

**EXHIBIT**  
**"A"**

**CITY OF ROUND ROCK AGREEMENT FOR  
PURCHASE OF POOL TREATMENT CHEMICALS  
WITH  
COMMERCIAL CHEMICAL PRODUCTS, INC.  
DBA "POOLSURE"**

**THE STATE OF TEXAS** §  
§  
**CITY OF ROUND ROCK** § **KNOW ALL BY THESE PRESENTS:**  
§  
**COUNTY OF WILLIAMSON** §  
**COUNTY OF TRAVIS** §

THAT THIS AGREEMENT for the purchase of pool treatment chemicals, and for related goods and services (referred to herein as the "Agreement"), is made and entered into on this the \_\_\_\_ day of the month of \_\_\_\_\_, 2022 by and between the CITY OF ROUND ROCK, a Texas home-rule municipality, whose offices are located at 221 East Main Street, Round Rock, Texas 78664-5299 (referred to herein as the "City"), and COMMERCIAL CHEMICAL PRODUCTS, INC. dba "Poolsure," whose offices are located at (referred to herein as the "Vendor").

**RECITALS:**

WHEREAS, City desires to purchase pool treatment chemicals; and

WHEREAS, City has issued its "Invitation for Bid" for the provision of said goods and services; and

WHEREAS, City has determined the bid submitted by Vendor is the lowest responsible bid; and

WHEREAS, the parties desire to enter into this Agreement to set forth in writing their respective rights, duties, and obligations;

NOW, THEREFORE, WITNESSETH:

That for and in consideration of the mutual promises contained herein and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, it is mutually agreed between the parties as follows:

**1.0 DEFINITIONS**

A. **Agreement** means the binding legal contract between City and Vendor whereby City agrees to buy specified goods and Vendor is obligated to sell same. The Agreement includes the following: (a) City's Invitation for Bid, designated Solicitation Number 22-017 dated March 2022 ("IFB"); (b) Vendor's Response to IFB; and (c) any exhibits and/or addenda

thereto. Any inconsistencies or conflicts in the contract documents shall be resolved by giving preference in the following order:

- (1) This Agreement;
- (2) Vendor's Response to IFB;
- (3) City's Invitation for Bids, Addenda, exhibits, and attachments.

B. **City** means the City of Round Rock, Williamson and Travis Counties, Texas.

C. **Effective Date** means the date upon which the binding signatures of both parties to this Agreement are affixed.

D. **Force Majeure** means acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind from the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, restraint of the government and the people, civil disturbances, explosions, or other causes not reasonably within the control of the party claiming such inability.

E. **Goods and services** mean the specified services, supplies, materials, commodities, or equipment.

## **2.0 EFFECTIVE DATE AND TERM**

A. This Agreement shall be effective on the date this Agreement has been signed by each party hereto and shall remain in full force and effect unless and until it expires by operation of the term indicated herein or is terminated or extended as provided herein.

B. The term of this Agreement shall be for sixty (60) months from the effective date hereof.

C. City reserves the right to review the relationship at any time and may elect to terminate this Agreement with or without cause or may elect to continue.

## **3.0 CONTRACT DOCUMENTS AND EXHIBITS**

City selected Vendor to supply the goods as outlined in the IFB; Addenda to IFB; and Response to IFB submitted by Vendor, all as specified in Exhibit "A," incorporated herein by reference for all purposes. The intent of these documents is to formulate an Agreement listing the responsibilities of both parties as outlined in the IFB and Addenda to IFB and as offered by Vendor in its Response to the IFB.

The provision of goods which are the subject matter of this Agreement are described in Exhibit "A" and, together with this Agreement, comprise the total Agreement and they are fully a part of this Agreement as if repeated herein in full.

#### **4.0 ITEMS AWARDED AND SCOPE OF WORK**

**Items Awarded.** All items in "Attachment A – Bid Sheet" of Exhibit "A" are awarded to Vendor.

**Scope of Work:** Vendor shall satisfactorily provide the items described in "Attachment A – Bid Sheet" in Exhibit "A," attached hereto, within the contract term specified in Section 2.0. Vendor's undertakings shall be limited to providing goods and/or services for City and/or advising City concerning those matters on which Vendor has been specifically engaged. Vendor shall perform its services in accordance with this Agreement, in accordance with the appended exhibits, in accordance with due care, and in accordance with prevailing industry standards for comparable services.

#### **5.0 COSTS**

A. In consideration for the goods to be provided by Vendor, City agrees to pay Vendor the amounts set forth in "Attachment A – Bid Sheet" of Exhibit "A."

B. The City shall be authorized to pay the Vendor an amount not-to-exceed **Eighty Thousand and No/100 Dollars (\$80,000.00) per year** for a total not-to-exceed amount **Four Hundred Thousand and No/100 Dollars (\$400,000.00)** for the term of this Agreement.

#### **6.0 INVOICES**

All invoices shall include, at a minimum, the following information:

- A. Name and address of Vendor;
- B. Purchase Order Number;
- C. Description and quantity of items received or services provided; and
- C. Delivery or performance dates.

#### **7.0 NON-APPROPRIATION AND FISCAL FUNDING**

This Agreement is a commitment of City's current revenues only. It is understood and agreed that City shall have the right to terminate this Agreement at the end of any City fiscal year if the governing body of City does not appropriate funds sufficient to purchase the goods as determined by City's budget for the fiscal year in question. City may affect such termination by giving Vendor a written notice of termination at the end of its then current fiscal year.

