


Agenda Report Reviewed by:  
City Manager: 

**CITY OF SEBASTOPOL  
CITY COUNCIL  
AGENDA ITEM**

**Meeting Date:** September 20, 2022

**To:** Honorable Mayor and Honorable City Councilmembers

**From:** Dante Del Prete, Public Works Superintendent

**Subject:** Approval of Acceptance of Bid for Well 7 Filter Media Replacement and Authorization for the City Manager to Execute Contract with De Nora Water Technologies, Inc.

**Recommendation:** That the Council Authorize the City Manager to execute a Contract with De Nora Water Technologies, Inc. for replacement of arsenic removal media at Sebastopol City Well 7

**Funding:** Currently Budgeted:  Yes  No  N/A

Net General Fund Cost: N/A

Water Enterprise Fund, 500-4402-5100

Amount: \*\$ 65,680 + \$3,284 as 5% contingency

**Total \$68,964**

Account Code/Costs authorized in City Approved Budget (if applicable) \_\_\_AK\_\_\_ (verified by Administrative Services Department)

**INTRODUCTION/PURPOSE:**

This item is to request that the City Council authorize staff to execute a contract with De Nora Water Technologies, Inc. for replacement of arsenic removal media Vessel at Sebastopol City Well 7.

**BACKGROUND:**

Sebastopol City Well 7 Arsenic Removal Treatment System, located at 1157 Village Way, was commissioned, and placed in service October 2015 for supplying potable water to the City of Sebastopol municipal water system. The treatment system media was last changed in January 2021 and is operated daily. Based on weekly water sample results, the media is approaching a level of absorption that requires initiating the replacement process. Staff acquired three (3) quotes from qualified vendors for the media replacement process.

**DISCUSSION:**

De Nora Water Technologies, Inc. provided Public Works staff the low bid quote for the replacement of new treatment media, labor costs for the physical changeout of the materials, and disposal of the spent media for \$62,100 + \$3,580 tax on materials for a total of \$65,680 for the media replacement service. City staff is also requesting a 5% contingency to accommodate potential unforeseen issues that may arise during the media change out process.

	Vendor	Costs	Total
1	De Nora Water Technologies, Inc.	\$62,100.00 + \$3,579.66 Tax on Materials	\$65,679.66
2	AdEdge Water Technologies	\$63,985.00 + \$4,232.80 Tax on Materials	\$68,217.80
3	Charles P. Crowley Company	\$76,025.00 + \$5,050.50 Tax on Materials	\$81,075.50

**GOALS:**

Goal CSF 1: Provide High Quality Community Services, Facilities, and Infrastructure to All Residents, Businesses, and Visitors in Sebastopol

Goal CSF 3: Provide an Adequate, Clean, Safe, and Environmentally Sound Water Supply to All Existing and Future Water Users in Sebastopol.

**PUBLIC COMMENT:**

As of the writing of this staff report, the city has not received any public comment. However, if staff receives public comment from interested parties following the publication and distribution of this agenda item report, such comments will be provided to the City Council as supplemental materials before or at the meeting. In addition, public comments may be offered during the public comment portion of the agenda item.

**PUBLIC NOTICE:**

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to schedule meeting date.

**FISCAL IMPACT:**

The Well 7 media replacement was planned and budgeted in the 2022/23 Water Enterprise Fund.

**RECOMMENDATION:**

That the City Council authorize the City Manager to execute a contract with De Nora Water Technologies, Inc. for replacement of arsenic removal media at Sebastopol City Well 7 for a price not to exceed **\$68,964**.

**Attachments:**

Proposals for media replacement services

# City of Sebastopol Water Company

PROPOSAL FOR

## MEDIA CHANGE OUT SERVICES

This proposal contains proprietary or confidential information of De Nora Water Technologies, Inc. (DNWT) regarding patent protected proprietary technologies and their implementation in the field, recommended uses and costs. Any such proprietary or confidential information disclosed herein is provided at buyer's request and solely for the purpose of enabling buyer to evaluate this proposal.

In receiving and reading this proposal, buyer agrees that it will not reveal or otherwise distribute its contents to any third party without DNWT's prior written consent. The foregoing limitation shall not preclude buyer from disclosing the contents of this proposal to its employees, on a need to know basis, who have the responsibility to evaluate and/or implement the program set forth in this proposal. This proposal shall at all times remain the exclusive property of DNWT until accepted by the party to which it was tendered.

**DNWT Proposal P-120952**

**26 August 2022**

## MEDIA CHANGE OUT SERVICES

### 1.0 INTRODUCTION

De Nora Water Technologies, Inc. (DNWT) is pleased to offer the The City of Sebastopol this proposal for the supply of new SORB33 media, and services for media change-out and conditioning of the one (1) 9' diameter Arsenic Removal Filter.

### 2.0 SCOPE OF WORK

DNWT will bring its own crew to the site to remove the old media, install new media, and put the adsorber back into service. Included in this service are the following:

**Media Supply:** DNWT will supply virgin granular SORB33 Media for the change out. The vessel will be filled with ~208 cu. ft. of virgin media, delivered in (4) supersacks.

**Change-Out Services:** DNWT will provide all labor, expertise and equipment required for the removal and replacement of spent media at the site listed above. The removal and replacement services include pumping/sucking spent media out of the vessel and placing into appropriate transportable container(s). The filters will then be refilled with virgin media, disinfection chemicals (supplied by Sebastopol) will be added and media beds should be left to 'soak' for a minimum of 4 hours (preferable overnight) to disinfect the media These services will require taking the adsorber out of service for approximately one (1) day.

DNWT requires a minimum of four (4) weeks notice for the proposed service to arrange media delivery and scheduling of a crew to perform the work. Services will be performed at a mutually agreed upon date.

### 3.0 QUALIFICATIONS AND CLARIFICATIONS

The following items and/or services are to be provided by others and are not considered to be part of DNWT scope of supply.

- Electric power for hand tools and use of restroom facilities for change out personnel.
- Sebastopol will have drained the adsorbers prior to having the change out crew arrival on site.
- Disinfection chemicals for conditioning and the initial backwash of the filters.
- All permits for personnel access and work activities (i.e.; confined space entry permits) are to be ready upon arrival of the change out crew.

