



NOTICE TO BIDDERS

Chemical Bids
for
Year 2018

**BOROUGH OF PHOENIXVILLE
351 BRIDGE STREET, 2ND FLOOR
PHOENIXVILLE, PA 19460**

October 5, 2017

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NOTICE TO BIDDERS

THE BOROUGH OF PHOENIXVILLE
351 Bridge Street, 2nd Floor
Phoenixville, PA 19460

Sealed bids will be received by the Borough of Phoenixville, 351 Bridge Street, 2nd Floor, Phoenixville, PA 19460, until 11:00 o'clock, prevailing time, on the **2nd Day of November 2017**, at which time and place they will be publicly opened and read for the following chemicals:

1. **Aluminum Sulfate**
2. **Chlorine**
3. **Hydrated Lime**
4. **Potassium Permanganate**
5. **Hydrofluorosilicic Acid**
6. **Soda Ash**
7. **Zinc Orthophosphate**
8. **Ammonium Sulfate**
9. **Brine Salt**

All specifications and bid forms are available online at no cost at:

<http://www.phoenixville.org/government/92>

Additionally, specifications and bid forms may be obtained at the Manager's office in the Phoenixville Municipal Building or by calling (610) 933-8801. The contract to be awarded will be in effect from January 1, 2018 to December 31, 2018.

All bid proposals must be addressed to the Borough Manager, 351 Bridge Street, 2nd Floor, Phoenixville, PA 19460 and deposited with the Borough in a sealed envelope on or before the time and date specified above. All bids must be marked on the outside "Bid for Chemicals".

Bids shall be effective for 60 calendar days. The Borough Council reserves the right to reject any or all bids or any part of a bid, and to waive any informality in a bid as they deem for the best interest of the Borough of Phoenixville. The Borough of Phoenixville is exempt from all Federal and State taxes.

E. Jean Krack
Borough Manager

Notice to run in The Mercury on Monday, October 16, and Monday, October 30, 2017

INSTRUCTIONS TO BIDDERS

1. **Bidder Responsibility.** Each Bidder shall familiarize itself with all of the bidding documents including the Bid Form, the Bid Bond Form, Specifications, Non-Collusion Affidavit and the Agreement. Before submitting a Bid, each Bidder shall obtain such additional information which they deem necessary.

2. **Proposal.** All submitted proposals must include the Bid Form, Bid Bond (if needed), Non-Collusion Affidavit and meet the requirements otherwise stated herein. The place, date and time of submission of bids is included in the Notice to Bidders. All bids must be marked on the outside "Bid for Chemicals". All pricing on the Bid Form must be in ink or typewritten. All signatures must be in ink. In the case of a corporation or other entity, documents must be signed by the appropriate officer and a copy of the officer's authority (in the form of a power of attorney or resolution) must be included.

3. **Bid Security.** Each Bid must be accompanied by a certified check or bid bond made payable to the Borough of Phoenixville in an amount of ten percent (10%) of Bidder's maximum Bid. If a bid bond is used, the Bid Bond Form attached hereto must be included with the Bidder's bid. Within 30 days after the date of opening of bids, the Borough will return the bid security of all bidders except the three apparent lowest responsible, responsive bidders. Upon execution of the Agreement and furnishing of acceptable bonds and insurance certificates, the remaining bid securities will be returned. The bid security of successful bidder will be retained until such Bidder has executed the Agreement and furnished an acceptable performance bond and insurance certificates, whereupon the bid security will be returned.

4. **Qualifications of Bidders.** If requested by Borough, each Bidder must submit within five days after such request, detailed written evidence of qualifications, such as financial data, previous experience, present commitments and other such data as may be relevant.

5. **Interpretations and Addenda.** All questions about the meaning or intent of the bidding documents are to be directed in writing to the Borough. Addenda may be issued as deemed advisable by the Borough and Bidder agrees to acknowledge receipt of all addenda, which shall immediately become part of the bidding documents. Discrepancies in the multiplication of units and unit prices will be resolved in favor of the unit prices. A discrepancy between a word and numeral for a particular item will be resolved in favor of the word.

