remedy available to it.

8.15. Employment

CONTRACTOR shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, or which is in violation of applicable laws concerning the employment of individuals with disabilities.

CONTRACTOR shall not knowingly employ, permit, dispatch, subcontract, or instruct any person who is an undocumented and/or unlawful worker to perform work in whole or part under the terms of this Contract.

Violation of either of these contract provisions may result in suspension or debarment if not resolved in a timely manner, not to exceed ninety (90) days, to the satisfaction of METRO.

8.16. Compliance with Laws

CONTRACTOR agrees to comply with all applicable federal, state and local laws and regulations.

8.17. Iran Divestment Act

In accordance with the Iran Divestment Act, Tennessee Code Annotated § 12-12-101 et seq., CONTRACTOR certifies that to the best of its knowledge and belief, neither CONTRACTOR nor any of its subcontractors are on the list created pursuant to Tennessee Code Annotated § 12-12-106. Misrepresentation may result in civil and criminal sanctions, including contract termination, debarment, or suspension from being a contractor or subcontractor under METRO contracts.

8.18. Israel Anti-Boycott Act

In accordance with Tennessee Code Annotated Title 12, Chapter 4, Part 1 CONTRACTOR certifies that CONTRACTOR is not currently engaged in, and will not for the duration of this Contract engage in, a boycott of Israel.

8.19. Taxes and Licensure

CONTRACTOR shall have all applicable licenses and be current on its payment of all applicable gross receipt taxes and personal property taxes.

8.20. Ethical Standards

It shall be a breach of the Ethics in Public Contracting standards in the Metropolitan Code of Laws for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therefore. It shall be a breach of the Ethics in Public Contracting standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical and legal standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under METRO contracts.

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Pursuant to Metropolitan Code of Laws, Section 4.48.020, entities and persons doing business with, or proposing to do business with, the Metropolitan Government of Nashville & Davidson County must adhere to the ethical standards prescribed in Section 4.48 of the Code. By signing this contract, you agree that you have read the standards in Section 4.48 and understand that you are obligated to follow them. Violation of any of those standards is a breach of contract and a breach of legal standards that may result in sanctions, including those set out in Section 4.48.

8.21. Indemnification and Hold Harmless

CONTRACTOR shall indemnify and hold harmless METRO, its officers, agents, and employees from:

- A. Any claims, damages, costs, and attorney fees resulting from personal injuries or property damages (excluding the Parts supplied by CONTRACTOR hereunder) to the extent arising, in part or in whole, from the negligent or intentionally wrongful acts or omissions of CONTRACTOR, its officers, employees, and/or agents, including its sub or independent contractors, in connection with the performance of this Contract.
- B. Any claims, damages, penalties, costs, and attorney fees arising from any failure of CONTRACTOR, its officers, employees, and/or agents, including its sub or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws, in connection with the performance of this Contract.
- C. In any and all claims against METRO, its officers, agents, or employees, by any employee of CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for CONTRACTOR or any subcontractor under workers' compensation acts, disability acts, or other employee benefit acts.
- D. METRO will not indemnify, defend, or hold harmless in any fashion CONTRACTOR from any claims arising from any failure, regardless of any language in any attachment or other document that CONTRACTOR may provide. Notwithstanding the foregoing, METRO is not absolved of any liability it may have under this Contract or under any applicable law or common law for the breach of this contract by METRO or its negligent or wrongful acts or omissions

8.22. Assignment--Consent Required

The provisions of this Contract shall inure to the benefit of and shall be binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to CONTRACTOR under this Contract, neither this Contract nor any of the rights and obligations of CONTRACTOR hereunder shall be assigned or transferred in whole or in part without the prior written consent of METRO. Any such assignment or transfer shall not release CONTRACTOR from its obligations hereunder.

NOTICE OF ASSIGNMENT OF ANY RIGHTS TO MONEY DUE TO CONTRACTOR UNDER THIS CONTRACT MUST BE SENT TO THE ATTENTION OF:

PRG@NASHVILLE.GOV (preferred method)

OR

METRO PURCHASING AGENT

DEPARTMENT OF FINANCE

PROCUREMENT DIVISION

730 2ND AVENUE SOUTH

PO BOX 196300

NASHVILLE, TN 37219-6300

Funds Assignment Requests should contain complete contact information (contact person, organization name, address, telephone number, and email) for METRO to use to request any follow up information needed to complete or investigate the requested funds assignment. To the extent permitted by law, METRO has the discretion to approve or deny a Funds Assignment Request.

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8.23. Entire Contract

This Contract, including without limitation the Exhibits hereto and any accepted purchase orders issued hereunder sets forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties.

8.24. Force Majeure

No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of Government, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

8.25. Governing Law

The validity, construction, and effect of this Contract and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee. Tennessee law shall govern regardless of any language in any attachment or other document that CONTRACTOR may provide.

8.26. Venue

Any action between the Parties arising from this Contract shall be maintained in the courts of Davidson County, Tennessee or, to the extent that they have jurisdiction, the courts of the United States of America located in the Middle District of Tennessee. Neither party waives its right to seek removal of any action, suit or proceeding arising out of or relating to this Contract or the transactions contemplated hereby to the courts of the United States of America located in the Middle District of Tennessee.

8.27. Severability

Should any provision of this Contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this Contract.

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Contract Number: 6515889

Notices and Designation of Agent for Service of Process

All notices to METRO shall be mailed or hand delivered to:

**PURCHASING AGENT
PROCUREMENT DIVISION
DEPARTMENT OF FINANCE
PO BOX 196300
NASHVILLE, TN 37219-6300**

Notices to CONTRACTOR shall be mailed or hand delivered to:

CONTRACTOR: PSI Water Technologies, Inc.