- The spent media must have a Toxicity Characteristic Leaching Procedure (TCLP) test done before disposal in order to confirm that it meets the federal guidelines. The City of Sebastopol will take a composite core sample from the filter and send it to an approved lab for the TCLP (8 RCRA metals) testing. Cost for this testing is included in this proposal. A copy of the TCLP test results will need to be provided to DNWT a minimum of one (1) week prior to the scheduled service.
- If the number of days on site is extended beyond the time outlined above and is due to Force Majeure, then DNWT will be allowed an appropriate number of day(s) extension. If additional days are required due to delays caused by parties other than DNWT then additional days will be allowed to complete the services and additional charges will be negotiated.

**4.0 PRICE AND PAYMENT SCHEDULE**

DNWT will deliver the materials and service described herein for a lump sum price of **\$62,100.00 + \$3,579.66Tax (CA 9.25% on materials)**. Freight costs for shipment of materials to site is included in this price. The above price is based on the spent media being free flowing during the removal process. If the spent media is not free flowing and causes delays in the service, additional charges may apply.

Pricing and acceptance of this proposal is valid until September 30, 2022, and provided that the media change out is executed within six (6) months after purchase order.

**ACCEPTANCE OF PROPOSAL P-120952**

Acceptance of this proposal is based on the incorporation of any referenced documents including but not limited to an insurance certificate, and the attached Standard Terms and Conditions of Sale are incorporated herein and are agreed to be a material part of this Agreement.

AGREED BY:  
De Nora Water Technologies, Inc.

AGREED BY:  
The City of Sebastopol

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)

**DE NORA WATER TECHNOLOGIES LLC  
DE NORA MARINE TECHNOLOGIES, LLC  
DE NORA UV TECHNOLOGIES, LLC  
DE NORA TECH, LLC  
DE NORA NEPTUNE, LLC**

**GENERAL TERMS AND CONDITIONS OF SALE**

**1. APPLICABLE TERMS**

The sale of products, goods, or components (the "Product(s)) and/or the provision of services ("Services") by any one of the De Nora legal entities listed above (in each case, "Seller") to the party from whom Seller is selling the Products or Services ("Purchaser", and with Seller, each a "Party" and collectively the "Parties") is limited to and made expressly conditional on Purchaser's acceptance of these General Terms and Conditions of Sale (these "General Conditions") which, along with any and all associated purchase orders, quotations, proposals, special conditions or other contract documents (including any expressly incorporated specifications or drawings) ("Seller's Documentation" and, collectively with these General Conditions, the "Contract"). These General Conditions shall control over any inconsistent or additional terms or conditions proposed or issued by Purchaser or Seller, including any additional or different terms contained in any purchase order, acknowledgement, proposal or other communication, written or otherwise, unless specifically agreed to in writing by both Parties. These General Conditions shall not be varied and no conditions contained in any quotations, letters, advice notes, invoices or other communications issued by Seller or Purchaser shall annul or vary them, unless expressly agreed by both Parties in writing.

Purchaser's acceptance of delivery or the full or partial payment of the purchase price hereunder shall constitute Purchaser's express and unconditional acceptance of all the General Conditions, notwithstanding any other inconsistent terms, documents, prior dealings, or usage of trade.

**2. PRICES AND PAYMENT TERMS**

Purchaser shall pay the full purchase price as set forth in Seller's Documentation without any deduction by way of set-off, counterclaim, discount or otherwise in strict accordance with Seller's Documentation. All prices and payments shall be in U.S. currency unless otherwise expressly noted in Seller's Documentation. Unless specifically noted otherwise in Seller's Documentation, prices are exclusive of any and all sales, use, excise, ad valorem, property or other taxes, duties or levies of any kind due or applicable to this transaction. Purchaser shall pay directly or reimburse Seller immediately upon demand for any and all such taxes. Payment terms are net 30 calendar days from date of invoice.

Where payment is made by letter of credit (to the extent permitted by Seller's Documentation), the applicable instructions as communicated in writing by Seller to Purchaser shall determine the terms of payment thereunder. Where payment on credit terms is expressly approved, payment terms are net thirty (30) calendar days from date of invoice. Any payments delayed beyond thirty (30) days from the specified due date shall be subject to interest on the unpaid balance at the rate of [one and one-half (1-1/2%) percent] per month or the maximum rate permitted by applicable law, whichever is less. If advances, progress payments, or milestone payments are included in the Seller's Documentation, such payments shall be required to be made in strict accordance with the Seller's Documentation. Seller reserves the right, among other remedies, to suspend further deliveries in the event Purchaser fails to pay for any one shipment when payment becomes due. All Contracts are subject to credit approval. Should Purchaser's financial condition become unsatisfactory or insecure, in Seller's discretion, Seller shall have the right, at its option, to require from Purchaser payment in advance, cash payment upon delivery, or satisfactory security.

If Purchaser is required by applicable law to withhold any amounts paid or payable to Seller for tax purposes, (a) the amount paid or payable shall be increased by the amount that it would have received had not taxes been withheld and (b) Purchaser shall forward proof of such legally required withholding to Seller as soon as reasonably practicable.

Purchaser hereby irrevocably grants Seller a security interest in the Products until such time as Purchaser makes full payment of the purchase price. Purchaser agrees, if requested, to execute a financing statement or such other documentation as may be necessary or advisable to perfect and maintain such security interest including the execution and delivery to Seller of a UCC-1 financing statement.

**3. DELIVERY AND RISK OF LOSS**

Delivery dates set forth in Seller's Documentation are approximate and Seller will make commercially reasonable efforts to meet same. Timely delivery is subject to prompt and timely receipt from Purchaser of accurate and complete technical and shipping information. Seller reserves the right to make partial shipments, invoices for which shall be due and payable in accordance with the payment terms specified above. Where payment is due in advance or by letter of credit, timely delivery is further subject to timely receipt of such payment or issuance of such letter of credit. All shipping and handling costs are to be paid by Purchaser. Purchaser is liable for compliance with all laws and regulations governing the unloading, storage, importation, handling and use of all Products.

Whether or not installation Services are performed by Seller, title and risk of loss shall pass to Purchaser in accordance with the stated shipping terms under Incoterms 2010. Unless otherwise agreed and specified in Seller's Documentation, shipping terms are Ex Works Seller's facility. Seller will notify Purchaser when Products are available for shipment. Purchaser must provide Seller with specific written instructions as to Purchaser's preferred method of shipment or common carrier. If Purchaser does not arrange for a freight carrier or freight forwarder to collect the Products within seven (7) calendar days following notification that the Products are available, Seller may, at its own discretion and at Purchaser's cost, arrange for Products to be collected by a freight carrier or freight forwarder for shipment to Purchaser. Alternatively, Seller may choose to store

the Products and may charge Purchaser all incurred storage and handling expenses and fees.