## **8.0 PROMPT PAYMENT POLICY**

In accordance with Chapter 2251, V.T.C.A., Texas Government Code, payment to Vendor will be made within thirty (30) days of the day on which City receives the performance, supplies, materials, equipment, and/or deliverables, or within thirty (30) days of the day on which the performance of services was complete, or within thirty (30) days of the day on which City receives a correct invoice for the performance and/or deliverables or services, whichever is later. Vendor may charge interest on an overdue payment at the "rate in effect" on September 1 of the fiscal year in which the payment becomes overdue, in accordance with V.T.C.A., Texas Government Code, Section 2251.025(b); however, this Policy does not apply to payments made by City in the event:

- A. There is a bona fide dispute between City and Vendor, a contractor, subcontractor or supplier about the goods delivered or the service performed that cause the payment to be late; or
- B. The terms of a federal contract, grant, regulation, or statute prevent City from making a timely payment with federal funds; or
- C. There is a bona fide dispute between Vendor and a subcontractor or between a subcontractor and its supplier about the goods delivered or the service performed that causes the payment to be late; or
- D. Invoices are not mailed to City in strict accordance with instructions, if any, on the purchase order or the Agreement or other such contractual agreement.

## **9.0 GRATUITIES AND BRIBES**

City may, by written notice to Vendor, cancel this Agreement without liability to Vendor if it is determined by City that gratuities or bribes in the form of entertainment, gifts, or otherwise were offered or given by Vendor or its agents or representatives to any City officer, employee or elected representative with respect to the performance of this Agreement. In addition, Vendor may be subject to penalties stated in Title 8 of the Texas Penal Code.

## **10.0 TAXES**

City is exempt from Federal Excise and State Sales Tax; therefore, tax shall not be included in Vendor's charges.

## **11.0 ORDERS PLACED WITH ALTERNATE VENDORS**

If Vendor cannot provide the goods as specified, City reserves the right and option to obtain the products from another supplier or suppliers.

## **12.0 INSURANCE**

Vendor shall meet all insurance requirements set forth in Part II of IFB 22-017 and on the City's website at:

[https://www.roundrocktexas.gov/wp-content/uploads/2014/12/corr\\_insurance\\_07.20112.pdf](https://www.roundrocktexas.gov/wp-content/uploads/2014/12/corr_insurance_07.20112.pdf)

## **13.0 CITY'S REPRESENTATIVES**

City hereby designates the following representatives authorized to act in its behalf with regard to this Agreement:

Nichole Bohner  
PARD Manager  
301 West Bagdad Avenue, Suite 250  
Round Rock, Texas 78664  
512-341-3171  
[nbohner@roundrocktexas.gov](mailto:nbohner@roundrocktexas.gov)

## **14.0 RIGHT TO ASSURANCE**

Whenever either party to this Agreement, in good faith, has reason to question the other party's intent to perform hereunder, then demand may be made to the other party for written assurance of the intent to perform. In the event that no written assurance is given within the reasonable time specified when demand is made, then and in that event the demanding party may treat such failure as an anticipatory repudiation of this Agreement.

## **15.0 DEFAULT**

If Vendor abandons or defaults under this Agreement and is a cause of City purchasing the specified goods elsewhere, Vendor agrees that it may be charged the difference in cost, if any, and that it will not be considered in the re-advertisement of the service and that it may not be considered in future bids for the same type of work unless the scope of work is significantly changed.

Vendor shall be declared in default of this Agreement if it does any of the following:

- (1) Fails to fully, timely and faithfully perform any of its material obligations under this Agreement;
- (2) Fails to provide adequate assurance of performance under the "Right to Assurance" section herein; or
- (3) Becomes insolvent or seeks relief under the bankruptcy laws of the United States.

## **16.0 TERMINATION AND SUSPENSION**

A. City has the right to terminate this Agreement, in whole or in part, for convenience and without cause, at any time upon thirty (30) days' written notice to Vendor.

B. In the event of any default by Vendor, City has the right to terminate this Agreement for cause, upon ten (10) days' written notice to Vendor.

C. Vendor has the right to terminate this Agreement only for cause, that being in the event of a material and substantial breach by City, or by mutual agreement to terminate evidenced in writing by and between the parties.

D. In the event City terminates under subsections (A) or (B) of this section, the following shall apply: Upon City's delivery of the referenced notice to Vendor, Vendor shall discontinue all services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement. Within thirty (30) days after such notice of termination, Vendor shall submit a statement showing in detail the goods and/or services satisfactorily performed under this Agreement to the date of termination. City shall then pay Vendor that portion of the charges, if undisputed. The parties agree that Vendor is not entitled to compensation for services it would have performed under the remaining term of the Agreement except as provided herein.

## **17.0 INDEMNIFICATION**

Vendor shall defend (at the option of City), indemnify, and hold City, its successors, assigns, officers, employees and elected officials harmless from and against all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees, and any and all other costs or fees arising out of, or incident to, concerning or resulting from the fault of Vendor, or Vendor's agents, employees or subcontractors, in the performance of Vendor's obligations under this Agreement, no matter how, or to whom, such loss may occur. Nothing herein shall be deemed to limit the rights of City or Vendor (including, but not limited to the right to seek contribution) against any third party who may be liable for an indemnified claim.

## **18.0 COMPLIANCE WITH LAWS, CHARTER AND ORDINANCES**

A. Vendor, its agents, employees and subcontractors shall use best efforts to comply with all applicable federal and state laws, the Charter and Ordinances of the City of Round Rock, as amended, and with all applicable rules and regulations promulgated by local, state and national boards, bureaus and agencies.

B. In accordance with Chapter 2271, Texas Government Code, a governmental entity may not enter into a contract with a company for goods and services unless the contract contains written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the terms of this contract. The signatory executing this Agreement on behalf of Vendor verifies Vendor does not boycott Israel and will not boycott Israel during the term of this Agreement.

C. In accordance with 2274, Texas Government Code, a governmental entity may not enter into a contract with a company with at least ten (10) full-time employees for a value of at least One Hundred Thousand and No/100 Dollars (\$100,000.00) unless the contract has provision in the contract verifying that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The signatory executing this Agreement on behalf of Vendor verifies Vendor does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and it will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

D. In accordance with 2274, Texas Government Code, a governmental entity may not enter into a contract with a company with at least ten (10) full-time employees for a value of at least One Hundred Thousand and No/100 Dollars (\$100,000.00) unless the contract has provision in the contract verifying that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of this Agreement. The signatory executing this Agreement on behalf of Vendor verifies Vendor does not boycott energy companies, and it will not boycott energy companies during the term of this Agreement.