6. **Modification and Withdrawal of Bids.** Bids may only be modified or withdrawn except as may be provided by applicable law.

7. **Award of Agreement.** Borough reserves the right to reject any or all proposals. Borough also reserves the right to waive all informalities not involving price, time or changes in the product and to negotiate contract terms with the successful Bidder. The Borough shall issue a Notice of Award to the successful Bidder.

8. **Signing of Agreement.** Within fifteen (15) days after issuance of a Notice of Award, the successful Bidder shall sign and deliver to the Borough two (2) counterparts of the Agreement with attachments, the original and two copies each of the performance bond, insurance certificates evidencing the insurance required, and any other documents reasonably requested by Borough. If the successful Bidder fails to execute and deliver the required items within 15 days after issuance of the Notice of Award, Borough may annul the Notice of Award and the full amount of the bid security of that Bidder will be forfeited.

END OF INSTRUCTIONS TO BIDDERS

SPECIFICATIONS

TECHNICAL REQUIREMENTS:

1. Liquid Aluminum Sulfate

- a. Material furnished is to meet the standards established by the American Water Works Association.
- b. The materials shall be liquid containing aluminum sulfate, known commercially as “liquid alum”, containing not less than 8.3% of dissolved $A_{12}O_3$, nor more than 10.0% and testing between 32 degrees and 38 degrees Baume. It shall contain not less than 0.20% nor more than 0.80% by weight of soluble alumina ($A_{12}O_3$) in excess of the amount required to combine with sulfur trioxide (S_3O_3) present. It shall contain no substances deleterious to water treatment. Iron ($Fe_{2}O_3$) content shall not exceed 0.35%.
- c. This material shall be clear, free of settleable solids or appreciable suspended solids, or extraneous materials. It shall contain no impurities injurious to consumers when water is treated with normal dosages.
- d. Deliveries shall be by day cab only tank trucks, equipped with unloading hose, and air pressure or pump facilities, to deliver to tanks with elevated inlet, up to 20 feet above the driveway. Unloading operation to be handled by the driver.
- e. The maximum capacity of the storage tank is 5,600 gallons.

2. Chlorine

- a. Material furnished is to meet the standards established by the American Water Works Association.
- b. Material must be packaged in a safe manner.
- c. Empty containers and cylinders will be picked up at no charge each time delivery is made.

3. Hydrofluorosilicic Acid

- a. The Successful Bidder shall furnish and deliver the Hydrofluorosilicic acid as directed by the Borough at the Water Treatment Plant. The Hydrofluorosilicic acid will be used for fluoridation of drinking water, and will be fed to the treated water directly from the shipping containers by metering pumps.
- b. The Hydrofluorosilicic acid (Hydrofluorosilicic acid) delivered shall conform to the latest requirements in American Water Works Association Standard for Hydrofluorosilicic Acid, AWWA B 703.
- c. The minimum order size will be 8 drums, 55 Gallons per drum.
- d. There shall be no drum deposit charges.

4. Potassium Permanganate

- a. Material furnished is to meet the standards established by the American Water Works Association and needs to be “free flowing”.
- b. Material must be packaged in a safe manner.
- c. The minimum order size will be 1,985 pounds.
- d. The product shall be delivered in 55.125-pound containers.

5. Zinc Orthophosphate

- a. Material to be supplied shall be a granular, powder zinc orthophosphate which when fed properly will produce a highly resistant film consisting of zinc and phosphate ions in a 1:1 ratio. The protective film will effectively inhibit corrosion of water distribution piping and home plumbing metals including lead and copper.
- b. Material supplied shall have the following chemical composition:
 - i) Zinc as ZnO 24.1%
 - ii) Zinc as Zn 19.3%
 - iii) Phosphate as P_2O_5 13.5%
 - iv) Phosphate as PO_4 18.1%