Attention: Guy Chadwell
Address: 550 Sycamore Dr, Milpitas, CA 95035
Telephone: 408-819-3043
Fax: N/A
E-mail: gchadwell@ugsicorp.com

CONTRACTOR designates the following as the CONTRACTOR's agent for service of process and will waive any objection to service of process if process is served upon this agent:

Designated Agent: Stephen P. Stanczak

Attention: N/A
Address: 269 King Arthur Circle, Franklin, TN 37067
Email: sstanczak@ugsicorp.com

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Notices & Designations
Department & Project Manager

Contract Number	6515889
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The primary DEPARTMENT/AGENCY responsible for the administration of this contract is:

DEPARTMENT	Water Services
Attention	Stephanie Belcher
Address	1600 2nd Ave N, Nashville, TN 37208
Telephone	615-862-4513
Email	stephanie.belcher@nashville.gov

The primary DEPARTMENT/AGENCY responsible for the administration of this contract designates the following individual as the PROJECT MANAGER responsible for the duties outlined in APPENDIX – Z CONTRACT ADMINISTRATION:

Project Manager	Heather Crabtree
Title	Engineer 3
Address	1400 Pumping Station Rd.
Telephone	615-642-9364
Email	heather.crabtree@nashville.gov

Appendix Z – Contract Administration

Upon filing with the Metropolitan Clerk, the PROJECT MANAGER designated by the primary DEPARTMENT/AGENCY is responsible for contract administration. Duties related to contract administration include, but are not necessarily limited to, the following:

Vendor Performance Management Plan

For contracts in excess of \$50,000.00, the project manager will develop a vendor performance management plan. This plan is managed by the primary department/agency and will be retained by the department/agency for their records. At contract close out, copies of all vendor performance management documents will be sent to PRG@nashville.gov.

For best practices related to vendor performance management, project managers will consult chapter eight of the PROCUREMENT MANUAL found on the division of purchases internal resources page: <https://metronashville.sharepoint.com/sites/IMFinanceProcurement>.

Amendment

For all contracts, the project manager will notify PRG@nashville.gov if changes to the term, value, scope, conditions, or any other material aspect of the contract are required. The email notification will include a complete CONTRACT AMENDMENT REQUEST FORM found on the division of purchases internal resources page: <https://metronashville.sharepoint.com/sites/IMFinanceProcurement>.

Escalation

For contracts that include an escalation/de-escalation clause, the project manager will notify PRG@nashville.gov when any request for escalation/de-escalation is received. The email notification will include any documentation required by the contract to support the request.

Contract Close Out – Purchasing

For all contracts, the project manager will notify PRG@nashville.gov when the work is complete and has been accepted by the department/agency. The email notification will include the contract number, contract title, date of completion, warranty start date and warranty end date (if applicable), and copies of all vendor performance management documents (if applicable).

Contract Close Out – BAO

For contracts with compliance monitored by the Business Assistance Office (BAO), the project manager will notify the designated contract compliance officer via email when the contract is complete and final payment has been issued. The email notification will include the contract number, contract title, and the date final payment was issued.

Best Practices

Project managers are strongly encouraged to consult chapter eight of the PROCUREMENT MANUAL for best practices related to contract administration. The manual is found on the division of purchases internal resources page:

<https://metronashville.sharepoint.com/sites/IMFinanceProcurement>

Contract Number 6515889

Effective Date

This contract shall not be binding upon the parties until it has been fully electronically approved by the CONTRACTOR, the authorized representatives of the Metropolitan Government, and filed in the office of the Metropolitan Clerk.

THE METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY

APPROVED AS TO PROJECT SCOPE:

Scott Potter ASm
Dept. / Agency / Comm. Head or Board Chair. Dept. Fin.

APPROVED AS TO COMPLIANCE WITH
PROCUREMENT CODE:

Michelle R. Hernandez Lane SEC
Purchasing Agent Purchasing

APPROVED AS TO AVAILABILITY OF FUNDS:

Kelly Flannery/TJE RJ
Director of Finance BA

APPROVED AS TO FORM AND LEGALITY:

Tara Ladd BL
Metropolitan Attorney Insurance

FILED BY THE METROPOLITAN CLERK:

Metropolitan Clerk Date

CONTRACTOR:

PSI Water Technologies, Inc
Company Name

Guy Chadwell
Signature of Company's Contracting Officer

Guy Chadwell
Officer's Name

VP and General Manager
Officer's Title

Exhibit A – Parts and Service Price List

I. PARTS

A. Electrolytic Cells

Part Number	Description	Price
0000-MC0526-AB	240LB per day Microclor® cell	\$29,436.36
N/A	Refurbished Cell (out of warranty)	As quoted per Section 2.2
N/A	Refurbished Cell (during warranty period)	As quoted per Section 2.2

B. Listed Parts (excluding electrolytic cells)

Part Number	Description	Price
50-03812	MicroPump, GL-H21 Pump Head, 3/4" FNPT, PTFE Seal	\$ 9,164.50
50-00036	MOTOR - 1/4 HP 230 VAC 3 PH TENV 56C	\$ 1,068.75
50-00037	VFD AC MINI DRIVE 1/4 HP 120V INPUT 230V OUT	\$ 671.25
50-00382	VALVE SOLENOID BRS 2-WAY 1/2 in 120 VAC, ASCO #82	\$ 692.50
50-03817	VALVE SOLENOID BRS 2-WAY N/C 1-1/2 in NPT 120/60VAC, DIN TYPE CONNECTION	\$ 2,962.50
50-00386	CONNECTOR DIN (for 2-Way Solenoid Valve)	\$ 98.13
50-03298	Levelite #GLL100-501F Prob Assembly w/ Polysulfon	\$ 768.75
50-00433	SENSOR TEMP 4-20 MA 3/4 in MPT	\$ 1,290.00
50-00442	SWITCH TEMP 131 DEG. SET POINT CPVC TYPE 1, 1/2	\$ 381.25
50-00559	SENSOR FLOW SIGNET 2551 MAGMETER PP/ SSTL, 1/2 in-4 in NO DISPLAY, 4-20mA OUTPUT (GF)	\$ 3,327.50
80-02638	SS Sheer Ring - For 2" Coupling	\$ 23.28
70-02395	COUPLER, FLEXIBLE NO-HUB, 2"	\$ 43.75
70-03814	ROTOMETER POLYSULFONE 4-40 GPM PANEL MOUNT, 1" MPT panel mount	\$ 1,321.88
70-03815	ROTOMETER POLYSULFONE 1.0-10 GPM PANEL MOUNT, 1" MPT	\$ 1,003.13
80-01952	ELECTRICAL TARGET 1-1/2 in TITANIUM NIPPLE 0000-MC0152-DT	\$ 625.00
70-02836	Valve, Aquamatic K52, 1 1/2", Composit Diaphragm, NO, SOA, FKM, FKM K524-X201-2400	\$ 525.00
70-02838	Kit, Hardware, For 524 Valve, (2 per kit) FKM Seals #1071806	\$ 75.00
70-02837	Connection Kit, Grooved Male, 1 1/2" for K524 (2 per kit) #1070233	\$ 100.00

The warranty for parts listed in Section I.B will be as stated in Section 8.2.

