



Amendment No. 5  
To  
Contract No. GA170000014  
For  
Asphalt Emulsions  
Between  
Ergon Asphalt and Emulsions, Inc.  
and the  
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be February 28, 2021 through February 27, 2022. No options will remain.
- 2.0 The total contract amount is increased by \$1,580,278.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 02/28/2017 – 02/27/2020	\$4,639,444.00	\$4,639,444.00
Amendment No. 1: Option 1 – Extension 03/21/2017	\$0.00	\$4,639,444.00
Amendment No. 2: Commodity Pricing Increase 02/28/2019	\$0.00	\$4,639,444.00
Amendment No. 3: Option 1 – Extension 02/28/2020 - 02/27/2021 Price Increase 02/28/2020	\$1,580,278.00	\$6,219,722.00
Amendment No. 4: Item Addition (Items 7 & 8) 10/22/2020	\$0.00	\$6,219,722.00
Amendment No. 5: Option 2 – Extension 02/28/2021 – 02/27/2022	\$1,580,278.00	\$7,800,000.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: David Stroud / 01-27-2021

Printed Name: DAVID STROUD  
Authorized Representative

Ergon Asphalt and Emulsions, Inc.  
11612 FM 2244, Building 1, Suite 250  
Austin, Texas 78738-5516  
(512) 469-9292  
[beth.roe@ergon.com](mailto:beth.roe@ergon.com)

Sign/Date: Matthew Duree  
Digitally signed by  
Matthew Duree  
Date: 2021.02.25  
09:21:25 -06'00'

Matthew Duree  
Procurement Manager  
City of Austin  
Purchasing Office  
124 W. 8th Street, Ste. 310  
Austin, Texas 78701



Amendment No. 4  
to  
Contract No. MA 6200 GA170000014  
for  
Asphalt Emulsions  
between  
Ergon Asphalt and Emulsions, Inc.  
and the  
City of Austin, Texas

1.0 The City hereby amends the above referenced contract to add two (2) new Line Items to the Contract.

Item #	Product	Contract Price
7	Asphalt Emulsion BC-1HT	\$2.50/Gal
8	Asphalt Emulsion BC-1HT (Delivered)	\$2.67/Gal

2.0 The total Contract amount is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 02/28/2017 - 02/27/2020	\$4,639,444.00	\$4,639,444.00
Amendment No. 1: Item Clarification 03/21/2017	\$0.00	\$4,639,444.00
Amendment No. 2: Commodity Pricing Increase 02/28/2019	\$0.00	\$4,639,444.00
Amendment No. 3: Option 1 - Extension 02.28/2020 - 02/27/2021 Price Increase 02/28/2020	\$1,580,278.00	\$6,219,722.00
Amendment No. 4 - Item Addition 10/22/2020	\$0.00	\$6,219,722.00

3.0 MBE/WBE goals were not established for this contract.

4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

5.0 All other terms and conditions remain the same

BY THE SIGNATURE(S) affixed below, this Amendment is hereby incorporated and made a part of the above referenced contract.

Sign/Date: DAVID STROUD OCTOBER 28, 2020

Printed Name: David Stroud  
Authorized Representative

Ergon Asphalt and Emulsions, Inc.  
11612 FM2244, Bldg. 1, Ste 250  
Austin, TX 78738-5516

Matthew  
Duree  
Sign/Date: \_\_\_\_\_  
Digitally signed by  
Matthew Duree  
Date: 2020.10.29  
10:23:21 -05'00'

Matthew Duree  
Procurement Manager

City of Austin  
Purchasing Office  
124 W. 8<sup>th</sup> Street, Ste 310  
Austin, TX 78701



Amendment No.3  
to  
Contract No. MA 6200 GA170000014  
for  
Asphalt Emulsions  
between  
Ergon Asphalt and Emulsions, Inc.  
and the  
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be February 28, 2020 through February 27, 2021. One extension option will remain.
- 2.0 Price increases per the following contracted items:

Item #	Product	Previous Contract Price	New Contract Price
1	HFRS-2P	\$ 2.19	\$ 2.55
2	SS-1	\$ 1.94	\$ 2.25
3	CBC-1H	\$ 2.38	\$ 2.50
4	HFRS-2P (Delivered)	\$ 2.32	\$ 2.70
5	SS-1 (Delivered)	\$ 2.07	\$ 2.40
6	CBC-1H (Delivered)	\$ 2.54	\$ 2.67

- 3.0 The total contract amount is increased by \$ 1,580,278.00, each and combined, by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 02/28/2017 – 02/27/2020	\$4,639,444.00	\$4,639,444.00
Amendment No. 1: Item Clarification 03/21/2017	\$0.00	\$4,639,444.00
Amendment No. 2: Commodity Pricing Increase 02/28/2019	\$0.00	\$4,639,444.00
Amendment No. 3: Option 1 -Extension 02/28/2020 – 02/27/2021 Price Increase 02/28/2020	\$1,580,278.00	\$6,219,722.00

- 4.0 MBE/WBE goals do not apply to this contract
- 5.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 6.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: David Stroud 02/27/2020

Sign/Date: [Signature] 2-28-20

Printed Name: DAVID STROUD  
Authorized Representative

Matthew Duree  
Procurement Manager

Ergon Asphalt and Emulsions, Inc.  
11612 FM 2244, Bldg. 1, Ste 250  
Austin, TX 78738-5516

City of Austin  
Purchasing Office  
124 W. 8<sup>th</sup> Street, Ste 310  
Austin, TX 78701





Amendment No. 2  
to  
Contract No. 6200 GA170000014  
for  
Asphalt Emulsions  
between  
Ergon Asphalt and Emulsions, Inc.  
and the  
City of Austin

1.0 The City hereby modifies the above referenced contract to make the following change:

2.0 Price increase per the following contracted items:

Item #	Product	Old Price	New Price with Increase
1	HFRS-2P	\$1.75	\$2.19
2	SS-1	\$1.55	\$1.94
3	CBC-1H	\$1.90	\$2.38
4	HFRS-2P (Delivered)	\$1.8586	\$2.32
5	SS-1 (Delivered)	\$1.6586	\$2.07
6	CBC-1H (Delivered)	\$2.0965	\$2.54

3.0 The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 02/28/2017 – 02/27/2020	\$4,639,444.00	\$4,639,444.00
Amendment No. 1: Item Clarification 03/21/2017	\$0.00	\$4,639,444.00
Amendment No. 2: Commodity Pricing Increase 02/28/2019	\$0.00	\$4,639,444.00

4.0 MBE/WBE goals do not apply to this contract.

5.0 By signing this Amendment, the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

6.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: David Stroud 01/29/2019

Printed Name: DAVID STROUD  
Authorized Representative

Ergon Asphalt and Emulsions, Inc.  
11612 FM 2244 Bldg 1 STE 250  
Austin, TX 78738-5516

Sign/Date: Bartley J. Tyler 1/29/19

Printed Name: Bartley Tyler  
Authorized Representative  
City of Austin  
Purchasing Office  
124 W. 8<sup>th</sup> Street, Ste. 310  
Austin, Texas 78701

Approved By: Leadman 2-27-19  
Erin Duvicent



11612 RM 2244 (Bee Caves Road)  
Building 1, Suite 250  
Austin, TX 78738  
An Ergon Company

January 17, 2019

Ms. Michelle D. Pearson  
Procurement Specialist II  
City of Austin – Purchasing Office  
124 West 8<sup>th</sup> Street  
Austin, Texas 78701

RE: Price Adjustment for Asphalt Emulsions  
Contract Number MA 6200 GA170000014  
Solicitation Number KDS0102

Dear Ms. Pearson:

As the anniversary date of the subject contract is approaching, Ergon Asphalt & Emulsions, Inc. respectfully requests a price increase over our current pricing per Item 15 of the Supplemental Purchase Provisions.

To put things in perspective, on November 29, 2016, Ergon Asphalt & Emulsions, Inc. bid this contract. At that time the raw material asphalt we use to produce the products on this contract was selling from \$265-\$305 per ton. Today, the average raw material cost is \$420-\$495 per ton (see attached *Poten & Partners* report used by TxDOT for increases on their SmartBuy system). We therefore request your approval of an economic adjustment increase as shown below.

<u>Item #</u>	<u>Product</u>	<u>Current Price</u>	<u>Proposed Price</u>
1	HFRS-2P	\$1.75	\$2.19
2	SS-1	\$1.55	\$1.94
3	CBC-1H	\$1.90	\$2.38
4	HFRS-2P (Delv'd)	\$1.8586	\$2.32
5	SS-1 (Delivered)	\$1.6586	\$2.07
6	CBC-1H (Delv'd)	\$2.0965	\$2.54

As you can see from our current emulsion rack prices for the month of January (also attached), our proposed prices for the City of Austin are significantly lower than those our customers pay at the plants.

Ms. Michelle Pearson  
City of Austin – Purchasing Department  
January 17, 2019

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Your consideration of this Economic Adjustment Increase by the City of Austin would be greatly appreciated to help offset our increase in raw material cost. Please let us know if this increase is acceptable to the City of Austin. Cody Chambliss, your Area Sales Manager, is available if you would like to discuss or if you have any questions. Cody can be reached on his cell at (512) 618-5313.

Sincerely,



David Stroud  
Texas Regional Manager

DS:ks

Attachments –

Poten & Partners *Asphalt Weekly Monitor* (01/11/2019)

Ergon Monthly Emulsion Rack Prices – All Plants (01/01 – 01/31/19)



Amendment No. 1  
to  
Contract No. GA170000014  
for  
Asphalt Emulsions  
between  
Ergon Asphalt and Emulsions, Inc.  
and the  
City of Austin, Texas

1.0 The City hereby modifies the above referenced contract to make the following changes:

1.1 Clarification to replace the discontinued item CQS-1HT with CBC-1H, a replacement item in similar construction, quality, and performance.

2.0 The total contract amount is increased by \$0.00. The total Contract authorization is recapped below:

Term	Contract Amount for the Item	Total Contract Amount
Basic Term: 02/28/2017 – 02/27/2020	\$4,639,444.00	\$4,639,444.00
Amendment No. 1: Item Clarification 03/21/2017	\$0.00	\$4,639,444.00

3.0 MBE/WBE goals do not apply to this contract.

4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

**ERGON ASPHALT AND EMULSIONS, INC.**

David Stroud  
Signature

DAVID STROUD  
Printed Name of Authorized Person

TEXAS REGIONAL MANAGER  
Title

MARCH 21, 2017  
Date

**CITY OF AUSTIN**

Danielle Lord  
Signature

DANIELLE LORD  
Printed Name of Authorized Person

PROCUREMENT MANAGER  
Title

3/21/2017  
Date

## Tracking Resistant Asphalt Interlayer (TRAIL)

**NOTE: Refresh the page to view the most current list.**

The following tracking-resistant asphalt interlayer (TRAIL) materials are pre-approved for use on Department projects. TRAIL is applied to asphalt pavement surface as a tack coat or sealant before the installation of new asphalt concrete. Contact CST/M&P's Asphalt, Chemical, and Calibration Branch at (512) 506-5818 for any information and status.

Approval is based on successful use on trial construction projects in Texas, preferably on at least 3 TxDOT projects. Successful use is determined based on the observations and any testing conducted by the receiving agency to determine the suitability of the product. Documentation must include the new and existing pavement types and the application rate of the TRAIL. The following information must be included with the documentation:

- contact name and telephone number;
- product name and supplier;
- dates of construction for each project;
- Control-Section-Job (CSJ) number for each project, if available; and
- location and highway for each project submitted.

Products shown on this list must still be quality tested by CST/M&P on an ongoing basis, as required in Item 300, "Asphalt, Oils, and Emulsions," and the current TxDOT lab number must be displayed on the shipping ticket/bill of lading at delivery.

The Department reserves the right to sample and test materials at any time.

TRAIL Product	Product Type	Supplier	Typical Use
Ultrafuse	Hot Asphalt	Blacklidge	tack or seal
Trackless Tack	Emulsified Asphalt	Blacklidge	tack
NTQS-1HH	Emulsified Asphalt	Asphalt Products Unlimited	tack
Underseal	Hot Asphalt	Jebro	tack or seal
CBC-1H	Emulsified Asphalt	Ergon Asphalt and Emulsions	tack



**Product:** CBC-1H or eTac50

**Description:** A cationic, water-based asphalt emulsion product used primarily as a bond coat.

**Properties:**

Boiling Point	212°F
% Volatiles	None
Appearance	Brown Liquid
Flammability	Non-flammable
Density	8.4 lbs/gal
Solubility	Dispersible in Water
Odor	Petroleum Odor

**Specification:**

Property	Test Procedure (AASHTO)	Specification	
		(min)	(max)
Viscosity, Saybolt-Furol, @ 77°F, SFS	T59	10	100
Storage, 24 hour, %	T59		1
Particle Charge	T59	Positive	
Sieve Test, %	T59		0.1
Residue by Distillation** @ 350°F, %	T59	50	
Residue Properties			
Penetration @ 77°F, dmm	T49	40	90

\*\* Exception to T59: Bring the temperature on the lower thermometer slowly to 350°F. Maintain at this temperature for 20 minutes. Complete total distillation in 60 minutes +/- 5 minutes from the first application of heat.

**Handling**

Protect emulsion from freezing  
 Avoid overheating  
 Avoid excessive pumping with high shear pumps

**Storage & Application**

See eTac Storage and Handling Guidelines for more details

## 1. Identification

**Product identifier** **CBC-1H**

**Other means of identification** Not available.

**Synonym(s)** CRS-1H (Alabama), TTT-2

**Recommended use** Not available.

**Recommended restrictions** None known.

**Manufacturer/Importer/Supplier/Distributor information**

**Manufacturer**

**Manufacturer:** Ergon Asphalt & Emulsions, Inc.

**Address:** P. O. Box 1639  
Jackson, MS 39215-1639

**Contact Name:** Mary Ellen Snow

**Telephone:** 601-933-3540; 24-hour Customer Service 1-800-222-7122

**E-mail:** mary.snow@ergon.com

**24 hour Emergency** CHEMTREC: North America 1-800-424-9300; International 1-703-527-3887

## 2. Hazard(s) identification

**Physical hazards** Not classified.

**Health hazards** Not classified.

**Environmental hazards** Not classified.

**OSHA defined hazards** Not classified.

**Label elements**

**Hazard symbol** None.

**Signal word** None.

**Hazard statement** The mixture does not meet the criteria for classification.

**Prevention** Observe good industrial hygiene practices.

**Response** Wash hands after handling.

**Storage** Store away from incompatible materials.

**Disposal** Dispose of waste and residues in accordance with local authority requirements.

**Hazard(s) not otherwise classified (HNOC)** None known.

**Supplemental information** Not applicable.

## 3. Composition/information on ingredients

### Mixtures

Chemical name	Common name and synonyms	CAS number	%
ASPHALT		8052-42-4	50 - 70
WATER		7732-18-5	25 - 45
Emulsifier		Proprietary	< 1

**Composition comments** Components not listed are either non-hazardous or below the required disclosure threshold.

## 4. First-aid measures

**Inhalation** If breathing is difficult, remove to fresh air and keep at rest in a position comfortable for breathing. Call a physician if symptoms develop or persist.

**Skin contact** If clothing sticks to the skin, do not remove. Lotion or hand cream may aid in the removal of asphalt. Wash contact areas with soap and water. If needed, seek medical attention.

**Eye contact** Immediately flush eyes with plenty of water for at least 15 minutes. Remove contact lenses, if present and easy to do. Continue rinsing. Get medical attention if irritation develops and persists.

**Ingestion** Rinse mouth. DO NOT induce vomiting. Get medical attention immediately. If ingestion of a large amount does occur, call a poison control center immediately.

<b>Most important symptoms/effects, acute and delayed</b>	Direct contact with eyes may cause temporary irritation.
<b>Indication of immediate medical attention and special treatment needed</b>	Treat symptomatically.
<b>General information</b>	Ensure that medical personnel are aware of the material(s) involved, and take precautions to protect themselves.

## 5. Fire-fighting measures

<b>Suitable extinguishing media</b>	Foam. Dry chemical powder. Carbon dioxide (CO <sub>2</sub> ).
<b>Unsuitable extinguishing media</b>	Water. Do not use water jet as an extinguisher, as this will spread the fire.
<b>Specific hazards arising from the chemical</b>	During fire, gases hazardous to health may be formed.
<b>Special protective equipment and precautions for firefighters</b>	Firefighters must use standard protective equipment including flame retardant coat, helmet with face shield, gloves, rubber boots, and in enclosed spaces, SCBA. Structural firefighters protective clothing will only provide limited protection.
<b>Fire-fighting equipment/instructions</b>	ALWAYS stay away from tanks engulfed in flame. Fight fire from maximum distance or use unmanned hose holders or monitor nozzles. Move containers from fire area if you can do so without risk. In the event of fire, cool tanks with water spray.
<b>Specific methods</b>	In the event of fire and/or explosion do not breathe fumes. In the event of fire, cool tanks with water spray.
<b>General fire hazards</b>	No unusual fire or explosion hazards noted.

## 6. Accidental release measures

<b>Personal precautions, protective equipment and emergency procedures</b>	Keep unnecessary personnel away. Keep people away from and upwind of spill/leak. Keep out of low areas. Do not touch damaged containers or spilled material unless wearing appropriate protective clothing. Ventilate closed spaces before entering them. For personal protection, see section 8 of the SDS.
<b>Methods and materials for containment and cleaning up</b>	<p>This product is miscible in water.</p> <p>Large Spills: Stop the flow of material, if this is without risk. Dike the spilled material, where this is possible. Cover with plastic sheet to prevent spreading. Absorb in vermiculite, dry sand or earth and place into containers. Prevent entry into waterways, sewer, basements or confined areas.</p> <p>Small Spills: Wipe up with absorbent material (e.g. cloth, fleece). Clean surface thoroughly to remove residual contamination.</p> <p>Never return spills to original containers for re-use. For waste disposal, see section 13 of the SDS. Absorb or cover with dry earth, sand or other non-combustible material and transfer to containers. Ventilate area and avoid breathing vapors or mist. For large spills, dike far ahead of liquid spill for later disposal. Do not release into sewers or waterways.</p>
<b>Environmental precautions</b>	Avoid discharge into drains, water courses or onto the ground.

## 7. Handling and storage

<b>Precautions for safe handling</b>	Avoid prolonged exposure. Use only in well-ventilated areas. Trace amounts of hydrogen sulfide, a very highly toxic gas, may be present with this material. Keep face clear of tank and/or tank car openings. Good personal hygiene is necessary. Wash hands and contaminated areas with water and soap before leaving the work site.
<b>Conditions for safe storage, including any incompatibilities</b>	Prevent electrostatic charge build-up by using common bonding and grounding techniques. Store in original tightly closed container. Store in a well-ventilated place. Store away from incompatible materials (see Section 10 of the SDS). Do not allow material to freeze.

## 8. Exposure controls/personal protection

### Occupational exposure limits

#### US. ACGIH Threshold Limit Values

Components	Type	Value	Form
ASPHALT (CAS 8052-42-4)	TWA	0.5 mg/m <sup>3</sup>	Inhalable fraction.

#### US. NIOSH: Pocket Guide to Chemical Hazards

Components	Type	Value	Form
ASPHALT (CAS 8052-42-4)	Ceiling	5 mg/m <sup>3</sup>	Fume.

