

AUTHORIZATION FOR AGREEMENTS, MOUs, OR OTHER DOCUMENTS OBLIGATING THE CITY

All contracts, agreements, grant agreements, memoranda of understanding, or any document obligating the city (with the exception of purchase orders), requires the completion of this form. The City Manager will sign these documents after all other required information and signatures are obtained.

Document: Northstar Bulk Tank Agreement Date: 5/17/2024

Statement of Purpose: Sodium bio-sulfite bulk tank for de-chlor at Northside

Department Head Signature: [Signature]

Remarks, if any: _____

City Attorney Review and Signature: See Attachment Date: 5/14/24

Other Signatures as Requested by the City Attorney: _____

Name/Position
Date: _____

Budget Confirmed: Yes No N/A

Certificate of Insurance Attached: Yes No N/A

City Council Approval Needed: Yes No Date: 5-20-24

After all the above requested information is complete and signatures obtained, return this form, along with the original document to the City Manager for signature. No documents should be executed prior to the City Manager's approval as evidenced by signature of this document.

City Manager Signature: [Signature] Date: 5-21-24

Once all signatures and certificates of insurance have been obtained, return this document, along with the original, fully-executed agreement, MOU, or other document to the City Recorder. A copy of grant agreement and all project funding documents, must be forwarded to the Finance Department for tracking and audit purposes.

City Recorder Signature: _____ Date: _____

Date posted on website: _____

Steve Stewart

From: David Allen
Sent: Sunday, May 19, 2024 6:25 PM
To: Steve Stewart; Spencer Nebel; Erik Glover; Robert Moser
Cc: DJ Fox; Melanie Nelson
Subject: Re: 750 gallon SBS tank revision
Attachments: 750 safetank 38 SBS Tank Agreement Revised.doc

You can use this e-mail to confirm review for the attached agreement (as revised). --David

From: Steve Stewart
Sent: Thursday, May 16, 2024 12:39 PM
To: Spencer Nebel; Erik Glover; David Allen; Robert Moser
Cc: DJ Fox; Melanie Nelson
Subject: FW: 750 gallon SBS tank revision

Northstar has excepted the changes that David made. I will print this and put in Spencer box for signature.

Thank you,

Steve Stewart
Acting Public Works Dir. for
Water Filtration & Wastewater Treatment Facilities City of Newport
2810 NE Big Creek Rd.
Newport, OR 97365
s.stewart@newportoregon.gov
O (541) 574-5871

PUBLIC RECORDS LAW DISCLOSURE. This e-mail is a public record of the City of Newport, and is subject to public disclosure unless exempt from disclosure under Oregon Public Records Law. This e-mail is subject to the State Records Retention Schedule for Cities.

From: John O'Halloran <johalloran@northstarchemical.com>
Sent: Thursday, May 16, 2024 11:21 AM
To: Steve Stewart <S.Stewart@NewportOregon.gov>
Cc: DJ Fox <D.Fox@NewportOregon.gov>
Subject: 750 gallon SBS tank revision

[WARNING] This message comes from an external organization. Be careful of embedded links.

Steve and DJ,

We have accepted the changes to the tank agreement made by your legal team there at the city. The tank agreement is ready for your signature and then we can get the tank on order.

Resp.,

John O'Halloran
Account Manager

(503)519.5101 cell
johalloran@northstarchemical.com
www.northstarchemical.com

Northstar Chemical

PRODUCT & EQUIPMENT AGREEMENT

The agreement made by and between **City of Newport, 169 SW Coast Hwy, Newport, OR 97365**, for its **WWTP located at 5525 SE 50th Pl., South Beach, OR 97366**, hereafter referred to as "Buyer", and **NORTHSTAR CHEMICAL INC., 14200 SW Tualatin-Sherwood Road, Sherwood, OR 97140**, hereafter referred to as **NORTHSTAR CHEMICAL** and, or "Seller".