In the event Purchaser requests a postponement of delivery beyond the date specified in Seller's Documentation, Seller may invoice the Purchaser and title and risk of loss shall pass to Purchaser at such time as Products are made available for shipment but in no event earlier than the delivery date specified in Seller's Documentation. If delivery is postponed by Purchaser, Seller shall endeavor but shall not have the obligation to either store the Products or secure a storage location at Purchaser's expense and based upon General Conditions mutually agreed by the Parties in writing.

Prior to installation, Products must be stored by Purchaser in accordance with the storage instructions that may be a part of Seller's instructions or other documentation for Product installation, maintenance, and care. In the absence of specific instructions in the Seller's Documentation, Products must be stored prior to their installation in an enclosed space affording protection from weather, dust and physical damage and providing appropriate temperature, humidity and ventilation conditions to prevent deterioration. Purchaser's failure to follow Seller's storage instructions may cause damage to the Products and will void the warranties provided hereunder. Seller shall have the right to inspect Products stored by Purchaser prior to installation. If Products are stored by Purchaser for a period of 60 days or more, Purchaser shall reimburse Seller for all reasonable costs of such inspection.

**4. PERMITS, REGISTRATIONS AND LAWS**

Purchaser is responsible for obtaining and maintain all permits and registrations and for compliance with local laws concerning permitting, registration, installation and use of the Products or the provision of Services. Purchaser shall indemnify and hold harmless Seller from any and all costs, damages, fines and penalties resulting from Purchaser's failure to comply with any and all applicable laws, permits and regulations. Purchaser shall strictly comply with and refrain from exporting or re-exporting the Products in violation of all applicable laws, rules, and regulations affecting Seller regarding trade restrictions, import-export compliance, money laundering, anti-bribery protections, and embargoes, as such laws, rules, and regulations may be amended from time to time. Unless otherwise agreed according to the specified Incoterms governing shipment of the Products, Seller shall have no obligation or liability for export clearance, customs clearance or import duties of any kind. Purchaser shall provide to Seller any and all documentation requested by Seller to evidence Purchaser's compliance with such applicable import-export laws and regulations.

Seller may provide reimbursement to Purchaser or Purchaser's representative, either directly or indirectly through intermediaries, for their reasonable and bona fide travel and lodging expenses in connection with Purchaser's purchase of Products or Services hereunder. Any such reimbursement is NOT a payment, gift, offer or promise of anything of value, but is rather provided to Purchaser for the sole purpose of reimbursing Purchaser's reasonable travel and lodging expenses related to the promotion, demonstration or explanation of the Products or Services being offered by Seller to Purchaser. Should Seller discover that a violation of the U.S. Foreign Corrupt Practices Act, the UK Bribery Act, or other applicable law, rule, or regulation has occurred or is likely to occur, Seller shall have the right to unilaterally terminate the Contract.

**5. PRODUCT ACCEPTANCE**

Except for Products that are not assembled at Seller's facility, Purchaser has the right to inspect Products at Seller's facility prior to shipment provided that advance written arrangements are made by Purchaser and are confirmed in writing by Seller. Any and all costs associated with inspection and testing requested by Purchaser at Seller's facility will be paid solely by Purchaser. Purchaser shall inspect the Products within a reasonable period of time following receipt at the point of destination and prior to conducting any Acceptance Test (as defined below) to determine if the Products are damaged, incomplete or do not otherwise conform to Purchaser's express specifications. If Purchaser receives Products with visible or suspected damage or loss, including damages to the packaging, or with discrepancies in specification, Purchaser shall make relevant notes in receiving documents and notify Seller in writing immediately. Such notice shall be reasonably detailed and shall specify the damage or discrepancy. Purchaser's failure to inspect the Products and/or give written notice to Seller of any alleged defects or non-conformity within a reasonable period of time after receipt at the point of destination shall waive Purchaser's right to reject the Products and return them to Seller for credit and Purchaser's sole remedy for non-conforming or defective Products shall be warranty claims made in accordance with Article 8 herein.

For purposes of this Article 5, "reasonable period of time" means a period of time that is not immoderate or excessive, in accordance with prevailing industry standards at the time of delay.

If Seller's Documentation expressly provides that the Products are subject to specific acceptance testing (the "Acceptance Test") in order to verify Product performance in accordance with specifications set forth in Seller's Documentation, the Products shall be deemed fully accepted when they have satisfied the requirements of the Acceptance Test. Purchaser's remedy for Products that have failed an Acceptance Test or are within the warranty period shall be limited, at Seller's sole discretion, to the repair or replacement of such Products.

Notwithstanding any right conferred upon the Purchaser to inspect or test the Products prior to acceptance, any use, repair, modification, or alteration of the Products by Purchaser, its agents, employees or licensees, for any purpose after delivery thereof, shall constitute Purchaser's irrevocable and unconditional acceptance of the Products. Accordingly, in the event of any discovery by Purchaser of a non-conformity or defect following such acceptance of the Products, Purchaser's sole recourse is a warranty claim pursuant to the warranty provisions stated in Article 8 herein.

**6. INSTALLATION AND/OR START UP SERVICES**

If Seller's Documentation includes the provision of Services (including installation supervision, on-site assembly, or start-up services), Purchaser will confirm to Seller at least two (2) weeks (or such shorter term set forth in Seller's Documentation) prior to the date Seller's personnel will be required on site to perform such Services that Purchaser has fully completed all work necessary for such Services in accordance with Seller's Documentation. In the event that the completion of such Services is delayed for any reason not the fault of Seller, Purchaser shall pay for any additional costs resulting from the delay. Seller shall not be responsible for the means and methods selected for such Services, or for the manner in which such Services are performed, including the efficiency, adequacy and safety of same. Seller makes no warranty, express or implied, with respect to such Services, except that the Seller shall be responsible for any claims or damages resulting from its own negligence.

**7. SUSPENSION AND CANCELLATION**

If Purchaser suspends, cancels or partially cancels a Contract, Purchaser shall promptly pay Seller for all Products delivered to date, work performed on account of the Products, and all Services completed or in process prior to such suspension and/or cancellation, plus any other reasonable costs incurred by Seller as a result of such suspension and/or cancellation including, if applicable, an appropriate restocking fee.