**Biological limit values** No biological exposure limits noted for the ingredient(s).

<b>Appropriate engineering controls</b>	Good general ventilation (typically 10 air changes per hour) should be used. Ventilation rates should be matched to conditions. If applicable, use process enclosures, local exhaust ventilation, or other engineering controls to maintain airborne levels below recommended exposure limits. If exposure limits have not been established, maintain airborne levels to an acceptable level.
<b>Individual protection measures, such as personal protective equipment</b>	
<b>Eye/face protection</b>	Chemical goggles and face shield are recommended. Wear safety glasses with side shields (or goggles).
<b>Hand protection</b>	Chemical resistant gloves are recommended. If contact with forearms is likely wear gauntlet style gloves.
<b>Other</b>	Wear appropriate clothing to prevent any possibility of liquid contact and repeated or prolonged vapor contact. Plastic or rubber gloves, apron and boots.
<b>Respiratory protection</b>	When workers are facing concentrations above the exposure limit they must use appropriate certified respirators.
<b>Thermal hazards</b>	Wear appropriate thermal protective clothing, when necessary.
<b>General hygiene considerations</b>	Always observe good personal hygiene measures, such as washing after handling the material and before eating, drinking, and/or smoking. Routinely wash work clothing and protective equipment to remove contaminants.

## 9. Physical and chemical properties

<b>Appearance</b>	Viscous liquid
<b>Physical state</b>	Liquid.
<b>Form</b>	Liquid.
<b>Color</b>	Brown.
<b>Odor</b>	Tar-like
<b>Odor threshold</b>	Not available.
<b>pH</b>	2 - 4
<b>Melting point/freezing point</b>	Not available.
<b>Initial boiling point and boiling range</b>	212 °F (100 °C)
<b>Flash point</b>	400.0 °F (204.4 °C)
<b>Evaporation rate</b>	Not available.
<b>Flammability (solid, gas)</b>	Not available.
<b>Upper/lower flammability or explosive limits</b>	
<b>Flammability limit - lower (%)</b>	Not available.
<b>Flammability limit - upper (%)</b>	Not available.
<b>Explosive limit - lower (%)</b>	Not available.
<b>Explosive limit - upper (%)</b>	Not available.
<b>Vapor pressure</b>	Not available.
<b>Vapor density</b>	> 1
<b>Relative density</b>	Not available.
<b>Solubility(ies)</b>	
<b>Solubility (water)</b>	Not available.
<b>Partition coefficient (n-octanol/water)</b>	Not available.
<b>Auto-ignition temperature</b>	> 700 °F (> 371.11 °C)
<b>Decomposition temperature</b>	Not available.
<b>Viscosity</b>	Not available.
<b>Other information</b>	
<b>Density</b>	8.50 lb/gal
<b>Flammability class</b>	Flammable IIIB
<b>Specific gravity</b>	1.01

## 10. Stability and reactivity

<b>Reactivity</b>	The product is stable and non-reactive under normal conditions of use, storage and transport.
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<b>Chemical stability</b>	Stable under normal temperature conditions.
<b>Possibility of hazardous reactions</b>	Hazardous polymerization does not occur.
<b>Conditions to avoid</b>	Avoid temperatures exceeding the flash point. Contact with incompatible materials. Do not overheat product.
<b>Incompatible materials</b>	Strong oxidizing agents.
<b>Hazardous decomposition products</b>	Upon decomposition, this product may yield sulfur dioxide, carbon monoxide, carbon dioxide and/or low molecular weight hydrocarbons. Hydrogen sulfide.

## 11. Toxicological information

### Information on likely routes of exposure

<b>Ingestion</b>	Expected to be a low ingestion hazard.
<b>Inhalation</b>	Prolonged inhalation may be harmful.
<b>Skin contact</b>	No adverse effects due to skin contact are expected.
<b>Eye contact</b>	Harmful in contact with eyes.
<b>Symptoms related to the physical, chemical and toxicological characteristics</b>	Direct contact with eyes may cause temporary irritation.

### Information on toxicological effects

<b>Acute toxicity</b>	Not available.
<b>Skin corrosion/irritation</b>	Prolonged skin contact may cause temporary irritation.
<b>Serious eye damage/eye irritation</b>	Harmful in contact with eyes. None known.

### Respiratory or skin sensitization

<b>Respiratory sensitization</b>	Not available.
<b>Skin sensitization</b>	May cause skin disorders if contact is repeated or prolonged.
<b>Germ cell mutagenicity</b>	No data available to indicate product or any components present at greater than 0.1% are mutagenic or genotoxic.

<b>Carcinogenicity</b>	Risk of cancer cannot be excluded with prolonged exposure.
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#### IARC Monographs. Overall Evaluation of Carcinogenicity

ASPHALT (CAS 8052-42-4) 2B Possibly carcinogenic to humans.

#### US. OSHA Specifically Regulated Substances (29 CFR 1910.1001-1050)

Not listed.

<b>Reproductive toxicity</b>	Not classified.
<b>Specific target organ toxicity - single exposure</b>	Not classified.
<b>Specific target organ toxicity - repeated exposure</b>	Not classified.
<b>Aspiration hazard</b>	Not available.
<b>Chronic effects</b>	Hazardous by OSHA criteria. Prolonged inhalation may be harmful. Prolonged exposure may cause chronic effects. Not expected to be hazardous by WHMIS criteria.
<b>Further information</b>	This product has no known adverse effect on human health.

## 12. Ecological information

<b>Ecotoxicity</b>	Not expected to be harmful to aquatic organisms.
<b>Persistence and degradability</b>	No data is available on the degradability of this product.
<b>Bioaccumulative potential</b>	No data available.
<b>Mobility in soil</b>	No data available.
<b>Other adverse effects</b>	No other adverse environmental effects (e.g. ozone depletion, photochemical ozone creation potential, endocrine disruption, global warming potential) are expected from this component.

## 13. Disposal considerations

<b>Disposal instructions</b>	Collect and reclaim or dispose in sealed containers at licensed waste disposal site. Dispose in accordance with all applicable regulations. No components are identified as hazardous wastes. Disposal recommendations are based on uncontaminated material.
<b>Local disposal regulations</b>	Dispose in accordance with all applicable regulations.
<b>Hazardous waste code</b>	The waste code should be assigned in discussion between the user, the producer and the waste disposal company. Not applicable.

**Waste from residues / unused products**

Dispose of in accordance with local regulations. Empty containers or liners may retain some product residues. This material and its container must be disposed of in a safe manner (see: Disposal instructions). Avoid discharge into water courses or onto the ground.

**Contaminated packaging**

Empty containers should be taken to an approved waste handling site for recycling or disposal. Since emptied containers may retain product residue, follow label warnings even after container is emptied.

**14. Transport information****DOT**

Not regulated as dangerous goods.

**IATA**

Not regulated as dangerous goods.

**IMDG**

Not regulated as dangerous goods.

**Transport in bulk according to Annex II of MARPOL 73/78 and the IBC Code** Not available.

**15. Regulatory information**

**US federal regulations** All components are on the U.S. EPA TSCA Inventory List.

**TSCA Section 12(b) Export Notification (40 CFR 707, Subpt. D)**

Not regulated.

**CERCLA Hazardous Substance List (40 CFR 302.4)**

ASPHALT (CAS 8052-42-4) Listed.

**US. OSHA Specifically Regulated Substances (29 CFR 1910.1001-1050)**

Not listed.

**Superfund Amendments and Reauthorization Act of 1986 (SARA)****Hazard categories**

Immediate Hazard - No  
Delayed Hazard - No  
Fire Hazard - No  
Pressure Hazard - No  
Reactivity Hazard - No

**SARA 302 Extremely hazardous substance**

Not listed.

**SARA 311/312**

No

**Hazardous chemical****SARA 313 (TRI reporting)**

Not regulated.

**Other federal regulations****Clean Air Act (CAA) Section 112 Hazardous Air Pollutants (HAPs) List**

Not regulated.

**Clean Air Act (CAA) Section 112(r) Accidental Release Prevention (40 CFR 68.130)**

Not regulated.

**Safe Drinking Water Act (SDWA)**

Not regulated.

**US state regulations**

WARNING: This product contains a chemical known to the State of California to cause cancer.

**US. Massachusetts RTK - Substance List**

ASPHALT (CAS 8052-42-4)

**US. New Jersey Worker and Community Right-to-Know Act**

Not regulated.

**US. Pennsylvania RTK - Hazardous Substances**

ASPHALT (CAS 8052-42-4)

**US. Rhode Island RTK**

Not regulated.

**US. California Proposition 65**

WARNING: This product contains a chemical known to the State of California to cause cancer.

**US - California Proposition 65 - CRT: Listed date/Carcinogenic substance**

ASPHALT (CAS 8052-42-4) Listed: January 1, 1990

## International Inventories

Country(s) or region	Inventory name	On inventory (yes/no)*
Australia	Australian Inventory of Chemical Substances (AICS)	Yes
Canada	Domestic Substances List (DSL)	Yes
Canada	Non-Domestic Substances List (NDSL)	No
China	Inventory of Existing Chemical Substances in China (IECSC)	Yes
Europe	European Inventory of Existing Commercial Chemical Substances (EINECS)	Yes
Europe	European List of Notified Chemical Substances (ELINCS)	No
Japan	Inventory of Existing and New Chemical Substances (ENCS)	No
Korea	Existing Chemicals List (ECL)	No
New Zealand	New Zealand Inventory	Yes
Philippines	Philippine Inventory of Chemicals and Chemical Substances (PICCS)	No
United States & Puerto Rico	Toxic Substances Control Act (TSCA) Inventory	Yes

\*A "Yes" indicates that all components of this product comply with the inventory requirements administered by the governing country(s)

A "No" indicates that one or more components of the product are not listed or exempt from listing on the inventory administered by the governing country(s).

## 16. Other information, including date of preparation or last revision

**Issue date** 07-21-2014

**Version #** 01

**Further information** HMIS® is a registered trade and service mark of the NPCA.

### References

ACGIH  
EPA: AQUIRE database  
NLM: Hazardous Substances Data Base  
US. IARC Monographs on Occupational Exposures to Chemical Agents  
IARC Monographs. Overall Evaluation of Carcinogenicity  
National Toxicology Program (NTP) Report on Carcinogens  
ACGIH Documentation of the Threshold Limit Values and Biological Exposure Indices

### Disclaimer

The information provided in this Safety Data Sheet is correct to the best of our knowledge, information and belief at the date of its publication. The information given is designed only as a guidance for safe handling, use, processing, storage, transportation, disposal and release and is not to be considered a warranty or quality specification. The information relates only to the specific material designated and may not be valid for such material used in combination with any other materials or in any process, unless specified in the text. The information in the sheet was written based on the best knowledge and experience currently available.

### Revision Information

Product and Company Identification: Synonyms  
Composition / Information on Ingredients: Disclosure Overrides  
Physical & Chemical Properties: Multiple Properties  
Transport Information: Material Transportation Information  
GHS: Classification

**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")  
AND  
Ergon Asphalt and Emulsions, Inc. ("Contractor")  
for  
Asphalt Emulsions  
MA 6200 GA170000014**

The City accepts the Contractor's Offer (as referenced in Section 1.1.3 below) for the above requirement and enters into the following Contract.

This Contract is between Ergon Asphalt and Emulsions, Inc., having offices at 11612 FM 2244, Bldg. 1, Ste. 250, Austin, Texas, 78738 and the City, a home-rule municipality incorporated by the State of Texas, and is effective as of the date executed by the City ("Effective Date").

Capitalized terms used but not defined herein have the meanings given them in Solicitation Number KDS0102.

**1.1 This Contract is composed of the following documents:**

- 1.1.1 This Contract
- 1.1.2 The City's Solicitation, Invitation for Bids, KDS0102 including all documents incorporated by reference
- 1.1.3 Ergon Asphalt and Emulsions, Inc., Offer, dated November 22, 2016, including subsequent clarifications

**1.2 Order of Precedence.** Any inconsistency or conflict in the Contract documents shall be resolved by giving precedence in the following order:

- 1.2.1 This Contract
- 1.2.2 The City's Solicitation as referenced in Section 1.1.2, including all documents incorporated by reference
- 1.2.3 The Contractor's Offer as referenced in Section 1.1.3, including subsequent clarifications.

**1.3 Term of Contract.** The Contract will be in effect for an initial term of thirty-six (36) months and may be extended thereafter for up to two (2) twelve (12)-month extension option(s), subject to the approval of the Contractor and the City Purchasing Officer or his designee. See the Term of Contract provision in Section 0400 for additional Contract requirements.

**1.4 Compensation.** The Contractor shall be paid a total Not-to-Exceed amount of \$4,639,444 for the initial Contract term and a Not-to-Exceed amount of \$1,580,278 for each extension option. Payment shall be made upon successful completion of services or delivery of goods as outlined in each individual Delivery Order.

**1.5 Quantity of Work.** There is no guaranteed quantity of work for the period of the Contract and there are no minimum order quantities. Work will be on an as needed basis as specified by the City for each Delivery Order



This Contract (including any Exhibits) constitutes the entire agreement of the parties regarding the subject matter of this Contract and supersedes all prior and contemporaneous agreements and understandings, whether written or oral, relating to such subject matter. This Contract may be altered, amended, or modified only by a written instrument signed by the duly authorized representatives of both parties.

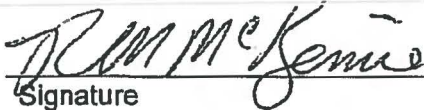
In witness whereof, the City has caused a duly authorized representative to execute this Contract on the date set forth below.

**Ergon Asphalt and Emulsions, Inc.**

**CITY OF AUSTIN**

R. M. McKEMIE

Printed Name of Authorized Person

  
Signature

VICE PRESIDENT

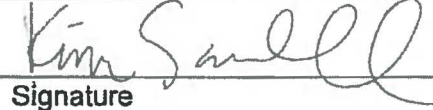
Title:

FEBRUARY 23, 2017

Date:

Kimberley Scannell

Printed Name of Authorized Person

  
Signature

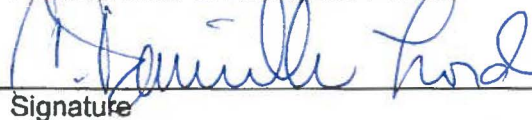
Buyer II

Title:

2/23/2017  
Date:

Danielle Lord, M.B.A., C.P.M., A.P.P.

Printed Name of Authorized Person

  
Signature

Corporate Purchasing Manager

Title:

2/28/17  
Date:

The undersigned, by his/her signature, represents that he/she is submitting a binding offer and is authorized to bind the respondent to fully comply with the solicitation document contained herein. The Respondent, by submitting and signing below, acknowledges that he/she has received and read the entire document packet sections defined above including all documents incorporated by reference, and agrees to be bound by the terms therein.

Company Name: ERGON ASPHALT & EMULSIONS, INC.

Company Address: 11612 RM 2244, BUILDING 1, SUITE 250

City, State, Zip: AUSTIN, TEXAS 78738

Federal Tax ID No. [REDACTED]

Printed Name of Officer or Authorized Representative: CODY R. CHAMBLISS

Title: AREA SALES MANAGER

Signature of Officer or Authorized Representative: *Cody R. Chambliss*

Date: NOVEMBER 22, 2016

Email Address: cody.chambliss@ergon.com OR karen.sellers@ergon.com (PREFERRED)

Phone Number: (512) 469-9292

**\* Completed Bid Sheet, section 0600 must be submitted with this Offer Sheet to be considered for award**



**ADDENDUM  
ASPHALT EMULSIONS  
CITY OF AUSTIN, TEXAS**

**Solicitation: IFB KDS0102**

**Addendum No: 1**

**Date of Addendum: 11/10/2016**

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

I. Changes to the solicitation due date as follows:

I.1 The proposal due date is hereby extended until **2:00PM November 29, 2016.**

II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

APPROVED BY:

  
Kimberley Scannell, Buyer II  
Purchasing Office, 512-974-2261

Date: 11/10/2016

ACKNOWLEDGED BY:

CODY R. CHAMBLISS  
Name

  
Authorized Signature

11/22/2016  
Date

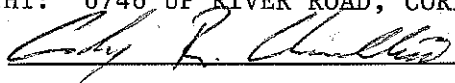
**RETURN ONE COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE, CITY OF AUSTIN, WITH YOUR RESPONSE OR PRIOR TO THE SOLICITATION CLOSING DATE. FAILURE TO DO SO MAY CONSTITUTE GROUNDS FOR REJECTION.**

CITY OF AUSTIN  
PURCHASING OFFICE  
BID SHEET  
Invitation for Bid IFB 6200 KDS0102  
Asphalt Emulsions

Section 1 - City of Austin Pick-up					
ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE	EXTENDED PRICE
1	HFRS-2P - loaded onto City trucks	750,000	Gallon	\$1.75	\$ 1,312,500.00 -
2	SS-1 - loaded onto City trucks	30,000	Gallon	\$1.55	\$ 46,500.00 -
3	CQS-1HT - loaded onto City trucks	30,000	Gallon	\$1.90	\$ 57,000.00 -
SECTION 1 SUBTOTAL:					\$1,416,000.00 -
Section 2 - Delivered					
ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT OF MEASURE	UNIT PRICE	EXTENDED PRICE
4	HFRS-2P - delivered to City site	50,000	Gallon	\$1.8586	\$ 92,930.00 -
5	SS-1 - delivered to City site	10,000	Gallon	\$1.6586	\$ 16,586.00 -
6	CQS-1HT - delivered to City site	10,000	Gallon	\$2.0965	\$ 20,965.00 -
SECTION 2 SUBTOTAL:					\$ 130,481.00 -
TOTAL:					\$1,546,481.00 -

COMPANY NAME: ERGON ASPHALT & EMULSIONS, INC.

Plant Location/Address: 8803 NORTH MOPAC EXPRESSWAY, AUSTIN, TX 78759  
FOR CQS-1HT: 6746 UP RIVER ROAD, CORPUS CHRISTI, TX 78409

Signature of Authorized Representative: 

Printed Name: CODY R. CHAMBLISS

Telephone: (512) 469-9292 Fax: (512) 469-0391

Email: cody.chambliss@ergon.com OR karen.sellers@ergon.com



**CITY OF AUSTIN  
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STANDARD PURCHASE TERMS AND CONDITIONS**

By submitting an Offer in response to the Solicitation, the Contractor agrees that the Contract shall be governed by the following terms and conditions. Unless otherwise specified in the Contract, Sections 3, 4, 5, 6, 7, 8, 20, 21, and 36 shall apply only to a Solicitation to purchase Goods, and Sections 9, 10, 11 and 22 shall apply only to a Solicitation to purchase Services to be performed principally at the City's premises or on public rights-of-way.