- v) Sodium as Na₂O 21.0%
 - vi) pH of 10% Solution Less than 1.0
 - vii) Chlorine Demand None
- c. Material to be supplied in 50 pound multi-wall heat sealed bags with “NSF seal of approval” and packaged 40 bags per pallet (2,000 pounds per pallet). Each pallet shall be shrink wrapped. Standard valve bags are not acceptable under these specifications.
 - d. The zinc orthophosphate/corrosion inhibitor supplied in accordance with these specifications shall contain no soluble or organic substances in quantities capable of producing deleterious or injurious effect upon health of the individuals who receive finished water which has been treated in accordance with the manufacturer’s recommendations.
 - e. Technical service and support is vital to the Borough of Phoenixville. Successful Bidder shall monitor corrosion inhibitor effectiveness by analyzing four distribution coupons on a quarterly basis. Successful Bidder must provide four corrosion probes for inserting coupon into distribution system. Successful Bidder will analyze coupons at their own expense and forward a summary report to the Superintendent.
 - f. The Contractor will also be required to analyze four distribution water samples of pH, alkalinity, hardness, total iron, dissolved iron, orthophosphate, total phosphate and metaphosphate on a quarterly basis and promptly forward a summary report to the Superintendent.

6. Hydrated Lime

- a. Material furnished is to meet the standards established by the American Water Works Association.
- b. Material must be packaged in a safe manner.
- c. The minimum order size is 10 tons.
- d. Material to be supplied in 50 pound multi-wall heat sealed bags and packaged 40 bags per pallet (2,000 pounds per pallet). Each pallet shall be shrink wrapped. Standard valve bags are not acceptable under these specifications.

7. Soda Ash

- a. Material shall be “dense soda ash” with the following properties:
 - i) Formula Na₂CO₃
 - ii) Molecular Weight 105.99
 - iii) Absolute Density 2.533 g/cm³ (at 25 Degrees C)
 - iv) Melting Point 851 Degrees C
 - v) PH of 1% Solution 11.3 (at 25 Degrees C)
- b. Material must be packaged in a safe manner.
- c. Material to be supplied in 50 pound multi-wall heat sealed bags and packaged 40 bags per pallet (2,000 pounds per pallet). Each pallet shall be shrink wrapped. Standard valve bags are not acceptable under these specifications.

8. Ammonium Sulfate

- a. Material furnished is to meet the standards established by the American Water Works Association.
- b. Material must meet NSF 60 or equal.
- c. Material must be packaged in a safe manner.
- d. Material to be supplied in 50 pound multi-wall heat sealed bags and packaged 40 bags per pallet (2,000 pounds per pallet). Each pallet shall be shrink wrapped. Standard valve bags are not acceptable under these specifications.

9. Brine Salt

- a. Must contain no organic binders, flow control agents or resin cleaning material, and meet the following specifications – NaCl dry basis 96.3% minimum, NaCl wet 93.3% minimum
 - i) Calcium Sulfate 0.30% maximum
 - ii) Magnesium Chloride 0.06% maximum

- | | | |
|-------|--------------------------------|-----------------|
| iii) | Calcium Chloride | 0.10% maximum |
| iv) | Magnesium Sulfate | 0.02% maximum |
| v) | Insolubles | 0.1% maximum |
| vi) | Moisture (as H ₂ O) | 3.0% maximum |
| vii) | Lead | 0.0007% maximum |
| viii) | Copper | 0.0003% maximum |
| ix) | Iron (as Fe) | 0.002% maximum |
| x) | Fluoride | 0.01% maximum |
| xi) | Manganese | 0.0002% maximum |
- b. Deliveries shall be by tank trucks, equipped with unloading hose. Unloading operation to be handled by driver.
- c. The maximum capacity of the storage tank is 36 Tons.