## **19.0 ASSIGNMENT AND DELEGATION**

The parties each hereby bind themselves, their successors, assigns and legal representatives to each other with respect to the terms of this Agreement. Neither party shall assign, sublet or transfer any interest in this Agreement without prior written authorization of the other party.

## **20.0 NOTICES**

All notices and other communications in connection with this Agreement shall be in writing and shall be considered given as follows:

1. When delivered personally to the recipient's address as stated in this Agreement;  
or
2. Three (3) days after being deposited in the United States mail, with postage prepaid to the recipient's address as stated in this Agreement.

### **Notice to Vendor:**

Commercial Chemical Products, Inc.  
1707 Townhurst Drive  
Houston, Texas 77043

**Notice to City:**

City Manager  
221 East Main Street  
Round Rock, TX 78664

AND TO:

Stephan L. Sheets, City Attorney  
309 East Main Street  
Round Rock, TX 78664

Nothing contained herein shall be construed to restrict the transmission of routine communications between representatives of City and Vendor.

**21.0 APPLICABLE LAW; ENFORCEMENT AND VENUE**

This Agreement shall be enforceable in Round Rock, Texas, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for same shall lie in Williamson County, Texas. This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

**22.0 EXCLUSIVE AGREEMENT**

This document, and all appended documents, constitutes the entire Agreement between Vendor and City. This Agreement may only be amended or supplemented by mutual agreement of the parties hereto in writing, duly authorized by action of the City Manager or City Council.

**23.0 DISPUTE RESOLUTION**

City and Vendor hereby expressly agree that no claims or disputes between the parties arising out of or relating to this Agreement or a breach thereof shall be decided by any arbitration proceeding, including without limitation, any proceeding under the Federal Arbitration Act (9 USC Section 1-14) or any applicable state arbitration statute.

**24.0 SEVERABILITY**

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

**25.0 MISCELLANEOUS PROVISIONS**

**Standard of Care.** Vendor represents that it employs trained, experienced and competent persons to perform all of the services, responsibilities and duties specified herein and



that such services, responsibilities and duties shall be performed in a manner according to generally accepted industry practices.

**Time is of the Essence.** Vendor understands and agrees that time is of the essence and that any failure of Vendor to fulfill obligations for each portion of this Agreement within the agreed timeframes will constitute a material breach of this Agreement. Vendor shall be fully responsible for its delays or for failures to use best efforts in accordance with the terms of this Agreement. Where damage is caused to City due to Vendor's failure to perform in these circumstances, City may pursue any remedy available without waiver of any of City's additional legal rights or remedies.

**Force Majeure.** Neither City nor Vendor shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder by reasons for which it is not responsible as defined herein. However, notice of such impediment or delay in performance must be timely given, and all reasonable efforts undertaken to mitigate its effects.

**Multiple Counterparts.** This Agreement may be executed in multiple counterparts, any one of which shall be considered an original of this document; and all of which, when taken together, shall constitute one and the same instrument.


[Signatures on the following page.]

IN WITNESS WHEREOF, City and Vendor have executed this Agreement on the dates indicated.

**City of Round Rock, Texas**

**Commercial Chemical Products, Inc.**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

By:  \_\_\_\_\_  
Printed Name: Alan Falik  
Title: President/CEO  
Date Signed: 8/16/2022

**Attest:**

By: \_\_\_\_\_  
Meagan Spinks, City Clerk

**For City, Approved as to Form:**

By: \_\_\_\_\_  
Stephan L. Sheets, City Attorney



**City of Round Rock, Texas**  
**Purchasing Division**  
221 East Main Street  
Round Rock, Texas 78664-5299  
[www.roundrocktexas.gov](http://www.roundrocktexas.gov)

**INVITATION FOR BID (IFB)**

**POOL TREATMENT CHEMICALS**

**SOLICITATION NUMBER 22-017**

**MARCH 2022**

**POOL TREATMENT CHEMICALS  
 PART I  
 GENERAL REQUIREMENTS**

1. **PURPOSE:** The City of Round Rock, herein after "the City" seeks a bid from firms experienced in providing bulk pool chemicals.
2. **BACKGROUND:** The Parks and Recreation Department requires a vendor to supply and deliver pool treatment chemicals to various swimming pool within the City. The City reserves the right the right to award contracts to multiple vendors.
3. **SOLICITATION PACKET:** This solicitation packet is comprised of the following-

Description	Index
Part I – General Requirements	Page(s) 2-5
Part II – Definitions, Standard Terms and Conditions and Insurance Requirements	Page 6
Part III – Supplemental Terms and Conditions	Page(s) 7-9
Part IV – Specifications	Page(s) 10-11
Attachment A – Bid Sheet	Page 12
Attachment B – Reference Sheet	Page 13

4. **AUTHORIZED PURCHASING CONTACT(S):** For questions or clarification of specifications, you may contact:

**Allen Reich**  
 Purchaser  
 Purchasing Division  
 City of Round Rock  
 Phone: 512-218-6682  
 E-mail: [areich@roundrocktexas.gov](mailto:areich@roundrocktexas.gov)

**Amanda Crowell**  
 Purchaser  
 Purchasing Division  
 City of Round Rock  
 Phone: 512-218-5458  
 E-mail: [acrowell@roundrocktexas.gov](mailto:acrowell@roundrocktexas.gov)

The individual(s) listed above is/are the only authorized City contact(s) for this solicitation. The authorized purchasing contact(s) may be contacted by e-mail for clarification for this solicitation including specifications. No other City employee or representative may be contacted about this solicitation prior to contract approval. No authority is intended or implied that specifications may be amended, or alterations accepted prior to solicitation opening without written approval of the City of Round Rock through the Purchasing Department.

5. **SCHEDULE OF EVENTS:** It is the City's intention to follow the solicitation timeline below.