- Buyer agrees to purchase and receive from said Seller the Product herein described for a period of (3) years from the later of the signed acceptance dates below with three (1) year renewal term periods, subject to termination by Buyer or Seller upon sixty (60) days prior written notice to the end of each term; and subject to the terms and conditions below and on the attached paged.

Material	Quantity	Additional Notes
38% Sodium Bi-Sulfite	**Buyer agrees to order a minimum of 70% of tank capacity with every order. No minimum annual usage volume will be required with this tank**	\$.525/#
Fuel Surcharge	Per Delivery	\$65.00

Deliveries are to be made with a minimum three-business day lead-time and in approximately equal installments throughout the term of this Agreement. The buyer agrees to order a minimum of 70% of tank capacity.


- Terms shall be Net 30 days from the date of delivery.
- Seller agrees to provide the following equipment to Buyer subject to terms & conditions below, and on the reverse side.

Tank Size	Specifics	Secondary Containment Size	Specifics
750 gallon	750-gallon safetank with RLI, Fill Hose, 1" Well Pipe with Foot Valve	800	

- The buyer agrees to use the said Storage Tank(s) only for the storage of Product(s) listed above obtained from Northstar Chemical. Northstar Chemical makes no warranty (including expressed or implied warranties) of any kind and does not accept any liability for damages to persons and property, resulting from any other party, person or entity, including Buyer or its agents, filling the Storage Tank(s), improperly storing material or filling the Storage Tank(s) with incompatible material, or mishandling the Storage Tank(s) and Equipment.
- The buyer agrees to keep any secondary containment vessel clean and dry of all materials and any drain valve on containment closed at all times except with respect to monitored removal of accumulated materials. The buyer is responsible for complying with all federal, state or local regulations in the treatment or disposal of such materials.
- Storage Tank(s) and Equipment will remain the sole property of NORTHSTAR CHEMICAL while in Buyer's possession. No party other than NORTHSTAR CHEMICAL or its agent(s) may fill said Storage Tank(s). The buyer shall do all things reasonably necessary to protect the title of NORTHSTAR CHEMICAL to said Storage Tank(s) and Equipment.
- Buyer agrees to notify NORTHSTAR CHEMICAL immediately by telephone, (and in writing within 24 hours) of any defects, problems or complaints related to the Storage Tank(s) and Equipment and agrees that it will have no remedy against NORTHSTAR CHEMICAL unless such notice is given. NORTHSTAR CHEMICAL may enter Buyer's premises to maintain and / or repair said Storage Tank(s) and Equipment at a reasonable time and when scheduled with Buyer. NORTHSTAR CHEMICAL will carry a General Liability Insurance policy of \$1,000,000 per occurrence and \$2,000,000 general aggregate for damages with Buyer (City of Newport) listed as an additional insured, which result from any incident caused by NORTHSTAR CHEMICAL related to filling of the Storage Tank(s), or damage to or maintenance or repair of the Storage Tank(s) by NORTHSTAR CHEMICAL. NORTHSTAR CHEMICAL'S responsibility is limited to maintenance and repair of the Storage Tank(s). The buyer will maintain and repair any air abatement device including proper solution level and/or pH, site tube, pumps, piping or any other equipment. The buyer also agrees to maintain prudent levels of public liability and property damage insurance throughout the term of the Agreement.
- Buyer shall assist NORTHSTAR CHEMICAL and take full responsibility in the determination of the locations of said Storage Tank(s) and Equipment on the property of Buyer and shall be responsible for acquiring and complying with any required permits for the equipment or installation. The buyer shall not move Storage Tank(s) and Equipment without the prior written consent of NORTHSTAR CHEMICAL.
- Should Buyer decide to discontinue purchase of NORTHSTAR CHEMICAL Product(s), in accordance with the terms of this Agreement, Buyer shall purge and clean the Storage Tank(s) of all Product and residue and return to NORTHSTAR CHEMICAL freight prepaid, or allow NORTHSTAR CHEMICAL free access to remove said Storage Tank(s) and Equipment with Buyer to pay for reasonable transportation, pump-out and disposal costs.