**8. WARRANTY**

Subject to the conditions stated below, Seller warrants the Products (excluding spare parts and Services) against defects in materials and workmanship for a period of [eighteen (18)] months from the date in which title has passed to Purchaser or [twelve (12)] months from the date of installation of the Products, whichever occurs first. Seller shall, at its option, repair or replace any Products or components thereof that prove upon examination to the satisfaction of Seller to be defective. In addition, any part or component that has been repaired or replaced shall be warranted for a period equal to the lesser of (i) the remaining warranty period hereunder; or (ii) one year from the date of such repair or replacement. Spare parts are warranted against defects in materials and workmanship for a period of [ninety (90)] days from the delivery of the spare parts, unless otherwise specified. This warranty expressly excludes and does not apply to the appearance of the Products, as variations in color and appearance may occur.

In the event that Seller fails to initiate a corrective action plan to repair or replace the defective Products within [30] days following Purchaser's notification, Purchaser may, at its reasonable discretion, take action to repair or replace such defective product and Seller shall bear the direct and commercially reasonable cost for parts and labor thereof. In such circumstances, Seller has no warranty obligation with regard to the repair or replacement performed by Purchaser. Further, if Purchaser improperly repairs or replaces the defective Products and/or uses incompatible components, Seller is not responsible for any costs, damages or malfunctions resulting therefrom.

Any alteration, disassembly, division, modification, storage or use of the Products not in express accordance with Seller's Documentation shall void all warranty obligations of Seller related to such Products. Purchaser assumes full responsibility in the event Purchaser uses the Products in combination with other goods or in any manner not stated in Purchaser's written specifications provided prior to sale.

All costs associated with removing the Products from service and re-installing same following examination, repair or replacement are to be borne by Purchaser. Seller may, in its sole discretion, require that the Products be shipped to Seller's facility for examination, repair or replacement. All transportation costs to and from Seller's facility, if required, are to be prepaid by Purchaser.

THE WARRANTIES SET FORTH HEREIN, IF ANY, ARE MADE EXPRESSLY IN LIEU OF OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AND ANY IMPLIED WARRANTY OF MERCHANTABILITY OR WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, EVEN IF THAT PURPOSE IS KNOWN TO SELLER, IS HEREBY EXPRESSLY EXCLUDED; PROVIDED, HOWEVER, THAT THE PRODUCTS ARE WARRANTED TO CONFORM IN ALL MATERIAL RESPECTS TO THE RELEVANT AND KNOWN SPECIFICATIONS, AND PERFORMANCE STANDARDS, INCLUDING ANY MUTUALLY AGREED MODIFICATIONS THERETO.

SELLER'S LIABILITY AND BUYER'S EXCLUSIVE REMEDY FOR ANY FAILURE BY SELLER TO SUPPLY PRODUCTS THAT MEET THE FOREGOING WARRANTY IS EXPRESSLY LIMITED TO, AT SELLER'S OPTION, THE REPAIR OR REPLACEMENT OF THE NON-CONFORMING PRODUCTS.

**9. INDEMNIFICATION**

Purchaser and Seller shall each defend, indemnify and hold the other harmless from and on account of all bodily injury and property damage claims asserted by third parties as a result of the other's negligent acts or omissions. To the extent that both Purchaser and Seller are determined by a finder of fact to be negligent and the negligence of both is a proximate cause of a claim by a third party against either Purchaser or Seller, then in such event, Purchaser and Seller shall each be responsible for a portion of the liability, including costs and expenses, attributable to its comparative share of the total negligence.

Seller agrees to indemnify and hold harmless Purchaser against any third party claim alleging that the Products infringe upon a valid and enforceable United States patent, provided Purchaser gives Seller written notice immediately when such claim is asserted, directly or indirectly. Notwithstanding the foregoing, Seller shall have no liability to Purchaser if any patent infringement or claim thereof is based upon or arises out of:

(a) compliance with designs, plans or specifications furnished by or on behalf of Purchaser;

(b) use of the Products in a manner for which the Products were neither designed nor contemplated; or

(c) the claimed infringement of any patent in which the Purchaser or any affiliate or subsidiary of Purchaser has any direct or indirect interest by license or otherwise.

**10. LIMITATION OF LIABILITY**

Seller's total aggregate liability to Purchaser with respect to any cause of action or claim hereunder including, without limitation, any indemnities hereunder, shall not exceed the purchase price payable pursuant to the Contract. In no event shall Seller be liable, either directly or as indemnitor of Purchaser, for any special, punitive, indirect or consequential damages, damages for loss of use, loss of income, loss of profit, or any other indirect damages of any kind or type. Notwithstanding the above, this limitation of liability shall not apply to claims arising from Seller's gross negligence or willful misconduct. All of Purchaser's claims or actions of any description whatsoever against the Seller shall be brought not later than one (1) year after the occurrence of the event upon which each such claim or action is based.

**11. FORCE MAJEURE; DELAY EVENTS; PRICE CHANGES**

Force Majeure shall mean any act, event or condition that is beyond Seller's reasonable control, that materially and adversely affects Seller's ability to perform its obligations hereunder, and that is not the result of Seller's willful neglect, error, omission or failure to exercise reasonable due diligence. For the avoidance of doubt, delays caused by or related to shortages or unavailability of raw materials or component parts to be supplied by Seller or Seller's sub-suppliers, supported by relevant documentary evidence, shall be considered a Force Majeure event.

Seller shall not be liable for any delay in performance or failure to perform any obligation hereunder if, and to the extent that, such failure or delay is caused by an event of Force Majeure. If Seller is unable to perform any of its obligations hereunder as a result of a Force Majeure event, Seller shall be required to resume performance upon termination of the event and shall have reasonable additional time for performance.

In addition, to the extent that a Force Majeure event materially increases Seller's cost of performance hereunder, Seller shall be entitled to an equitable contribution from Purchaser towards such additional costs of performance, excluding any costs that are covered by Seller's insurance.

In the event that the performance of a contractual obligation hereunder by either party hereto is prevented, restricted, hindered, delayed or interfered with directly or indirectly in connection with the COVID-19 ("Coronavirus") pandemic or similar pandemic or epidemic and/or any measures introduced by any government authority to address such pandemics/epidemics, the party so affected shall be excused from such performance to the extent and for the duration of such prevention, restriction, hindrance, delay or interference, and shall not be liable for any costs or damages.