C. Non-Listed Parts

The purchase price for any parts supplied by CONTRACTOR under the Contract which are not listed in A or B above, will be sold to METRO at list price less 10%. The warranty for such parts will be as stated in Section 8.2.

II. SERVICES

A. **Non-Emergency:** Site visit is requested greater than 72 hours in advance.

(1) **Local Technician** (within 60-mile radius of service site):

Four Hour call out

- Up to four hours onsite
- Price (minimum charge): \$1,225.00
- Each additional hour above four hours up to eight total hours: \$250.00
- Each additional hour after eight hours: \$375.00

Exhibit A – Parts and Service Price List

(2) Non-Local Technician (outside 60-mile radius of service site):

Four Hour call out

- Up to four hours onsite
- Price (minimum charge): \$2,600.00
- Each additional hour after four hours up to eight total hours: \$250.00
- Each additional hour after eight hours: \$375.00
- Each additional day: \$350 per hour
-

B. **Emergency:** Site visit is requested less than 72 hours in advance.

- Add \$750.00 per day
- Emergency fee may be waived by CONTRACTOR if local tech is available.

Escalation/De-Escalation

The Consumer Price Index (CPI) shall be the justification used to support any request for annual escalation/de-escalation. Price adjustments shall be based upon the percentage increase or decrease in the unadjusted U.S. Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average [1982-84 = 100], as reported at <https://www.bls.gov/news.release/cpi.t02.htm> (the "Index").

Annual escalation/de-escalation shall be capped at 5%; if the Consumer Price Index (CPI) is 5% or below, base rates shall be increased/decreased by the applicable CPI in full. Anything over 5% shall be shared 50/50 between METRO and CONTRACTOR. Examples: If the CPI is 7%, contractor would escalate to 6%. If the CPI is 8%, contractor would escalate to 6.5%. If the CPI is negative 5% or below, base rates below negative 5% shall be shared 50/50 between METRO and CONTRACTOR. Example: if the CPI is negative 7%, contractor would reduce prices by 6%. If the CPI is negative 8% contractor would reduce prices by 6.5%.

Non-Listed Parts clause above is not applicable to the escalation/de-escalation clause.



Contract 6515889

Exhibit B

PARTS AND SERVICES TERMS AND CONDITIONS

1. Applicable Terms. These Parts and Services Terms and Conditions (the "Terms") apply to the purchase and sale of the parts and services described in CONTRACTOR's Quote (the "Quote") provided pursuant to the terms of Contract 6515889 between CONTRACTOR and METRO (the "**Contract**") (including any parts or other materials specified therein or otherwise purchased in connection therewith (the "Parts", and, together with such services, the "Services"). If the Services are performed on equipment previously furnished by CONTRACTOR, nothing in the Quote shall modify the contract pursuant to which such equipment was previously furnished. The Quote, together with the Contract (of which these Terms form a part), comprise the complete and exclusive statement of the agreement between the parties (the "Agreement") related to the Services, superseding all prior communications and negotiations regarding the subject matter. CONTRACTOR objects to any different or additional terms contained in any purchase order or other document issued by METRO (including any technical specifications), unless any such METRO document is separately signed by an authorized officer of CONTRACTOR.
2. Payment and Labor Rates. Invoices will be issued to METRO as the Services are performed or Parts are shipped. Invoices are due and payable in accordance with Section 4.2 of the Contract. If CONTRACTOR is required to pay prevailing wages to its employees providing the Services, any additional payroll expense incurred by CONTRACTOR will be added to the purchase price as set forth in the Quote.
3. Schedule. The schedule for performance of the Services and delivery of Parts will be mutually agreed upon; provided that Services cannot be commenced on fewer than seven business days' advance notice unless otherwise stated in the Quote.
4. Delivery. Parts shall be delivered in accordance with the first sentence of Section 2.2 of the Contract. All delivery dates are estimated. CONTRACTOR assumes no liability for loss or damage due to delay or inability to deliver, whether or not such loss or damage was made known to CONTRACTOR.
5. Returns. METRO may return Parts only with CONTRACTOR's prior written approval. Any authorized return will be subject to payment of a restocking charge equal to 25% of the price and will be allowed only if the applicable Part is in new condition and suitable for resale. Returns will be shipped F.O.B. CONTRACTOR's location.
6. Taxes. The amount of any sales, excise or other taxes, duties or governmental charges (collectively, "Taxes"), if any, applicable to the sale, delivery, consumption or use of the Services will be added to the purchase price and will be paid by METRO unless METRO provides CONTRACTOR with an exemption certificate acceptable to the Taxing authorities.
7. CONTRACTOR's Responsibilities. CONTRACTOR will perform the Services in accordance with the Agreement. CONTRACTOR will purchase and maintain insurance in accordance with Section 7 of the Contract. CONTRACTOR will provide a certificate of insurance to METRO upon request. CONTRACTOR will cause its employees to abide by the safety precautions established by METRO in connection with the work and communicated to CONTRACTOR by METRO.
8. METRO's Responsibilities. METRO will be responsible for all general site safety precautions in connection with the performance of the Services including any required safety barricades. METRO will provide CONTRACTOR access to the jobsite, any equipment, information, and all other areas reasonably required for the proper performance of the Services. METRO will acquire and pay for all permits, approvals and/or licenses from all local, state or national government authorities or public service undertakings where the work site is located, including those required for the performance by both



PSI Water Technologies

A UGSI SOLUTIONS COMPANY

CONTRACTOR and METRO of their respective obligations under the Agreement. All costs and expenses involved in the performance of the obligations under this Section 8 will be the responsibility of METRO.