Accepted (for Buyer):

Accepted (for Seller): Northstar Chemical, Inc.

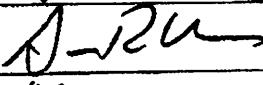
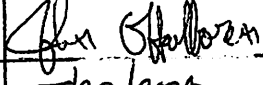
Print Name	Spencer R. Nebel	Print Name	
Signature		Signature	
Date	May 21, 2024	Date	

CONDITIONS TO PRODUCT/EQUIPMENT AGREEMENT

- A. If, during the period covered by this Product and Equipment Agreement (hereafter referred to as the "Agreement"), Buyer can purchase Product of equal quality and quantity, and for a like use from a manufacturer located within the United States at lower prices than specified herein, Seller shall from month to month upon presentation of satisfactory written evidence thereof, either meet said lower prices during the time in which they continue to be lower or permit Buyer to purchase such comparable Product elsewhere during such time. Quantities so purchased shall be deducted from the quantity otherwise deliverable hereunder.
- B. When in the opinion of Seller there is a period of shortage of supply of said Product for any reason, Seller may allocate its available supply among any or all of its various customers upon such basis as it shall deem fair and practicable with no liability on its part for failure to deliver the quantity or any portion thereof herein specified.
- C. Prices are subject to change with thirty (30) days prior written notification by Seller.
- D. Either Seller or Buyer shall be excused from performance of their obligations hereunder when and to the extent that such performance is delayed or prevented by any circumstances reasonably beyond its control or by fire, explosion, any strike or labor dispute or any act or omission of any Governmental authority (including, in Buyer's case, if its need for the Material or Work is reduced or eliminated, and in Seller's case, if there is a shortage of Material or Seller is unable to obtain (on terms and conditions deemed economically and commercially practicable by Seller) any raw material (including energy), equipment or transportation. Additionally, if either party determines that it will incur economic hardship at any time during the term of the agreement because of a change in circumstances from those which existed at the time the agreement started, including but not limited to cost increases sustained by Seller (for example, costs related to energy and transportation) which Seller cannot immediately pass through to Buyer, said party incurring economic hardship may terminate the agreement with respect to future purchases if the other party cannot or will not agree to grant relief from such economic hardship within seven (7) days from the date the party to incur such hardship requests relief.
- E. Seller holds the right to remove the storage tank in the event that the Seller determines that the Buyer is not handling, storing or applying the Product in a safe, lawful or responsible manner and if the Customer's purchase of the product is below the Buyer's stated Total Annual Requirement.
- F. If Seller shall be unable, by reason of any governmental decision, order, or law, to sell the Product at the prices herein specified or at such other prices as it may desire to establish under the provisions of paragraph "C" aforesaid, Seller may terminate this Agreement by mailing thirty (30) days prior written notice to Buyer.
- G. All payments due under this Agreement shall be made in lawful money of the United States at the office of the Seller. A security interest in all goods sold under this Agreement, and in any proceeds therefrom, remains in the Seller until the full purchase price shall have been paid in cash. On request, Buyer shall execute and deliver or cause to be executed and delivered, to Seller, any and all documents or financial statements which the Seller will reasonably require to perfect and/or protect Seller's security interest in the goods or proceeds.
- H. If Buyer shall fail to make payments when same becomes due or if Seller shall become dissatisfied as to Buyer's financial responsibility or if Buyer files a voluntary petition under any Federal or State Bankruptcy Act or is adjudicated bankrupt, Seller may decline to make deliveries under this Agreement, except upon receipt of cash or satisfactory security.
