



STANDARD AGREEMENT

(version 5-1-2020)

This AGREEMENT ("Agreement") is entered by and between **Fort Bend Services, Inc.** ("Contractor"), located at **13303 Redfish Lane, Stafford, TX 77477** and the **City of League City** ("City"), a home-rule municipality, located at 300 W. Walker St., League City, Texas 77573 on the date set forth below.

Terms:

1. **Scope of Services:** Contractor will perform the services and/or provide the products as set forth in **Exhibit A**, which is attached and incorporated herein, and which can be generally described as a **three-year Contract, with two (2) one-year renewal terms-RPF #20-WW-011 for Delivery of Polyacrylamide Cationic Emulsion Liquid Polymer**. If there is a conflict between the terms of this Agreement and Exhibit A, the terms of this Agreement will prevail.
2. **Term and Termination:** This Agreement shall commence on **October 1, 2020** and shall expire on **September 30, 2023**. The period from commencement to expiration is the Contract Term. City reserves the right to terminate this Agreement for convenience upon seven (7) days written notice to Contractor. Upon such termination, City shall pay Contractor, at the rate set out in **Exhibit A**, for services satisfactorily performed or products satisfactorily provided up through the date of termination. Notwithstanding any provision in this Agreement to the contrary, City will not be required to pay or reimburse Contractor for any services performed or for expenses incurred by Contractor after the date of the termination notice that could have been avoided or mitigated by Contractor.
3. **Compensation:** Contractor shall be paid for the services/products as set forth in **Exhibit A**. In no event shall the total compensation exceed **\$224,250.00** during the term of this Agreement. City shall tender payment (including progress/partial payments) for services/goods only after such services are completed or goods are delivered and are deemed to be acceptable under this Agreement, in the sole reasonable discretion of City. Contractor must submit to City invoices for all goods delivered and services provided, which invoices must include details and dates of service or delivery. Payment by City shall be made within thirty (30) days of receipt of an invoice, except for any portion of the invoiced amount that City disapproves as not compliant under this Agreement, in the sole reasonable discretion of City. If City disapproves any amount submitted for payment by Contractor, City shall give Contractor specific reasons for disapproval in writing.
4. **Insurance:** Contractor is required during the Contract Term to maintain insurance as follows: (a) Comprehensive General Commercial Liability insurance covering bodily injury and property damage, with minimum coverage limits—exclusive of defense costs—of \$1,000,000 per occurrence and \$2,000,000 aggregate; (b) If Contractor will provide City "professional services," as that term is used in Chapter 252 of the Texas Local Government Code, Professional Liability (errors and omissions/malpractice) insurance with minimum coverage limits—exclusive of defense costs—of \$2,000,000 per occurrence; and (c) If at any point during the Contract Term it is foreseeable that Contractor will enter upon City premises: (i) Worker's Compensation coverage with statutory limits for the State of Texas, and (ii) Commercial Automobile Liability coverage with minimum coverage limits—exclusive of defense costs—of \$1,000,000 per occurrence and \$2,000,000 aggregate. All policies must contain a waiver of subrogation against City. Comprehensive General Liability and Commercial Automobile Liability policies must name the City as Additional Insured. Contractor shall pay all insurance deductibles and deductibles must not exceed \$10,000.

unless approved in advance by City. Contractor shall provide City Certificates of Insurance evidencing these insurance requirements prior to the start of work.