1. **CONTRACTOR'S OBLIGATIONS**. The Contractor shall fully and timely provide all Deliverables described in the Solicitation and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.
2. **EFFECTIVE DATE/TERM**. Unless otherwise specified in the Solicitation, this Contract shall be effective as of the date the contract is signed by the City, and shall continue in effect until all obligations are performed in accordance with the Contract.
3. **CONTRACTOR TO PACKAGE DELIVERABLES**: The Contractor will package Deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price. Unless otherwise provided in the Specifications or Supplemental Terms and Conditions, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address and purchase order or purchase release number and the price agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.
4. **SHIPMENT UNDER RESERVATION PROHIBITED**: The Contractor is not authorized to ship the Deliverables under reservation and no tender of a bill of lading will operate as a tender of Deliverables.
5. **TITLE & RISK OF LOSS**: Title to and risk of loss of the Deliverables shall pass to the City only when the City actually receives and accepts the Deliverables.
6. **DELIVERY TERMS AND TRANSPORTATION CHARGES**: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Supplemental Terms and Conditions. Unless otherwise stated in the Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the Deliverables. The place of delivery shall be that set forth in the block of the purchase order or purchase release entitled "Receiving Agency".
7. **RIGHT OF INSPECTION AND REJECTION**: The City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the Deliverables at delivery before accepting them, and to reject defective or non-conforming Deliverables. If the City has the right to inspect the Contractor's, or the Contractor's Subcontractor's, facilities, or the Deliverables at the Contractor's, or the Contractor's Subcontractor's, premises, the Contractor shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance to the City to facilitate such inspection.
8. **NO REPLACEMENT OF DEFECTIVE TENDER**: Every tender or delivery of Deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract.
9. **PLACE AND CONDITION OF WORK**: The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner, in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the contract. The Contractor hereby releases and holds the City

**CITY OF AUSTIN  
PURCHASING OFFICE  
STANDARD PURCHASE TERMS AND CONDITIONS**

harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

**10. WORKFORCE**

- A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.
- B. The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Austin contract or on the City's property .
  - i. use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the contract; or
  - ii. use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.
- C. If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

- 11. COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS:** The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

**12. INVOICES:**

- A. The Contractor shall submit separate invoices in duplicate on each purchase order or purchase release after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.
- B. **Proper Invoices must include a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department.** Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.
- C. Invoices for labor shall include a copy of all time-sheets with trade labor rate and Deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.
- D. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.
- E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

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STANDARD PURCHASE TERMS AND CONDITIONS**

**13. PAYMENT:**

- A. All proper invoices received by the City will be paid within thirty (30) calendar days of the City's receipt of the Deliverables or of the invoice, whichever is later.
- B. **If payment is not timely made, (per paragraph A), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.**
- C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches the shipment or delivery.
- D. The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:
  - i. delivery of defective or non-conforming Deliverables by the Contractor;
  - ii. third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;
  - iii. failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;
  - iv. damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;
  - v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
  - vi. failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or
  - vii. failure of the Contractor to comply with any material provision of the Contract Documents.
- E. Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.
- F. Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.
- G. The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any Deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

- 14. TRAVEL EXPENSES:** All travel, lodging and per diem expenses in connection with the Contract for which reimbursement may be claimed by the Contractor under the terms of the Solicitation will be reviewed against the City's Travel Policy as published and maintained by the City's Controller's Office and the Current United States General Services Administration Domestic Per Diem Rates (the "Rates") as published and maintained on the Internet at:

<http://www.gsa.gov/portal/category/21287>

**CITY OF AUSTIN  
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No amounts in excess of the Travel Policy or Rates shall be paid. All invoices must be accompanied by copies of detailed itemized receipts (e.g. hotel bills, airline tickets). No reimbursement will be made for expenses not actually incurred. Airline fares in excess of coach or economy will not be reimbursed. Mileage charges may not exceed the amount permitted as a deduction in any year under the Internal Revenue Code or Regulations.

**15. FINAL PAYMENT AND CLOSE-OUT:**

- A. If an MBE/WBE Program Compliance Plan is required by the Solicitation, and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Project manager or Contract manager no later than the 15th calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements of the Compliance Plan as accepted by the City.
- B. The making and acceptance of final payment will constitute:
  - i. a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and
  - ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

**16. SPECIAL TOOLS & TEST EQUIPMENT:** If the price stated on the Offer includes the cost of any special tooling or special test equipment fabricated or required by the Contractor for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the City and shall be identified by the Contractor as such.

**17. AUDITS and RECORDS:**

- A. The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.
- B. Records Retention:
  - i. Contractor is subject to City Code chapter 2-11 (Records Management), and as it may subsequently be amended. For purposes of this subsection, a Record means all books, accounts, reports, files, and other data recorded or created by a Contractor in fulfillment of the Contract whether in digital or physical format, except a record specifically relating to the Contractor's internal administration.
  - ii. All Records are the property of the City. The Contractor may not dispose of or destroy a Record without City authorization and shall deliver the Records, in all requested formats and media, along with all finding aids and metadata, to the City at no cost when requested by the City
  - iii. The Contractor shall retain all Records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer.
- C. The Contractor shall include sections A and B above in all subcontractor agreements entered into in connection with this Contract.



**CITY OF AUSTIN  
PURCHASING OFFICE  
STANDARD PURCHASE TERMS AND CONDITIONS**

**18. SUBCONTRACTORS:**

- A. If the Contractor identified Subcontractors in an MBE/WBE Program Compliance Plan or a No Goals Utilization Plan the Contractor shall comply with the provisions of Chapters 2-9A, 2-9B, 2-9C, and 2-9D, as applicable, of the Austin City Code and the terms of the Compliance Plan or Utilization Plan as approved by the City (the "Plan"). The Contractor shall not initially employ any Subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing in accordance with the provisions of Chapters 2-9A, 2-9B, 2-9C and 2-9D, as applicable. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective Deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.
- B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract, and shall contain provisions that:
  - i. require that all Deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
  - ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;
  - iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;
  - iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and
  - v. require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.
- C. The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.
- D. The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.

**19. WARRANTY-PRICE:**

- A. The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like Deliverables under similar terms of purchase.
- B. The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.
- C. In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like Deliverables under similar terms of purchase.

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20. **WARRANTY – TITLE:** The Contractor warrants that it has good and indefeasible title to all Deliverables furnished under the Contract, and that the Deliverables are free and clear of all liens, claims, security interests and encumbrances. The Contractor shall indemnify and hold the City harmless from and against all adverse title claims to the Deliverables.
21. **WARRANTY – DELIVERABLES:** The Contractor warrants and represents that all Deliverables sold the City under the Contract shall be free from defects in design, workmanship or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Solicitation, to any samples furnished by the Contractor, to the terms, covenants and conditions of the Contract, and to all applicable State, Federal or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the Deliverables shall be new or recycled merchandise, and not used or reconditioned.
- A. Recycled Deliverables shall be clearly identified as such.
  - B. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.
  - C. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of acceptance of the Deliverables or from the date of acceptance of any replacement Deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming Deliverables, or replace the non-conforming Deliverables with fully conforming Deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs, shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.
  - D. If the Contractor is unable or unwilling to repair or replace defective or non-conforming Deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of Deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming Deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such Deliverables from another source.
  - E. If the Contractor is not the manufacturer, and the Deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall assist and cooperate with the City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.
22. **WARRANTY – SERVICES:** The Contractor warrants and represents that all services to be provided the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.
- A. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.
  - B. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the Acceptance Date. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.
  - C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be

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required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

23. **ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES:** If, instead of requiring immediate correction or removal and replacement of defective or non-conforming Deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming Deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming Deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.
24. **RIGHT TO ASSURANCE:** Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.
25. **STOP WORK NOTICE:** The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.
26. **DEFAULT:** The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 24, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.
27. **TERMINATION FOR CAUSE:** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors" and remove the Contractor from the City's vendor list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.
28. **TERMINATION WITHOUT CAUSE:** The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.
29. **FRAUD:** Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

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**30. DELAYS:**

- A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in paragraph 48. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.
- B. Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

**31. INDEMNITY:**

- A. Definitions:
  - i. "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:
    - (1) damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or
    - (2) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties),
  - ii. "Fault" shall include the sale of defective or non-conforming Deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.
- B. **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

**32. INSURANCE:** (reference Section 0400 for specific coverage requirements). The following insurance requirement applies. (Revised March 2013).

- A. General Requirements.
  - i. The Contractor shall at a minimum carry insurance in the types and amounts indicated in Section 0400, Supplemental Purchase Provisions, for the duration of the Contract, including extension options and hold over periods, and during any warranty period.
  - ii. The Contractor shall provide Certificates of Insurance with the coverages and endorsements required in Section 0400, Supplemental Purchase Provisions, to the City as verification of coverage prior to contract execution and within fourteen (14) calendar days after written request from the

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City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or hold over period is exercised, as verification of continuing coverage.

- iii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iv. The City may request that the Contractor submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.
- v. The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better.
- vi. The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.
- vii. If insurance policies are not written for amounts specified in Section 0400, Supplemental Purchase Provisions, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.
- viii. The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.
- ix. The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.
- x. The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.
- xi. The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. Self-insured retentions shall be disclosed on the Certificate of Insurance.
- xii. The Contractor shall provide the City thirty (30) calendar days' written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.
- xiii. The insurance coverages specified in Section 0400, Supplemental Purchase Provisions, are required minimums and are not intended to limit the responsibility or liability of the Contractor.

**B. Specific Coverage Requirements:** Specific insurance requirements are contained in Section 0400, Supplemental Purchase Provisions

33. **CLAIMS:** If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse affect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the

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Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2<sup>nd</sup> Street, 4<sup>th</sup> Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

34. **NOTICES**: Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the Contractor shall be sent to the address specified in the Contractor's Offer, or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to the City at P.O. Box 1088, Austin, Texas 78767 and marked to the attention of the Contract Administrator.
35. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL**: All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.
36. **NO WARRANTY BY CITY AGAINST INFRINGEMENTS**: The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the Deliverables and (ii) the Deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the Deliverables and the Contractor does not know of any valid basis for any such claims. The Contractor shall, at its sole expense, defend, indemnify, and hold the City harmless from and against all liability, damages, and costs (including court costs and reasonable fees of attorneys and other professionals) arising out of or resulting from: (i) any claim that the City's exercise anywhere in the world of the rights associated with the City's ownership, and if applicable, license rights, and its use of the Deliverables infringes the intellectual property rights of any third party; or (ii) the Contractor's breach of any of Contractor's representations or warranties stated in this Contract. In the event of any such claim, the City shall have the right to monitor such claim or at its option engage its own separate counsel to act as co-counsel on the City's behalf. Further, Contractor agrees that the City's specifications regarding the Deliverables shall in no way diminish Contractor's warranties or obligations under this paragraph and the City makes no warranty that the production, development, or delivery of such Deliverables will not impact such warranties of Contractor.
37. **CONFIDENTIALITY**: In order to provide the Deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Agreement, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.
38. **PUBLICATIONS**: All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

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39. **ADVERTISING**: The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.
40. **NO CONTINGENT FEES**: The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.
41. **GRATUITIES**: The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Austin with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.
42. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS**: No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.
43. **INDEPENDENT CONTRACTOR**: The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.
44. **ASSIGNMENT-DELEGATION**: The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.
45. **WAIVER**: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.
46. **MODIFICATIONS**: The Contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any the Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.
47. **INTERPRETATION**: The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.



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**48. DISPUTE RESOLUTION:**

- A. If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.
- B. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

49. **JURISDICTION AND VENUE:** The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

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

51. **HOLIDAYS:** The following holidays are observed by the City:

<u>Holiday</u>	<u>Date Observed</u>
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11

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Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday.

52. **SURVIVABILITY OF OBLIGATIONS:** All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.

53. **NON-SUSPENSION OR DEBARMENT CERTIFICATION:**

The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

54. **EQUAL OPPORTUNITY**

A. **Equal Employment Opportunity:** No Contractor, or Contractor's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Offer submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Offeror has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

B. **Americans with Disabilities Act (ADA) Compliance:** No Contractor, or Contractor's agent, shall engage in any discriminatory practice against individuals with disabilities as defined in the ADA, including but not limited to: employment, accessibility to goods and services, reasonable accommodations, and effective communications.

55. **INTERESTED PARTIES DISCLOSURE**

As a condition to entering the Contract, the Business Entity constituting the Offeror must provide the following disclosure of Interested Parties to the City prior to the award of a contract with the City on Form 1295 "Certificate of Interested Parties" as prescribed by the Texas Ethics Commission for any contract award requiring council authorization. The Certificate of Interested Parties Form must be completed on the Texas Ethics Commission website, printed, and signed by the authorized agent of the Business Entity with acknowledgment that disclosure is made under oath and under penalty of perjury. The City will submit the "Certificate of Interested Parties" to the Texas Ethics Commission within 30 days of receipt from the successful Offeror. The Offeror is reminded that the provisions of Local Government Code 176, regarding conflicts of interest between the bidders and local officials remains in place. Link to Texas Ethics Commission Form 1295 process and procedures below:

[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

56. **BUY AMERICAN ACT-SUPPLIES (Applicable to certain Federally funded requirements)**

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- A. Definitions. As used in this paragraph –
- i. "Component" means an article, material, or supply incorporated directly into an end product.
  - ii. "Cost of components" means -
    - (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
    - (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.
  - iii. "Domestic end product" means-
    - (1) An unmanufactured end product mined or produced in the United States; or
    - (2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.
  - iv. "End product" means those articles, materials, and supplies to be acquired under the contract for public use.
  - v. "Foreign end product" means an end product other than a domestic end product.
  - vi. "United States" means the 50 States, the District of Columbia, and outlying areas.
- B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.
- C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Offeror shall submit documentation with their Offer demonstrating that the article is on an approved Governmental list.
- D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled "Buy American Act Certificate".

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Asphalt Emulsions**

The following Supplemental Purchasing Provisions apply to this solicitation:

1. **EXPLANATIONS OR CLARIFICATIONS:** (reference paragraph 5 in Section 0200)

All requests for explanations or clarifications must be submitted in writing to the Purchasing Office by November 16, 2016.

2. **INSURANCE:** Insurance is required for this solicitation.

A. **General Requirements:** See Section 0300, Standard Purchase Terms and Conditions, paragraph 32, entitled Insurance, for general insurance requirements.

- i. The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to contract execution and within 14 calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award.
- ii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iii. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.
- iv. The Certificate of Insurance, and updates, shall be mailed to the following address:

City of Austin Purchasing Office  
P. O. Box 1088  
Austin, Texas 78767

B. **Specific Coverage Requirements:** The Contractor shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

- i. **Worker's Compensation and Employers' Liability Insurance:** Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee.
  - (1) The Contractor's policy shall apply to the State of Texas and include these endorsements in favor of the City of Austin:
    - (a) Waiver of Subrogation, Form WC420304, or equivalent coverage
    - (b) Thirty (30) days Notice of Cancellation, Form WC420601, or equivalent coverage
- ii. **Commercial General Liability Insurance:** The minimum bodily injury and property damage per occurrence are \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injury).
  - (1) The policy shall contain the following provisions:
    - (a) Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.
    - (b) Contractor/Subcontracted Work.
    - (c) Products/Completed Operations Liability for the duration of the warranty period.
    - (d) If the project involves digging or drilling provisions must be included that provide Explosion, Collapse, and/or Underground Coverage.
  - (2) The policy shall also include these endorsements in favor of the City of Austin:

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- (a) Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage
      - (b) Thirty (30) days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage
      - (c) The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage
    - iii. **Business Automobile Liability Insurance:** The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident.
      - (1) The policy shall include these endorsements in favor of the City of Austin:
        - (a) Waiver of Subrogation, Endorsement CA0444, or equivalent coverage
        - (b) Thirty (30) days Notice of Cancellation, Endorsement CA0244, or equivalent coverageThe City of Austin listed as an additional insured, Endorsement CA2048, or equivalent coverage.
  - C. **Endorsements:** The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.
3. **TERM OF CONTRACT:**
- A. The Contract shall be in effect for an initial term of thirty-six (36) months and may be extended thereafter for up to two (2) additional twelve (12)-month periods, subject to the approval of the Contractor and the City Purchasing Officer or his designee.
  - B. Upon expiration of the initial term or period of extension, the Contractor agrees to hold over under the terms and conditions of this agreement for such a period of time as is reasonably necessary to re-solicit and/or complete the project (not to exceed 120 days unless mutually agreed on in writing).
  - C. Upon written notice to the Contractor from the City's Purchasing Officer or his designee and acceptance of the Contractor, the term of this contract shall be extended on the same terms and conditions for an additional period as indicated in paragraph A above.
  - D. Prices are firm and fixed for the first twelve (12) months. Thereafter, price changes are subject to the Economic Price Adjustment provisions of this Contract.
4. **QUANTITIES:** The quantities listed herein are estimates for the period of the Contract. The City reserves the right to purchase more or less of these quantities as may be required during the Contract term. Quantities will be as needed and specified by the City for each order. Unless specified in the solicitation, there are no minimum order quantities.
5. **GENERAL ORDER REQUIREMENTS:**
- A. The City of Austin will submit all material orders to the contractor via fax, email, or by telephone, with a purchase order number. The Contract Manager may call to verify that order was received and that the material can be provided as requested. The Contractor shall be responsible for notifying the Contract Manager immediately with delays or unavailability of material.
  - B. The vendor's facility shall be served by an all-weather road. The vendor shall be able to provide delivery of emulsion to any location requested by the City or pick-up by the City at the vendor's facility.

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If material is picked up by the City, the vendor shall provide pumping facilities to load City trucks or boosters immediately upon arrival at the vendor's facility.

- C. The vendor shall provide a material ticket with each batch of material picked up or delivered. The material ticket shall include the following information:

Contract Number	Product Description
Purchase Order Number	Gross Volume
Date and Time	Net Volume
Bill of Lading	Printed Name of Driver
Truck Number	Signature of Driver

**6. DELIVERY ORDER REQUIREMENTS:**

- A. Delivery shall be made by the vendor to any location requested by the City within the Austin city limits. Requests for deliveries will be from 5:30 am to 4:30 pm Monday through Friday, including non-City holidays during peak seasons (typically April through mid-October). Delivery shall be from 6:30 am to 4:30 pm Monday through Friday on non-City holidays.
- B. The vendor shall deliver material on Saturday and Sunday at the City's request if given 48 hours notice by phone.
- C. The vendor shall notify the City when the requested quantities or types of materials are not available. This notice shall be provided to the City on the same day of the City's order.
- D. The vendor may require a minimum order quantity for delivery.

**7. PICK-UP ORDER REQUIREMENTS:**

- A. The vendor shall open its facility on Saturday or Sunday at the City's request if given 48 hours notice by phone. The vendor's facility shall be open between 4 to 6 hours, but the exact hours required by the City will be given at the time of the 48 hour notice.
- B. The vendor shall notify the City when the requested quantities or types of materials are not available. This notice shall be provided to the City on the same day of the City's order.
- C. There shall be no minimum order quantity for pick up by the City.

**8. INVOICES and PAYMENT: (reference paragraphs 12 and 13 in Section 0300)**

- A. Invoices shall contain a unique invoice number and the information required in Section 0300, paragraph 12, entitled "Invoices." Invoices received without all required information cannot be processed and will be returned to the vendor.

Invoices shall be mailed to the below address:

	City of Austin
Department	Public Works – Street and Bridge Operations
Attn:	Accounts Payable
Address	4411-A Meinardus Drive

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City, State Zip Code	Austin, TX 78744
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- B. The Contractor agrees to accept payment by either credit card, check or Electronic Funds Transfer (EFT) for all goods and/or services provided under the Contract. The Contractor shall factor the cost of processing credit card payments into the Offer. There shall be no additional charges, surcharges, or penalties to the City for payments made by credit card.

**9. RESTOCKING FEES:**

- A. The Contractor may bill the City restocking fees (if included in their Offer) for parts that are ordered by the City under the contract and returned for refund. The Contractor is not obligated to accept for refund any part that is not resalable and/or not in the same condition as when purchased.
- B. Restocking fees may be charged to the City when multiple parts or groups of parts are returned for refund at one time due to the City inventory warehouse cleaning, unless these parts are returned at an annual pre-arranged date. The date for the annual return shall be mutually agreed upon between the City and the Contractor.

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

- A. If a solicitation refers to a Qualified Products List (QPL), Standard Products List (SPL) or a manufacturer's name and product, any Offeror offering products not referenced in the solicitation must submit as part of their Offer materials specifications/descriptive literature for the non-referenced product. Materials specifications/descriptive literature must be identified to show the item(s) in the Offer to which it applies.
- B. Materials specifications/descriptive literature are defined as product manufacturer's catalog pages, "cut sheets" applicable tests results, or related detailed documents that specify material construction, performance parameters, and any industrial standards that are applicable such as ANSI, ASTM, ASME, SAE, NFPA, NBS, EIA, ESL, and NSA. The submitted materials specifications/descriptive literature must include the manufacturer's name and product number of the product being offered.
- C. The failure of the materials specifications/descriptive literature to show that the product offered conforms to the requirements of the Solicitation shall result in rejection of the Offer.
- D. Failure to submit the materials specifications/descriptive literature as part of the Offer may subject the Offer to disqualification from consideration for award.