- I. Seller makes no warranty of any kind whatsoever, either expressed or implied, except the warranty that the Product sold shall be meet specifications attached hereto and be of merchantable quality. To the extent permitted by the Oregon Constitution and Oregon Tort Claims Act, Buyer assumes complete responsibility for and agrees to hold Seller and its officers and employees harmless and defend and indemnify them from all results, including damage to and loss of property and injury to or death of persons, arising out of the handling, storage or use of said Product or Equipment by Buyer or any other person or entity, whether or not said Product or Equipment is handled, stored, transported, disposed or used singly or in conjunction with other products. Further, Seller does not guarantee that the Product shall be free from patent infringements. (based on buyers use).
- J. The buyer shall be entitled to only rely on the manufacturer's warranty for the Equipment. NORTHSTAR CHEMICAL specifically disclaims all guarantees and warranties, expressed or implied, including warranties of fitness for a particular purpose or performance of the primary and secondary tank bottom outlet system. The buyer agrees to assert any warranty claims against the manufacturer of the equipment and agrees not to assert any such claim against NORTHSTAR CHEMICAL. To the extent permitted by the Oregon Constitution and Oregon Tort Claims Act, Buyer agrees to indemnify, defend and hold harmless NORTHSTAR CHEMICAL from any claim or demand relating to damages from anything other than NORTHSTAR Chemical's maintenance or repair of the Storage Tank and NORTHSTAR CHEMICAL being found to be negligent or to act willfully, except as otherwise indicated in this Agreement. This indemnification will include any reasonable attorney's fees and costs.
- K. NORTHSTAR CHEMICAL specifically disclaims all guarantees and warranties, expressed or implied, including warranties of fitness for a particular purpose. To the extent permitted by the Oregon Constitution and Oregon Tort Claims Act, the Buyer agrees to indemnify, defend and hold harmless NORTHSTAR CHEMICAL from any claim or demand relating to damages from anything other than NORTHSTAR CHEMICAL's filling, maintenance or repair of the Storage Tank. This indemnification will include any reasonable attorney's fees and costs.
- L. Seller shall not be liable for any failure to perform this Agreement where such failure is due to circumstances beyond its control. Circumstances beyond the control of the Seller shall be deemed to include but shall not be limited to the following: Act of God, fire, flood, war, government action, accident, labor trouble and inability to obtain Product, equipment or transportation.
- M. Prices herein specified are based upon present taxes (other than sales taxes), freight rates, Internal Revenue charges, United States Tariff classifications, and import duties. Any increased costs resulting from changes in the aforesaid or from Buyer's selection of means of transportation shall be charged to Buyer. Further, Buyer shall reimburse Seller for all taxes or other charges by any national, state or municipal government upon the sale, use, production, or transportation of materials, which Seller shall be required to pay. All war-risk insurance, harbor charges, tolls, wharfage, demurrage, wharf handling or warehousing, together with any increase over current rates on marine or other insurance, shall be charged to Buyer as an addition to prices specified.
- N. No claim of any kind, whether as to Product delivered or for non-delivery of goods, shall be greater in amount than this Agreements purchase price of the Products in respect of which such damages are claimed, and failure to give notice of claim within ten (10) days from date of delivery, or the date fixed for delivery, whichever date is