EVENT	DATE
Solicitation released	March 10, 2022
Deadline for submission of questions	March 18, 2022 @ 5:00PM, CST
City responses to questions or addendums	Approximately March 23, 2022
<b>Deadline for submission of responses</b>	<b>March 31, 2022 @ 3:00PM, CST</b>

All questions regarding the solicitation shall be submitted in writing by 5:00 PM, CST on the due date noted above. A copy of all questions submitted and the City's response to the questions shall be posted on the City's webpage in the form of an addendum at:



<https://www.roundrocktexas.gov/city-businesses/solicitations/>

Questions shall be submitted in writing to the "Authorized Purchasing Contact". The City reserves the right to modify these dates. Notice of date change will be posted to the City's website:

<https://www.roundrocktexas.gov/city-businesses/solicitations/>

6. **SOLICITATION UPDATES:** Respondents shall be responsible for monitoring the City's website at <https://www.roundrocktexas.gov/city-businesses/solicitations/> for any updates pertaining to the solicitation described herein. Various updates may include addendums, cancellations, notifications, and any other pertinent information necessary for the submission of a correct and accurate response. The City will not be held responsible for any further communication beyond updating the website.
7. **RESPONSE DUE DATE:** Signed and sealed responses are due at or before 3:00 PM, on the due date noted in PART I, Section 5 – Schedule of Events. Mail or hand deliver sealed responses to:
- City of Round Rock**  
**Attn: Allen Reich**  
**Purchasing Department**  
**221 E. Main Street**  
**Round Rock, Texas 78664-5299**
- A. Sealed responses shall be clearly marked on the outside of packaging with the Solicitation title, number, due date, and "DO NOT OPEN".
- B. Facsimile or electronically transmitted responses are not acceptable.
- C. Responses cannot be altered or amended after opening.
- D. No response can be withdrawn after opening without written approval from the City for an acceptable reason.
- E. The City will not be bound by any oral statement or offer made contrary to the written specifications.
- F. Samples and/or copies shall be provided at the Respondent's expense and shall become the property of the City.
- G. Late responses will not be considered and will be returned unopened if a return address is provided.
8. **RESPONDENT REQUIREMENTS:** The City of Round Rock makes no warranty that this checklist is a full comprehensive listing of every requirement specified in the solicitation. This list is only a tool to assist participating Respondents in compiling their final responses. Respondents are to carefully read the entire solicitation.

Respondent shall submit one (1) evident signed "Original" and one identical-to-the-original electronic copy of the IFB response on a flash drive. An electronic signature on the "original" solicitation response is acceptable but any resulting contract shall be signed in ink. The submittal is required to include all addendums and requested attachments. The bid response along with samples and/or copies shall be provided at the Respondent's expense and shall become the property of the City.

This invitation for bid (IFB) does not commit the City to contract for any supply or service. Respondents are advised that the City will not pay for any administrative costs incurred in response preparation to this IFB; all costs associated with responding to this IFB will be solely at the interested parties' expense. Not responding to this IFB does not preclude participation in any future RFP/RFQ/IFB.

**For your bid to be responsive, addendums and the attachments identified below shall be submitted with your proposal.**

- **Addendums:** Addendums may be posted to this solicitation. Bidders are required to submit signed addendums with their sealed response. The Bidder shall be responsible for monitoring the City's website at <https://www.roundrocktexas.gov/city-businesses/solicitations/> for any updates pertaining to the solicitation.
- **Attachment A: BID SHEET:** The bid response shall be submitted on the itemized, signed Bid Sheet provided in the solicitation packet. Failure to complete and sign the bid sheet will result in disqualification. If there is a conflict between the unit price and extended price, the unit price will take precedence. Submission of responses on forms other than the City's solicitation document may result in disqualification of the response.



- **Attachment B: REFERENCE SHEET:** Provide the name, address, telephone number and **E-MAIL** of at least three (3) valid Municipal, Government agencies, or firms of comparable size that have utilized services that are similar in type and capacity within the last two (2) years. City of Round Rock references are not applicable. References may be checked prior to award. If references cannot be confirmed or if any negative responses are received it may result in the disqualification of submittal.

9. **BEST VALUE EVALUATION AND CRITERIA:** The City reserves the right to reject any or all responses, or to accept any response deemed most advantageous, or to waive any irregularities or informalities in the response received that best serves the interest and at the sole discretion of the City. All solicitations received may be evaluated based on the best value for the City. In determining best value, the City may consider:

- A. Purchase price.
- B. Reputation of Respondent and of Respondent's goods and services.
- C. Quality of the Respondent's goods and services.
- D. The extent to which the goods and services meet the City's needs.
- E. Respondent's past performance with the City.
- F. The total long-term cost to the City to acquire the Respondent's goods or services.
- G. Any relevant criteria specifically listed in the solicitation.
- H. If the solicitation is evaluated with points, the respondent must earn a minimum of 15 points on criteria not related to cost in order to be considered for contract award.

Respondents may be contacted for clarification of bid and/or to discuss details of the services they are proposing.

10. **CONFIDENTIALITY OF CONTENT:** As stated in Section 16 of City of Round Rock Purchasing Definitions, Standard Terms and Conditions, all documents submitted in response to a solicitation shall be subject to the Texas Public Information Act. Following an award, responses are subject to release as public information unless the response or specific parts of the response can be shown to be exempt from the Texas Public Information Act. Pricing is not considered to be confidential under any circumstances
- A. Information in a submittal that is legally protected as a trade secret or otherwise confidential must be clearly indicated with stamped, bold red letters stating "CONFIDENTIAL" on that section of the document. The City will not be responsible for any public disclosure of confidential information if it is not clearly marked as such.
  - B. If a request is made under the Texas Public Information Act to inspect information designated as confidential, the Respondent shall, upon request from the City, furnish sufficient written reasons and information as to why the information should be protected from disclosure. The matter will then be presented to the Attorney General of Texas for final determination.
11. **SUSPENSION OR DEBARMENT CERTIFICATION:** The provisions of the Code of Federal Regulations 2 CFR part 180 suspension and debarment may apply to this agreement. The City of Round Rock is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from doing business with the Federal Government, State of Texas, or the City of Round Rock.
12. **CERTIFICATE OF INTERESTED PARTIES:** Section 2252.908 of the Texas Government Code requires the successful offeror to complete a Form 1295 "Certificate of Interested Parties" that is signed for a contract award requiring council authorization. The "Certificate of Interested Parties" form must be completed on the Texas Ethics Commission website, printed, signed, and submitted to the City by the authorized agent of the Business Entity with acknowledgment that disclosure is made under oath and under penalty of perjury prior to final contract execution. Link to Texas Ethics Commission Webpage: [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)