GENERAL SPECIFICATIONS:

- DELIVERY OR SHIPMENT OF THE PRODUCT.** Borough shall notify Successful Bidder each time it requires the furnishing of the various chemical products described herein, which notification shall include the quantity and desired delivery date. Product shall be furnished as set forth in the Technical Requirements of these Specifications and delivery shall be made in accordance with the schedule requested, or if no specific schedule is requested, within a maximum of five (5) days after notification by the Borough. It is expressly understood and agreed that time is of the essence with respect to the furnishing of product by the Successful Bidder.
- INVOICING AND PAYMENT.** Successful Bidder shall invoice the Borough after each shipment of product required by Borough, which invoice shall contain sufficient information as determined by Borough for Borough to review the invoice and arrange for payment, including without limitation the name of the chemical supplied, the unit price, the number of units supplied and the total due. Upon receipt of each invoice payment shall be made by the Borough in accordance with Borough's standard payment approval process and timing in effect from time to time.
- OWNER'S AUTHORITY AND DECISIONS.** The Borough, in its sole discretion, shall decide the quality and acceptability of chemicals furnished and/or interpretation of any or all Specifications and the acceptable fulfillment of the Agreement on the part of the Successful Bidder. The Borough shall have the right to reject defective products or require the replacement of such products. In case of any dispute relative to the quality of products, the Borough shall have authority to reject the products.
- CHANGES.** The Borough may, at any time, by a written order and without notice to the surety, require an increase or decrease in the quantity of products as estimated in the bidding documents as it may find necessary or desirable. The amount of compensation to be paid to the Successful Bidder for any changes and alterations, as so ordered, shall be determined by such applicable unit prices, if any, as are set forth in the Bid Form and/or the Agreement; or if no such unit prices are set forth, then by a lump sum or unit prices, mutually agreed upon by the Borough and the Successful Bidder. Should any product furnished either in whole or in part fail to comply with these Specifications, the Borough may reject the entire shipment and such product shall be removed by Successful Bidder at no cost to Borough. Successful Bidder shall remove any existing Borough products and materials which are damaged or contaminated by product supplied by Successful Bidder not in accord with these Specifications, and shall reimburse Borough for the full cost of such damaged or contaminated products and materials.
- TERMINATION; LIQUIDATED DAMAGES.** If (i) the Borough determines it no longer has a need for some or all of the chemical products, or (ii) if Successful Bidder refuses or fails to furnish product as

required by the Contract Documents, the Borough, by ten (10) days written notice to the Successful Bidder, may terminate the Agreement. If the product is not furnished within the time required the Successful Bidder shall pay to the Borough as fixed, agreed, and liquidated damages, two hundred dollars (\$200.00) for each calendar day of delay until the product is delivered, and the Successful Bidder and his sureties shall be liable to the Owner for the amount thereof. If the Agreement is terminated for failure to furnish product as required by the Contract Documents, the Borough may obtain such product from a different supplier, by contract or otherwise, and the Successful Bidder and his sureties shall be liable to the Borough for any additional cost incurred by the Borough and for liquidated damages for any delay in the delivery of the product as provided herein.

6. OBSERVANCE OF LAWS. The Successful Bidder shall at all times observe and comply with all federal and state laws and regulations, and local by-laws, ordinances and regulations which in any manner affect the furnishing of product as described in these Specifications and in the Agreement, as well as all safety precautions and decrees which have been promulgated or enacted, or which may be promulgated or enacted, by any legal bodies or tribunals having authority or jurisdiction.

7. CARE OF WORK. The Successful Bidder shall avoid damage as a result of its operations, shall exercise proper precaution at all times for the protection of persons and property, and shall, at its own expense, completely repair any damage caused by its operations. The Successful Bidder shall indemnify and save harmless the Borough from all claims, damages, costs, expenses, suits or actions at law or equity of any kind whatsoever alleged to have been suffered as a result of any activities of Successful Bidder.

8. INSURANCE. The Successful Bidder shall maintain general public liability insurance, which shall include coverage for acts of independent contractors or subcontractors, in an amount not less than \$1,000,000 for each occurrence and \$2,000,000 in the aggregate. The Successful Bidder shall also maintain property damage insurance in an amount not less than \$500,000 for each occurrence and \$1,000,000 in the aggregate. With submission of the signed Agreement the Successful Bidder shall submit evidence of the required insurance coverage naming the Borough as additional insured or (co-insured as appropriate) and agrees to provide copies of the policies of insurance upon request by Borough. Such insurance shall be carried with financially responsible insurance companies, licensed in Pennsylvania and approved by the Borough and shall be kept in force during the entire term of the Agreement.