5. **Liquidated Damages:** Contractor acknowledges that time is of the essence in performing this Agreement. City and Contractor (collectively, the "Parties") agree that if Contractor is late in performing any obligation of this Agreement, City will suffer loss, damages, or other harm from Contractor's delay. The Parties agree that the amount of loss, damages, or harm likely to be incurred is incapable or difficult to precisely estimate, and therefore Contractor agrees to pay City liquidated damages for delay at a daily rate equal to the total compensation allowed under the Agreement divided by the number of days in the Contract Term. The Parties further agree that: (i) the liquidated damages specified herein are not a penalty but rather bear a reasonable relationship to, and is not plainly or grossly disproportionate to, the probable loss likely to be incurred by City as a result of Contractor's delay; (ii) one of the reasons for City and Contractor to agree to such amounts is the uncertainty and cost of litigation regarding the question of actual damages; and (iii) City and Contractor are sophisticated business parties and negotiated this Agreement at arm's length.
6. **Independent Contractor:** Contractor is an independent contractor and is not an employee, partner, joint venture, or agent of City. Contractor understands and agrees that he/she will not be entitled to any benefits generally available to City employees. Contractor shall be responsible for all expenses necessary to carry out the services under this Agreement and shall not be reimbursed by City for such expenses except as otherwise provided in this Agreement.
7. **Intellectual Property:** This Agreement shall be an Agreement for services and the parties intend and consider any work created as a result of this Agreement, including any and all documentation, images, products or results, to be a work (the "Work") for hire under federal copyright law. Ownership of the Work shall belong to and remain the exclusive property of City. The Work may be edited at any time within City's discretion. If the Work would not be considered a work-for-hire under applicable law, Contractor hereby assigns, transfers, and conveys any and all rights, title and interest to City, including without limitation all copyrights, patents, rights of reproduction, rights to ownership, and right to secure registrations, renewals, reissues and extensions thereof. As the sole copyright holder of the Work, City maintains and asserts the rights to use, reproduce, make derivative works from, and/or edit the Work in any form of medium, expression or technology now known or hereafter developed, at any time within City's discretion. Contractor shall not sell, disclose or obtain any other compensation for the services provided herein or the Work. If the Work is one to which the provisions of 17 U.S.C. § 106A apply, Contractor hereby waives and appoints City to assert on Contractor's behalf Contractor's moral rights or any equivalent rights regarding the form or extent of any alteration to the Work (including, without limitation, removal or destruction) or the making of any derivative works based on the Work, including, without limitation, photographs, drawings or other visual reproductions of the work, in any medium, for City's purposes.
8. **Confidentiality:** During the course of the services to be provided under this Agreement, Contractor may become privy to confidential information of City. Contractor agrees to treat as confidential the information or knowledge that becomes known to Contractor during performance of this Agreement and to not use, copy, or disclose such information to any third party unless authorized in writing by City. This provision does not restrict the disclosure of any information that is required to be disclosed under applicable law. Contractor shall promptly notify City of any misuse or unauthorized disclosure of City's confidential information and upon expiration of this Agreement shall return to City all confidential information in Contractor's possession or control. Contractor shall further comply with all information security policies of City that may apply and shall not make any press releases, public statements or advertisement referring to the services provided under this Agreement or the engagement of Contractor without the prior written approval of City.
9. **Warranties and Representations:** Contractor warrants and agrees that Contractor shall perform its services and conduct all operations in conformity with all applicable federal, state, and local laws, rules, regulations, and ordinances. For any service performed on premises owned or controlled by City,

Contractor warrants and agrees that Contractor will perform said services in compliance with all City rules, including but not limited to, prohibitions related to tobacco use, alcohol, and other drugs.

10. **Licenses/Certifications:** Contractor represents and warrants that it will obtain and maintain in effect, and pay the cost of, all licenses, permits or certifications that may be necessary for Contractor's performance of this Agreement. If Contractor is a business entity, Contractor warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its formation; and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement and is authorized to execute this Agreement according to its terms on behalf of Contractor.
11. **Performance/Qualifications:** Contractor agrees and represents that Contractor has the personnel, experience, and knowledge necessary to qualify Contractor for the particular duties to be performed under this Agreement. Contractor warrants that all services performed under this Agreement shall be performed consistent with generally prevailing professional or industry standards.
12. **Conflict of Interest:** Contractor warrants, represents, and agrees that Contractor presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of the services hereunder. Contractor further warrants and affirms that no relationship or affiliation exists between Contractor and City that could be construed as a conflict of interest with regard to this Agreement.
13. **INDEMNIFICATION:** CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS CITY , AND EACH OF ITS OFFICIALS, OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDINGS, COSTS, DAMAGES AND LIABILITIES, INCLUDING WITHOUT LIMITATION ATTORNEYS' FEES AND REASONABLE LITIGATION COSTS, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY ACTS OR OMISSIONS OF CONTRACTOR OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF CONTRACTOR IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT, TO THE EXTENT THE CLAIM ARISES FROM NEGLIGENCE, WILLFUL ACT, BREACH OF CONTRACT OR VIOLATION OF LAW.
14. **Force Majeure:** Neither City nor Contractor shall be liable for any delay in the performance of this Agreement, nor for any other breach, nor for any loss or damage arising solely from uncontrollable forces such as fire, theft, storm, war, or any other force majeure that could not have been reasonably avoided by the exercise of due diligence.
15. **Notices:** Any notice given under this Agreement by either party to the other may be effected either by personal delivery in writing or by mail, registered or certified postage prepaid with return receipt requested. Mailed notices shall be addressed to the addresses of the Parties as they appear in the contract. Notices delivered personally shall be deemed communicated at the time of actual receipt. Mailed notices shall be deemed communicated three (3) days after mailing.