**11. HAZARDOUS MATERIALS:**

- A. If this Solicitation involves hazardous materials, the Offeror shall furnish with the Offer Material Safety Data Sheets (MSDS), (OSHA Form 20), on all chemicals and hazardous materials specifying the generic and trade name of product, product specification, and full hazard information including receiving and storage hazards. Instructions, special equipment needed for handling, information on approved containers, and instructions for the disposal of the material are also required.
- B. Failure to submit the MSDS as part of the Offer may subject the Offer to disqualification from consideration for award.
- C. The MSDS, instructions and information required in paragraph "A" must be included with each shipment under the contract.



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12. **RECYCLED PRODUCTS:** The City prefers that Offerors offer products that contain recycled materials. When a recycled product is offered by the Offeror, the Offeror must state in their Offer the percentage of the product that is recycled and must include a list of the recycled materials that are contained in the product.
13. **PUBLISHED PRICE LISTS:**
- A. Offerors may quote using published price lists in the following ways:
    - i. Offerors may quote one discount from a Published Price List for all offered items to be covered in the Contract. The discount must remain firm during the life of the Contract.
    - ii. Offerors may quote their dealer cost, plus a percentage markup to be added to the cost. The percentage markup must remain firm during the life of the contract.
  - B. Two (2) copies of the list upon which the discounts or markups are based shall be submitted with the Offer. All price lists identified in the Offer shall clearly include the Offeror's name and address, the solicitation number, prices, title of the discount and number, and the latest effective date of the price list. If the Offer is based on a discount or markup on a manufacturer's price list, the price list must also include the manufacturer's name, the manufacturer's latest effective date, and the manufacturer's price schedule. All price lists submitted become part of the Offer.
  - C. The price list may be superseded or replaced during the Contract term only if price revisions are the result of the manufacturer's official price list revision. Written notification from the Contractor of price changes, along with two (2) copies of the revised list must be submitted to the Buyer in the Purchasing Office with the effective date of change to be at least thirty (30) calendar days after written notification. The City reserves the right to refuse any list revision.
  - D. The discounts or markups on equipment rental, material, supplies, parts, and contract services shall be fixed throughout the term of the Contract, and are not subject to increase.
  - E. Failure to submit written notification of price list revisions will result in the rejection of new prices being invoiced. The City will only pay invoices according to the last approved price list.
14. **NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING:**
- A. On November 10, 2011, the Austin City Council adopted Ordinance No. 20111110-052 amending Chapter 2.7, Article 6 of the City Code relating to Anti-Lobbying and Procurement. The policy defined in this Code applies to Solicitations for goods and/or services requiring City Council approval under City Charter Article VII, Section 15 (Purchase Procedures). During the No-Contact Period, Offerors or potential Offerors are prohibited from making a representation to anyone other than the Authorized Contact Person in the Solicitation as the contact for questions and comments regarding the Solicitation.
  - B. If during the No-Contact Period an Offeror makes a representation to anyone other than the Authorized Contact Person for the Solicitation, the Offeror's Offer is disqualified from further consideration except as permitted in the Ordinance.
  - C. If an Offeror has been disqualified under this article more than two times in a sixty (60) month period, the Purchasing Officer shall debar the Offeror from doing business with the City for a period not to exceed three (3) years, provided the Offeror is given written notice and a hearing in advance of the debarment.

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- D. The City requires Offerors submitting Offers on this Solicitation to certify that the Offeror has not in any way directly or indirectly made representations to anyone other than the Authorized Contact Person during the No-Contact Period as defined in the Ordinance. The text of the City Ordinance is posted on the Internet at: <http://www.ci.austin.tx.us/edims/document.cfm?id=161145>

**15. ECONOMIC PRICE ADJUSTMENT:**

- A. **Price Adjustments:** Prices shown in this Contract shall remain firm for the first twelve (12) months of the Contract. After that, in recognition of the potential for fluctuation of the Contractor's cost, a price adjustment (increase or decrease) may be requested by either the City or the Contractor on the anniversary date of the Contract or as may otherwise be specified herein. The percentage change between the contract price and the requested price shall not exceed the percentage change between the specified index in effect on the date the solicitation closed and the most recent, non-preliminary data at the time the price adjustment is requested. The requested price adjustment shall not exceed ten percent (25%) for any single line item and in no event shall the total amount of the contract be automatically adjusted as a result of the change in one or more line items made pursuant to this provision. Prices for products or services unaffected by verifiable cost trends shall not be subject to adjustment.
- B. **Effective Date:** Approved price adjustments will go into effect on the first day of the upcoming renewal period or anniversary date of contract award and remain in effect until contract expiration unless changed by subsequent amendment.
- C. **Adjustments:** A request for price adjustment must be made in writing and submitted to the other Party prior to the yearly anniversary date of the Contract; adjustments may only be considered at that time unless otherwise specified herein. Requested adjustments must be solely for the purpose of accommodating changes in the Contractor's direct costs. Contractor shall provide an updated price listing once agreed to adjustment(s) have been approved by the parties.
- D. **Indexes:** In most cases an index from the Bureau of Labor Standards (BLS) will be utilized; however, if there is more appropriate, industry recognized standard then that index may be selected.
- i. The following definitions apply:
- (1) **Base Period:** Month and year of the original contracted price (the solicitation close date).
  - (2) **Base Price:** Initial price quoted, proposed and/or contracted per unit of measure.
  - (3) **Adjusted Price:** Base Price after it has been adjusted in accordance with the applicable index change and instructions provided.
  - (4) **Change Factor:** The multiplier utilized to adjust the Base Price to the Adjusted Price.
  - (5) **Weight %:** The percent of the Base Price subject to adjustment based on an index change.
- ii. **Adjustment-Request Review:** Each adjustment-request received will be reviewed and compared to changes in the index(es) identified below. Where applicable:
- (1) Utilize final Compilation data instead of Preliminary data
  - (2) If the referenced index is no longer available shift up to the next higher category index.
- iii. **Index Identification:** Complete table as they may apply.

Weight % or \$ of Base Price: 100% for items that the City of Austin picks up; 90 % for items that are delivered	
Database Name: Bureau of Labor Statistics – Producer Price Index – Industry Data	
Series ID: PCU 32412	
<input checked="checked" type="checkbox"/> Not Seasonally Adjusted	<input type="checkbox"/> Seasonally Adjusted

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Geographical Area: N/A
Description of Series ID: Industry/Product: Asphalt paving mixture and block manufacturing
This Index shall apply to the following items of the Bid Sheet / Cost Proposal: 1 - 6

Weight % or \$ of Base Price: 10 % for items that are delivered by the vendor to the COA
Database Name: Bureau of Labor Statistics – Producer Price Index - Industry
Series ID: PCU 484
<input checked="" type="checkbox"/> Not Seasonally Adjusted <input type="checkbox"/> Seasonally Adjusted
Geographical Area: N/A
Description of Series ID: Group: Truck Transportation
This Index shall apply to the following items of the Bid Sheet / Cost Proposal: Items 4-6 that are delivered by the vendor to the City of Austin.

E. **Calculation:** Price adjustment will be calculated as follows:

**Single Index:** Adjust the Base Price by the same factor calculated for the index change.

Index at time of calculation
Divided by index on solicitation close date
Equals Change Factor
Multiplied by the Base Rate
Equals the Adjusted Price

**Composite Indexes:** Based on one or more weighted indexes reflecting pricing elements of a good or service. The weighted percentage for each index is defined in D iii. above.

For Each Index: Index at the time of calculation
Divided by each Index on solicitation close date
Equals change factor for each index
Multiply each Base Price of relevant line items by the percentage of price attributed to each index = weighted price
Multiply weighted price by change factor for each index
Equals the Adjusted Price for the portion of the Base Price subject to each Index
Add all adjusted prices for each item together
Equals Adjusted Price for each item

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- F. If the requested adjustment is not supported by the referenced index, the City, at its sole discretion, may consider approving an adjustment on fully documented market increases.

16. **INTERLOCAL PURCHASING AGREEMENTS:** (applicable to competitively procured goods/services contracts).

- A. The City has entered into Interlocal Purchasing Agreements with other governmental entities, pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. The Contractor agrees to offer the same prices and terms and conditions to other eligible governmental agencies that have an interlocal agreement with the City.
- B. The City does not accept any responsibility or liability for the purchases by other governmental agencies through an interlocal cooperative agreement.

17. **CONTRACT MANAGER:** The following person is designated as Contract Manager, and will act as the contact point between the City and the Contractor during the term of the Contract:

Brenda Jimenez (or Lisa Escobedo)

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Street and Bridge Operations

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4411-A Meinardus Drive, Austin TX 78744

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Phone: 512-974-7955 or 512-974-8758; Fax: 512-974-8760

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\*Note: The above listed Contract Manager is not the authorized Contact Person for purposes of the **NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING Provision** of this Section; and therefore, contact with the Contract Manager is prohibited during the no contact period.

**CITY OF AUSTIN  
PURCHASING OFFICE  
SPECIFICATIONS  
Invitation for Bid IFB 6200 KDS0102  
Asphalt Emulsions**

**1.0 PURPOSE**

This specification is for the purchase of Asphalt Emulsions HFRS-2P, SS-1 and CQS-1HT (non-tracking tack) materials for the City of Austin Public Works Department, Street and Bridge Operations ("City"), for general street maintenance and sealcoat resurfacing applications on the streets of Austin.

Two City Seal Coat Teams average 6200 - 7000 gallons of HFRS-2P each week and are capable of conducting approximately 8 to 10 lane miles of seal coating a week. Seal Coat season ranges from April through Mid-October. Additionally, the Seal Coat Teams, Districts, and Overlay Crew average approximately 800 to 1000 gallons of SS-1 per week for overlay operations, level ups, utility cuts, and pothole repairs. SS-1 is used continuously throughout the calendar year with minimum usage during late Fall, Winter, and early Spring. Overlay crews will also utilize approximately 1000 to 1200 gallons a week of the CQS-1HT for resurfacing projects that take place between May and September. Timely, reliable and flexible supplies of asphalt materials are critical in sealcoat and overlay work, due to weather constraints and to roadway work window availability. Rain may cancel a scheduled project and street traffic volumes may restrict work hours to nights or weekends. For this work, a local, nearby facility is needed that can produce and store materials in varying amounts and on short notice.

The City reserves the right to allow other City departments to utilize the contract.

**2.0 SPECIFICATIONS**

The Asphalt Emulsions HFRS-2P, SS-1 and CQS-1HT shall meet the applicable requirements of the following City specifications:

- 2.1 Item No. 301S – Asphalt, Oils, & Emulsions, present version 08/20/07 at the following link: [https://www.municode.com/library/tx/austin/codes/standard\\_specifications\\_manual](https://www.municode.com/library/tx/austin/codes/standard_specifications_manual) (Attachment 1)
- 2.2 Special Provision to Item 300 for non-tracking tack (Attachment 2).

**3.0 SPECIFICATION DOCUMENTATION REQUIREMENTS**

- 3.1 The vendor shall submit certified documentation with its bid that the material provided meets all the material specifications. Material provided by the vendor shall be subject to standard laboratory tests by the City contracted testing laboratory. Material that does not meet the specification requirements will be rejected and no payment will be made.
- 3.2 The vendor shall provide an OSHA-compliant Material Safety Data Sheet with its bid specifying the generic and trade name of each product, the product specification, and full hazard information including receiving and storage hazards. Instructions and special equipment needed for handling and instructions for disposal of material and containers are also required.

**4.0 Facility Location Requirements**

The vendor's facility shall be located within a ten-mile radius of the City of Austin Limits.

**Section 0605: Local Business Presence Identification**

A firm (Offeror or Subcontractor) is considered to have a Local Business Presence if the firm is headquartered in the Austin Corporate City Limits, or has a branch office located in the Austin Corporate City Limits in operation for the last five (5) years, currently employs residents of the City of Austin, Texas, and will use employees that reside in the City of Austin, Texas, to support this Contract. The City defines headquarters as the administrative center where most of the important functions and full responsibility for managing and coordinating the business activities of the firm are located. The City defines branch office as a smaller, remotely located office that is separate from a firm's headquarters that offers the services requested and required under this solicitation.

**OFFEROR MUST SUBMIT THE FOLLOWING INFORMATION FOR EACH LOCAL BUSINESS (INCLUDING THE OFFEROR, IF APPLICABLE) TO BE CONSIDERED FOR LOCAL PRESENCE.**

*NOTE: ALL FIRMS MUST BE IDENTIFIED ON THE MBE/WBE COMPLIANCE PLAN OR NO GOALS UTILIZATION PLAN (REFERENCE SECTION 0900).*

**\*USE ADDITIONAL PAGES AS NECESSARY\***

**OFFEROR:**

Name of Local Firm	ERGON ASPHALT & EMULSIONS, INC.	
Physical Address	11612 RM 2244, BUILDING 1, SUITE 250, AUSTIN, TX 78738	
Is your headquarters located in the Corporate City Limits? (circle one)	Yes	<u>No</u>
or		
Has your branch office been located in the Corporate City Limits for the last 5 years?	<u>Yes</u>	No
Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?)	<u>Yes</u>	No

**SUBCONTRACTOR(S):**

Name of Local Firm	N/A	
Physical Address		
Is your headquarters located in the Corporate City Limits? (circle one)	Yes	No
or		
Has your branch office been located in the Corporate City Limits for the last 5 years	Yes	No

Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?)	Yes	No

**SUBCONTRACTOR(S):**

Name of Local Firm	N/A	
Physical Address		
Is your headquarters located in the Corporate City Limits? (circle one)	Yes	No
or		
Has your branch office been located in the Corporate City Limits for the last 5 years	Yes	No
Will your business be providing additional economic development opportunities created by the contract award? (e.g., hiring, or employing residents of the City of Austin or increasing tax revenue?)	Yes	No



**Section 0700: Reference Sheet**Responding Company Name ERGON ASPHALT & EMULSIONS, INC.

The City at its discretion may check references in order to determine the Offeror's experience and ability to provide the products and/or services described in this Solicitation. The Offeror shall furnish at least 3 complete and verifiable references. References shall consist of customers to whom the offeror has provided the same or similar services within the last 5 years. References shall indicate a record of positive past performance.

1. Company's Name HUNTER INDUSTRIES, LTD  
Name and Title of Contact JOHN WEISMAN, PRESIDENT  
Project Name ONGOING  
Present Address P. O. BOX 2109  
City, State, Zip Code SAN MARCOS, TEXAS 78667-2109  
Telephone Number (512) 353-7757 Fax Number (512) 441-1830  
Email Address \_\_\_\_\_
  
2. Company's Name VIKING CONSTRUCTION  
Name and Title of Contact BARRY DUNN, PRESIDENT  
Project Name ONGOING  
Present Address 2592 SHELL ROAD  
City, State, Zip Code GEORGETOWN, TEXAS 78628  
Telephone Number (512) 930-5777 Fax Number (512) 868-1955  
Email Address \_\_\_\_\_
  
3. Company's Name BEXAR COUNTY  
Name and Title of Contact TONY VASQUEZ, OPERATIONS MANAGER  
Project Name ONGOING  
Present Address 233 N. PECOS, SUITE 420  
City, State, Zip Code SAN ANTONIO, TEXAS 78207  
Telephone Number (210) 335-6710 Fax Number (210) 335-6713  
Email Address \_\_\_\_\_

**City of Austin, Texas**  
**NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION**

**City of Austin, Texas**

**Equal Employment/Fair Housing Office**

To: City of Austin, Texas,

I hereby certify that our firm complies with the Code of the City of Austin, Section 5-4-2 as reiterated below, and agrees:

- (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter, including affirmative action relative to employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training or any other terms, conditions or privileges of employment.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Equal Employment/Fair Housing Office setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with City and the Equal Employment/Fair Housing Office in connection with any investigation or conciliation effort of the Equal Employment/Fair Housing Office to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require of all subcontractors having 15 or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with the City subject to the terms of this chapter that they do not engage in any discriminatory employment practice as defined in this chapter

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Non-Discrimination and Non-Retaliation Policy set forth below.

**City of Austin**  
**Minimum Standard Non-Discrimination and Non-Retaliation in Employment Policy**

As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.

The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.

The Contractor agrees to prohibit retaliation, discharge or otherwise discrimination against any employee or applicant for employment who has inquired about, discussed or disclosed their compensation.

Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination and non-retaliation employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE THE CITY A COPY OF THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICIES ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION AND NON-RETALIATION POLICIES, AS SET FORTH HEREIN, **OR** THIS NON-DISCRIMINATION AND NON-RETALIATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

**Sanctions:**

Our firm understands that non-compliance with Chapter 5-4 and the City's Non-Retaliation Policy may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4 and the Non-Retaliation Policy.

**Term:**

The Contractor agrees that this Section 0800 Non-Discrimination and Non-Retaliation Certificate of the Contractor's separate conforming policy, which the Contractor has executed and filed with the City, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payment, the Contractor's Non-Discrimination and Non-Retaliation Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

CONTRACTOR  
Authorized  
Signature

\_\_\_\_\_  
\_\_\_\_\_

Title

\_\_\_\_\_

**City of Austin, Texas**  
**Section 0805**  
**NON-SUSPENSION OR DEBARMENT CERTIFICATION**

The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000.00 and all non-procurement transactions. This certification is required for all Vendors on all City of Austin Contracts to be awarded and all contract extensions with values equal to or in excess of \$25,000.00 or more and all non-procurement transactions.

The Offeror hereby certifies that its firm and its principals are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.

**CITY OF AUSTIN, TEXAS  
SECTION 0810  
NON-COLLUSION,  
NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING CERTIFICATION**

The term “**Offeror**”, as used in this document, includes the individual or business entity submitting the Offer. For the purpose of this Affidavit, an Offeror includes the directors, officers, partners, managers, members, principals, owners, agents, representatives, employees, other parties in interest of the Offeror, and any person or any entity acting for or on behalf of the Offeror, including a subcontractor in connection with this Offer.

1. **Anti-Collusion Statement.** The Offeror has not in any way directly or indirectly:

- a. colluded, conspired, or agreed with any other person, firm, corporation, Offeror or potential Offeror to the amount of this Offer or the terms or conditions of this Offer.
- b. paid or agreed to pay any other person, firm, corporation Offeror or potential Offeror any money or anything of value in return for assistance in procuring or attempting to procure a contract or in return for establishing the prices in the attached Offer or the Offer of any other Offeror.

2. **Preparation of Solicitation and Contract Documents.** The Offeror has not received any compensation or a promise of compensation for participating in the preparation or development of the underlying Solicitation or Contract documents. In addition, the Offeror has not otherwise participated in the preparation or development of the underlying Solicitation or Contract documents, except to the extent of any comments or questions and responses in the solicitation process, which are available to all Offerors, so as to have an unfair advantage over other Offerors, provided that the Offeror may have provided relevant product or process information to a consultant in the normal course of its business.

3. **Participation in Decision Making Process.** The Offeror has not participated in the evaluation of Offers or other decision making process for this Solicitation, and, if Offeror is awarded a Contract no individual, agent, representative, consultant, subcontractor, or sub-consultant associated with Offeror, who may have been involved in the evaluation or other decision making process for this Solicitation, will have any direct or indirect financial interest in the Contract, provided that the Offeror may have provided relevant product or process information to a consultant in the normal course of its business.

4. **Present Knowledge.** Offeror is not presently aware of any potential or actual conflicts of interest regarding this Solicitation, which either enabled Offeror to obtain an advantage over other Offerors or would prevent Offeror from advancing the best interests of the City in the course of the performance of the Contract.

5. **City Code.** As provided in Sections 2-7-61 through 2-7-65 of the City Code, no individual with a substantial interest in Offeror is a City official or employee or is related to any City official or employee within the first or second degree of consanguinity or affinity.