9. SHIP TO ADDRESS. The following is the Ship to Address as may be needed for delivery purposes:

Water Treatment Plant
49 Water Street
Phoenixville, PA 19460

END OF SPECIFICATIONS

BID FORM
CHEMICALS

To: BOROUGH OF PHOENIXVILLE
351 Bridge Street, 2nd Floor
Phoenixville, PA 19460

Bid of: Name: _____

Address: _____

an individual; a partnership; a corporation, an LLC organized in the State of _____
(delete or cross out titles not applicable above)

for furnishing all labor and materials for the **CHEMICAL PRODUCTS** as indicated in the SPECIFICATIONS listed herein, for **THE BOROUGH OF PHOENIXVILLE**, Chester County, Pennsylvania.

1. Pursuant to and in compliance with your Request for Bids for the furnishing of all labor, equipment and materials for the chemicals and having carefully examined the bidding documents, including without limitation, the SPECIFICATIONS, together with all addenda thereto, and the undersigned hereby offers to furnish the CHEMICAL PRODUCTS and all things necessary, proper or incidental to the delivery of the CHEMICAL PRODUCTS as required by and in strict accordance with the applicable provisions of the bidding documents, for the unit prices, as outlined on page 2 of this Bid Form, with the agreed stipulation and understanding that the quantities set forth on page 2 of this Bid Form are approximate only and are not guaranteed.

2. The undersigned hereby designates the office to which notices may be mailed, telegraphed, or delivered:

COMPANY: _____

ADDRESS: _____

PHONE/FAX NO.: _____

3. We have reviewed and can comply the bidding documents contained in the "Request for Bids for Chemicals", including without limitation the requirements set forth in the SPECIFICATIONS.

IN WITNESS WHEREOF, intending to be legally bound, the undersigned has caused this BID to be executed this _____ day of _____, 20____.

(signature)

Print name/title: _____

*If the bidder is an entity, attach POA or resolution, dated as of the same date as this BID, evidencing authority of the above person to execute on behalf of the entity.

BID FORM
CHEMICALS

<u>Chemical</u>	<u>Estimated Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Total Price</u>
Liquidated Aluminum Sulfate	36,000	GAL	_____	_____
Chlorine – 150 Pound Cylinders	5	EA	_____	_____
Hydrofluorosilicic Acid	5,000	GAL	_____	_____
Potassium Permanganate – 55.125 Pound Pails	100	EA	_____	_____
Zinc Orthophosphate	16	TON	_____	_____
Hydrated Lime – 10 Ton Lots	10	TON	_____	_____
Hydrated Lime – 20 Ton Lots	20	TON	_____	_____
Soda Ash	25	TON	_____	_____
Ammonium Sulfate	50	TON	_____	_____
Brine Salt	50	TON	_____	_____
TOTAL CONTRACT PRICE:				\$ _____

BID BOND

KNOWN ALL MEN BY THESE PRESENTS, that we _____ (hereinafter called the PRINCIPAL), and _____ (hereinafter called the SURETY),

are hereby held and firmly bound unto the Borough of Phoenixville, Chester County, Pennsylvania (hereinafter called the OBLIGEE), in the full sum of _____ Dollars (\$ _____) lawful money of the United States of America, for the payment of which we bind ourselves, our heirs, executors, administrators, successors and assigns jointly and severally, firmly by these presents:

WHEREAS, the PRINCIPAL has herewith submitted to the OBLIGEE a certain proposal dated _____, 20__ for the furnishing and delivering of chemicals.

Now Therefore,

If said proposal shall be accepted by the OBLIGEE, and the PRINCIPAL shall duly execute and deliver the contract and give such bond or bonds as specified in the bidding documents, and shall deliver evidence of adequate insurance coverage, all within the stipulated time; then this BID BOND shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the SURETY for any and all default of the PRINCIPAL or claims hereunder shall in no event exceed the amount of this obligation as herein stated.