9. Warranty.

(a). CONTRACTOR warrants that its services will be performed in a workmanlike manner by properly trained and qualified employees, using due care and diligence (the "Service Warranty"). The Service Warranty will continue for a period of six (6) months from the date of such services. As the sole remedy for breach of the Services Warranty, CONTRACTOR will reperform the subject services at CONTRACTOR's own expense; provided that METRO provides CONTRACTOR access to the jobsite, information and equipment as required for CONTRACTOR to verify the claimed breach and to reperform the subject services.

(b) CONTRACTOR warrants that all Parts will be free from defects in material and workmanship for 12 months from initial operation or 18 months from shipment, whichever is earlier (the "Parts Warranty" and together with the Service Warranty, the "Warranties"). The Parts Warranty does not cover ordinary wear and tear. As the sole remedy for breach of the Parts Warranty, CONTRACTOR will, at CONTRACTOR's sole option, repair or replace the applicable Part or component F.O.B. METRO's facility free of charge. The warranty on repaired or replaced Parts is limited to the remainder of the original Parts Warranty period. METRO shall be responsible for (x) any labor required to gain access to the Parts or component or so that CONTRACTOR can assess the available remedies; and (y) all costs of installation of repaired or replacement Parts or components.

(c) The Warranties are conditioned on (i) the applicable Part being stored, installed, started up, operated and maintained in accordance with CONTRACTOR's instructions; (ii) no repairs, modifications or alterations being made to the applicable Part other than by CONTRACTOR or its authorized representatives; (iii) METRO providing prompt written notice of any warranty claims within the applicable warranty period; (iv) CONTRACTOR's verification of the claimed breach of warranty; (v) METRO not being in default of any payment obligation to CONTRACTOR; and (vi) at CONTRACTOR's discretion, METRO either removing and shipping the applicable Part or non-conforming component thereof to CONTRACTOR, at METRO's expense, or METRO granting CONTRACTOR access to the applicable Part at all reasonable times and locations to assess the warranty claims.

(d) TO THE EXTENT PERMITTED BY STATE LAW THE WARRANTIES SET FORTH IN THIS SECTION 9 ARE CONTRACTOR'S SOLE AND EXCLUSIVE WARRANTIES WITH RESPECT TO THE SERVICES AND PARTS FURNISHED HEREUNDER AND ARE SUBJECT TO THE LIMITATIONS SET FORTH IN SECTION 11 BELOW. CONTRACTOR MAKES NO OTHER WARRANTIES OF ANY KIND WITH RESPECT THERETO, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY WARRANTIES THAT MIGHT ARISE FROM COURSE OF DEALING OR USAGE OF TRADE.

10. Force Majeure. CONTRACTOR will have no liability for any breach caused by extreme weather or other act of God, strike or other labor shortage or disturbance, delays of carriers, failure of normal sources of supply, fire, accident, epidemic or other public health crisis, war or civil disturbance, act of government or any other cause beyond CONTRACTOR's reasonable control.

11. LIMITATION OF LIABILITY. TO THE EXTENT PERMITTED BY STATE LAW AND NOT NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY, CONTRACTOR WILL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR OTHER INDIRECT DAMAGES, AND CONTRACTOR'S TOTAL LIABILITY ARISING AT ANY TIME IN CONNECTION WITH THIS TRANSACTION OR THE SERVICES OR PARTS SHALL NOT EXCEED THE PRICE PAID THEREFOR. THESE LIMITATIONS APPLY WHETHER THE LIABILITY IS BASED ON CONTRACT, TORT, STRICT LIABILITY, FAILURE OF ESSENTIAL PURPOSE OR ANY OTHER THEORY. THE REMEDIES SET FORTH IN THIS AGREEMENT ARE INTENDED TO CONSTITUTE A COMPLETE ALLOCATION OF THE RISKS BETWEEN THE PARTIES AND METRO ACKNOWLEDGES THAT IT IS KNOWINGLY LIMITING THE REMEDIES THAT MIGHT OTHERWISE BE AVAILABLE TO IT.

12. Remedies of CONTRACTOR. METRO's failure to make any payment required hereunder when due ("Payment Default") or to perform any other term or condition contained herein will constitute an event of



PSI Water Technologies

A UGSI SOLUTIONS COMPANY

default which will enable CONTRACTOR, at its option, and without liability to METRO, to cancel any unexecuted portion of the Services to be provided under this Agreement and to exercise any other right or remedy expressed herein or otherwise available at law or in equity. CONTRACTOR's obligations under Section 9 hereof will be suspended during the pendency of any Payment Default. No such suspension will extend CONTRACTOR's obligations under Section 9 beyond the period provided therein. All rights and remedies of CONTRACTOR herein are in addition to, and will not exclude, any rights or remedies that CONTRACTOR may have at law or in equity. CONTRACTOR's election of any remedy or remedies in the event of a default by METRO will not preclude CONTRACTOR from exercising any other remedy or remedies available to CONTRACTOR for the same or any other default.

13. Equal Employment Opportunity. CONTRACTOR is an equal opportunity employer. The parties shall, as applicable, abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a), 41 CFR 60-741.5(a) and Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A) (relating to the notice of employee rights under federal labor laws), and these laws are incorporated herein by reference.

14. Export Compliance. METRO shall not at any time directly or indirectly use, export, transfer, or otherwise dispose of the Parts in a manner that will result in non-compliance with applicable export laws and regulations. METRO will indemnify and hold CONTRACTOR harmless from all costs, liabilities, penalties, sanctions and fines related to any such non-compliance.

15. Miscellaneous. No part of this Agreement may be changed or cancelled except by a written document signed by CONTRACTOR and METRO. As used in this Agreement, "including" and its variants means "including without limitation" and its variants. No course of dealing or performance, usage of trade or failure to enforce any term will be used to modify this Agreement. If any of these Terms is unenforceable, such Term will be limited only to the extent necessary to make it enforceable, and all other Terms will remain in full force and effect. METRO may not assign this Agreement without CONTRACTOR's prior written consent. This Agreement will be governed by the laws of the State of Tennessee without regard to its conflict of laws provisions. The application of the United Nations Convention on Contracts for the International Sale of Goods is excluded.

Affidavits

Compliance with Laws: After first being duly sworn according to law, the undersigned (Affiant) states that he/she and the contracting organization is presently in compliance with, and will continue to maintain compliance with, all applicable federal, state, and local laws.