Each party shall exercise reasonable efforts to resolve any impediment, however, neither Party shall be obligated to incur additional costs of more than 5% of the order value. The party affected should give notice to the other party as soon as practicable of the prevention, restriction, hindrance, delay, or interference with its performance.

Notwithstanding any other provision of these Terms or the Seller's Documentation, unless otherwise expressly stated in the Seller's Documentation, if, at any time during the course of Seller's performance of the sale of the Products or Services, there is an unforeseen and material increase in the price or supply chain of raw materials, materials, labor, or other costs of Seller associated with the Products or Services, Seller shall have the right to reasonably adjust the prices or delivery dates or terms set forth in the Seller's Documentation upon written notice to the Purchaser setting forth the amount of such price adjustment or change in delivery terms and reasonably setting forth the cost changes associated therewith.

**12. DEFAULT AND TERMINATION**

The substantial failure of either Party to comply with the terms herein shall constitute default hereunder. Upon default by one Party, the other non-defaulting Party shall provide written notice clearly specifying the nature of the default. The defaulting Party shall have thirty (30) days to cure the default. If the default is capable of being cured within thirty (30) days and is not cured within thirty (30) days, this Contract may be terminated. In the case of default that cannot be cured within thirty (30) days, this Contract shall not be terminated so long as the defaulting Party has given written notice of extension to the other Party and the defaulting Party has commenced and is diligently pursuing a cure.

For purposes of this Contract, the failure of Purchaser to pay Seller in accordance with the payment terms hereunder shall be considered a substantial default for which no cure period beyond thirty (30) days shall be allowed. In the event of the Purchaser's default, Seller may, in addition to the right to terminate set forth in this paragraph, elect to suspend work until the default has been cured.

In the event of any termination, Seller shall be paid for Products delivered and Services rendered (including Products specifically manufactured/assembled or special ordered for the Purchaser that have yet to be supplied) through the date of termination.

No delay or omission on the part of the Seller in exercising any right or remedy hereunder shall constitute a waiver of any such right or remedy on any future occasion.



**13. INTELLECTUAL PROPERTY**

All devices, equipment, designs (including drawings, plans and specifications), estimates, prices, notes, electronic data and other documents or information prepared or disclosed by Seller in connection with the Products sold hereunder shall remain Seller's exclusive property. Purchaser shall not disclose any such material to third parties without Seller's prior written consent. Purchaser will not undertake any analyses or "reverse engineering" of the products for the purpose of designing, developing or manufacturing by the Purchaser or by any third party of products that compete with the Product(s).

Seller will retain sole ownership of all discoveries, improvements, inventions, patents, trademarks, copyrights, know-how, trade secrets, or other intellectual property rights associated in any way with the Products. The Parties specifically agree that all improvements, inventions, discoveries and copyright in works of authorship, including those in formative stages, made by either Party hereto (either alone or jointly with others) improving upon or related to the Products shall from the time of conception or, in the case of works of authorship, from the time of creation, be the property of Seller.

Except for the marking of Products as required by applicable law or as requested by Seller, Purchaser shall not use Seller's name, logo, trademarks, trade names, or other intellectual property in any manner, including product literature, advertisements, or marketing materials without the express written permission of Seller.

**14. RELIANCE ON INFORMATION**

Purchaser acknowledges that Seller has used and expressly relied upon information provided by the Purchaser, if any, regarding site conditions, specifications and other technical requirements in the design, installation and start-up of its Product(s) and the provision of Services. Seller shall not be obligated to establish or verify the accuracy of the information furnished by the Purchaser nor shall Seller be responsible for the impact or effect on its Products(s) and any Services provided by Seller hereunder of the information furnished by the Purchaser in the event that such information is in error.

**15. DISPUTE RESOLUTION**

All matters arising out of or relating to the Contract shall be governed by and construed in accordance with the internal laws of the State of Ohio, USA without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than those of the State of Ohio, USA. Any legal suit, action or proceeding arising out of or relating to this Contract shall be instituted in the courts of the State of Ohio, USA in each case located in Cuyahoga County, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. The United Nations Convention on Contracts for the International Sale of Goods ("CISG") shall not apply to this Contract.

**16. MISCELLANEOUS PROVISIONS**

The Contract constitutes the entire agreement of sale and purchase between Purchaser and Seller and supersedes all prior or contemporaneous communications, representations, understandings or agreements, whether written or oral, unless such document states that it intends to modify this Contract and is signed by both Parties. No modification of this Contract (including changes in scope, specifications, price or delivery schedule) shall be of any force or effect unless made pursuant to a writing signed by both Parties. No course of dealing or performance or usage of trade may be used to modify this Contract. Those federal contract clauses required to be expressly incorporated into this Contract are expressly incorporated herein by reference as if originally included herein. The English language shall be the official text of this Contract.

The failure on the part of either Party to enforce its rights as to any provisions herein shall not be construed as a waiver of its rights to enforce such provisions in the future. Should any provision of this Contract for any reason be declared invalid or void, such declaration will not affect the remaining provisions of this Contract, which shall remain in full force and effect.

Purchaser may not assign or permit any other transfer of this Contract without Seller's prior written consent. Purchaser acknowledges that Seller shall be entitled to manufacture the Products at any of its or its affiliates' facilities worldwide, and the Contract may be assigned to such affiliates without the consent of Purchaser. This Contract is entered into solely between, and may be enforced only by, the Purchaser and Seller; and this Contract shall not be deemed to create any rights in third parties, including customers, subcontractors, or affiliates of the Purchaser, or to create any obligations to any such third parties.

Any translation, summary, or description of the terms herein are provided solely as a courtesy and the terms set forth herein, and the English version thereof, shall govern and have full force and effect and be precedent above any such translation, summary, or description.