Accepted (for Buyer):

Accepted (for Seller): Northstar Chemical, Inc.

Print Name	Spencer R. Nebel	Print Name	John O'Halloran
Signature		Signature	
Date	May 21, 2024	Date	5/22/2024

CONDITIONS TO PRODUCT/EQUIPMENT AGREEMENT

- A. If, during the period covered by this Product and Equipment Agreement (hereafter referred to as the "Agreement"), Buyer can purchase Product of equal quality and quantity, and for a like use from a manufacturer located within the United States at lower prices than specified herein, Seller shall from month to month upon presentation of satisfactory written evidence thereof, either meet said lower prices during the time in which they continue to be lower or permit Buyer to purchase such comparable Product elsewhere during such time. Quantities so purchased shall be deducted from the quantity otherwise deliverable hereunder.
- B. When in the opinion of Seller there is a period of shortage of supply of said Product for any reason, Seller may allocate its available supply among any or all of its various customers upon such basis as it shall deem fair and practicable with no liability on its part for failure to deliver the quantity or any portion thereof herein specified.
- C. Prices are subject to change with thirty (30) days prior written notification by Seller.
- D. Either Seller or Buyer shall be excused from performance of their obligations hereunder when and to the extent that such performance is delayed or prevented by any circumstances reasonably beyond its control or by fire, explosion, any strike or labor dispute or any act or omission of any Governmental authority (including, in Buyer's case, if its need for the Material or Work is reduced or eliminated, and in Seller's case, if there is a shortage of Material or Seller is unable to obtain (on terms and conditions deemed economically and commercially practicable by Seller; any raw material (including energy), equipment or transportation. Additionally, if either party determines that it will incur economic hardship at any time during the term of the agreement because of a change in circumstances from those which existed at the time the agreement started, including but not limited to cost increases sustained by Seller (for example, costs related to energy and transportation) which Seller cannot immediately pass through to Buyer, said party incurring economic hardship may terminate the agreement with respect to future purchases if the other party cannot or will not agree to grant relief from such economic hardship within seven (7) days from the date the party to incur such hardship requests relief.
- E. Seller holds the right to remove the storage tank in the event that the Seller determines that the Buyer is not handling, storing or applying the Product in a safe, lawful or responsible manner and if the Customer's purchase of the product is below the Buyer's stated Total Annual Requirement.
- F. If Seller shall be unable, by reason of any governmental decision, order, or law, to sell the Product at the prices herein specified or at such other prices as it may desire to establish under the provisions of paragraph "C" aforesaid, Seller may terminate this Agreement by mailing thirty (30) days prior written notice to Buyer.
- G. All payments due under this Agreement shall be made in lawful money of the United States at the office of the Seller. A security interest in all goods sold under this Agreement, and in any proceeds therefrom, remains in the Seller until the full purchase price shall have been paid in cash. On request, Buyer shall execute and deliver or cause to be executed and delivered, to Seller, any and all documents or financial statements which the Seller will reasonably require to perfect and/or protect Seller's security interest in the goods or proceeds.
- H. If Buyer shall fail to make payments when same becomes due or if Seller shall become dissatisfied as to Buyer's financial responsibility or if Buyer files a voluntary petition under any Federal or State Bankruptcy Act or is adjudicated bankrupt, Seller may decline to make deliveries under this Agreement, except upon receipt of cash or satisfactory security.
- I. Seller makes no warranty of any kind whatsoever, either expressed or implied, except the warranty that the Product sold shall be meet specifications attached hereto and be of merchantable quality. To the extent permitted by the Oregon Constitution and Oregon Tort Claims Act, Buyer assumes complete responsibility for and agrees to hold Seller and its officers and employees harmless and defend and indemnify them from all results, including damage to and loss of property and injury to or death of persons, arising out of the handling, storage or use of said Product or Equipment by Buyer or any other person or entity, whether or not said Product or Equipment is handled, stored, transported, disposed or used singly or in conjunction with other products. Further, Seller does not guarantee that the Product shall be free from patent infringements. (based on buyers use).
- J. The buyer shall be entitled to only rely on the manufacturer's warranty for the Equipment. NORTHSTAR CHEMICAL specifically disclaims all guarantees and warranties, expressed or implied, including warranties of fitness for a particular purpose or performance of the primary and secondary tank bottom outlet system. The buyer agrees to assert any warranty claims against the manufacturer of the equipment and agrees not to assert any such claim against NORTHSTAR CHEMICAL. To the extent permitted by the Oregon Constitution and Oregon Tort Claims Act, Buyer agrees to indemnify, defend and hold harmless NORTHSTAR CHEMICAL from any claim or demand relating to damages from anything other than NORTHSTAR Chemical's maintenance or repair of the Storage Tank and NORTHSTAR CHEMICAL being found to be negligent or to act willfully, except as otherwise indicated in this Agreement. This indemnification will include any reasonable attorney's fees and costs.
- K. NORTHSTAR CHEMICAL specifically disclaims all guarantees and warranties, expressed or implied, including warranties of fitness for a particular purpose. To the extent permitted by the Oregon Constitution and Oregon Tort Claims Act, the Buyer agrees to indemnify, defend and hold harmless NORTHSTAR CHEMICAL from any claim or demand relating to damages from anything other than NORTHSTAR CHEMICAL's filling, maintenance or repair of the Storage Tank. This indemnification will include any reasonable attorney's fees and costs.
- L. Seller shall not be liable for any failure to perform this Agreement where such failure is due to circumstances beyond its control. Circumstances beyond the control of the Seller shall be deemed to include but shall not be limited to the following: Act of God, fire, flood, war, government action, accident, labor trouble and inability to obtain Product, equipment or transportation.
- M. Prices herein specified are based upon present taxes (other than sales taxes), freight rates, Internal Revenue charges, United States Tariff classifications, and import duties. Any increased costs resulting from changes in the aforesaid or from Buyer's selection of means of transportation shall be charged to Buyer. Further, Buyer shall reimburse Seller for all taxes or other charges by any national, state or municipal government upon the sale, use, production, or transportation of materials, which Seller shall be required to pay. All war-risk insurance, harbor charges, tolls, wharfage, demurrage, wharf handling or warehousing, together with any increase over current rates on marine or other insurance, shall be charged to Buyer as in addition to prices specified.
- N. No claim of any kind, whether as to Product delivered or for non-delivery of goods, shall be greater in amount than this Agreement's purchase price of the Products in respect of which such damages are claimed, and failure to give notice of claim within ten (10) days from date of delivery, or the date fixed for delivery, whichever date is