6. **Chapter 176 Conflict of Interest Disclosure.** In accordance with Chapter 176 of the Texas Local Government Code, the Offeror:

- a. does not have an employment or other business relationship with any local government officer of the City or a family member of that officer that results in the officer or family member receiving taxable income;

- b. has not given a local government officer of the City one or more gifts, other than gifts of food, lodging, transportation, or entertainment accepted as a guest, that have an aggregate value of more than \$100 in the twelve month period preceding the date the officer becomes aware of the execution of the Contract or that City is considering doing business with the Offeror. and
  - c. does not have a family relationship with a local government officer of the City in the third degree of consanguinity or the second degree of affinity.
7. As required by Chapter 176 of the Texas Local Government Code, Offeror must file a Conflict of Interest Questionnaire with the Office of the City Clerk no later than 5:00 P.M. on the seventh (7th) business day after the commencement of contract discussions or negotiations with the City or the submission of an Offer, or other writing related to a potential Contract with the City. The questionnaire is available on line at the following website for the City Clerk:

<http://www.austintexas.gov/departments/conflict-interest-questionnaire>

There are statutory penalties for failure to comply with Chapter 176.

If the Offeror cannot affirmatively swear and subscribe to the forgoing statements, the Offeror shall provide a detailed written explanation with any solicitation responses on separate pages to be annexed hereto.

8. **Anti-Lobbying Ordinance.** As set forth in the Solicitation Instructions, Section 0200, paragraph 7N, between the date that the Solicitation was issued and the date of full execution of the Contract, Offeror has not made and will not make a representation to a City official or to a City employee, other than the Authorized Contact Person for the Solicitation, except as permitted by the Ordinance.

**Section 0835: Non-Resident Bidder Provisions**

Company Name ERGON ASPHALT & EMULSIONS, INC.

- A. Bidder must answer the following questions in accordance with Vernon's Texas Statutes and Codes Annotated Government Code 2252.002, as amended:

Is the Bidder that is making and submitting this Bid a "Resident Bidder" or a "non-resident Bidder"?

Answer: NON-RESIDENT BIDDER

- (1) Texas Resident Bidder- A Bidder whose principle place of business is in Texas and includes a Contractor whose ultimate parent company or majority owner has its principal place of business in Texas.  
(2) Nonresident Bidder- A Bidder who is not a Texas Resident Bidder.

- B. If the Bidder is a "Nonresident Bidder" does the state, in which the Nonresident Bidder's principal place of business is located, have a law requiring a Nonresident Bidder of that state to bid a certain amount or percentage under the Bid of a Resident Bidder of that state in order for the nonresident Bidder of that state to be awarded a Contract on such bid in said state?

Answer: NO Which State: MISSISSIPPI

- C. If the answer to Question B is "yes", then what amount or percentage must a Texas Resident Bidder bid under the bid price of a Resident Bidder of that state in order to be awarded a Contract on such bid in said state?

Answer: \_\_\_\_\_



**Section 0900: Minority- and Women-Owned Business Enterprise (MBE/WBE) Procurement Program No Goals Form**

SOLICITATION NUMBER: KDS0102  
PROJECT NAME: Asphalt Emulsions

**The City of Austin has determined that no goals are appropriate for this project.** Even though goals were not assigned for this solicitation, the Bidder/Proposer is required to comply with the City's MBE/WBE Procurement Program, if areas of subcontracting are identified.

If any service is needed to perform the Contract and the Bidder/Proposer does not perform the service with its own workforce or if supplies or materials are required and the Bidder/Proposer does not have the supplies or materials in its inventory, the Bidder/Proposer shall contact the Small and Minority Business Resources Department (SMBR) at (512) 974-7600 to obtain a list of MBE and WBE firms available to perform the service or provide the supplies or materials. The Bidder/Proposer must also make a Good Faith Effort to use available MBE and WBE firms. Good Faith Efforts include but are not limited to contacting the listed MBE and WBE firms to solicit their interest in performing on the Contract, using MBE and WBE firms that have shown an interest, meet qualifications, and are competitive in the market; and documenting the results of the contacts.

**Will subcontractors or sub-consultants or suppliers be used to perform portions of this Contract?**

No   X   If no, please sign the No Goals Form and submit it with your Bid/Proposal in a sealed envelope  
Yes \_\_\_\_\_ If yes, please contact SMBR to obtain further instructions and an availability list and perform Good Faith Efforts. Complete and submit the No Goals Form and the No Goals Utilization Plan with your Bid/Proposal in a sealed envelope.

After Contract award, if your firm subcontracts any portion of the Contract, it is a requirement to complete Good Faith Efforts and the No Goals Utilization Plan, listing any subcontractor, sub-consultant, or supplier. Return the completed Plan to the Project Manager or the Contract Manager.

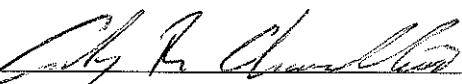
I understand that even though goals were not assigned, I must comply with the City's MBE/WBE Procurement Program if subcontracting areas are identified. I agree that this No Goals Form and No Goals Utilization Plan shall become a part of my Contract with the City of Austin.

ERGON ASPHALT & EMULSIONS, INC.

Company Name

CODY R. CHAMBLISS, AREA SALES MANAGER

Name and Title of Authorized Representative (Print or Type)



Signature

NOVEMBER 22, 2016

Date

**Minority- and Women-Owned Business Enterprise (MBE/WBE) Procurement Program No Goals Utilization Plan**  
*(Please duplicate as needed)*

SOLICITATION NUMBER:	6200 KDS0102
PROJECT NAME:	Asphalt Emulsions

**PRIME CONTRACTOR / CONSULTANT COMPANY INFORMATION**

Name of Contractor/Consultant			
Address			
City, State Zip			
Phone Number		Fax Number	
Name of Contact Person			
Is Company City certified?	Yes <input type="checkbox"/> No <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE/WBE Joint Venture <input type="checkbox"/>		

I certify that the information included in this No Goals Utilization Plan is true and complete to the best of my knowledge and belief. I further understand and agree that the information in this document shall become part of my Contract with the City of Austin.

\_\_\_\_\_  
**Name and Title of Authorized Representative (Print or Type)**

\_\_\_\_\_  
**Signature** \_\_\_\_\_  
**Date**

Provide a list of all proposed subcontractors / sub-consultants / suppliers that will be used in the performance of this Contract. **Attach Good Faith Effort documentation if non MBE/WBE firms will be used.**

<b>Sub-Contractor / Sub-Consultant</b>			
City of Austin Certified	MBE <input type="checkbox"/> WBE <input type="checkbox"/> Ethics / Gender Code: <input type="checkbox"/> Non-Certified		
Vendor ID Code			
Contact Person		Phone Number	
Amount of Subcontract	\$		
List commodity codes & description of services			

<b>Sub-Contractor / Sub-Consultant</b>			
City of Austin Certified	MBE <input type="checkbox"/> WBE <input type="checkbox"/> Ethics / Gender Code: <input type="checkbox"/> Non-Certified		
Vendor ID Code			
Contact Person		Phone Number	
Amount of Subcontract	\$		
List commodity codes & description of services			

<b>FOR SMALL AND MINORITY BUSINESS RESOURCES DEPARTMENT USE ONLY:</b>			
Having reviewed this plan, I acknowledge that the proposer (HAS) or (HAS NOT) complied with City Code Chapter 2-9A/B/C/D, as amended.			
Reviewing Counselor _____	Date _____	Director/Deputy Director _____	Date _____

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

## OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Ergon Asphalt & Emulsions, Inc.  
Austin, TX United States

Certificate Number:  
2017-170907

Date Filed:  
02/23/2017

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Austin

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

MA 6200 GA170000014  
Asphalt Emulsions

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.



6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



*R. M. McKemie*

Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP

Sworn to and subscribed before me, by the said R. M. McKemie, this the 24th day of February, 20 17, to certify which, witness my hand and seal of office.

*Elizabeth K. Roe*  
Signature of officer administering oath

Elizabeth K. Roe  
Printed name of officer administering oath

Notary Public  
Title of officer administering oath

## GOAL DETERMINATION REQUEST FORM

<b>Buyer Name/Phone</b>	Tracy Franklin/42034	<b>PM Name/Phone</b>	Brenda Jimenez/47955
<b>Sponsor/User Dept.</b>	Public Works Department 6200	<b>Sponsor Name/Phone</b>	N/A
<b>Solicitation No</b>	KDS0102	<b>Project Name</b>	Asphalt Emulsion
<b>Contract Amount</b>	\$2,200,000 annually	<b>Ad Date (if applicable)</b>	Advertisement Date
<b>Procurement Type</b>			
<input type="checkbox"/> AD – CSP <input type="checkbox"/> AD – Design Build Op Maint <input checked="" type="checkbox"/> IFB – IDIQ <input type="checkbox"/> Nonprofessional Services <input type="checkbox"/> Critical Business Need <input type="checkbox"/> Sole Source*			
<input type="checkbox"/> AD – CM@R <input type="checkbox"/> AD – JOC <input type="checkbox"/> PS – Project Specific <input checked="" type="checkbox"/> Commodities/Goods <input type="checkbox"/> Interlocal Agreement			
<input type="checkbox"/> AD – Design Build <input type="checkbox"/> IFB – Construction <input type="checkbox"/> PS – Rotation List <input type="checkbox"/> Cooperative Agreement <input type="checkbox"/> Ratification			
<b>Provide Project Description**</b>			
Establish a master agreement for asphalt emulsions for general street maintenance and sealcoat resurfacing applications on the streets of Austin.			
<b>Project History: Was a solicitation previously issued; if so were goals established? Were subcontractors/subconsultants utilized? Include prior Solicitation No.</b>			
Solicitation number EAD0219 was issued for Master Agreement GA130000076. No MWBE goals were established.			
<b>List the scopes of work (commodity codes) for this project. (Attach commodity breakdown by percentage; eCAPRIS printout acceptable)</b>			
7450841 - Emulsions, Asphalt (100%)			
Kim Scannell		9/15/2016	
<b>Buyer Confirmation</b>		<b>Date</b>	

\* Sole Source must include Certificate of Exemption

\*\*Project Description not required for Sole Source

<b>FOR SMBR USE ONLY</b>			
<b>Date Received</b>	9/20/2016	<b>Date Assigned to BDC</b>	9/20/2016
<b>In accordance with Chapter2-9(A-D)-19 of the Austin City Code, SMBR makes the following determination:</b>			
<input type="checkbox"/> Goals	% MBE	% WBE	
<input type="checkbox"/> Subgoals	% African American	% Hispanic	
	% Asian/Native American	% WBE	
<input type="checkbox"/> Exempt from MBE/WBE Procurement Program		<input checked="" type="checkbox"/> No Goals	

## GOAL DETERMINATION REQUEST FORM

### This determination is based upon the following:

- |  |   |
|--|---|
| <input type="checkbox"/> Insufficient availability of M/WBEs       | <input type="checkbox"/> No availability of M/WBEs                  |
| <input type="checkbox"/> Insufficient subcontracting opportunities | <input checked="" type="checkbox"/> No subcontracting opportunities |
| <input type="checkbox"/> Sufficient availability of M/WBEs         | <input type="checkbox"/> Sufficient subcontracting opportunities    |
| <input type="checkbox"/> Sole Source                               | <input type="checkbox"/> Other                                      |

*If Other was selected, provide reasoning:*

### MBE/WBE/DBE Availability

There is only one (1) certified MBE-HIS firm.

### Subcontracting Opportunities Identified

There are NO subcontracting opportunities

Jessica Oberembt

SMBR Staff

*[Signature]*

Signature/ Date

*09/20/2016*

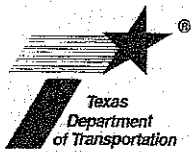
SMBR Director or Designee

*[Signature]*

Date

*9/20/16*

Returned to/ Date:



# Asphalt Material Test Report

**Sample ID: C16374116**      **Disposition: Meets Specifications**

**Effective Dates: 11/01/2016 to 11/30/2016**

**Grade:** HFRS-2P (HFRS-2P Emulsion)

**Sampled:** 10/14/2016

**Producer:** Ergon Asphalt and Emulsion, Inc.

**Received:** 10/17/2016

Austin, TX

**Completed:** 10/19/2016

**Sample Type:** Monthly

**Reviewed by:** CIGLEHA

**T/B #:**

**SM ID:** QM301C16374116

**Month:** Nov-16

Test No	Test Name	Result	Units	Min	Max
Tex 513-C	Saybolt Viscosity at 122°F	276.4	S. sec	150	400
Tex 514-C	Specific Gravity by Gallon Weight Cup	1.024	at 60°F		
Tex 521-C	Demulsibility in Calcium Chloride	75.9	%	50	
Tex 521-C	Distillation of Emulsified Asphalts				
	Distillation Residue by Mass	65.35	%	65	
	Oil Portion of Distillate	0	%		0.5
Tex 502-C	Penetration of Distillation Residue at 77°F	100	p.u.	90	140
Tex 519-C	Float Test on Distillation Residue				
	Float Time	1200	s	1200	
	Temperature	140	°F	140	
Tex 528-C	Absolute Viscosity of Distillation Residue at 140°F	3484.66	P	1500	
Tex 539-C	Elastic Recovery of Distillation Residue	65	%	55	

**Remarks:**



# Asphalt Material Test Report

**Sample ID: C16374099**    **Disposition: Meets Specifications**

**Effective Dates: 11/01/2016 to 11/30/2016**

**Grade:** SS-1 (SS-1 Emulsion)

**Sampled:** 10/14/2016

**Producer:** Ergon Asphalt and Emulsion, Inc.

**Received:** 10/15/2016

Austin, TX

**Completed:** 10/18/2016

**Sample Type:** Monthly

**Reviewed by:** CIGLEHA

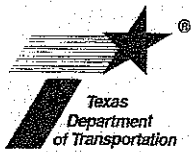
**T/B #:**

**SM ID:** QM301C16374099

**Month:** Nov-16

Test No	Test Name	Result	Units	Min	Max
Tex 513-C	Saybolt Viscosity at 77°F	26	S. sec	20	100
Tex 514-C	Specific Gravity by Gallon Weight Cup	1.0142	at 60°F		
Tex 521-C	Distillation of Emulsified Asphalts				
	Distillation Residue by Mass	62.39	%	60	
	Oil Portion of Distillate	0	%		0.5
Tex 502-C	Penetration of Distillation Residue at 77°F	154	p.u.	120	160

**Remarks:**



# Asphalt Material Test Report

**Sample ID: C16374116**    **Disposition: Meets Specifications**

**Effective Dates: 11/01/2016 to 11/30/2016**

**Grade:** HFRS-2P (HFRS-2P Emulsion)

**Sampled:** 10/14/2016

**Producer:** Ergon Asphalt and Emulsion, Inc.

**Received:** 10/17/2016

Austin, TX

**Completed:** 10/19/2016

**Sample Type:** Monthly

**Reviewed by:** CIGLEHA

**T/B #:**

**SM ID:** QM301C16374116

**Month:** Nov-16

Test No	Test Name	Result	Units	Min	Max
Tex 513-C	Saybolt Viscosity at 122°F	276.4	S. sec	150	400
Tex 514-C	Specific Gravity by Gallon Weight Cup	1.024	at 60°F		
Tex 521-C	Demulsibility in Calcium Chloride	75.9	%	50	
Tex 521-C	Distillation of Emulsified Asphalts				
	Distillation Residue by Mass	65.35	%	65	
	Oil Portion of Distillate	0	%		0.5
Tex 502-C	Penetration of Distillation Residue at 77°F	100	p.u.	90	140
Tex 519-C	Float Test on Distillation Residue				
	Float Time	1200	s	1200	
	Temperature	140	°F	140	
Tex 528-C	Absolute Viscosity of Distillation Residue at 140°F	3484.66	P	1500	
Tex 539-C	Elastic Recovery of Distillation Residue	65	%	55	

**Remarks:**





# Asphalt Material Test Report

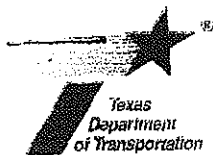
**Sample ID: C16374099    Disposition: Meets Specifications****Effective Dates: 11/01/2016 to 11/30/2016****Grade:** SS-1 (SS-1 Emulsion)**Sampled:** 10/14/2016**Producer:** Ergon Asphalt and Emulsion, Inc.**Received:** 10/15/2016

Austin, TX

**Completed:** 10/18/2016**Sample Type:** Monthly**Reviewed by:** CIGLEHA**T/B #:****SM ID:** QM301C16374099**Month:** Nov-16

Test No	Test Name	Result	Units	Min	Max
Tex 513-C	Saybolt Viscosity at 77°F	26	S. sec	20	100
Tex 514-C	Specific Gravity by Gallon Weight Cup	1.0142	at 60°F		
Tex 521-C	Distillation of Emulsified Asphalts				
	Distillation Residue by Mass	62.39	%	60	
	Oil Portion of Distillate	0	%		0.5
Tex 502-C	Penetration of Distillation Residue at 77°F	154	p.u.	120	160

**Remarks:**



# Asphalt Material Test Report

**Sample ID:** C16374381 **Disposition:** Meets Specifications

**Effective Dates:** 11/01/2016 to 11/30/2016

**Grade:** Sp. EM (Special Specification - Emulsion)

**Sampled:** 10/21/2016

**Producer:** Ergon Asphalt and Emulsion, Inc.

**Received:** 10/25/2016

Corpus Christi, TX

**Completed:** 10/28/2016

**Sample Type:** Monthly

**Reviewed by:** CIGLEHA

**T/B #:**

**SM ID:** QM301C16374381

**Month:** Nov-16

**Other ID:** CQS-1HT

Test No	Test Name	Result	Units	Min	Max
Tex 513-C	Saybolt Viscosity at 77°F	24	S. sec		
Tex 502-C	Penetration at 77°F	42	p.u.		
Tex 514-C	Specific Gravity by Gallon Weight Cup	1.0156	at 60°F		
Tex 521-C	Distillation of Emulsified Asphalts				
	Distillation Residue by Mass	63.44	%		
	Oil Portion of Distillate	0	%		

**Remarks:**

**1. Identification**

**Product identifier** HFRS-2P

**Other means of identification** Not available.

**Recommended use** Not available.

**Recommended restrictions** None known.

**Manufacturer/Importer/Supplier/Distributor information**

**Manufacturer**

**Manufacturer:** Ergon Asphalt & Emulsions, Inc.

**Address:** P. O. Box 1639

Jackson, MS 39215-1639

**Website:** www.ergonasphalt.com

**Telephone:** 1-800-222-7122 (Customer Service)

**E-mail:** sds@ergon.com

**24 hour Emergency (CHEMTREC):** North America 1-800-424-9300; International 1-703-527-3887

**2. Hazard(s) identification**

**Physical hazards** Not classified.

**Health hazards** Not classified.

**Environmental hazards** Not classified.

**OSHA defined hazards** Not classified.

**Label elements**

**Hazard symbol** None.

**Signal word** None.

**Hazard statement** The mixture does not meet the criteria for classification.

**Prevention** Observe good industrial hygiene practices.

**Response** Wash hands after handling.

**Storage** Store away from incompatible materials.

**Disposal** Dispose of waste and residues in accordance with local authority requirements.

**Hazard(s) not otherwise classified (HNOC)** None known.

**Supplemental information** Vapors containing hydrogen sulfide may accumulate during storage or transport. HYDROGEN SULFIDE (H<sub>2</sub>S) can be harmful or fatal if inhaled.

**3. Composition/information on ingredients**

**Mixtures**

Chemical name	Common name and synonyms	CAS number	%
ASPHALT		8052-42-4	55 - 75
WATER		7732-18-5	30 - 50
HYDROCHLORIC ACID		7647-01-0	< 1

**Composition comments** Components not listed are either non-hazardous or below the required disclosure threshold.

**4. First-aid measures**

**Inhalation** If breathing is difficult, remove to fresh air and keep at rest in a position comfortable for breathing. Call a physician if symptoms develop or persist.

**Skin contact** If clothing sticks to the skin, do not remove. Lotion or hand cream may aid in the removal of asphalt. Wash contact areas with soap and water. If needed, seek medical attention.