16. **Texas Family Code Child Support Certification:** Pursuant to Section 231.006 of the Texas Family Code, Contractor certifies that it is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated, and payment may be withheld if this certification is inaccurate.
17. **State and/or City Auditor:** Contractor understands that acceptance of funds under the Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency or the City's internal auditor (collectively, the "Auditor"), to conduct an audit or investigation in connection with those funds. Contractor agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation providing all records requested. Contractor will include this provision in all contracts with permitted subcontractors.
18. **Jurisdiction:** Any disputes under this Agreement shall be brought in a court of competent jurisdiction in Galveston, Texas and governed by Texas law.
19. **Alternative Dispute Resolution:** To the extent that Chapter 2260, Texas Government Code, is applicable to this Contract and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General Pursuant to Chapter 2260, shall be used by City and Contractor to attempt to resolve any claim for breach of contract made by Contractor that cannot be resolved in the ordinary course of business. The Director of Finance of City shall examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve such claims. This provision shall not be construed as a waiver by City of its right to seek redress in the courts.
20. **Entire Agreement:** This Agreement contains the entire understanding between the Parties and supersedes all prior agreements, arrangements, and understanding, oral or written between the Parties relating to this Agreement. This Agreement may not be modified except by mutual written agreement of the Parties executed subsequent to this Agreement.
21. **Eligibility to Receive Payment:** Contractor certifies that, as a matter of state law, it is not ineligible to receive the Agreement and payments pursuant to the Agreement and acknowledges that the Agreement may be terminated, and payment withheld if this representation is inaccurate.
22. **Payment of Debt/Delinquency to State:** Contractor certifies that it is not indebted to the City of League City and is current on all taxes owed to the City of League City. Contractor agrees that any payments owing to Contractor under the Agreement may be applied directly toward any debt or delinquency that Contractor owes the City of League City regardless of when it arises, until such debt or delinquency is paid in full.
23. **Products and Materials Produced in Texas:** If Contractor will provide services under the Agreement, Contractor covenants and agrees that in performing its duties and obligations under the Agreement, it will purchase products and materials produced in Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.
24. **Risk of Loss:** If applicable, all work performed by Contractor pursuant to the Agreement will be at Contractor's exclusive risk until final and complete acceptance of the work by City. In the case of any loss or damage to the work prior to City's acceptance, bearing such loss or damage will be Contractor's responsibility.
25. **Publicity:** Contractor shall not use City's name, logo or likeness in any press release, marketing materials or other public announcement without receiving City's prior written approval.
26. **Legal Construction/Severability:** In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision, and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained in it. To this end, the


provisions of this Agreement are declared to be severable. The Parties may mutually agree to renegotiate the Agreement to cure such illegality/invalidity or unconstitutionality if such may be reasonably accomplished.

27. **Limitations:** The Parties are aware that there are constitutional and statutory limitations on the authority of City to enter into certain terms and conditions of the Agreement, including, but not limited to, those terms and conditions relating to liens on City's property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys' fees; dispute resolution; indemnities; and confidentiality (collectively, the "Limitations"). Any terms and conditions related to the Limitations will not be binding on City except to the extent authorized by the laws and Constitution of the State of Texas.
28. **Sovereign Immunity:** The Parties agree that neither the execution of the Agreement by City nor any other conduct, action or inaction of any City representative relating to the Agreement constitutes a waiver of sovereign immunity by City.
29. **Authority:** Contractor warrants and represents that Contractor has full power and authority to enter into and perform this Agreement and to make the grant of rights contained herein. The person signing on behalf of City represents that he/she has authority to sign this Agreement on behalf of City.
30. **Non-Waiver:** The Parties specifically agree that neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of a claim constitute grounds for the suspension of performance by Contractor. No covenant or condition of this Agreement may be waived except by written consent of the waiving party. Forbearance or indulgence by one party in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the other party.
31. **Prohibition on Boycotting Israel:** Pursuant to Section 2270.002 of the Texas Government Code, by executing this Agreement Contractor verifies that Contractor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of this Agreement.
32. **Prohibition Against Business with Iran, Sudan or Foreign Terrorists Organizations:** Contractor warrants, covenants, and represents that Contractor is not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152 of the Texas Government Code.