The SURETY, for value received, hereby stipulates and agrees that the obligations of said SURETY and this BOND shall be in no way impaired or affected by an extension of the time within which the OBLIGEE may accept such BID and said SURETY does hereby waive notice of any such extension.

In Witness Whereof, The PRINCIPAL and SURETY cause this BOND to be signed, sealed and delivered this _____ day of _____, 20__.

PRINCIPAL:

[Individual Principal sign here:]

Witness

Print name: _____

[Corporate Principal sign here:]

Attest:

Business Name: _____

By: _____
Print name/title: _____

SURETY:

Attest:

Surety Name: _____

By: _____
Print name/title: _____

INSTRUCTIONS FOR NON-COLLUSION AFFIDAVIT

1. This Non-Collusion Affidavit is material to any contract awarded pursuant to this bid. According to the Pennsylvania Antibid-Rigging Act, 73 P.S. SS 1611 et seq., governmental agencies may require Non-Collusion Affidavits to be submitted together with bids.
2. This Non-Collusion Affidavit must be executed by the member, officer or employee of the Bidder who makes the final decision on prices and the amount quoted in the bid.
3. Bid rigging and other efforts to restrain competition, and the making of false sworn statements in connection with the submission of bids are unlawful and may be subject to criminal prosecution. The person who signs the Affidavit should examine it carefully before signing and assure himself or herself that each statement is true and accurate, making diligent inquiry, as necessary, of all other persons employed by or associated with the Bidder with responsibilities for the preparation, approval or submission of the bid.
4. In the case of a bid submitted by a joint venture, each party to the venture must be identified in the Bid Documents, and an Affidavit must be submitted separately on behalf of each party.
5. The term "complementary bid" as used in the Affidavit has the meaning commonly associated with that term in the bidding process, and includes the knowing submission of bids higher than the bid of another firm, any intentionally high or non-competitive bid, and any other form of bid submitted for the purpose of giving a false appearance of competition.
6. Failure to file an Affidavit in compliance with these instructions will result in disqualification of the bid.

NON-COLLUSION AFFIDAVIT

State of _____:

County of _____:

I state that I am _____ of _____
(Title) (Name of Firm)

and that I am authorized to make this affidavit on behalf of my firm, and its owners, directors, and officers. I am the person responsible in my firm for the price(s) and the amount of this bid.

I state that:

(1) The price(s) and amount of this bid have been arrived at independently and without consultation, communication or agreement with any other contractor, bidder or potential bidder.

2) Neither the price(s) nor the amount of this bid, and neither the approximate price(s) nor approximate amount of this bid, have been disclosed to any other firm or person who is a bidder or potential bidder, and they will not be disclosed before bid opening.

(3) No attempt has been made or will be made to induce any firm or person to refrain from bidding on this contract, or to submit a bid higher than this bid, or to submit any intentionally high or noncompetitive bid or other form of complementary bid.

(4) The bid of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from any firm or persons to submit a complementary or other noncompetitive bid.

(5) _____, its affiliates,
(Name of my firm)

subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency and have not in the last four years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as follows:

I state that _____ understands
(Name of my firm)

and acknowledges that the above representations are material and important, and will be relied on by The Borough of Phoenixville in awarding the contract(s) for which this bid is submitted. I understand and my firm understands that any misstatement in this affidavit is and shall be treated as fraudulent concealment from the Borough of Phoenixville of the true facts relating to the submission of bids for this contract.

(Name and Company Position)

SWORN TO AND SUBSCRIBED
BEFORE ME THIS _____ DAY OF _____, 20_____

Notary Public My commission Expires:

**AGREEMENT
FOR
PROVISION OF CHEMICALS**

THIS AGREEMENT FOR PROVISION OF CHEMICALS (“Agreement”) is made this _____ day of _____, 20____, by and between, _____ (“Contractor”), and THE BOROUGH OF PHOENIXVILLE, Chester County, Pennsylvania (the "Borough").