**Eye contact** Immediately flush eyes with plenty of water for at least 15 minutes. Remove contact lenses, if present and easy to do. Continue rinsing. Get medical attention if irritation develops and persists.

**Ingestion** Rinse mouth. DO NOT induce vomiting. Get medical attention immediately. If ingestion of a large amount does occur, call a poison control center immediately.

**Most important symptoms/effects, acute and delayed**

Direct contact with eyes may cause temporary irritation.

**Indication of immediate medical attention and special treatment needed**

Treat symptomatically.

**General information**

Ensure that medical personnel are aware of the material(s) involved, and take precautions to protect themselves.

## 5. Fire-fighting measures

**Suitable extinguishing media**

Foam. Dry chemical powder. Carbon dioxide (CO<sub>2</sub>).

**Unsuitable extinguishing media**

Water. Do not use water jet as an extinguisher, as this will spread the fire.

**Specific hazards arising from the chemical**

During fire, gases hazardous to health may be formed.

**Special protective equipment and precautions for firefighters**

Firefighters must use standard protective equipment including flame retardant coat, helmet with face shield, gloves, rubber boots, and in enclosed spaces, SCBA. Structural firefighters protective clothing will only provide limited protection.

**Fire-fighting equipment/instructions**

ALWAYS stay away from tanks engulfed in flame. Fight fire from maximum distance or use unmanned hose holders or monitor nozzles. Move containers from fire area if you can do so without risk. In the event of fire, cool tanks with water spray.

**Specific methods**

In the event of fire and/or explosion do not breathe fumes. In the event of fire, cool tanks with water spray.

**General fire hazards**

No unusual fire or explosion hazards noted.

## 6. Accidental release measures

**Personal precautions, protective equipment and emergency procedures**

Keep unnecessary personnel away. Keep people away from and upwind of spill/leak. Keep out of low areas. Do not touch damaged containers or spilled material unless wearing appropriate protective clothing. Ventilate closed spaces before entering them. For personal protection, see section 8 of the SDS.

**Methods and materials for containment and cleaning up**

This product is miscible in water.

Large Spills: Stop the flow of material, if this is without risk. Dike the spilled material, where this is possible. Cover with plastic sheet to prevent spreading. Absorb in vermiculite, dry sand or earth and place into containers. Prevent entry into waterways, sewer, basements or confined areas.

Small Spills: Wipe up with absorbent material (e.g. cloth, fleece). Clean surface thoroughly to remove residual contamination.

Never return spills to original containers for re-use. For waste disposal, see section 13 of the SDS. Absorb or cover with dry earth, sand or other non-combustible material and transfer to containers. Ventilate area and avoid breathing vapors or mist. For large spills, dike far ahead of liquid spill for later disposal. Do not release into sewers or waterways.

**Environmental precautions**

Avoid discharge into drains, water courses or onto the ground.

## 7. Handling and storage

**Precautions for safe handling**

Avoid prolonged exposure. Use only in well-ventilated areas. Hydrogen sulfide, a very highly toxic gas, may be present with this material. Keep face clear of tank and/or tank car openings. Good personal hygiene is necessary. Wash hands and contaminated areas with water and soap before leaving the work site.

**Conditions for safe storage, including any incompatibilities**

Prevent electrostatic charge build-up by using common bonding and grounding techniques. Store in original tightly closed container. Store in a well-ventilated place. Store away from incompatible materials (see Section 10 of the SDS). Do not allow material to freeze.

## 8. Exposure controls/personal protection

**Occupational exposure limits**

**US. OSHA Table Z-1 Limits for Air Contaminants (29 CFR 1910.1000)**

Components	Type	Value
HYDROCHLORIC ACID (CAS 7647-01-0)	Ceiling	7 mg/m <sup>3</sup>
		5 ppm

**US. ACGIH Threshold Limit Values**

Components	Type	Value	Form
ASPHALT (CAS 8052-42-4)	TWA	0.5 mg/m <sup>3</sup>	Inhalable fraction.

**US. ACGIH Threshold Limit Values  
Components**HYDROCHLORIC ACID (CAS  
7647-01-0)**Type**

Ceiling

**Value**

2 ppm

**Form****US. NIOSH: Pocket Guide to Chemical Hazards  
Components**

ASPHALT (CAS 8052-42-4)

Ceiling

5 mg/m3

Fume.

HYDROCHLORIC ACID (CAS  
7647-01-0)

Ceiling

7 mg/m3

5 ppm

**Biological limit values**

No biological exposure limits noted for the ingredient(s).

**Appropriate engineering  
controls**

Provide adequate ventilation, including appropriate local extraction, to ensure that the defined occupational exposure limit is not exceeded.

**Individual protection measures, such as personal protective equipment****Eye/face protection**

Wear safety glasses; chemical goggles (if splashing is possible).

**Hand protection**

Chemical resistant gloves are recommended. If contact with forearms is likely wear gauntlet style gloves.

**Other**

Wear appropriate clothing to prevent any possibility of liquid contact and repeated or prolonged vapor contact. Plastic or rubber gloves, apron and boots.

**Respiratory protection**

When workers are facing concentrations above the exposure limit they must use appropriate certified respirators.

**Thermal hazards**

Wear appropriate thermal protective clothing, when necessary.

**General hygiene  
considerations**

Always observe good personal hygiene measures, such as washing after handling the material and before eating, drinking, and/or smoking. Routinely wash work clothing and protective equipment to remove contaminants.

**9. Physical and chemical properties****Appearance**

Brown to black in color.

**Physical state**

Liquid.

**Form**

Liquid.

**Color**

Black.

**Odor**

Tar-like

**Odor threshold**

Not available.

**pH**

2.1 - 4

**Melting point/freezing point**

Not available.

**Initial boiling point and  
boiling range**

212 °F (100 °C) estimated

**Flash point**

&gt; 212.0 °F (&gt; 100.0 °C) estimated

**Evaporation rate**

&lt; 1

**Flammability (solid, gas)**

Not available.

**Upper/lower flammability or explosive limits****Flammability limit - lower  
(%)**

Not available.

**Flammability limit -  
upper (%)**

Not available.

**Explosive limit - lower  
(%)**

Not available.

**Explosive limit - upper  
(%)**

Not available.

**Vapor pressure**

Not available.

**Vapor density**

Not available.

**Relative density**

Not available.

**Solubility(ies)****Solubility (water)**

Not available.

**Partition coefficient  
(n-octanol/water)**

Not available.

**Auto-ignition temperature**

&gt; 700 °F (&gt; 371.11 °C) estimated

<b>Decomposition temperature</b>	Not available.
<b>Viscosity</b>	Not available.
<b>Other information</b>	
<b>Density</b>	8.43 lb/gal estimated
<b>Flammability class</b>	Combustible IIIB estimated

## 10. Stability and reactivity

<b>Reactivity</b>	The product is stable and non-reactive under normal conditions of use, storage and transport.
<b>Chemical stability</b>	Stable under normal temperature conditions.
<b>Possibility of hazardous reactions</b>	Hazardous polymerization does not occur.
<b>Conditions to avoid</b>	Avoid temperatures exceeding the flash point. Contact with incompatible materials. Do not overheat product.
<b>Incompatible materials</b>	Strong oxidizing agents.
<b>Hazardous decomposition products</b>	Upon decomposition, this product may yield sulfur dioxide, carbon monoxide, carbon dioxide and/or low molecular weight hydrocarbons. Hydrogen sulfide.

## 11. Toxicological information

### Information on likely routes of exposure

<b>Ingestion</b>	Expected to be a low ingestion hazard.
<b>Inhalation</b>	Prolonged inhalation may be harmful.
<b>Skin contact</b>	No adverse effects due to skin contact are expected.
<b>Eye contact</b>	Harmful in contact with eyes.

**Symptoms related to the physical, chemical and toxicological characteristics**  
Direct contact with eyes may cause temporary irritation.

### Information on toxicological effects

#### Acute toxicity

Components	Species	Test Results
HYDROCHLORIC ACID (CAS 7647-01-0)		
<b>Acute</b>		
<i>Dermal</i>		
LD50	Mouse	1449 mg/kg
<i>Inhalation</i>		
LC50	Mouse	1108 ppm, 1 Hours
	Rat	3124 ppm, 1 Hours
<i>Oral</i>		
LD50	Rabbit	900 mg/kg
<i>Other</i>		
LD50	Mouse	1449 mg/kg

\* Estimates for product may be based on additional component data not shown.

**Skin corrosion/irritation** Prolonged skin contact may cause temporary irritation.

**Serious eye damage/eye irritation** Harmful in contact with eyes. None known.

#### Respiratory or skin sensitization

**Respiratory sensitization** Not available.

**Skin sensitization** May cause skin disorders if contact is repeated or prolonged.

**Germ cell mutagenicity** No data available to indicate product or any components present at greater than 0.1% are mutagenic or genotoxic.

**Carcinogenicity** Risk of cancer cannot be excluded with prolonged exposure. IARC: occupational exposures to straight-run bitumens and their emissions during road paving are "possibly carcinogenic to humans" (Group 2B)

#### IARC Monographs. Overall Evaluation of Carcinogenicity

ASPHALT (CAS 8052-42-4)	2B Possibly carcinogenic to humans.
HYDROCHLORIC ACID (CAS 7647-01-0)	3 Not classifiable as to carcinogenicity to humans.

## US. OSHA Specifically Regulated Substances (29 CFR 1910.1001-1050)

Not listed.

<b>Reproductive toxicity</b>	Not classified.
<b>Specific target organ toxicity - single exposure</b>	Not classified.
<b>Specific target organ toxicity - repeated exposure</b>	Not classified.
<b>Aspiration hazard</b>	Not available.
<b>Chronic effects</b>	Prolonged exposure may cause chronic effects.
<b>Further information</b>	This product has no known adverse effect on human health.

## 12. Ecological information

**Ecotoxicity** Not expected to be harmful to aquatic organisms.

Components	Species	Test Results
HYDROCHLORIC ACID (CAS 7647-01-0)		
<b>Aquatic</b>		
Fish	LC50	Western mosquitofish ( <i>Gambusia affinis</i> ) 282 mg/l, 96 hours

\* Estimates for product may be based on additional component data not shown.

<b>Persistence and degradability</b>	No data is available on the degradability of this product.
<b>Bioaccumulative potential</b>	No data available.
<b>Mobility in soil</b>	No data available.
<b>Other adverse effects</b>	No other adverse environmental effects (e.g. ozone depletion, photochemical ozone creation potential, endocrine disruption, global warming potential) are expected from this component.

## 13. Disposal considerations

<b>Disposal instructions</b>	Collect and reclaim or dispose in sealed containers at licensed waste disposal site. Dispose in accordance with all applicable regulations. No components are identified as hazardous wastes. Disposal recommendations are based on uncontaminated material.
<b>Local disposal regulations</b>	Dispose in accordance with all applicable regulations.
<b>Hazardous waste code</b>	The waste code should be assigned in discussion between the user, the producer and the waste disposal company. Not applicable.
<b>Waste from residues / unused products</b>	Dispose of in accordance with local regulations. Empty containers or liners may retain some product residues. This material and its container must be disposed of in a safe manner (see: Disposal instructions). Avoid discharge into water courses or onto the ground.
<b>Contaminated packaging</b>	Empty containers should be taken to an approved waste handling site for recycling or disposal. Since emptied containers may retain product residue, follow label warnings even after container is emptied.

## 14. Transport information

### DOT

Not regulated as dangerous goods.

### IATA

Not regulated as dangerous goods.

### IMDG

Not regulated as dangerous goods.

**Transport in bulk according to Annex II of MARPOL 73/78 and the IBC Code** Not available.

## 15. Regulatory information

**US federal regulations** All components are on the U.S. EPA TSCA Inventory List.

### TSCA Section 12(b) Export Notification (40 CFR 707, Subpt. D)

Not regulated.

### CERCLA Hazardous Substance List (40 CFR 302.4)

ASPHALT (CAS 8052-42-4)

Listed.

HYDROCHLORIC ACID (CAS 7647-01-0)

Listed.

### US EPCRA Section 304 Extremely Haz. Subs. & CERCLA Haz. Subs.: Section 304 EHS reportable quantity

HYDROCHLORIC ACID (CAS 7647-01-0)

5000 LBS

**US. OSHA Specifically Regulated Substances (29 CFR 1910.1001-1050)**

Not listed.

**Superfund Amendments and Reauthorization Act of 1986 (SARA)****Hazard categories**

Immediate Hazard - No  
 Delayed Hazard - No  
 Fire Hazard - No  
 Pressure Hazard - No  
 Reactivity Hazard - No

**SARA 302 Extremely hazardous substance**

Chemical name	CAS number	Reportable quantity	Threshold planning quantity	Threshold planning quantity, lower value	Threshold planning quantity, upper value
HYDROCHLORIC ACID	7647-01-0	5000	500 lbs		

**SARA 311/312**  
 No  
**Hazardous chemical**

**SARA 313 (TRI reporting)**  
 Not regulated.

**Other federal regulations****Clean Air Act (CAA) Section 112 Hazardous Air Pollutants (HAPs) List**

HYDROCHLORIC ACID (CAS 7647-01-0)

**Clean Air Act (CAA) Section 112(r) Accidental Release Prevention (40 CFR 68.130)**

HYDROCHLORIC ACID (CAS 7647-01-0)

**Safe Drinking Water Act (SDWA)**  
 Not regulated.

**Drug Enforcement Administration (DEA). List 2, Essential Chemicals (21 CFR 1310.02(b) and 1310.04(f)(2))**

HYDROCHLORIC ACID (CAS 7647-01-0)

**DEA Essential Chemical Code Number**

HYDROCHLORIC ACID (CAS 7647-01-0) 6545

**Drug Enforcement Administration (DEA). List 1 & 2 Exempt Chemical Mixtures (21 CFR 1310.12(c))**

HYDROCHLORIC ACID (CAS 7647-01-0) 20 %WV

**DEA Exempt Chemical Mixtures Code Number**

HYDROCHLORIC ACID (CAS 7647-01-0) 6545

**US state regulations** WARNING: This product contains a chemical known to the State of California to cause cancer.

**US. Massachusetts RTK - Substance List**

ASPHALT (CAS 8052-42-4)

HYDROCHLORIC ACID (CAS 7647-01-0)

**US. New Jersey Worker and Community Right-to-Know Act**

HYDROCHLORIC ACID (CAS 7647-01-0) 500 LBS

**US. Pennsylvania RTK - Hazardous Substances**

ASPHALT (CAS 8052-42-4)

HYDROCHLORIC ACID (CAS 7647-01-0)

**US. Rhode Island RTK**

HYDROCHLORIC ACID (CAS 7647-01-0)

**US. California Proposition 65**

WARNING: This product contains a chemical known to the State of California to cause cancer.

**US - California Proposition 65 - CRT: Listed date/ Carcinogenic substance**

ASPHALT (CAS 8052-42-4)

Listed: January 1, 1990

**International Inventories**

Country(s) or region	Inventory name	On inventory (yes/no)*
Australia	Australian Inventory of Chemical Substances (AICS)	Yes
Canada	Domestic Substances List (DSL)	Yes
Canada	Non-Domestic Substances List (NDSL)	No
China	Inventory of Existing Chemical Substances in China (IECSC)	Yes
Europe	European Inventory of Existing Commercial Chemical Substances (EINECS)	Yes
Europe	European List of Notified Chemical Substances (ELINCS)	No
Japan	Inventory of Existing and New Chemical Substances (ENCS)	No



Country(s) or region	Inventory name	On inventory (yes/no)*
Korea	Existing Chemicals List (ECL)	No
New Zealand	New Zealand Inventory	Yes
Philippines	Philippine Inventory of Chemicals and Chemical Substances (PICCS)	No
United States & Puerto Rico	Toxic Substances Control Act (TSCA) Inventory	Yes

\*A "Yes" indicates that all components of this product comply with the inventory requirements administered by the governing country(s)

A "No" indicates that one or more components of the product are not listed or exempt from listing on the inventory administered by the governing country(s).

## 16. Other information, including date of preparation or last revision

**Issue date** 05-07-2015

**Version #** 01

**Further information** HMIS® is a registered trade and service mark of the NPCA.

**NFPA ratings**  
Health: 2  
Flammability: 1  
Instability: 0

**References**  
ACGIH  
EPA: AQUIRE database  
NLM: Hazardous Substances Data Base  
US. IARC Monographs on Occupational Exposures to Chemical Agents  
IARC Monographs. Overall Evaluation of Carcinogenicity  
National Toxicology Program (NTP) Report on Carcinogens  
ACGIH Documentation of the Threshold Limit Values and Biological Exposure Indices

**Disclaimer**  
The information provided in this Safety Data Sheet is correct to the best of our knowledge, information and belief at the date of its publication. The information given is designed only as a guidance for safe handling, use, processing, storage, transportation, disposal and release and is not to be considered a warranty or quality specification. The information relates only to the specific material designated and may not be valid for such material used in combination with any other materials or in any process, unless specified in the text. The information in the sheet was written based on the best knowledge and experience currently available.

**1. Identification**

**Product identifier** SS  
**Other means of identification** Not available.  
**Synonym(s)** SS-1, SS-1h, Tack  
**Recommended use** Not available.  
**Recommended restrictions** None known.  
**Manufacturer/Importer/Supplier/Distributor information**  
**Manufacturer**  
**Manufacturer:** Ergon Asphalt & Emulsions, Inc.  
**Address:** P. O. Box 1639  
 Jackson, MS 39215-1639  
**Website:** www.ergonasphalt.com  
**Telephone:** 1-800-222-7122 (Customer Service)  
**E-mail:** sds@ergon.com  
**24 hour Emergency (CHEMTREC):** North America 1-800-424-9300; International 1-703-527-3887

**2. Hazard(s) identification**

**Physical hazards** Not classified.  
**Health hazards** Not classified.  
**Environmental hazards** Not classified.  
**OSHA defined hazards** Not classified.  
**Label elements**  
**Hazard symbol** None.  
**Signal word** None.  
**Hazard statement** The mixture does not meet the criteria for classification.  
**Prevention** Observe good industrial hygiene practices.  
**Response** Wash hands after handling.  
**Storage** Store away from incompatible materials.  
**Disposal** Dispose of waste and residues in accordance with local authority requirements.  
**Hazard(s) not otherwise classified (HNOC)** None known.  
**Supplemental information** Not applicable.

**3. Composition/information on ingredients**
**Mixtures**

Chemical name	Common name and synonyms	CAS number	%
ASPHALT		8052-42-4	50 - 70
WATER		7732-18-5	25 - 45
PROPRIETARY INGREDIENTS		N/A	< 5
Other components below reportable levels			0.9999999999

**4. First-aid measures**

**Inhalation** If breathing is difficult, remove to fresh air and keep at rest in a position comfortable for breathing. Call a physician if symptoms develop or persist.  
**Skin contact** If clothing sticks to the skin, do not remove. Lotion or hand cream may aid in the removal of asphalt. Wash contact areas with soap and water. If needed, seek medical attention.  
**Eye contact** Immediately flush eyes with plenty of water for at least 15 minutes. Remove contact lenses, if present and easy to do. Continue rinsing. Get medical attention if irritation develops and persists.  
**Ingestion** Rinse mouth. DO NOT induce vomiting. Get medical attention immediately. If ingestion of a large amount does occur, call a poison control center immediately.

**Most important symptoms/effects, acute and delayed**

Direct contact with eyes may cause temporary irritation.

**Indication of immediate medical attention and special treatment needed**

Treat symptomatically.

**General information**

Ensure that medical personnel are aware of the material(s) involved, and take precautions to protect themselves.

## 5. Fire-fighting measures

**Suitable extinguishing media**

Foam. Dry chemical powder. Carbon dioxide (CO<sub>2</sub>).

**Unsuitable extinguishing media**

Water. Do not use water jet as an extinguisher, as this will spread the fire.