(signature block on next page)

Executed on _____. (date to be filled in by City Secretary)

FORT BEND SERVICES, INC. - "Contractor"



David James, Vice President of Sales

CITY OF LEAGUE CITY - "City"

John Baumgartner, City Manager

Attest:

Diana Stapp, City Secretary

Approved as to Form:

Office of the City Attorney

Exhibit A

Scope of Services/Description of Products/Payment Schedule
(There are 7 pages for Exhibit A, including this page)

**a three-year Contract, with two (2) one-year renewal terms-RPF #20-WW-011 for Delivery of
Polyacrylamide Cationic Emulsion Liquid Polymer**



Fort Bend Services, Inc.
Water & Waste Treatment Specialists

 COPY

July 17, 2020

Fort Bend Services, Inc.

City of League City

RFP #20-WW-001

Polyacrylamide Cationic
Emulsion Liquid Polymer

Due Date: July 20, 2020

office: 281.261.5199 • toll free: 800.933.3678 • fax: 281.261.2295

office: 13303 Redfish, Stafford, TX 77477 • mailing: PO Box 1688, Stafford, TX 77497

www.fortbendservices.com



Proposal Cost Sheet

DUE DATE: Monday, July 20, 2020 by 10:00 a.m.

Dallas Salmon Wastewater Treatment Plant (DSWWTP)
703 N. WISCONCIN AVENUE
LEAGUE CITY, TX 77573

Item No.	PRODUCT	DISCRIPTION	TOTE SIZE	PRICE PER TOTE	PRICE PER POUND
1	FBS C1283	Cationic Polymer	2300#	\$2875.00	\$1.25

Southwest Water Reclamation Facility (SWWRF)
1551 S. MAPLE LEAF DRIVE
LEAGUE CITY, TX 77573

ITEM NO.	PRODUCT	DISCRIPTION	TOTE SIZE	PRICE PER TOTE	PRICE PER POUND
1	FBS 7802	Cationic Polymer	2300#	\$2875.00	\$1.25

Unit prices listed above are good for ninety (90) calendar days after receipt of proposal.

POLYMER COST SHEET

VENDOR	TOTE SIZE IN POUNDS	PRICE PER POUND	DSWWTP Price	SWWRF Price	DSWWTP Annual Quantity	SWWRF Annual Quantity	Total Annual Cost	3 YEAR CONTRACT
Fort Bend Services Inc	2300	1.25	\$ 2,875.00	\$ 2,875.00	14	12	\$ 74,750.00	\$ 224,250.00

Scope of Work:

1. General

Contractor will supply and deliver Polyacrylamide Cationic Emulsion Liquid Polymer to the City. The material will be used by the City of League City's Wastewater Department to aid in the dewatering of municipal biological waste sludge produced by the City's three activated sludge wastewater treatment facilities. The polymer used shall cause efficient and effective conditioning and flocculation of municipal sludge which is applied to the dewatering process used by the City. Contractor shall supply undiluted liquid polymer material in a sufficient quantity to maintain continuous operation of the dewatering facility (56 hours per week). The City uses approximately 55,200 pounds of undiluted liquid polymer material annual. To minimize problems in handling, operation and maintenance of feed system, and to utilize existing facilities, this agreement is limited to only high molecular weight Polyacrylamide Cationic Emulsion Liquid Polymer for municipal wastewater sludge conditioning and mechanical dewatering at the City's wastewater treatment facilities.

2. Locations

Contractor shall supply Polyacrylamide Cationic Emulsion Liquid Polymer to the following locations:

2.1. Dallas Salmon Wastewater Treatment Plant (DSWWTP)

703 N. Wisconsin Ave.
League City, TX 77573

The solids at the Dallas Salmon Wastewater Treatment Plant (DSWWTP) are aerobically digested and consist of 100% secondary waste activated sludge. The digester bio-solids are dewatered by one 1.5 meter and one 2.0-meter US Filter BPR radial wedge belt filter press. Biosolids feed rate to the belt filter press is routinely 100 GPM, with a range of 85 to 150 GPM, at approximately 1.5 to 3.0% solids.