Quotation

2055 Boggs Road  
 Duluth, GA 30096  
[www.adedgetechnologies.com](http://www.adedgetechnologies.com)



Randy Roberts  
 Cell: 770-912-9731  
 Office: 678-730-6517  
 Fax: 678-835-0057  
[rroberts@adedgetechnologies.com](mailto:rroberts@adedgetechnologies.com)

Quote # RR-081922-1

Date 8/19/22

Terms See Below

Prices FOB Duluth, GA

Delivery 2-3 weeks

To: Sebastopol Public Works  
 714 Johnson St.  
 Sebastopol, CA 95472  
 Attn: Dante Del Preto

Ship To: TBD

PO # \_\_\_\_\_

Fax # \_\_\_\_\_

Project: Media Replacement for Sebastopol Well #7  
 We are pleased to quote the following:

Item	Quantity	Description	Unit Price	Total
A	208 cu/ft.	<b>Media</b> Bayoxide E33 GFO Media (MM10033) Packaged (4) Supersacks - (52) cu/ft. each 6,614 lbs Media Total	\$220	\$45,760 Included
B	6 cu/ft.	1/8" X 1/16" Underbedding Gravel (AdEdge part No. GR10018) 1 in. Layer of underbedding gravel for incidental removal during media extraction 600 lbs Gravel Total		Included
C	1	<b>Media Extraction Services</b> Vac Truck removal of exhausted media, containerization, media loading labor and equipment Waste Profile, disposal of media at Non-Haz landfill *Disposal handling as non-haz		\$16,400 \$ 1825
D	0	<b>Required Lab Sampling</b> TCLP Testing for Disposal Utility to Provide Sample Collection, Laboratory Testing, and Submit Results for Waste Profile Waste profile completed & approved for disposal before media removal additional costs may incur if waste profile not completed		Not Included
E	1	<b>Shipping Freight for Media</b> Budgetary Freight Estimate - Freight Delivery includes Deliver Notification Utility responsible for freighted media off loading Deliver Notification - TBD		\$900 Included
F	0	<b>Taxes</b> Taxes not included/ See Terms		Not Included
<b>Total Quote Cost:</b>				<b>\$63,985</b>
<p><b>Notes:</b>                      * Order will be invoiced with media quantity in lbs. (32 lbs/cuft)                      * System consists of 2 qty vessel(s)                      * System consists of 78 in. diameter vessel(s)                      * System consists of 38 in. media bed(s)                      * Freight is best estimate; any additional costs will be applied to final invoice                      * Quote is valid for 30 days from date of this proposal</p> <p><b>Terms:</b>                      * Purchase Order required to hold pricing and proceed                      * Order is subject to credit approval by AdEdge                      * 50% on contract and 50% on completion of services (30 day terms on final invoice)                      * Taxes are not included (Taxes will be included upon determination of final invoice amount)                      * Late payments subject to 12% interest annual</p>				

Customer Proposal Authorization: \_\_\_\_\_

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

AdEdge Authorization:  \_\_\_\_\_

Date: 8/19/22

Prices quoted above are current prices in effect and are subject to acceptance within 30 days from the above date, and are firm on an order resulting from this quote scheduled to ship within 30 days from date of order entry. All items quoted will be produced in strict accordance to any Government Regulation in effect including Fair Labor-Standards Act, OSHA, and Equal Employment Opportunity Executive orders. Delivery schedules are contingent upon strikes, accidents, fires, availability of materials and all other causes beyond our control.



**Manufacturers' Representatives • Systems Integrators**

15861 Business Center Drive Phone: (626) 856-5656  
 Irwindale, California 91706 USA Fax: (626) 856-5658  
 E-mail: sales@cpcrowley.com Website: www.cpcrowley.com

QUOTATION	
Date 8/23/22	Quote # 220823-1
<b>From:</b>	Sherri Prock
<b>To:</b>	Dante Del Prete
	Sebastopol Public Works
<b>Phone:</b>	707 823-5331
<b>Email:</b>	ddelprete@cityofsebastopol.org
<b>Subject:</b>	Well 7 Bayoxide

The CHARLES P. CROWLEY COMPANY (hereinafter "CPC Co.") is pleased to offer our quotation for the following equipment. This quotation and any purchase order, contract, requisition or purchasing directives given to CPC Co. based on this quotation is subject to CPC Co.'s Sales Agreement and Standard Terms and Conditions which is attached.

<u>Item #</u>	<u>Qty</u>	<u>Description</u>	<u>Unit Price</u>	<u>Extended</u>
1	208 cu. ft.	Bayoxide E33 virgin granular ferric oxide (GFO) media, arsenic treatment • Supplied in (4) Super Sacks	\$262.50	\$54,600.00
2	6 cu. ft.	Required underbed gravel		Included
3	(1) lot	Media change out services: remove spent media from (2) 78" dia. Vessels, install new media		\$17,425.00
4		Disposal of spent media as non-hazardous		\$2000.00
5		Freight estimate		\$2000.00
Total Quote Value				\$76,025.00

**GENERAL EXCLUSIONS:**

- This quotation is valid for thirty (30) days and is limited to items specifically listed herein.
- Submittals: Per attached factory scope or 4 weeks ARO. Delivery: Per attached factory scope or 16 weeks AAD
- Freight: FOB Factory. All prices include estimated freight at bid time. Actual freight charges at shipment date will apply
- Installation labor, common piping and valves, instrumentation, relocation of existing, or equipment are expressly excluded.
- Common pipe, gauges, valves, anchoring mechanisms, electrical controls or other non-mentioned items are not included.
- Field Certified Calibration of Instruments is by OTHERS.
- Field services, start-up service/training provided only as specifically included above and provided by **CPC Systems** (CSLB # A-947472) or factory.
- If additional field service is required, it will be quoted by **CSI** subject to current rates at time of requested service.
- Payments due one hundred percent (100%) net thirty (30) days. Overdue payments are subject to 1.5% per month (18% per year) Finance charge. Collection activities subject to attorney's fees provision as stated in CPC Co.'s Terms and Conditions.
- Consequential and Liquidated Damages, late charges, retentions or bonding requirements are not acceptable or allowed.
- CPC Co.'s or Factory Limited Warranty shall apply.
- Sales Taxes are expressly excluded.

If you have any questions, please do not hesitate to contact our office.

Yours truly,

Sherri Prock

**Charles P Crowley Company**  
 Attachments: Terms & conditions

**CHARLES P. CROWLEY COMPANY, INC.**

**SALES AGREEMENT AND STANDARD TERMS AND CONDITIONS**

This Sales Agreement and Standard Terms and Conditions (hereinafter "Terms and Conditions") govern all past, present and future sales of Charles P. Crowley Company, Inc. (hereinafter "CPC Co." or "Seller") to you, the Buyer.