13. **EX PARTE COMMUNICATION:** Please note that to insure the proper and fair evaluation of a bid, the City of Round Rock prohibits ex parte communication (e.g., unsolicited) initiated by the Bidder to the City Official, Employee, City Consultant, or Evaluation Team member evaluating or considering the bids prior to the time a bid decision has been made. Communication between Bidder and the City will be initiated by the appropriate City Official or Employee in order to obtain information or clarification needed to develop a proper and accurate evaluation of the bid. Ex parte communication may be grounds for disqualifying the offending Bidder from consideration or award of the bid then in evaluation, or any future bid.
14. **OPPORTUNITY TO PROTEST:** The Purchasing Manager for the City of Round Rock ("City"), in consultation with the City Attorney, shall have the authority to settle or resolve any dispute concerning the solicitation or award of a contract. The Purchasing Manager may solicit written responses to the protest from other interested parties. The aggrieved person must prepare his or her complaint in writing and send it by electronic mail to the City's Purchasing Department at [protest@roundrocktexas.gov](mailto:protest@roundrocktexas.gov).  
In the event of a timely protest, the City shall not proceed further with the solicitation or award of a contract unless it is determined that the award must take place without delay, to protect the best interests of the City. The procedures for notifying the City of an alleged deficiency or filing a protest are listed below. If you fail to comply with any of these requirements, the Purchasing Office may dismiss your complaint or protest.
- A. **Prior to Offer Due Date:** If you are a prospective offeror for the award of a contract ("Offeror") and you become aware of the facts regarding what you believe is a deficiency in the solicitation process before the due date for receipt of offers in response to a solicitation ("Offers"), you must notify the City in writing of the alleged deficiency before that date, giving the City an opportunity to resolve the situation prior to the Offer due date.
- B. **After Offer Due Date:** If you submit an Offer to the City and you believe that there has been a deficiency in the solicitation process or the award, you have the opportunity to protest the solicitation process, or the recommended award as follows:
- i. You must file a written notice of your intent to protest within four (4) working days of the date that you know or should have known of the facts relating to the protest. If you do not file a written notice of intent within this time, you have waived all rights to protest the solicitation process or the award.
  - ii. You must file your formal written protest within ten (10) working days of the date that you know or should have known of the facts relating to the protest unless you know of the facts before the Offer has been closed. If you know of the facts before those dates, you must notify the City as stated in section (A) above.
  - iii. You must submit your protest in writing and must include the following information:
    - a. your name, address, telephone number, and email address.
    - b. the solicitation number.
    - c. a specific identification of the statutory or regulatory provision that you are alleging has been violated.
    - d. a detailed statement of the factual grounds for your protest, including copies of any relevant documents.
    - e. a statement of any issues of law or fact that you contend must be resolved; and
    - f. a statement of the argument and authority that you offer in support of your protest.
  - iv. Your protest must be concise and presented logically and factually to help with the City's review.
- C. **Receipt of Timely Protest:** When the City receives a timely and complete written protest, the Purchasing Manager, with assistance from the City Attorney, shall make one of the following determinations:
- i. Determine that a violation of rules and statutes has occurred prior to the award of the contract and inform you and other interested parties of the determination. The City will prepare updated solicitation documents and will re-solicit.
  - ii. Determine that no violation of rules or statutes has occurred and inform you and other interested parties of the decision by letter. The reasons for the determination will be presented in the letter.
  - iii. Determine that a violation of rules and statutes has occurred after the award of the contract and inform you and other interested parties of the determination. However, the awarded contract will not be canceled. As needed, corrective actions may be taken with purchasing or any other pertinent City staff.

- iv. A determination will usually be made within fifteen (15) business days after receipt of the formal protest.
- v. **Any written decisions by the Purchasing Manager shall be the final administrative action for the City.**

All documentation pertaining to a protest will be kept on file at the City and are subject to open records requests.



**PART II**  
**DEFINITIONS, STANDARD TERMS AND CONDITIONS**  
**AND INSURANCE REQUIREMENTS**

1. **DEFINITIONS, STANDARD TERMS AND CONDITIONS:** By submitting a response to this solicitation, the Respondent agrees that the City's Definitions and Standard Terms and Conditions, in effect at the time of release of the solicitation, shall govern unless specifically provided otherwise in a separate agreement or on the face of a purchase order. These can be obtained from the City's website at: <https://www.roundrocktexas.gov/city-departments/purchasing/>.

In addition, the Supplemental Terms and Conditions listed in Section III, shall also be enforced as part of the contract.

2. **INSURANCE:** The Respondent shall meet or exceed all insurance requirements set forth in Standard Insurance Requirements. The City's Standard Insurance Requirements document can be viewed and downloaded from the City's website at: <https://www.roundrocktexas.gov/city-departments/purchasing/>

**PART III  
SUPPLEMENTAL TERMS AND CONDITIONS**

1. **AGREEMENT TERM:** The terms of the awarded agreement shall include but not be limited to the following:
  - A. The term of the Agreement shall begin from date of award and shall remain in full force for sixty (60) months.
  - B. Upon expiration of the contract term, the Contractor agrees to hold over under the terms and conditions of this agreement for such a period as is reasonably necessary to re-solicit and/or complete the project up to 90 days.
  