2.2 Southwest Water Reclamation Facility

1551 S. Maple Leaf Dr.
League City, TX 77573

Dewatering at the Southwest Water Reclamation Facility (SWWRF) is accomplished with an Andritz centrifuge, with a maximum feed rate of 140 GPM and an average feed rate of 100 GPM, at approximately 1.0 to 2.0% solids. The projected production of dewatered sludge cake is approximately 1350 dry tons annually.

3. Estimates

Due to handling limitations of the existing dewatering facility, only 2,300-pound (275 gallon) tote containers will be considered. Typical orders have consisted of one tote per month to each facility.

Estimates are for acquainting potential proposers with probable quantities during the contract period and are not intended to set forth minimum or maximum quantities and should not be construed as such. The City reserves the right to increase or decrease quantities for any item without an increase in unit pricing. This contract is intended for routine and continuous usage.

4. Materials

Polymers shall be dispersion/emulsion type only and readily and completely soluble in water. The polymer must maintain ninety percent (90%) effectiveness for up to six (6) full months after delivery. Physical and chemical characteristics shall not change during this period. The polymer materials in both concentrated and diluted forms shall be classified as non-hazardous material for shipping and use under applicable standards, and shall not require special handling, nor shall they pose hazards to employees working with them. The polymer supplied must have a low toxicity with respect to contact with the skin and eyes and to accidental ingestion or inhalation. First aid or other suggested medical treatment procedures for this product must be furnished by the successful bidder prior to delivery of first shipment. The material shall not be corrosive to the equipment. The successful vendor shall be responsible for any equipment necessary to make their polymers compatible with the existing storage and handling facilities. All polymer containers will be stamped with the date of production and an expiration date. The supplier shall also provide a list of published physical and chemical properties in the form of Safety Data Sheets (SDS).

5. Availability

Contractor shall have sufficient stock to fill any order within the stated delivery time. Contractor agrees to notify the City when out of stock on any items. Back orders must be held to a minimum. It shall be the responsibility of Contractor to immediately notify department personnel of any back-ordered item in writing and give a firm delivery promise. Contractor shall also maintain a current list of all department back orders and provide a copy of said list to department personnel on a monthly basis. This monthly back order report shall give the order number, part number, item description, quantity and delivery promise. Failure to keep back orders to a minimum or failure to provide the monthly back order report may be cause for cancellation of the contract. The City reserves the right to use other sources to purchase stock if it is not available from Contractor.

6. Delivery

Scheduling will be coordinated through the Chief Plant Operators of both treatment facilities based on operational needs. All deliveries will be Monday – Thursday, 7:00 a.m. to 5:00 p.m. and/or Friday 7:00 a.m. to 11:00 a.m. All materials shall be delivered FOB to the DSWWTP or SWWRF and be ready for immediate dilution with water and injection into the dewatering system. The product shall be delivered within three to five working days from order. Contractor will provide all personnel for unloading. The delivery vehicle must be equipped with a suitable hydraulic or electrical lifting device capable of placing shipments (275-gallon totes) into the dewatering building polymer feed areas.

Delivery and quantity will be on an as-needed basis. All deliveries are subject to inspection, count and/or testing.

Contractor shall be responsible for removal and final disposal of all empty polymer containers. When each site reaches a maximum of three (3) empty containers, ALL empty containers shall be removed for proper disposal within ten (10) working days of receiving notification from the City.

7. Special Conditions

Polymers will be used in a manner which is in the best interest of the City. Every effort should be made by Contractor to utilize the existing polymer mix and feed systems. Should the polymer require in the drum mixing prior to dilution, Contractor will supply all necessary mixing equipment. The City reserves the right to require a thirty (30) day trial period for a performance comparison on various feed sludge conditions that might occur in the digestion process. Upon evaluation of the performance of the polymer, the City reserves the right to reject or accept the proposed polymer based on the ability to perform under various sludge conditions. If any shipment of polymer is proven to be more than five percent (5%) less effective than the control sample, the City reserves the right to reject that shipment. The rejected material shall be removed by Contractor as Contractor's expense. Contractor shall then replace the rejected material with satisfactory material or credit to the city for the full delivered price of the rejected material.

Upon request, Contractor shall provide technical assistance throughout the contract period for improving the performance and utilization of their product. Contractor will be required to conduct testing, under the City's supervision, to ensure compliance with the requirements when materials are deemed unsatisfactory.