Taxes and Licensure: Affiant states that Contractor has all applicable licenses, including business licenses. Affiant also states that Contractor is current on its payment of all applicable gross receipt taxes and personal property taxes. M.C.L. 4.20.065

Nondiscrimination: Affiant affirms that by its employment policy, standards and practices, it does not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age or sex, and are not in violation of, and will not violate, any applicable laws concerning the employment of individuals with disabilities. M.C.L. 4.28.020

Employment Requirement: Affiant affirms that Contactor's employment practices are in compliance with applicable United States immigrations laws. M.C.L. 4.40.060.

Covenant of Nondiscrimination: Affiant affirms that in consideration of the privilege to submit offers in response to this solicitation, we hereby consent, covenant, and agree as follows:

To adopt the policies of the Metropolitan Government relating to equal opportunity in contracting on projects and contracts funded, in whole or in part, with funds of the Metropolitan Government;

- To attempt certain good faith efforts to solicit Minority-owned and Woman-owned business participation on projects and contracts in addition to regular and customary solicitation efforts;
- Not to otherwise engage in discriminatory conduct;
- To provide a discrimination-free working environment;
- That this Covenant of Nondiscrimination shall be continuing in nature and shall remain in full force and effect without interruption;
- That the Covenant of Nondiscrimination shall be incorporated by reference into any contract or portion thereof which the Supplier may hereafter obtain; and
- That the failure of the Supplier to satisfactorily discharge any of the promises of nondiscrimination as made and set forth herein shall constitute a material breach of contract. M.C.L. 4.46.070

Contingent Fees: It is a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a Metro contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. After first being duly sworn according to law, the undersigned Affiant states that the Contractor has not retained anyone in violation of the foregoing. M.C.L. 4.48.080

Iran Divestment Act Affidavit: By submission of this offer and in response to the solicitation, Contractor(s) and each person signing on behalf of Contractor(s) affirm, under penalty of perjury, that to the best of their knowledge and belief, neither the Contractor(s), nor proposed subcontractors, subconsultants, partners and any joint venturers, are on the list created pursuant to the Tennessee Code Annotated § 12-12-106 (Iran Divestment Act). Referenced website:

[https://www.tn.gov/content/dam/tn/generalservices/documents/cpo/cpo-library/public-information-library/List of persons pursuant to Tenn. Code Ann. 12-12-106 Iran Divestment Act updated 7.7.17.pdf](https://www.tn.gov/content/dam/tn/generalservices/documents/cpo/cpo-library/public-information-library/List_of_persons_pursuant_to_Tenn._Code_Ann._12-12-106_Iran_Divestment_Act_updated_7.7.17.pdf).

Sexual Harassment: Affiant affirms that should it be awarded a contract with the Metropolitan Government for a period of more than twelve (12) months and/or valued at over five hundred thousand (\$500,000) dollars, affiant shall be required to provide sexual harassment awareness and prevention training to its employees if those employees:

1. Have direct interactions with employees of the Metropolitan Government through email, phone, or in-person contact on a regular basis;
2. Have contact with the public such that the public may believe the contractor is an employee of the Metropolitan Government, including but not limited to a contractor with a phone number or email address associated with Metropolitan government or contractors with uniforms or vehicles bearing insignia of the Metropolitan Government; or
3. Work on property owned by the metropolitan government.

Such training shall be provided no later than (90) days of the effective date of the contract or (90) days of the employee's start date of employment with affiant if said employment occurs after the effective date of the contract. M.C.L. 2.230.020.

Affiant affirms that Contractor is not currently, and will not for the duration of the awarded Contract, engage in a boycott of Israel for any awarded contract that meets the following criteria:

- Has total potential value of two hundred fifty thousand (\$250,000) or more;
- Affiant has ten (10) or more employees.

Affiant affirms that offeror is and will remain in compliance with the provisions of Chapter 4.12 of the Metro Procurement Code and the contents of its offer as submitted. Affiant further affirms that offeror understands that failure to remain in such compliance shall constitute a material breach of its agreement with the Metropolitan Government.

And Further Affiant Sayeth Not:

Organization Name: PSI Water Technologies, Inc

Organization Officer Signature: Guy Chadwell

Name of Organization Officer: Guy Chadwell

Title: VP and General Manager



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/1/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Crystal IBC LLC 32 Old Slip Fl 17 New York NY 10005	CONTACT NAME: Emelia Nazari PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS: Emelia.Nazari@alliant.com <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 80%;">INSURER(S) AFFORDING COVERAGE</th> <th style="width: 20%;">NAIC #</th> </tr> <tr> <td>INSURER A : Ironshore Specialty Insurance</td> <td>25445</td> </tr> <tr> <td>INSURER B : Liberty Mutual Insurance Compa</td> <td>23043</td> </tr> <tr> <td>INSURER C : Liberty Mutual Fire Insurance</td> <td>23035</td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Ironshore Specialty Insurance	25445	INSURER B : Liberty Mutual Insurance Compa	23043	INSURER C : Liberty Mutual Fire Insurance	23035	INSURER D :		INSURER E :		INSURER F :	
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INSURER D :															
INSURER E :															
INSURER F :															
INSURED PSI Water Technologies, Inc. 550 Sycamore Drive, Milpitas, CA 95035	WATEQUA-01														

COVERAGES **CERTIFICATE NUMBER:** 732440829 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS						
A	☒ COMMERCIAL GENERAL LIABILITY <table border="0" style="width: 100%;"> <tr> <td>☐ CLAIMS-MADE</td> <td>☒ OCCUR</td> </tr> </table> GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:	☐ CLAIMS-MADE	☒ OCCUR	Y		IEPICACKB0E001	7/3/2022	7/3/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 25,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$				
☐ CLAIMS-MADE	☒ OCCUR												
C	☒ AUTOMOBILE LIABILITY <table border="0" style="width: 100%;"> <tr> <td>☒ ANY AUTO</td> <td>☐ SCHEDULED AUTOS</td> </tr> <tr> <td>☐ OWNED AUTOS ONLY</td> <td>☐ NON-OWNED AUTOS ONLY</td> </tr> <tr> <td>☐ HIRED AUTOS ONLY</td> <td>☐</td> </tr> </table>	☒ ANY AUTO	☐ SCHEDULED AUTOS	☐ OWNED AUTOS ONLY	☐ NON-OWNED AUTOS ONLY	☐ HIRED AUTOS ONLY	☐	Y		AS2-Z11-C298R9-022	7/3/2022	7/3/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
☒ ANY AUTO	☐ SCHEDULED AUTOS												
☐ OWNED AUTOS ONLY	☐ NON-OWNED AUTOS ONLY												
☐ HIRED AUTOS ONLY	☐												
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$ 0			IEELCASKBZ1001	7/3/2022	7/3/2023	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$						
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☒ N	N/A	WC5-Z11-C298R9-012	7/3/2022	7/3/2023	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000						