**Acceptance:** Unless otherwise stated in writing signed by Seller's duly authorized agent, all quotations covering Seller's products are made and all contracts or orders for said products are accepted and all shipments are made on the condition that Seller's Terms and Conditions shall be applicable. Any oral or written term or terms in the Buyer's purchase order of acceptance in addition to or in conflict with Seller's Terms and Conditions shall be null and void. Seller's Terms and Conditions represent the sole and exclusive terms for this and future sales by Seller to Buyer. Seller's Terms and Conditions may not be varied, qualified, modified, amended or interpreted by any prior "course of dealing" between the parties or by any usage of trade or in any manner other than by subsequent writing, signed by Seller's duly authorized agent. Purchase orders or directives based upon Seller's quotation are agreed by both Buyer and Seller to be accepted pursuant to Seller's Terms and Conditions, unless otherwise stated in writing by Seller.

Seller is a material supplier and NOT an installer or contractor. If installation and/or repair service becomes necessary, Buyer agrees and consents that CPC Systems, Inc. shall perform such work and be compensated accordingly.

**Pricing:** No oral statements, promises or understandings shall be binding on Seller unless confirmed in writing by Seller. Prices are subject to change without notice, and Seller's price in effect at time of quotation will apply. Quotations and prices are good for thirty (30) days unless specified otherwise. Pricing does not include, unless otherwise stated, start-up service, common pipe, valves or gages, anchoring mechanisms, wiring, or any other equipment or materials commonly understood to be provided by the general contractor or in the general contractor's scope of work, including any other equipment, material or services. All pricing and/or quotes are subject to Seller's Terms and Conditions.

**"Equals":** Seller's quotation and price is based on selling materials, products, things and services which are "equal" to those identified in specifications with specific brand or trade names. Buyer acknowledges its responsibility for verifying that its owner customer will accept Seller's proposed "equal." Buyer also will notify Seller if the awarding authority has made a finding that a particular material, product, thing, or service is designated by specific brand or trade name must be used.

**Cancellation:** Seller does not accept the cancellation of special orders. An order, once placed with and accepted by Seller, can be cancelled only with Seller's written consent and upon payment to Seller of reasonable cancellation charges which shall take into account expenses already incurred, commitments made, and Seller's anticipated profit for the entire purchase order.

**Taxes:** Buyer acknowledges Seller's status as a reseller. The amount of any present or future sales, revenue, excise, or other tax applicable to the products covered by this order, or the manufacture or sale thereof, shall be added to the purchase price and shall be paid by the Buyer or, in lieu thereof, Buyer shall provide Seller with an appropriate tax exemption certificate.

**Delivery:** Shipping dates are approximate dates and are based upon prompt receipt from Buyer of all necessary information. Buyer should make allowances for delays and Buyer acknowledges that Seller shall not be liable to Buyer, or third parties for delays. In no event will Seller be liable for damages of any kind due to causes beyond its reasonable control, or beyond the reasonable control of Seller's suppliers or manufacturers, including without limitation failures or delays brought about by, caused by or in any manner arising from (i) labor conditions, including strikes and shortages of labor, (ii) shortages of fuel, power, materials or supplies, (iii) transportation delays, (iv) acts of God, fires, floods or weather problems, (v) damages to, or destruction in whole or in part of the goods, vehicles or manufacturing plants, (vi) accidents, or (vii) riots, government interference, embargoes, regulations, war or insurrection. The non-occurrence of the above contingencies with respect to the Seller, its suppliers and manufacturers is a basic assumption of this agreement.

**Risk of Loss:** Risk of loss or damage to or destruction of the goods/equipment shall pass to the Buyer upon delivery by Seller to a carrier specified by Buyer for shipment or upon tender of the goods/equipment to Buyer.

**Title to Merchandise:** Title to the goods/equipment shall remain with Seller until the full purchase price is paid by Buyer.

**Freight Costs:** Freight costs are excluded from Seller's quotations and scope of work. Buyer shall be responsible for paying all freight charges.

**Exclusion of Bonds:** Bid, performance, payment and/or supply bonds are excluded and will not be provided by Seller.

**Payment:** If Buyer disputes any part of Seller's invoice, Buyer must notify Seller, in writing by certified return receipt requested mail, within ten (10) days from the date of invoice, otherwise the invoice price shall conclusively be presumed to be the agreed upon price between Buyer and Seller. (a) Unless otherwise specified on the invoice, all accounts are due and payable thirty (30) days from the date of invoice. Seller accepts credit card payments. All lien rights are reserved until full payment of the invoice has been made. Buyer shall be subject to California prompt payment penalties for late payments. (b) If at any time prior to shipment, in the Seller's judgment, the financial condition of the Buyer at any time does not justify continuation of production or shipment on the terms of payment originally specified, the Seller may require full or partial payment in advance and, in the event of the bankruptcy or insolvency of the Buyer, or in the event any proceeding is brought by or against Buyer under the bankruptcy or insolvency laws, the Seller shall be entitled to cancel any order then outstanding and shall receive reimbursement for its cancellation charges. (c) In the event Buyer fails to fulfill the terms of payment, Seller may decline to sell and/or make any further deliveries unless outstanding balances are paid in full. Buyer agrees to defend, indemnify and hold harmless Seller from any claims, losses, damages, or expenses arising from Seller's refusal to sell or make deliveries resulting from Buyer's failure to comply with the terms of payment.

**Retention:** Buyer agrees that all purchases from Seller shall be subject to a maximum of five (5%) retention unless otherwise allowed by California Public Contract Code 7201, for no longer than ninety (90) days after receipt of invoice.

**Legal Actions:** (a) Should either party initiate any legal action or proceeding, including binding arbitration, to collect any unpaid invoice or to enforce any of the terms hereof, the prevailing party shall be entitled to recover all costs and expenses reasonably incurred in connection therewith, including court costs, expert fees and actual attorney's fees. (b) In the event any controversy should arise related to the sale of the goods by Seller to Buyer, suit must be brought in the Los Angeles County Superior Court, Central District, in Los Angeles, California. This agreement shall be construed and enforced in accordance with the laws of the State of California.

**Claims And Returns:** Buyer must make any claim for shortage, defect, nonconformity, damage, non-delivery, or for anything else to Seller, in writing by certified return receipt requested mail, within ten (10) days from the date Buyer discovered or could have reasonably discovered the problem, but in no event later than thirty (30) days from the date the goods are delivered or in the case of non-delivery, from the date of the invoice.