WITNESS, that the Contractor and Borough for the consideration stated herein mutually agree as follows:

1. SERVICES. The Contractor shall furnish and deliver all chemicals and other supplies, equipment, services and materials required to fulfill the terms of the Contract Documents (the “Products”). Contractor has reviewed and accepted the terms of the Contract Documents and Contractor agrees to furnish the Products in strict compliance with the Contract Documents. All Contract Documents are incorporated herein by this reference and made a part hereof. The “Contract Documents” include this Agreement and all documents provided as part of the solicitation for bids by the Borough, including but not limited to the Notice to Bidders, Instructions to Bidders, the Specifications, any addenda to any of the foregoing, the performance bond, and all documents provided by the Contractor as part of its Bid, including but not limited to the Contractor’s completed, and executed as appropriate, Bid Form, bid bond, corporate resolution, if any, and all attachments thereto. The capitalized terms used herein that are defined in the Contract Documents shall have the meanings given such terms in the Contract Documents.
2. PRICE. The Borough will pay the Contractor for the performance of this Agreement in current funds, at the unit price stipulated in the Contractor’s Bid for the Products furnished.
3. TERM. This Agreement shall be in effect from January 1, 2018 through December 31, 2018. This Agreement may be terminated as set forth in the other Contract Documents.
4. INDEMNIFICATION. It is understood and agreed that the Contractor is a third party Contractor and is not a servant, agent or employee of the Borough and the Contractor saves and holds harmless the Borough from all manner or negligence or tort liability. The Contractor is advised that provisions in the Contract Documents pertaining to indemnity shall be construed as if the members of the Borough and the Borough agents were named therein as additional indemnities. The word "expense" as used in said provisions concerning indemnity shall be deemed to include, but shall not be limited to, attorney fees.
5. PERFORMANCE BOND. Contractor shall, contemporaneously herewith, furnish a performance bond for the faithful performance of this Agreement in a form and with a surety satisfactory to the Borough for 100% of the Total Contract Price as set forth on the Contractor’s bid.
6. MISCELLANEOUS.
 - (a) This Agreement and the other Contract Documents comprise the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral or written agreements, negotiations, representations, warranties, covenants and obligations, all of which are intended to be merged with and into this Agreement.
 - (b) The Contractor shall not assign or transfer, whether by an assignment or novation, any of its rights, duties, benefits, obligations, liabilities, or responsibilities under this Agreement without the written consent of the Borough.

(c) Contractor shall not be deemed the agent, servant or employee of the Borough, but shall be an independent contractor.

(d) All notices hereunder shall be in writing and shall be deemed to have been properly given if (i) personally delivered, or (ii) sent by reputable overnight express carrier (e.g., FedEx or UPS), charges prepaid. Notice shall be deemed given when delivered, in the case of personal delivery or on the date of deposit with an overnight express carrier for next business day delivery. Notices shall be addressed to the address specified in the opening paragraph of this Agreement or to such other persons or addresses as Borough or Contractor may from time to time designate by notice given pursuant to this subsection.

(e) No provision of this Agreement, or the other Contract Documents shall be construed more strictly against or more liberally in favor of a party regardless of which party or which party's counsel prepared or aided in the preparation of this Agreement, notwithstanding any custom or rule of construction to the contrary.

(f) No purported waiver of any right or remedy shall be valid or enforceable unless set forth in writing and signed by the party against whom enforcement thereof is or may be sought. The Contractor specifically recognizes and agrees that in addition to any rights or remedies available to Borough at law or at equity, that there are various liquidated damages available to Borough as more particularly set forth in the Contract Documents.

(g) This Agreement and the other Contract Documents may be amended only by a written instrument signed by both Borough and Contractor.

(h) This Agreement and the other Contract Documents are governed by Pennsylvania law.

IN WITNESS WHEREOF, intending to be legally bound hereby, the parties hereto have caused this Agreement to be executed on the day and year first above written.

ATTEST:

CONTRACTOR:

By: _____

By: _____

PHOENIXVILLE BOROUGH

Date: _____

By: _____