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Metropolitan Government of Nashville and Davidson County, its officials, officers, employees, and volunteers are named as additional insureds per general liability additional insured endorsement and automobile liability additional insured endorsement when required by written agreement between the parties .RFQ/Contract Number 6515889

CERTIFICATE HOLDER

Metropolitan Government of Nashville and Davidson County Attn: Purchasing Agent Metro Courthouse Nashville TN 37201	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	--

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Contract Purchase Agreement 6515889: Contract Standards Deviations - 05-Jan-2023

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Clause Deviations

Contract Template Master Goods and Services Contract

View By Category

Category	Deviation	Section	Clause Title
Non-Standard clauses	Standard clause modified	1. GOODS AND SERVICES CONTRACT	1.1. 37:Heading
	Standard clause modified	2. THE PARTIES HEREBY AGREE TO THE FOLLOWING TERMS AND CONDITIONS:	2.1. 35:Duties and Responsibilities
	Standard clause modified	2. THE PARTIES HEREBY AGREE TO THE FOLLOWING TERMS AND CONDITIONS:	2.2. 24:Purchase Orders, Delivery and/or Installation.
	Standard clause modified	3. CONTRACT TERM	3.1. 36:Contract Term
	Standard clause modified	4. COMPENSATION	4.1. 38:Contract Value
	Standard clause modified	4. COMPENSATION	4.2. 39:Other Fees
	Standard clause modified	4. COMPENSATION	4.3. 135:Payment Methodology
	Standard clause modified	4. COMPENSATION	4.4. 27:Escalation/De-escalation
	Standard clause modified	4. COMPENSATION	4.6. 136:Invoicing Requirements
	Standard clause modified	5. TERMINATION	5.1. 31:Breach
	Standard clause modified	5. TERMINATION	5.2. 32:Lack of Funding
	Standard clause modified	5. TERMINATION	5.3. 33:Notice
	Standard clause modified	6. NONDISCRIMINATION	6.3. 230:Equal Business Opportunity (EBO) Program Re
	Standard clause modified	7. INSURANCE	7.2. 50:Products Liability Insurance
	Standard clause modified	7. INSURANCE	7.3. 52:Automobile Liability Insurance
	Standard clause modified	7. INSURANCE	7.5. 53:Worker's Compensation Insurance
	Standard clause modified	7. INSURANCE	7.7. 55:Other Insurance Requirements
	Standard clause modified	8. GENERAL TERMS AND CONDITONS	8.1. 28:Taxes
	Standard clause modified	8. GENERAL TERMS AND CONDITONS	8.2. 29:Warranty
	Standard clause modified	8. GENERAL TERMS AND CONDITONS	8.4. 134:Confidentiality
	Standard clause modified	8. GENERAL TERMS AND CONDITONS	8.5. 192:Information Ownership
	Standard clause modified		

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Clause Deviations

Contract Template Master Goods and Services Contract

View By Category

Category	Deviation	Section	Clause Title
	Standard clause modified	7. INSURANCE	7.2. 50:Products Liability Insurance
	Standard clause modified	7. INSURANCE	7.3. 52:Automobile Liability Insurance
	Standard clause modified	7. INSURANCE	7.5. 53:Worker's Compensation Insurance
	Standard clause modified	7. INSURANCE	7.7. 55:Other Insurance Requirements
	Standard clause modified	8. GENERAL TERMS AND CONDITONS	8.1. 28:Taxes
	Standard clause modified	8. GENERAL TERMS AND CONDITONS	8.2. 29:Warranty
	Standard clause modified	8. GENERAL TERMS AND CONDITONS	8.4. 134:Confidentiality
	Standard clause modified	8. GENERAL TERMS AND CONDITONS	8.5. 192:Information Ownership
	Standard clause modified	8. GENERAL TERMS AND CONDITONS	8.6. 201:Information Security Breach Notification
	Standard clause modified	8. GENERAL TERMS AND CONDITONS	8.8. 57:Copyright, Trademark, Service Mark, or Patent Infringement
	Standard clause modified	8. GENERAL TERMS AND CONDITONS	8.9. 34:Maintenance of Records
	Standard clause modified	8. GENERAL TERMS AND CONDITONS	8.10. 58:Monitoring
	Standard clause modified	8. GENERAL TERMS AND CONDITONS	8.11. 59:METRO Property
	Standard clause modified	8. GENERAL TERMS AND CONDITONS	8.21. 67:Indemnification and Hold Harmless
	Standard clause modified	8. GENERAL TERMS AND CONDITONS	8.23. 68:Entire Contract
	Standard clause modified	8. GENERAL TERMS AND CONDITONS	8.26. 71:Venue
Standard clauses missing	Optional clause removed	7. INSURANCE	7.3. 188:Professional Liability Insurance
	Optional clause removed	7. INSURANCE	7.7. 253:Abuse and Molestation Insurance
	Optional clause removed	7. INSURANCE	7.8. 251:Cyber Liability Insurance
	Optional clause removed	7. INSURANCE	7.9. 252:Technological Errors and Omissions Insurance
	Optional clause removed	8. GENERAL TERMS AND CONDITONS	8.22. 7:Attorney Fees
Invalid clauses	Clause expired	7. INSURANCE	7.6. 54:Such insurance shall:
	Clause expired	8. GENERAL TERMS AND CONDITONS	8.20. 66:Ethical Standards
	Clause expired	8. GENERAL TERMS AND CONDITONS	8.22. 6:Assignment--Consent Required

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**METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY
DEPARTMENT OF FINANCE – PROCUREMENT
SOLE SOURCE JUSTIFICATION FORM**



SS #: SS2022079

Date Received: April 6, 2022

Send an email to PRG@nashville.gov and attach completed sole source form and supporting documentation.