**Specific hazards arising from the chemical**

During fire, gases hazardous to health may be formed.

**Special protective equipment and precautions for firefighters**

Firefighters must use standard protective equipment including flame retardant coat, helmet with face shield, gloves, rubber boots, and in enclosed spaces, SCBA. Structural firefighters protective clothing will only provide limited protection.

**Fire-fighting equipment/instructions**

ALWAYS stay away from tanks engulfed in flame. Fight fire from maximum distance or use unmanned hose holders or monitor nozzles. Move containers from fire area if you can do so without risk. In the event of fire, cool tanks with water spray.

**Specific methods**

In the event of fire and/or explosion do not breathe fumes. In the event of fire, cool tanks with water spray.

**General fire hazards**

No unusual fire or explosion hazards noted.

## 6. Accidental release measures

**Personal precautions, protective equipment and emergency procedures**

Keep unnecessary personnel away. Keep people away from and upwind of spill/leak. Keep out of low areas. Do not touch damaged containers or spilled material unless wearing appropriate protective clothing. Ventilate closed spaces before entering them. For personal protection, see section 8 of the SDS.

**Methods and materials for containment and cleaning up**

This product is miscible in water.

Large Spills: Stop the flow of material, if this is without risk. Dike the spilled material, where this is possible. Cover with plastic sheet to prevent spreading. Absorb in vermiculite, dry sand or earth and place into containers. Prevent entry into waterways, sewer, basements or confined areas.

Small Spills: Wipe up with absorbent material (e.g. cloth, fleece). Clean surface thoroughly to remove residual contamination.

Never return spills to original containers for re-use. For waste disposal, see section 13 of the SDS. Absorb or cover with dry earth, sand or other non-combustible material and transfer to containers. Ventilate area and avoid breathing vapors or mist. For large spills, dike far ahead of liquid spill for later disposal. Do not release into sewers or waterways.

**Environmental precautions**

Avoid discharge into drains, water courses or onto the ground.

## 7. Handling and storage

**Precautions for safe handling**

Avoid prolonged exposure. Use only in well-ventilated areas. Hydrogen sulfide, a very highly toxic gas, may be present with this material. Keep face clear of tank and/or tank car openings. Good personal hygiene is necessary. Wash hands and contaminated areas with water and soap before leaving the work site.

**Conditions for safe storage, including any incompatibilities**

Prevent electrostatic charge build-up by using common bonding and grounding techniques. Store in original tightly closed container. Store in a well-ventilated place. Store away from incompatible materials (see Section 10 of the SDS). Do not allow material to freeze.

## 8. Exposure controls/personal protection

**Occupational exposure limits**

**US. ACGIH Threshold Limit Values Components**

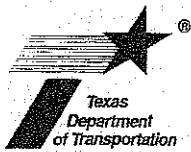
Type	Value	Form
ASPHALT (CAS 8052-42-4)	TWA	0.5 mg/m <sup>3</sup>
Inhalable fraction.		

**US. NIOSH: Pocket Guide to Chemical Hazards Components**

Type	Value	Form
ASPHALT (CAS 8052-42-4)	Ceiling	5 mg/m <sup>3</sup>
Fume.		

**Biological limit values**

No biological exposure limits noted for the ingredient(s).



# Asphalt Material Test Report

**Sample ID: C16374116**    **Disposition: Meets Specifications**

**Effective Dates: 11/01/2016 to 11/30/2016**

**Grade:** HFRS-2P (HFRS-2P Emulsion)

**Sampled:** 10/14/2016

**Producer:** Ergon Asphalt and Emulsion, Inc.

**Received:** 10/17/2016

Austin, TX

**Completed:** 10/19/2016

**Sample Type:** Monthly

**Reviewed by:** CIGLEHA

**T/B #:**

**SM ID:** QM301C16374116

**Month:** Nov-16

Test No	Test Name	Result	Units	Min	Max
Tex 513-C	Saybolt Viscosity at 122°F	276.4	S. sec	150	400
Tex 514-C	Specific Gravity by Gallon Weight Cup	1.024	at 60°F		
Tex 521-C	Demulsibility in Calcium Chloride	75.9	%	50	
Tex 521-C	Distillation of Emulsified Asphalts				
	Distillation Residue by Mass	65.35	%	65	
	Oil Portion of Distillate	0	%		0.5
Tex 502-C	Penetration of Distillation Residue at 77°F	100	p.u.	90	140
Tex 519-C	Float Test on Distillation Residue				
	Float Time	1200	s	1200	
	Temperature	140	°F	140	
Tex 528-C	Absolute Viscosity of Distillation Residue at 140°F	3484.66	P	1500	
Tex 539-C	Elastic Recovery of Distillation Residue	65	%	55	

**Remarks:**



# Asphalt Material Test Report

**Sample ID: C16374099**    **Disposition: Meets Specifications**

**Effective Dates: 11/01/2016 to 11/30/2016**

**Grade:** SS-1 (SS-1 Emulsion)

**Sampled:** 10/14/2016

**Producer:** Ergon Asphalt and Emulsion, Inc.

**Received:** 10/15/2016

Austin, TX

**Completed:** 10/18/2016

**Sample Type:** Monthly

**Reviewed by:** CIGLEHA

**T/B #:**

**SM ID:** QM301C16374099

**Month:** Nov-16

Test No	Test Name	Result	Units	Min	Max
Tex 513-C	Saybolt Viscosity at 77°F	26	S. sec	20	100
Tex 514-C	Specific Gravity by Gallon Weight Cup	1.0142	at 60°F		
Tex 521-C	Distillation of Emulsified Asphalts				
	Distillation Residue by Mass	62.39	%	60	
	Oil Portion of Distillate	0	%		0.5
Tex 502-C	Penetration of Distillation Residue at 77°F	154	p.u.	120	160

**Remarks:**



# Asphalt Material Test Report

**Sample ID:** C16374381 **Disposition:** Meets Specifications

**Effective Dates:** 11/01/2016 to 11/30/2016

**Grade:** Sp. EM (Special Specification - Emulsion)

**Sampled:** 10/21/2016

**Producer:** Ergon Asphalt and Emulsion, Inc.

**Received:** 10/25/2016

Corpus Christi, TX

**Completed:** 10/28/2016

**Sample Type:** Monthly

**Reviewed by:** CIGLEHA

**T/B #:**

**SM ID:** QM301C16374381

**Month:** Nov-16

**Other ID:** CQS-1HT

Test No	Test Name	Result	Units	Min	Max
Tex 513-C	Saybolt Viscosity at 77°F	24	S. sec		
Tex 502-C	Penetration at 77°F	42	p.u.		
Tex 514-C	Specific Gravity by Gallon Weight Cup	1.0156	at 60°F		
Tex 521-C	Distillation of Emulsified Asphalts				
	Distillation Residue by Mass	63.44	%		
	Oil Portion of Distillate	0	%		

**Remarks:**

**1. Identification**

**Product identifier** HFRS-2P

**Other means of identification** Not available.

**Recommended use** Not available.

**Recommended restrictions** None known.

**Manufacturer/Importer/Supplier/Distributor information**

**Manufacturer**

**Manufacturer:** Ergon Asphalt & Emulsions, Inc.

**Address:** P. O. Box 1639

Jackson, MS 39215-1639

**Website:** www.ergonasphalt.com

**Telephone:** 1-800-222-7122 (Customer Service)

**E-mail:** sds@ergon.com

**24 hour Emergency (CHEMTREC):** North America 1-800-424-9300; International 1-703-527-3887

**2. Hazard(s) identification**

**Physical hazards** Not classified.

**Health hazards** Not classified.

**Environmental hazards** Not classified.

**OSHA defined hazards** Not classified.

**Label elements**

**Hazard symbol** None.

**Signal word** None.

**Hazard statement** The mixture does not meet the criteria for classification.

**Prevention** Observe good industrial hygiene practices.

**Response** Wash hands after handling.

**Storage** Store away from incompatible materials.

**Disposal** Dispose of waste and residues in accordance with local authority requirements.

**Hazard(s) not otherwise classified (HNOC)** None known.

**Supplemental information** Vapors containing hydrogen sulfide may accumulate during storage or transport. HYDROGEN SULFIDE (H<sub>2</sub>S) can be harmful or fatal if inhaled.

**3. Composition/information on ingredients**

**Mixtures**

Chemical name	Common name and synonyms	CAS number	%
ASPHALT		8052-42-4	55 - 75
WATER		7732-18-5	30 - 50
HYDROCHLORIC ACID		7647-01-0	< 1

**Composition comments** Components not listed are either non-hazardous or below the required disclosure threshold.

**4. First-aid measures**

**Inhalation** If breathing is difficult, remove to fresh air and keep at rest in a position comfortable for breathing. Call a physician if symptoms develop or persist.

**Skin contact** If clothing sticks to the skin, do not remove. Lotion or hand cream may aid in the removal of asphalt. Wash contact areas with soap and water. If needed, seek medical attention.

**Eye contact** Immediately flush eyes with plenty of water for at least 15 minutes. Remove contact lenses, if present and easy to do. Continue rinsing. Get medical attention if irritation develops and persists.

**Ingestion** Rinse mouth. DO NOT induce vomiting. Get medical attention immediately. If ingestion of a large amount does occur, call a poison control center immediately.

**Most important symptoms/effects, acute and delayed**

Direct contact with eyes may cause temporary irritation.

**Indication of immediate medical attention and special treatment needed**

Treat symptomatically.

**General information**

Ensure that medical personnel are aware of the material(s) involved, and take precautions to protect themselves.

## 5. Fire-fighting measures

**Suitable extinguishing media**

Foam. Dry chemical powder. Carbon dioxide (CO<sub>2</sub>).

**Unsuitable extinguishing media**

Water. Do not use water jet as an extinguisher, as this will spread the fire.

**Specific hazards arising from the chemical**

During fire, gases hazardous to health may be formed.

**Special protective equipment and precautions for firefighters**

Firefighters must use standard protective equipment including flame retardant coat, helmet with face shield, gloves, rubber boots, and in enclosed spaces, SCBA. Structural firefighters protective clothing will only provide limited protection.

**Fire-fighting equipment/instructions**

ALWAYS stay away from tanks engulfed in flame. Fight fire from maximum distance or use unmanned hose holders or monitor nozzles. Move containers from fire area if you can do so without risk. In the event of fire, cool tanks with water spray.

**Specific methods**

In the event of fire and/or explosion do not breathe fumes. In the event of fire, cool tanks with water spray.

**General fire hazards**

No unusual fire or explosion hazards noted.

## 6. Accidental release measures

**Personal precautions, protective equipment and emergency procedures**

Keep unnecessary personnel away. Keep people away from and upwind of spill/leak. Keep out of low areas. Do not touch damaged containers or spilled material unless wearing appropriate protective clothing. Ventilate closed spaces before entering them. For personal protection, see section 8 of the SDS.

**Methods and materials for containment and cleaning up**

This product is miscible in water.

Large Spills: Stop the flow of material, if this is without risk. Dike the spilled material, where this is possible. Cover with plastic sheet to prevent spreading. Absorb in vermiculite, dry sand or earth and place into containers. Prevent entry into waterways, sewer, basements or confined areas.

Small Spills: Wipe up with absorbent material (e.g. cloth, fleece). Clean surface thoroughly to remove residual contamination.

Never return spills to original containers for re-use. For waste disposal, see section 13 of the SDS. Absorb or cover with dry earth, sand or other non-combustible material and transfer to containers. Ventilate area and avoid breathing vapors or mist. For large spills, dike far ahead of liquid spill for later disposal. Do not release into sewers or waterways.

**Environmental precautions**

Avoid discharge into drains, water courses or onto the ground.

## 7. Handling and storage

**Precautions for safe handling**

Avoid prolonged exposure. Use only in well-ventilated areas. Hydrogen sulfide, a very highly toxic gas, may be present with this material. Keep face clear of tank and/or tank car openings. Good personal hygiene is necessary. Wash hands and contaminated areas with water and soap before leaving the work site.

**Conditions for safe storage, including any incompatibilities**

Prevent electrostatic charge build-up by using common bonding and grounding techniques. Store in original tightly closed container. Store in a well-ventilated place. Store away from incompatible materials (see Section 10 of the SDS). Do not allow material to freeze.

## 8. Exposure controls/personal protection

**Occupational exposure limits**

**US. OSHA Table Z-1 Limits for Air Contaminants (29 CFR 1910.1000)**

Components	Type	Value
HYDROCHLORIC ACID (CAS 7647-01-0)	Ceiling	7 mg/m <sup>3</sup>
		5 ppm

**US. ACGIH Threshold Limit Values**

Components	Type	Value	Form
ASPHALT (CAS 8052-42-4)	TWA	0.5 mg/m <sup>3</sup>	Inhalable fraction.



**US. ACGIH Threshold Limit Values  
Components**HYDROCHLORIC ACID (CAS  
7647-01-0)**Type**

Ceiling

**Value**

2 ppm

**Form****US. NIOSH: Pocket Guide to Chemical Hazards  
Components**

ASPHALT (CAS 8052-42-4)

Ceiling

5 mg/m3

Fume.

HYDROCHLORIC ACID (CAS  
7647-01-0)

Ceiling

7 mg/m3

5 ppm

**Biological limit values**

No biological exposure limits noted for the ingredient(s).

**Appropriate engineering  
controls**

Provide adequate ventilation, including appropriate local extraction, to ensure that the defined occupational exposure limit is not exceeded.

**Individual protection measures, such as personal protective equipment****Eye/face protection**

Wear safety glasses; chemical goggles (if splashing is possible).

**Hand protection**

Chemical resistant gloves are recommended. If contact with forearms is likely wear gauntlet style gloves.

**Other**

Wear appropriate clothing to prevent any possibility of liquid contact and repeated or prolonged vapor contact. Plastic or rubber gloves, apron and boots.

**Respiratory protection**

When workers are facing concentrations above the exposure limit they must use appropriate certified respirators.

**Thermal hazards**

Wear appropriate thermal protective clothing, when necessary.

**General hygiene  
considerations**

Always observe good personal hygiene measures, such as washing after handling the material and before eating, drinking, and/or smoking. Routinely wash work clothing and protective equipment to remove contaminants.

**9. Physical and chemical properties****Appearance**

Brown to black in color.

**Physical state**

Liquid.

**Form**

Liquid.

**Color**

Black.

**Odor**

Tar-like

**Odor threshold**

Not available.

**pH**

2.1 - 4

**Melting point/freezing point**

Not available.

**Initial boiling point and  
boiling range**

212 °F (100 °C) estimated

**Flash point**

&gt; 212.0 °F (&gt; 100.0 °C) estimated

**Evaporation rate**

&lt; 1

**Flammability (solid, gas)**

Not available.

**Upper/lower flammability or explosive limits****Flammability limit - lower  
(%)**

Not available.

**Flammability limit -  
upper (%)**

Not available.

**Explosive limit - lower  
(%)**

Not available.

**Explosive limit - upper  
(%)**

Not available.

**Vapor pressure**

Not available.

**Vapor density**

Not available.

**Relative density**

Not available.

**Solubility(ies)****Solubility (water)**

Not available.

**Partition coefficient  
(n-octanol/water)**

Not available.

**Auto-ignition temperature**

&gt; 700 °F (&gt; 371.11 °C) estimated

<b>Decomposition temperature</b>	Not available.
<b>Viscosity</b>	Not available.
<b>Other information</b>	
<b>Density</b>	8.43 lb/gal estimated
<b>Flammability class</b>	Combustible IIIB estimated

## 10. Stability and reactivity

<b>Reactivity</b>	The product is stable and non-reactive under normal conditions of use, storage and transport.
<b>Chemical stability</b>	Stable under normal temperature conditions.
<b>Possibility of hazardous reactions</b>	Hazardous polymerization does not occur.
<b>Conditions to avoid</b>	Avoid temperatures exceeding the flash point. Contact with incompatible materials. Do not overheat product.
<b>Incompatible materials</b>	Strong oxidizing agents.
<b>Hazardous decomposition products</b>	Upon decomposition, this product may yield sulfur dioxide, carbon monoxide, carbon dioxide and/or low molecular weight hydrocarbons. Hydrogen sulfide.

## 11. Toxicological information

### Information on likely routes of exposure

<b>Ingestion</b>	Expected to be a low ingestion hazard.
<b>Inhalation</b>	Prolonged inhalation may be harmful.
<b>Skin contact</b>	No adverse effects due to skin contact are expected.
<b>Eye contact</b>	Harmful in contact with eyes.

**Symptoms related to the physical, chemical and toxicological characteristics**  
Direct contact with eyes may cause temporary irritation.

### Information on toxicological effects

#### Acute toxicity

Components	Species	Test Results
<b>HYDROCHLORIC ACID (CAS 7647-01-0)</b>		
<b>Acute</b>		
<i>Dermal</i>		
LD50	Mouse	1449 mg/kg
<i>Inhalation</i>		
LC50	Mouse	1108 ppm, 1 Hours
	Rat	3124 ppm, 1 Hours
<i>Oral</i>		
LD50	Rabbit	900 mg/kg
<i>Other</i>		
LD50	Mouse	1449 mg/kg

\* Estimates for product may be based on additional component data not shown.

**Skin corrosion/irritation** Prolonged skin contact may cause temporary irritation.

**Serious eye damage/eye irritation** Harmful in contact with eyes. None known.

#### Respiratory or skin sensitization

**Respiratory sensitization** Not available.

**Skin sensitization** May cause skin disorders if contact is repeated or prolonged.

**Germ cell mutagenicity** No data available to indicate product or any components present at greater than 0.1% are mutagenic or genotoxic.

**Carcinogenicity** Risk of cancer cannot be excluded with prolonged exposure. IARC: occupational exposures to straight-run bitumens and their emissions during road paving are "possibly carcinogenic to humans" (Group 2B)

#### IARC Monographs. Overall Evaluation of Carcinogenicity

ASPHALT (CAS 8052-42-4)	2B Possibly carcinogenic to humans.
HYDROCHLORIC ACID (CAS 7647-01-0)	3 Not classifiable as to carcinogenicity to humans.

## US. OSHA Specifically Regulated Substances (29 CFR 1910.1001-1050)

Not listed.

<b>Reproductive toxicity</b>	Not classified.
<b>Specific target organ toxicity - single exposure</b>	Not classified.
<b>Specific target organ toxicity - repeated exposure</b>	Not classified.
<b>Aspiration hazard</b>	Not available.
<b>Chronic effects</b>	Prolonged exposure may cause chronic effects.
<b>Further information</b>	This product has no known adverse effect on human health.

## 12. Ecological information

**Ecotoxicity** Not expected to be harmful to aquatic organisms.

Components	Species	Test Results
HYDROCHLORIC ACID (CAS 7647-01-0)		
<b>Aquatic</b>		
Fish	LC50	Western mosquitofish ( <i>Gambusia affinis</i> ) 282 mg/l, 96 hours

\* Estimates for product may be based on additional component data not shown.

<b>Persistence and degradability</b>	No data is available on the degradability of this product.
<b>Bioaccumulative potential</b>	No data available.
<b>Mobility in soil</b>	No data available.
<b>Other adverse effects</b>	No other adverse environmental effects (e.g. ozone depletion, photochemical ozone creation potential, endocrine disruption, global warming potential) are expected from this component.

## 13. Disposal considerations

<b>Disposal instructions</b>	Collect and reclaim or dispose in sealed containers at licensed waste disposal site. Dispose in accordance with all applicable regulations. No components are identified as hazardous wastes. Disposal recommendations are based on uncontaminated material.
<b>Local disposal regulations</b>	Dispose in accordance with all applicable regulations.
<b>Hazardous waste code</b>	The waste code should be assigned in discussion between the user, the producer and the waste disposal company. Not applicable.
<b>Waste from residues / unused products</b>	Dispose of in accordance with local regulations. Empty containers or liners may retain some product residues. This material and its container must be disposed of in a safe manner (see: Disposal instructions). Avoid discharge into water courses or onto the ground.
<b>Contaminated packaging</b>	Empty containers should be taken to an approved waste handling site for recycling or disposal. Since emptied containers may retain product residue, follow label warnings even after container is emptied.