2. **RESPONDENT QUALIFICATIONS:** The City has established the following minimum qualifications. Respondents who do not meet the minimum qualifications will not be considered for award. The Respondent shall:
  - A. Be firms, corporations, individuals, or partnerships normally engaged in providing bulk pool treatment chemicals as specified herein and have adequate organization, facilities, equipment, financial capability, and personnel to ensure prompt and efficient service to the City.
  - B. Provide all labor, supplies and materials required to satisfactorily perform the services as specified herein and own or acquire at no cost to the City all construction aids, appliances, and equipment Respondent deems necessary and maintain sole responsibility for the maintenance and repair of Respondent's vehicles, equipment, tools, and all associated costs. The City shall not be responsible for any Respondent's tools, equipment, or materials lost or damaged during the performance of the services specified herein.
  - C. Be domiciled in or have a home office inside the United States. Respondents domiciled outside the United States, or not having a home office inside the United States will not be included for consideration in this procurement process.
  
3. **SUBCONTRACTORS:** Respondent shall not subcontract or otherwise engage subcontractors to perform required services. Respondent may, however, use subcontracting and/or common carrier for authorized transportation of chemicals.
  
4. **SAFETY:** The City reserves the right to remove any employee from City property for violation of federal, state, and local health, safety and environmental laws, ordinances, rules, and regulations. The Respondent shall:
  - A. Ensure that all employees comply with all Occupational Safety and Health Administration (OSHA), State and City safety and occupational health standards and other applicable federal, state, and local health, safety, and environmental laws ordinances, rules, and regulations in the performance of these services.
  - B. Be held responsible for the safety of their employees and unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site. In case of conflict, the most stringent safety requirement shall govern.
  - C. Indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines penalties and liability of every kind arising from the breach of the successful Respondents' obligations under this paragraph.
  
5. **WORKFORCE:** Successful Respondent shall:
  - A. Ensure Respondent's employees and contracted transportation specialists perform the services in a timely, professional, and efficient manner.
  - B. Ensure Respondent's employees, while working on City property, wear a company uniform that clearly identifies them as the Respondent's employee.
  - C. Employ all personnel for work in accordance with the requirements set forth by the United States Department of Labor. The City reserves the right to verify citizenship or right to work in the United States.

**6. MATERIALS SPECIFICATIONS/DESCRIPTIVE LITERATURE:**

- A. Materials specifications/descriptive literature are defined as product manufacturer's catalog pages, "cut sheets" applicable tests results, or related detailed documents that specify material content, performance parameters, and any industrial standards that are applicable such as ANSI, ASTM, ASME, SAE, NFPA, NBS, EIA, ESL, and NSA. The submitted materials specifications/descriptive literature must include the manufacturer's name and product number of the product being offered.
- B. The failure of the materials specifications/descriptive literature to show that the product offered conforms to the requirements of the Solicitation shall result in rejection of the Offer.
- C. The vendor shall supply the following documents with each delivery:
  - i. Vendor shall provide the current Safety Data Sheet
  - ii. Vendor shall provide a certificate of analysis and/or certificate of conformance

Failure to submit the materials specifications/descriptive literature as part of the Offer may subject the Offer to disqualification from consideration for award.

- 7. PRICING:** The Respondent shall determine and submit a fixed cost for the work and shall include all incidental costs, labor, overhead charges, travel, payroll expenses, freight, equipment acquisition and maintenance, demurrage, fuel surcharges, delivery charges, costs associated with obtaining permits, insurance, bonds, and risk management. No separate line-item charges shall be permitted for either response or invoice purposes.

Price shall include FOB Destination, pre-paid and allowed unless otherwise specified in writing. Price shall be inclusive of demurrage charges. No fuel surcharges shall be allowed.

- 8. PRICE INCREASE:** Contract prices for bulk pool treatment chemicals shall remain firm throughout the initial twelve (12) month term of the contract. A price increase to the agreement may be considered on the anniversary date of the Contract each year and shall be equal to the consumer price index for that year, but at no time can the increase be greater than 15% for any single line item unless otherwise approved by the City.

- A. **Consumer Price Index (CPI):** Price adjustments will be made in accordance with the percentage change in the U.S. Department of Labor Consumer Price Index (CPI-U) for all Urban Consumers. The price adjustment rate will be determined by comparing the percentage difference between the CPI in effect for the base year six-month average (January through June OR July through December); and each (January through June OR July through December six month average) thereafter. The percentage difference between those two CPI issues will be the price adjustment rate. No retroactive contract price adjustments will be allowed. The Consumer Price Index (CPI) is found at the Bureau of Labor Statistics, Consumer Price Index website: <http://www.bls.gov/cpi>

**B. Procedure to Request Increase:**

- i. Mail the written price increase request with the rate detail comparison and comprehensive calculation and any supporting documentation to the designated City Contract Specialist a minimum of 45 days prior to the annual Contract anniversary date. The detailed written calculation will be verified and confirmed. All written requests for increases must include the City of Round Rock contract number, solicitation reference information and contact information for the authorized representative requesting the increase. Price increase requests shall be sent by mail to:

**City of Round Rock  
Purchasing Department  
Attn: Contract Specialist  
221 East Main Street  
Round Rock, TX 79664-5299**

- ii. Upon receipt of the request, the City reserves the right to either accept the escalation and make change to the purchase order within 30 days of the request or negotiate with the Vendor or cancel the agreement or purchase order if an agreement cannot be reached on the value of the increase.

- 9. PERFORMANCE REVIEW:** The City reserves the right to review the awarded respondent(s) performance at any time during the contract term.