Proposed supplier MUST be Registered in iProcurement

Date: 04/05/2022 Requesting Department/Agency/Commission: Water Services
 Requesting Official: Stephanie Belcher Telephone #: 615-862-4513 This is for a multi-year contract.
 Product/Service Description: Products, parts and services for the Microclor On-Site Hypochlorite Generation Systems

Total Purchase (Enter the value for the entire contract life) Price: \$10,000,000

BU Number: 65560210 Fund #: 67331 Object Account: 503600 Any Other Accounting Info: _____

Proposed Supplier: PSI Water Technologies Proposed Supplier Contact: Guy Chadwell
 Supplier Address: 550 Sycamore Drive City: Milpitas ST: CA Zip: 95035
 Supplier Telephone #: 408-819-3043 Supplier Email: gchadwell@ugsicorp.com

Metro Code: 4.12.060 Sole Source Procurement.

A contract may be awarded for a supply, service or construction item without competition when, under regulations promulgated by the standards board, the purchasing agent determines in writing that there is only one source for the required supply, service or construction item. The standards board may, by regulation, establish specific categories of supplies, services, or construction items as sole source items. (Ord. 92-210 § 1 (3-205), 1992)

R4.12.060.02 Conditions for Use of Sole Source Procurement.

Other, see explanation below

If Other, Explain Request: Both of Metro's water treatment facilities have the Microclor Onsite Hypochlorite Generation System which provides disinfection for drinking water. This contract is necessary in order to maintain those systems. PSI Water Technologies is the sole manufacturer and distributor of this system.

Signatures will be gotten by Procurement in DocuSign

Department Requester's Initials: SB

Requesting Department Director's Signature of Approval: Amanda Deaton-Mayer

Date: 4/7/2022 | 6:26 AM PDT





April 5, 2022

Justin Bowling, P.E.
Metro Water Services
1400 Pumping Station Road
Nashville, TN 37210

Re: Microclor® On-Site Hypochlorite Generation Systems

Dear Mr. Bowling,

PSI Water Technologies, Inc. ("PSI") proposes to supply replacement parts for use in Nashville Metro Water Services' Microclor® On-Site Hypochlorite Generation Systems. The Microclor® On-Site Hypochlorite Generation System is designed, manufactured and supplied by PSI of Milpitas, California. The system, which is the subject of one or more patents and patent applications filed by PSI, incorporates a unique vertical cell design which is also the subject of one or more patents and patent applications (see www.psipatents.com). PSI Water Technologies, Inc ("PSI") is the sole manufacture and US distributor of the Microclor® On-Site Hypochlorite Generation System.

Sincerely,

Guy Chadwell

Vice President and General Manager

PSI Water Technologies, Inc.

550 Sycamore Drive
Milpitas, CA 95035

Sole Source Review

Reviewed By:	Z.A.K.		
Recommendation:	Approve	Department:	MWS
Supplier:	PSI Water Technologies	Pricing:	\$10,000,000.00
Description:	Products, parts, & services for hypochlorite generation system.	Method:	Multi-year contract

Procurement Code: MC 4.12.060

Procurement Regulations: R4.12.060.05(b) – Items Approved for Sole Source.

Department Justification: Care & maintenance of high technology systems and equipment.

Review: Under section [4.12.060.05](#) of the procurement regulations, a contract may be awarded without competition when the item has been approved for sole source.

This is a request for care and maintenance of onsite hypochlorite generation system. If this is found to meet the standard of high technology systems, a sole source may be recommended.

Onsite hypochlorite generation systems (OHGS) utilize salt, water, and electricity to make bleach for the treatment of water and wastewater. This is a highly technical process that involves passive hydrogen removal, brine conductivity control, fell wave dc rectification, high velocity electrolyte flow, and recirculation cell loops.

OSGS' meet the definition of high technology.

Further, Microclor, the current OHGS system in use by MWS, is proprietary to PSI Water Technologies. They are the only authorized provider for systems care and maintenance. While other OSGS systems may be available, the highly integrated nature of this system makes switching providers prohibitive in terms of cost and delivering essential water services.

A sole source is recommended pursuant to R4.12.060.05(b) and R4.12.060.02(a).

Certificate Of Completion

Envelope Id: 9B4817D6713340D28E77110731EB723E

Status: Sent

Subject: Metro Contract 6515889 with PSI Water Technologies, Inc (Water Services)

Source Envelope:

Document Pages: 36

Signatures: 11

Certificate Pages: 18

Initials: 4

AutoNav: Enabled

Envelope Stamping: Enabled

Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:

Procurement Resource Group

730 2nd Ave. South 1st Floor

Nashville, TN 37219

prg@nashville.gov

IP Address: 170.190.198.185

Record Tracking

Status: Original

1/18/2023 12:05:46 PM

Holder: Procurement Resource Group

prg@nashville.gov

Location: DocuSign

Security Appliance Status: Connected

Pool: StateLocal

Storage Appliance Status: Connected

Pool: Metropolitan Government of Nashville and

Davidson County

Location: DocuSign

Signer Events**Signature****Timestamp**

Gary Clay

Gary.Clay@nashville.gov

Asst. Purchasing Agent

Security Level: Email, Account Authentication
(None)Signature Adoption: Uploaded Signature Image
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Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Amanda Deaton-Moyer

Amanda.Deaton-Moyer@nashville.gov

Security Level: Email, Account Authentication
(None)Signature Adoption: Pre-selected Style
Using IP Address: 170.190.198.192

Sent: 1/18/2023 12:36:57 PM

Viewed: 1/18/2023 12:41:35 PM

Signed: 1/18/2023 12:42:10 PM

Electronic Record and Signature Disclosure:

Accepted: 1/18/2023 12:41:35 PM

ID: 1274d2ee-b72f-465e-b49e-c87508b7dedd

Rachel Jones

rachel.jones@nashville.gov

Security Level: Email, Account Authentication
(None)Signature Adoption: Pre-selected Style
Using IP Address: 170.190.198.185