applicable, shall constitute a waiver by the Buyer of all claims in respect of such Product. The product shall not be returned to Seller without Seller's permission. No claim shall be allowable after goods have been processed in any manner.

- O. For mini-bulk deliveries, the obligation of Seller to deliver Product shall be deemed fulfilled when it has delivered the same in the merchantable condition into the Storage Tanks(s) at Buyer's location. For mini-bulk deliveries, risk and expense of loss or damage to all Product sold hereunder shall pass to Buyer upon delivery into Storage Tank(s) at Buyer's location.
- P. For full tank truck or railcar quantities, the obligation of seller to deliver Product shall be deemed fulfilled when it has delivered the same in good condition to a carrier at shipping point, the carrier acting as an agent of Buyer, or to Buyer's location if Seller delivers directly thereto. Risk and expense of loss or damage to all Product sold hereunder shall pass to Buyer upon Seller's delivery to a carrier at shipping point, or to Buyer's location if Seller delivers directly thereto.
- Q. Seller's weights taken at the shipping point shall govern for full tank truck quantity. Seller's small bulk truck delivery will be determined by the volume unloaded at the delivery point.
- R. Buyer shall not assign its rights or delegate its duties under this Agreement, in whole or in part, without the prior written consent of Seller.
- S. It is expressly understood that any technical advice furnished by Seller with reference to the use of its Product is given gratis and as a courtesy and Seller assumes no obligation or liability for the advice given or results obtained, all such advice being given and accepted at Buyer's risk.
- T. The waiver of any breach of the terms and conditions of this Agreement shall not be deemed to be a waiver of any subsequent breach of the terms and conditions hereof.
- U. This Agreement constitutes the entire contract between the parties for sale and purchase of Equipment specified herein. It shall not be altered or amended, nor its terms waived, except by an instrument in writing, signed by the parties to be bound thereby. No terms or conditions other than those contained in this Agreement, and no agreement or understanding in any way modifying, conflicting with or changing the terms and conditions of the Agreement, shall be binding on Seller or otherwise alter, or restrict the terms of this Agreement unless specifically agreed to in writing by the Seller.
- V. The Agreement shall be binding upon and inure to the benefit of Buyer and Seller and their respective successors. If any provision in this Agreement is invalid or unenforceable in any respect, the validity or enforceability of the remaining provisions of this Agreement shall not be affected. The Agreement shall be governed by the laws of the State of Oregon.
- W. Northstar Chemical responsibility is specifically limited only to damages which result from Northstar Chemical filling the equipment and if Northstar Chemical is found to be negligent or to act willfully.

Accepted By (initial):

Date

	
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