10. **ACCEPTANCE/INSPECTION:** Acceptance inspection should not take more than five (5) working days. The awarded respondent will be notified within the time frame if the services delivered are not in full compliance with the specifications. In the event the services are not performed to the satisfaction of the City; the vendor shall agree to reperform services to specification at no additional cost to the City. If any agreement or purchase order is cancelled for non-acceptance, the needed services may be purchased elsewhere.
11. **ORDER QUANTITY:** The quantities shown on the solicitation are estimates only. No guarantee of any minimum or maximum purchase is made or implied. The City will only order the services/goods needed to satisfy requirements within budgetary constraints, which may be more or less than indicated.
12. **PERMITS:** The successful Respondent shall verify and obtain all necessary permits, licenses, and/or certificates required by federal, state, and local laws, ordinances, rules, or regulations for the completion of the services as specified if required for the project.
13. **AWARD:** The City reserves the right to enter into an Agreement or a Purchase Order with a single award, split award, primary and secondary award, non-award, or use any combination that best serves the interest and at the sole discretion of the City. Respondents to the solicitation will be notified when City staff recommendation of award has been made. The award announcement will be posted to the City's website at <https://www.roundrocktexas.gov/city-businesses/solicitations/> once City Council has approved the recommendation of award and the agreement has been executed.
14. **POST AWARD MEETING:** The City and successful Respondent(s) may have a post award meeting to discuss, but not be limited to the following:
  - A. The method to provide a smooth and orderly transition of services performed from the current contractor.
  - B. Provide City contact(s) information for implementation of agreement.
  - C. Identify specific milestones, goals, obstacles, and strategies to meet objectives.
15. **POINT OF CONTACT / DESIGNATED REPRESENTATIVE:**
  - A. **Contractor's point of contact:** In order to maintain consistent standards of quality work performed across the City, the City shall be provided with a designated and identified point of contact upon award of the contract to include contact information. The City's designated representative shall be notified by the Respondent immediately should the point of contact change.
  - B. The City's designated representative:  
**Nichole Bohner**  
**Aquatics Manager**  
**Parks and Recreation Department**  
**Phone: 512-341-3171**  
**E-mail: [nbohner@roundrocktexas.gov](mailto:nbohner@roundrocktexas.gov)**

**PART IV  
SCOPE OF WORK**

1. **PURPOSE:** The Parks and Recreation Department requires a vendor to supply and deliver pool treatment chemicals to various swimming pool within the City. The City reserves the right the right to award contracts to multiple vendors.
  
2. **TRANSPORTATION AND DELIVERY REQUIREMENTS:** The following transportation requirements are expected to be followed for the duration of the resulting contract-
  - A. Respondent may use subcontracting and/or common carrier for authorized transportation of chemicals.
  - B. Chemicals shall be delivered in conformance with all applicable federal, state, and local laws.
  - C. Materials delivered shall be in new and unused condition.
  - D. All chemicals delivered shall be in suitable containers for shipment and storage.
  - E. If applicable, all empty containers shall be removed by the vendor upon delivery of new containers at no cost to the City.
  - F. All chemical deliveries shall be transported in clean, properly identified, and labeled vehicles used only for the transport and delivery of the designated chemical. As applicable, the City will accept a certification of cleanliness in lieu of dedicated tanker trucks so long as all other elements of the chemical specifications are met.
  - G. All deliveries shall be scheduled with the City.
  - H. Respondent shall notify the City of any possible delays and will continue to advise the City daily until the delivery is made. Default in scheduled delivery or failure to meet specifications, authorizes the City to purchase the product from a supplier of choice and charge overage (if any) to the defaulting vendor.
  
3. **TESTING REQUIREMENTS:**
  - A. The City reserves the right to request chemical product samples at any time throughout the life of the contract.
  - B. Upon request for the City, the vendor shall submit samples for testing within 14 days of the request at no cost to the City.
  
4. **CHEMICALS AND DELIVERY LOCATIONS:**
  - A. **Liquid Chlorine 10% - Bulk**
    - i. Rock'n River Water Park  
3300 Palm Valley Blvd.  
Round Rock, Texas 78665
    - ii. Lake Creek Pool  
800 Deerfoot Dr.  
Round Rock, Texas 78664
    - iii. Clay Madsen Recreation Center  
1600 Gattis School Rd.  
Round Rock, Texas 78664
  - B. **Sulfuric Acid 38% - 30 Gallon Drums**
    - i. Rock'n River Water Park  
3300 Palm Valley Blvd.  
Round Rock, Texas 78665
    - ii. Micki Kresbsbach Pool  
301 Deepwood Dr.  
Round Rock, Texas 78664
    - iii. Lake Creek Pool  
800 Deerfoot Dr.  
Round Rock, Texas 78664

- iv. Clay Madsen Recreation Center  
1600 Gattis School Rd.  
Round Rock, Texas 78664

**C. Sulfuric Acid 38% - 15 Gallon Drums**

- i. City Hall Fountain  
221 E. Main St.  
Round Rock, Texas 78664

**5. CONTRACTOR RESPONSIBILITIES: The Respondent shall-**

- A. Provide the City with a primary and secondary POC for each delivery.
- B. Notify the City's POC 1 hour prior to delivery. If the City's primary POC is not available, respondent shall contact the secondary POC.
- C. Ensure each delivery driver has adequate directions to the delivery location.

**6. CITY RESPONSIBILITIES: The City will-**

- A. Provide access to all delivery locations and have personnel on site at the time of delivery.
- B. Provide the vendor with a primary and secondary POC for all deliveries.
- C. Coordinate all deliveries with vendor.
- D. Be responsible for inspecting delivered products for conformance and/or reviewing the certificate of analysis/conformance (COA/COC).

**ATTACHMENT A  
BID SHEET**

1. **ATTACHMENT A – BID SHEET** is posted in Solicitation Documents for 22-017 POOL TREATMENT CHEMICALS in an Excel format on the City of Round Rock website at:  
<https://www.roundrocktexas.gov/city-businesses/solicitations/>
  - A. In order to be considered responsive Attachment A – Bid Sheet must be completed, signed by an authorized representative and returned by the deadline for submission of response indicated in Part I Section 5 – Schedule of Events.
  - B. The Respondent, by submitting and signing Attachment A – Bid Sheet, acknowledges that he/she has received and read the entire document packet sections defined above including all documents incorporated by reference, and agrees to be bound by the terms therein.
  - C. In order to do business with the City of Round Rock you must be registered with the City's Vendor Database. To register, go to: <https://roundrocktxvendors.munisselfservice.com/Vendors/default.aspx>
  - D. By the signature affixed on Attachment A – Bid Sheet, the Respondent hereby certifies that neither the Respondent nor the entity represented by the Respondent, or anyone acting for such entity has violated the antitrust laws of this State, codified in Section 15.01 et seq., Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly, the response made to any competitor or any other person engaged in such line of business.
  - E. The Respondent agrees, if this Offer is accepted within 120 calendar days after the Due Date, to fully comply in strict accordance with the Solicitation, specifications and the amounts shown on bid sheet.