Sent: 1/18/2023 12:42:26 PM

Viewed: 1/18/2023 7:42:33 PM

Signed: 1/18/2023 7:51:30 PM

Electronic Record and Signature Disclosure:

Accepted: 1/18/2023 7:42:33 PM

ID: 728d3d16-5b68-4c2a-898b-575820858f3b

Guy Chadwell

gchadwell@ugsicorp.com

VP and General Manager

PSI Water Technologies, Inc

Security Level: Email, Account Authentication
(None)Signature Adoption: Pre-selected Style
Using IP Address: 50.192.224.121

Sent: 1/18/2023 7:51:40 PM

Viewed: 1/19/2023 9:43:44 AM

Signed: 1/20/2023 7:26:38 AM

Electronic Record and Signature Disclosure:

Signer Events	Signature	Timestamp
Accepted: 1/19/2023 9:43:44 AM ID: bb096ecb-9ea2-458a-ac9e-a52250e3a855		
Michelle A. Hernandez Lane michelle.lane@nashville.gov Chief Procurement Officer/Purchasing Agent Metro Security Level: Email, Account Authentication (None)	<i>Michelle A. Hernandez Lane</i> Signature Adoption: Pre-selected Style Using IP Address: 172.58.147.232 Signed using mobile	Sent: 1/20/2023 7:26:49 AM Viewed: 1/23/2023 12:19:31 PM Signed: 1/23/2023 12:21:41 PM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Scott Potter scott.potter@nashville.gov Director Security Level: Email, Account Authentication (None)	<i>Scott Potter</i> Signature Adoption: Pre-selected Style Using IP Address: 170.190.198.192	Sent: 1/23/2023 12:21:58 PM Viewed: 1/23/2023 12:51:42 PM Signed: 1/23/2023 12:51:50 PM
Electronic Record and Signature Disclosure: Accepted: 1/23/2023 12:51:42 PM ID: c36b4e76-1325-45e8-9543-690e81993cc5		
Kelly Flannery/TJE Tom.Eddlemon@nashville.gov Director of Finance Security Level: Email, Account Authentication (None)	<i>Kelly Flannery/TJE</i> Signature Adoption: Pre-selected Style Using IP Address: 170.190.198.185	Sent: 1/23/2023 12:52:01 PM Viewed: 1/23/2023 12:59:37 PM Signed: 1/23/2023 1:00:04 PM
Electronic Record and Signature Disclosure: Accepted: 1/23/2023 12:59:37 PM ID: ccd57abf-b95e-4524-a1e9-0d9f485e7103		
Kelly Flannery kelly.flannery@nashville.gov Security Level: Email, Account Authentication (None)	<i>Kelly Flannery</i> Signature Adoption: Pre-selected Style Using IP Address: 170.190.198.100	Sent: 1/23/2023 1:00:21 PM Viewed: 1/23/2023 1:02:34 PM Signed: 1/23/2023 1:02:55 PM
Electronic Record and Signature Disclosure: Accepted: 1/23/2023 1:02:34 PM ID: 5cefeb05-9aab-4d34-853a-3cfee198ce7f		
Balogun Cobb balogun.cobb@nashville.gov Security Level: Email, Account Authentication (None)	<i>BC</i> Signature Adoption: Pre-selected Style Using IP Address: 172.58.147.222 Signed using mobile	Sent: 1/23/2023 1:03:07 PM Viewed: 1/23/2023 2:06:36 PM Signed: 1/23/2023 2:07:06 PM
Electronic Record and Signature Disclosure: Accepted: 1/23/2023 2:06:36 PM ID: 0678c79a-50fd-4751-ad96-120201624255		

Signer Events	Signature	Timestamp
Tara Ladd tara.ladd@nashville.gov Assistant Metropolitan Attorney Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 170.190.198.144	Sent: 1/23/2023 2:07:22 PM Viewed: 1/23/2023 2:15:27 PM Signed: 1/23/2023 2:15:39 PM

Electronic Record and Signature Disclosure:
 Accepted: 1/23/2023 2:15:27 PM
 ID: 82e24610-70de-42e5-8b6f-499a6ae439dc

Procurement Resource Group
 prg@nashville.gov
 Metropolitan Government of Nashville and Davidson
 County
 Security Level: Email, Account Authentication (None)

Sent: 1/23/2023 2:16:00 PM

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp

Terri L. Ray
 Terri.Ray@nashville.gov
 Senior Procurement Officer
 Metropolitan Government of Nashville and Davidson
 County
 Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

COPIED

Sent: 1/18/2023 12:14:55 PM

Sally Palmer
 sally.palmer@nashville.gov
 Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
 Accepted: 1/23/2023 8:35:38 AM
 ID: 2dbeff9f-b47d-4d66-a263-8101c3d6b34f

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Sent: 1/23/2023 2:15:49 PM

Tara Ladd
 tara.ladd@nashville.gov
 Assistant Metropolitan Attorney
 Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
 Accepted: 1/23/2023 2:15:27 PM
 ID: 82e24610-70de-42e5-8b6f-499a6ae439dc

COPIED

Sent: 1/23/2023 2:15:55 PM
 Viewed: 1/23/2023 2:16:39 PM

Carbon Copy Events	Status	Timestamp
Jeremy Frye jeremy.frye@nashville.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 12/21/2022 1:49:31 PM ID: eb85c8ac-4b46-4425-9a89-e68b7e476ccd		
Heather Crabtree heather.crabtree@nashville.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Amber Gardner Amber.Gardner@nashville.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 12/26/2022 6:53:53 PM ID: f39b7bb9-bb2b-47dd-b058-d2ecba0c41d3		
Debbie Newell dnewell@ugsicorp.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Austin Kyle publicrecords@nashville.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 1/20/2023 3:25:48 PM ID: 8b9b2026-ea61-453a-8b22-6bc180cfb211		
Terri Ray terri.ray@nashville.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Steve Stanczak sstanczak@ugsicorp.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Stephanie Belcher Stephanie.belcher@nashville.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 1/12/2023 7:05:03 AM ID: ea814175-2c7f-47f1-afe2-5dd7a8d70c52		

Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	1/18/2023 12:14:55 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		