(a) Claims for shipping damages shall be made against the carrier on all products shipped F.O.B. shipping point. On products shipped F.O.B. destination, Buyer shall notify Seller of shipping damages within ten (10) days from date of receipt and afford Seller a reasonable opportunity to inspect the products. No products shall be returned without Seller's Consent.

(b) Claims for shortage or inaccurate filling of orders shall be submitted to Seller within ten (10) days after Buyer's receipt, accompanied by a copy of the invoice or shipper on which the products were purchased. Buyer will then receive from Seller a Returned Goods Authorization Number. If Seller in good faith determines that any error was not Seller's, a restocking charge will be made to Buyer on any products returned for credit or exchange.

(c) Stock returns shall be submitted to Seller within ten (10) days after Buyer's receipt and are subject to the fees imposed by original supplier or manufacturer. If return is authorized, Buyer will then receive from Seller a Returned Goods Authorization Number.

Failure to strictly comply with the Claims and Returns procedure set forth herein shall be a complete waiver and bar to any claim or to any setoff.

**Limited Warranty:** THERE ARE NO REPRESENTATIONS AND/OR WARRANTIES BY SELLER, EITHER EXPRESSED OR IMPLIED, and WHICH EXTEND BEYOND THE MANUFACTURER'S WARRANTY. SELLER DOES NOT KNOW OR HAVE REASON TO KNOW OF ANY PARTICULAR PURPOSE FOR WHICH BUYER REQUIRES THE GOODS/PRODUCTS AND DOES NOT REPRESENT THAT THE GOODS/PRODUCTS SHALL BE FIT FOR ANY PARTICULAR PURPOSE. BUYER IS NOT RELYING ON SELLER'S SKILL OR JUDGMENT IN THE SELECTION, PURCHASE, INSTALLATION AND/OR USE OF THE GOODS/PRODUCTS. THE PRODUCTS/GOODS ARE SOLD BY SELLER "AS IS."

The Seller warrants to the original purchaser that products sold not manufactured by Seller are provided without any warranty, except for those of the manufacturer of the product. The Seller warrants to the Buyer that products of its own manufacturer to be delivered hereunder will be free from defects in materials or workmanship under normal use and service for a period of twelve (12) months from date of start-up or delivery or installation; warranty not to exceed eighteen (18) months from date of shipment. Seller's obligations under this Warranty are limited to replacing or repairing or giving credit for, at Seller's option, any of said products which shall, within twelve (12) months after shipment, and which are, after examination, disclosed to the Seller's satisfaction to be thus defective. This warranty does not apply to defects caused by shipping damages, or to any products sold or manufactured by Seller which have been subject to improper storage, installation, maintenance, misuse, neglect, negligence, accident, ordinary wear and tear, or by Buyer's attempts to use any product

beyond its mechanical, thermal or electrical capacity. Notice of a defective product must be given to Seller in writing by certified return receipt requested mail within ten (10) days of the date the defect is discovered or should have been discovered. A purchase order or recognized purchase order number shall be required in advance for all service appointments by Seller (beyond those that are included in our quoted contract). If upon inspection, at the sole discretion of Seller, the products in question are determined to be defective, the Buyer's purchase order will either be voided or credited and material repaired or replaced pursuant to the manufacturer's warranty. The aforementioned provisions do not extend the original Warranty period of any product that has been either repaired or replaced by Seller.

Any modifications, changes and/or repairs to Seller's goods/products without Seller's written authorization shall void any and all warranties. Any and all warranties are null and void if Seller's goods/products are stored at the jobsite for longer than 60 days, and/or are stored at the jobsite without appropriate protection from damage and weather conditions.

**Liquidated Damages/Back Charges:** Seller is not liable for any liquidated damages or back charges unless otherwise agreed to in writing signed by Seller's duly authorized agent.

**Limitation of Liability and Waiver of Consequential Damages:** Any liability of Seller related to the sale, manufacture, delivery, resale, installation, or use of any goods/products sold by or furnished by Seller shall be exclusively limited to Seller's choice of any one of the following: (a) the repair of goods/products; (b) the replacement of the goods/products; or (c) the cancellation of the contract/purchase order, Buyer's return of the goods/products in question to Seller, and Seller's refund of the purchase price to Buyer. BUYER WAIVES ALL OTHER REMEDIES. In addition, except for those damages specifically recoverable by the Buyer or Supplier as set forth in these Terms and Conditions, Seller shall not be liable to Buyer, whether such liability arises out of contract, tort (including negligence), strict liability or any other cause or form of action whatsoever, for lost profits, loss of anticipated profits, lost revenue or loss of use of the Installation, service interruption, cost of purchased or replacement power, cost of money, loss of use of capital or revenue or any other special, incidental, indirect or consequential loss or damage of any nature, arising out of or in connection with the Purchase Order.

**Indemnity:** Buyer shall indemnify, defend and hold harmless Seller and its Suppliers from and against any and all claims, lawsuits, or demands by any third party, including but not limited to claims, demands, losses, cost, suits, other litigation, or liability for death or injury to any person and/or for loss of or damage to any property, arising out of or in connection with the goods, materials and products covered by this Terms and Conditions and/or acts or omissions to act of Buyer.

**Formation of Contract:** It is fully understood by the Buyer that a Letter of Intent (LOI) and/or a purchase order (PO) issued by the Buyer to the Seller, in reference to the Seller's quotation, shall constitute a binding contract pursuant to CPC Co.'s Terms and Conditions. Additionally, CPC Co.'s Terms and Conditions are incorporated into any and all LOI and/or PO as though fully set forth in the LOI and/or POs. CPC Co.'s Terms and Conditions govern in case of any conflict between any documents issued by Buyer.

**Severability:** If any part of these CPC Co.'s Terms and Conditions are held invalid or unconscionable, that part shall be fully severable, and the remaining provisions shall remain in full force and effect.

**Entire Agreement:** This document, and any credit application constitute the entire understanding between Buyer and CPC Co. and shall supersede all other oral or written representations, warranties, statements, promises, understandings with respect to the subject matter hereof, and may not be modified or terminated, except by a written documents signed by both Buyer and Seller.

**Electronic/Fax Copies:** Buyer and Seller agree that this agreement may be executed in counterparts, and that signatures to this agreement transmitted via facsimile, email or other electronic means shall serve as original signatures for all purposes.

**Shipping Insurance:** Buyer and Seller agree that unless otherwise agreed upon by both parties in writing, freight insurance will be purchase on behalf of the buyer at the buyer's expense.