# Exhibit "A"

## Attachment A- Bid Sheet Pool Treatment Chemicals IFB 22-017

The Respondent represents by their signature below that they are submitting a binding offer and are authorized to bind the respondent to fully comply with the solicitation documents contained in IFB 22-017 Pool Treatment Chemicals. The Respondent acknowledges that they have received and read the entire solicitation packet, attachments, addendums, and all documents incorporated by reference, and agrees to be bound by the terms therein.

Special Instructions: All prices must be quoted in order to be considered responsive, be advised that exceptions taken to any portion of the solicitation will jeopardize acceptance of the bid. Alternative bids will not be considered and unauthorized modifications to the bid sheet format will result in the rejection of the bid. The City reserves the right to purchase more or less than the quantities indicated below.

No.	Description	Estimated Quantity	Unit	Unit Cost	Extended Total
1	Liquid Chlorine, 10% Bulk	30,000	Gallon	\$1.95	\$58,500.00
2	Sulfuric Acid 38%, 30 Gallon Drum	4,000	Gallon	\$3.97*	\$15,880.00
3	Sulfuric Acid 38%, 15 Gallon Drum	400	Gallon	\$3.97*	\$1,588.00
Annual Total:					\$75,968.00

\*Must be delivered with Sodium Hypochlorite.

COMPANY NAME:

Commercial Chemical Products, Inc. DBA Poolsure

SIGNATURE OF AUTHORIZED REPRESENTATIVE:



PRINTED NAME:

Alan Falik

PHONE NUMBER:

800-858-7665

EMAIL ADDRESS:

[bids@poolsure.com](mailto:bids@poolsure.com)

Exception to the Bid: We are taking exception to and therefore not agreeing to the Interlocal Cooperative Contracting clause.



# Exhibit "A"

City of Round Rock  
Pool Treatment Chemicals  
IFB 22-017  
Class/Item: 885-38 / 190-18  
March 2022

## ATTACHMENT B REFERENCE SHEET

**PLEASE COMPLETE AND RETURN THIS FORM WITH THE SOLICITATION RESPONSE**

**SOLICITATION NUMBER:** 22-017

**RESPONDENT'S NAME:** Commercial Chemical Products, Inc.      **DATE:** 3/29/2022  
DBA Poolsure

Provide the name, address, telephone number and E-MAIL of at least three (3) valid Municipal, Government agencies or firms of comparable size that have utilized services that are similar in type and capacity within the last two (2) years. City of Round Rock references are not applicable. References may be checked prior to award. If references cannot be confirmed or if any negative responses are received it may result in the disqualification of submittal.

1.    **Company's Name**                    City of Houston  
      **Name of Contact**                Leroy Maura  
      **Title of Contact**                    Regional Maintenance Director  
      **E-Mail Address**                    leroy.maura@houstontx.gov  
      **Present Address**                    2999 South Wayside Dr.  
      **City, State, Zip Code**            Houston, TX 77023  
      **Telephone Number**            ( 832 ) 465-3278                    **Fax Number:** (       )
  
2.    **Company's Name**                    City of Austin  
      **Name of Contact**                Mark MacDougal  
      **Title of Contact**                    Program Coordinator  
      **E-Mail Address**                    mark.macdougal@austintexas.gov  
      **Present Address**                    400 Deep Eddy  
      **City, State, Zip Code**            Austin, TX 78703  
      **Telephone Number**            ( 512 ) 577-7126                    **Fax Number:** (       )
  
3.    **Company's Name**                    City of San Antonio  
      **Name of Contact**                Jesse Gallegos  
      **Title of Contact**                    Assistant Manager  
      **E-Mail Address**                    jesse.gallegos@sanantonio.gov  
      **Present Address**                    5800 Historic Old Hwy 90  
      **City, State, Zip Code**            San Antonio, TX 78227  
      **Telephone Number**            ( 210 ) 289-4505                    **Fax Number:** (       )

**FAILURE TO PROVIDE THE REQUIRED INFORMATION WITH THE SOLICITATION RESPONSE MAY AUTOMATICALLY DISQUALIFY THE RESPONSE FROM CONSIDERATION FOR AWARD.**

Exhibit "A"



ADDENDUM  
CITY OF ROUND ROCK, TEXAS

Solicitation: IFB 22-011

Addendum No: 1

Date of Addendum: 3/24/22

This addendum is to incorporate the following changes to the above referenced solicitation:

I. Questions:

Q1: Can you please provide the bleach tank size(s) for each location?

A1: Bulk chlorine delivery size -

- i. Rock N River – 500-gallon tank 3ea.
- ii. Lake Creek – 500-gallon tank 1 ea.
- iii. Clay Madsen – 150-gallon tank 1 ea.

Q2: Can you please provide the previous bid tabs for the Pool Treatment Chemicals bid?

A2: Please see attached bid tabulation from the previous solicitation, Invitation for Bid 17-006 Pool Chemicals.

II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

APPROVED BY:

Allen Reich, Purchaser  
Purchasing Office, 512-218-6682

3/24/22

By the signature affixed below this addendum is hereby incorporated into and made a part of the above referenced solicitation.

ACKNOWLEDGED BY:

Alan Falik

Name

Authorized Signature

3/29/2022

Date

RETURN ONE SIGNED COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE WITH YOUR SEALED PROPOSAL. FAILURE TO DO SO MAY AUTOMATICALLY DISQUALIFY YOUR RESPONSE FROM CONSIDERATION FOR AWARD.