## 14. Transport information

### DOT

Not regulated as dangerous goods.

### IATA

Not regulated as dangerous goods.

### IMDG

Not regulated as dangerous goods.

**Transport in bulk according to Annex II of MARPOL 73/78 and the IBC Code** Not available.

## 15. Regulatory information

**US federal regulations** All components are on the U.S. EPA TSCA Inventory List.

### TSCA Section 12(b) Export Notification (40 CFR 707, Subpt. D)

Not regulated.

### CERCLA Hazardous Substance List (40 CFR 302.4)

ASPHALT (CAS 8052-42-4)

Listed.

HYDROCHLORIC ACID (CAS 7647-01-0)

Listed.

### US EPCRA Section 304 Extremely Haz. Subs. & CERCLA Haz. Subs.: Section 304 EHS reportable quantity

HYDROCHLORIC ACID (CAS 7647-01-0)

5000 LBS

**US. OSHA Specifically Regulated Substances (29 CFR 1910.1001-1050)**

Not listed.

**Superfund Amendments and Reauthorization Act of 1986 (SARA)****Hazard categories**

Immediate Hazard - No  
 Delayed Hazard - No  
 Fire Hazard - No  
 Pressure Hazard - No  
 Reactivity Hazard - No

**SARA 302 Extremely hazardous substance**

Chemical name	CAS number	Reportable quantity	Threshold planning quantity	Threshold planning quantity, lower value	Threshold planning quantity, upper value
HYDROCHLORIC ACID	7647-01-0	5000	500 lbs		

**SARA 311/312**  
 No  
**Hazardous chemical**

**SARA 313 (TRI reporting)**  
 Not regulated.

**Other federal regulations****Clean Air Act (CAA) Section 112 Hazardous Air Pollutants (HAPs) List**

HYDROCHLORIC ACID (CAS 7647-01-0)

**Clean Air Act (CAA) Section 112(r) Accidental Release Prevention (40 CFR 68.130)**

HYDROCHLORIC ACID (CAS 7647-01-0)

**Safe Drinking Water Act (SDWA)**  
 Not regulated.

**Drug Enforcement Administration (DEA). List 2, Essential Chemicals (21 CFR 1310.02(b) and 1310.04(f)(2))**

HYDROCHLORIC ACID (CAS 7647-01-0)

**DEA Essential Chemical Code Number**

HYDROCHLORIC ACID (CAS 7647-01-0) 6545

**Drug Enforcement Administration (DEA). List 1 & 2 Exempt Chemical Mixtures (21 CFR 1310.12(c))**

HYDROCHLORIC ACID (CAS 7647-01-0) 20 %WV

**DEA Exempt Chemical Mixtures Code Number**

HYDROCHLORIC ACID (CAS 7647-01-0) 6545

**US state regulations** WARNING: This product contains a chemical known to the State of California to cause cancer.

**US. Massachusetts RTK - Substance List**

ASPHALT (CAS 8052-42-4)

HYDROCHLORIC ACID (CAS 7647-01-0)

**US. New Jersey Worker and Community Right-to-Know Act**

HYDROCHLORIC ACID (CAS 7647-01-0) 500 LBS

**US. Pennsylvania RTK - Hazardous Substances**

ASPHALT (CAS 8052-42-4)

HYDROCHLORIC ACID (CAS 7647-01-0)

**US. Rhode Island RTK**

HYDROCHLORIC ACID (CAS 7647-01-0)

**US. California Proposition 65**

WARNING: This product contains a chemical known to the State of California to cause cancer.

**US - California Proposition 65 - CRT: Listed date/ Carcinogenic substance**

ASPHALT (CAS 8052-42-4)

Listed: January 1, 1990

**International Inventories**

Country(s) or region	Inventory name	On inventory (yes/no)*
Australia	Australian Inventory of Chemical Substances (AICS)	Yes
Canada	Domestic Substances List (DSL)	Yes
Canada	Non-Domestic Substances List (NDSL)	No
China	Inventory of Existing Chemical Substances in China (IECSC)	Yes
Europe	European Inventory of Existing Commercial Chemical Substances (EINECS)	Yes
Europe	European List of Notified Chemical Substances (ELINCS)	No
Japan	Inventory of Existing and New Chemical Substances (ENCS)	No

Country(s) or region	Inventory name	On inventory (yes/no)*
Korea	Existing Chemicals List (ECL)	No
New Zealand	New Zealand Inventory	Yes
Philippines	Philippine Inventory of Chemicals and Chemical Substances (PICCS)	No
United States & Puerto Rico	Toxic Substances Control Act (TSCA) Inventory	Yes

\*A "Yes" indicates that all components of this product comply with the inventory requirements administered by the governing country(s)

A "No" indicates that one or more components of the product are not listed or exempt from listing on the inventory administered by the governing country(s).

## 16. Other information, including date of preparation or last revision

**Issue date** 05-07-2015

**Version #** 01

**Further information** HMIS® is a registered trade and service mark of the NPCA.

**NFPA ratings**  
Health: 2  
Flammability: 1  
Instability: 0

**References**  
ACGIH  
EPA: AQUIRE database  
NLM: Hazardous Substances Data Base  
US. IARC Monographs on Occupational Exposures to Chemical Agents  
IARC Monographs. Overall Evaluation of Carcinogenicity  
National Toxicology Program (NTP) Report on Carcinogens  
ACGIH Documentation of the Threshold Limit Values and Biological Exposure Indices

**Disclaimer**  
The information provided in this Safety Data Sheet is correct to the best of our knowledge, information and belief at the date of its publication. The information given is designed only as a guidance for safe handling, use, processing, storage, transportation, disposal and release and is not to be considered a warranty or quality specification. The information relates only to the specific material designated and may not be valid for such material used in combination with any other materials or in any process, unless specified in the text. The information in the sheet was written based on the best knowledge and experience currently available.

**1. Identification**

**Product identifier** SS  
**Other means of identification** Not available.  
**Synonym(s)** SS-1, SS-1h, Tack  
**Recommended use** Not available.  
**Recommended restrictions** None known.  
**Manufacturer/Importer/Supplier/Distributor information**  
**Manufacturer**  
**Manufacturer:** Ergon Asphalt & Emulsions, Inc.  
**Address:** P. O. Box 1639  
 Jackson, MS 39215-1639  
**Website:** www.ergonasphalt.com  
**Telephone:** 1-800-222-7122 (Customer Service)  
**E-mail:** sds@ergon.com  
**24 hour Emergency (CHEMTREC):** North America 1-800-424-9300; International 1-703-527-3887

**2. Hazard(s) identification**

**Physical hazards** Not classified.  
**Health hazards** Not classified.  
**Environmental hazards** Not classified.  
**OSHA defined hazards** Not classified.  
**Label elements**  
**Hazard symbol** None.  
**Signal word** None.  
**Hazard statement** The mixture does not meet the criteria for classification.  
**Prevention** Observe good industrial hygiene practices.  
**Response** Wash hands after handling.  
**Storage** Store away from incompatible materials.  
**Disposal** Dispose of waste and residues in accordance with local authority requirements.  
**Hazard(s) not otherwise classified (HNOC)** None known.  
**Supplemental information** Not applicable.

**3. Composition/information on ingredients**
**Mixtures**

Chemical name	Common name and synonyms	CAS number	%
ASPHALT		8052-42-4	50 - 70
WATER		7732-18-5	25 - 45
PROPRIETARY INGREDIENTS		N/A	< 5
Other components below reportable levels			0.9999999999

**4. First-aid measures**

**Inhalation** If breathing is difficult, remove to fresh air and keep at rest in a position comfortable for breathing. Call a physician if symptoms develop or persist.  
**Skin contact** If clothing sticks to the skin, do not remove. Lotion or hand cream may aid in the removal of asphalt. Wash contact areas with soap and water. If needed, seek medical attention.  
**Eye contact** Immediately flush eyes with plenty of water for at least 15 minutes. Remove contact lenses, if present and easy to do. Continue rinsing. Get medical attention if irritation develops and persists.  
**Ingestion** Rinse mouth. DO NOT induce vomiting. Get medical attention immediately. If ingestion of a large amount does occur, call a poison control center immediately.

**Most important symptoms/effects, acute and delayed**

Direct contact with eyes may cause temporary irritation.

**Indication of immediate medical attention and special treatment needed**

Treat symptomatically.

**General information**

Ensure that medical personnel are aware of the material(s) involved, and take precautions to protect themselves.

## 5. Fire-fighting measures

**Suitable extinguishing media**

Foam. Dry chemical powder. Carbon dioxide (CO<sub>2</sub>).

**Unsuitable extinguishing media**

Water. Do not use water jet as an extinguisher, as this will spread the fire.

**Specific hazards arising from the chemical**

During fire, gases hazardous to health may be formed.

**Special protective equipment and precautions for firefighters**

Firefighters must use standard protective equipment including flame retardant coat, helmet with face shield, gloves, rubber boots, and in enclosed spaces, SCBA. Structural firefighters protective clothing will only provide limited protection.

**Fire-fighting equipment/instructions**

ALWAYS stay away from tanks engulfed in flame. Fight fire from maximum distance or use unmanned hose holders or monitor nozzles. Move containers from fire area if you can do so without risk. In the event of fire, cool tanks with water spray.

**Specific methods**

In the event of fire and/or explosion do not breathe fumes. In the event of fire, cool tanks with water spray.

**General fire hazards**

No unusual fire or explosion hazards noted.

## 6. Accidental release measures

**Personal precautions, protective equipment and emergency procedures**

Keep unnecessary personnel away. Keep people away from and upwind of spill/leak. Keep out of low areas. Do not touch damaged containers or spilled material unless wearing appropriate protective clothing. Ventilate closed spaces before entering them. For personal protection, see section 8 of the SDS.

**Methods and materials for containment and cleaning up**

This product is miscible in water.

Large Spills: Stop the flow of material, if this is without risk. Dike the spilled material, where this is possible. Cover with plastic sheet to prevent spreading. Absorb in vermiculite, dry sand or earth and place into containers. Prevent entry into waterways, sewer, basements or confined areas.

Small Spills: Wipe up with absorbent material (e.g. cloth, fleece). Clean surface thoroughly to remove residual contamination.

Never return spills to original containers for re-use. For waste disposal, see section 13 of the SDS. Absorb or cover with dry earth, sand or other non-combustible material and transfer to containers. Ventilate area and avoid breathing vapors or mist. For large spills, dike far ahead of liquid spill for later disposal. Do not release into sewers or waterways.

**Environmental precautions**

Avoid discharge into drains, water courses or onto the ground.

## 7. Handling and storage

**Precautions for safe handling**

Avoid prolonged exposure. Use only in well-ventilated areas. Hydrogen sulfide, a very highly toxic gas, may be present with this material. Keep face clear of tank and/or tank car openings. Good personal hygiene is necessary. Wash hands and contaminated areas with water and soap before leaving the work site.

**Conditions for safe storage, including any incompatibilities**

Prevent electrostatic charge build-up by using common bonding and grounding techniques. Store in original tightly closed container. Store in a well-ventilated place. Store away from incompatible materials (see Section 10 of the SDS). Do not allow material to freeze.

## 8. Exposure controls/personal protection

**Occupational exposure limits**

**US. ACGIH Threshold Limit Values  
Components**

Type	Value	Form
ASPHALT (CAS 8052-42-4)	TWA	0.5 mg/m <sup>3</sup>
Inhalable fraction.		

**US. NIOSH: Pocket Guide to Chemical Hazards  
Components**

Type	Value	Form
ASPHALT (CAS 8052-42-4)	Ceiling	5 mg/m <sup>3</sup>
Fume.		

**Biological limit values**

No biological exposure limits noted for the ingredient(s).

<b>Appropriate engineering controls</b>	Provide adequate ventilation, including appropriate local extraction, to ensure that the defined occupational exposure limit is not exceeded.
<b>Individual protection measures, such as personal protective equipment</b>	
<b>Eye/face protection</b>	Wear safety glasses with side shields (or goggles).
<b>Hand protection</b>	Chemical resistant gloves are recommended. If contact with forearms is likely wear gauntlet style gloves.
<b>Other</b>	Wear appropriate chemical resistant clothing.
<b>Respiratory protection</b>	Not available.
<b>Thermal hazards</b>	Wear appropriate thermal protective clothing, when necessary.
<b>General hygiene considerations</b>	Always observe good personal hygiene measures, such as washing after handling the material and before eating, drinking, and/or smoking. Routinely wash work clothing and protective equipment to remove contaminants.

## 9. Physical and chemical properties

<b>Appearance</b>	Viscous liquid
<b>Physical state</b>	Liquid.
<b>Form</b>	Liquid.
<b>Color</b>	Brown to Black
<b>Odor</b>	Tar-like
<b>Odor threshold</b>	Not available.
<b>pH</b>	9.6 - 10.6
<b>Melting point/freezing point</b>	Not available.
<b>Initial boiling point and boiling range</b>	212 °F (100 °C)
<b>Flash point</b>	> 400.0 °F (> 204.4 °C) Cleveland Open Cup
<b>Evaporation rate</b>	<= 1
<b>Flammability (solid, gas)</b>	Not available.
<b>Upper/lower flammability or explosive limits</b>	
<b>Flammability limit - lower (%)</b>	Not available.
<b>Flammability limit - upper (%)</b>	Not available.
<b>Explosive limit - lower (%)</b>	Not available.
<b>Explosive limit - upper (%)</b>	Not available.
<b>Vapor pressure</b>	< 20 mm Hg @ 70°F
<b>Vapor density</b>	>= 1
<b>Relative density</b>	Not available.
<b>Solubility(ies)</b>	
<b>Solubility (water)</b>	Not available.
<b>Partition coefficient (n-octanol/water)</b>	Not available.
<b>Auto-ignition temperature</b>	> 700 °F (> 371.11 °C)
<b>Decomposition temperature</b>	Not available.
<b>Viscosity</b>	Not available.
<b>Other information</b>	
<b>Density</b>	8.30 - 8.50 lb/gal
<b>Percent volatile</b>	< 2 %
<b>Specific gravity</b>	1.01

## 10. Stability and reactivity

<b>Reactivity</b>	The product is stable and non-reactive under normal conditions of use, storage and transport.
<b>Chemical stability</b>	Stable under normal temperature conditions.
<b>Possibility of hazardous reactions</b>	Hazardous polymerization does not occur.



<b>Conditions to avoid</b>	Avoid temperatures exceeding the flash point. Contact with incompatible materials. Do not overheat product.
<b>Incompatible materials</b>	Strong oxidizing agents.
<b>Hazardous decomposition products</b>	Upon decomposition, this product may yield sulfur dioxide, carbon monoxide, carbon dioxide and/or low molecular weight hydrocarbons. Hydrogen sulfide.

## 11. Toxicological information

### Information on likely routes of exposure

<b>Ingestion</b>	Expected to be a low ingestion hazard.
<b>Inhalation</b>	Prolonged inhalation may be harmful.
<b>Skin contact</b>	No adverse effects due to skin contact are expected.
<b>Eye contact</b>	Harmful in contact with eyes.

**Symptoms related to the physical, chemical and toxicological characteristics**  
Direct contact with eyes may cause temporary irritation.

### Information on toxicological effects

**Acute toxicity** Not available.

Product	Species	Test Results
SS (CAS Mixture)		
<b>Acute</b>		
<i>Other</i>		
LD50	Mouse	4000 mg/kg estimated

\* Estimates for product may be based on additional component data not shown.

**Skin corrosion/irritation** Prolonged skin contact may cause temporary irritation.

**Serious eye damage/eye irritation** Harmful in contact with eyes. None known.

### Respiratory or skin sensitization

<b>Respiratory sensitization</b>	Not available.
<b>Skin sensitization</b>	May cause skin disorders if contact is repeated or prolonged.

**Germ cell mutagenicity** No data available to indicate product or any components present at greater than 0.1% are mutagenic or genotoxic.

**Carcinogenicity** Risk of cancer cannot be excluded with prolonged exposure.

### IARC Monographs. Overall Evaluation of Carcinogenicity

ASPHALT (CAS 8052-42-4) 2B Possibly carcinogenic to humans.

### US. OSHA Specifically Regulated Substances (29 CFR 1910.1001-1050)

Not listed.

**Reproductive toxicity** Not classified.

**Specific target organ toxicity - single exposure** Not classified.

**Specific target organ toxicity - repeated exposure** Not classified.

**Aspiration hazard** Not available.

**Chronic effects** Prolonged exposure may cause chronic effects.

**Further information** This product has no known adverse effect on human health.

## 12. Ecological information

**Ecotoxicity** Not expected to be harmful to aquatic organisms.

Product	Species	Test Results
SS (CAS Mixture)		
Crustacea	EC50 Daphnia	3459 mg/l, 48 hours estimated
Fish	LC50 Fish	12500 mg/l, 96 hours estimated

\* Estimates for product may be based on additional component data not shown.

**Persistence and degradability** No data is available on the degradability of this product.

**Bioaccumulative potential** No data available.

**Mobility in soil** No data available.

**Other adverse effects**

No other adverse environmental effects (e.g. ozone depletion, photochemical ozone creation potential, endocrine disruption, global warming potential) are expected from this component.

**13. Disposal considerations****Disposal instructions**

Disposal recommendations are based on uncontaminated material. Dispose in accordance with all applicable regulations. When this product as supplied is to be discarded as waste, it does not meet the definition of a RCRA waste under 40 CFR 261.

**Local disposal regulations**

Dispose in accordance with all applicable regulations.

**Hazardous waste code**

Not applicable.

**Waste from residues / unused products**

Dispose of in accordance with local regulations. Empty containers or liners may retain some product residues. This material and its container must be disposed of in a safe manner (see: Disposal instructions). Avoid discharge into water courses or onto the ground.

**Contaminated packaging**

Empty containers should be taken to an approved waste handling site for recycling or disposal. Since emptied containers may retain product residue, follow label warnings even after container is emptied.

**14. Transport information****DOT**

Not regulated as dangerous goods.

**IATA**

Not regulated as dangerous goods.

**IMDG**

Not regulated as dangerous goods.

**Transport in bulk according to Annex II of MARPOL 73/78 and the IBC Code** Not available.

**15. Regulatory information****US federal regulations**

All components are on the U.S. EPA TSCA Inventory List.

**TSCA Section 12(b) Export Notification (40 CFR 707, Subpt. D)**

Not regulated.

**CERCLA Hazardous Substance List (40 CFR 302.4)**

ASPHALT (CAS 8052-42-4)

Listed.

**US. OSHA Specifically Regulated Substances (29 CFR 1910.1001-1050)**

Not listed.

**Superfund Amendments and Reauthorization Act of 1986 (SARA)****Hazard categories**

Immediate Hazard - No  
Delayed Hazard - No  
Fire Hazard - No  
Pressure Hazard - No  
Reactivity Hazard - No

**SARA 302 Extremely hazardous substance**

Not listed.

**SARA 311/312**

No

**Hazardous chemical****SARA 313 (TRI reporting)**

Not regulated.

**Other federal regulations****Clean Air Act (CAA) Section 112 Hazardous Air Pollutants (HAPs) List**

Not regulated.

**Clean Air Act (CAA) Section 112(r) Accidental Release Prevention (40 CFR 68.130)**

Not regulated.

**Safe Drinking Water Act (SDWA)**

Not regulated.

**US state regulations**

WARNING: This product contains a chemical known to the State of California to cause cancer.

**US. Massachusetts RTK - Substance List**

ASPHALT (CAS 8052-42-4)

**US. New Jersey Worker and Community Right-to-Know Act**

Not regulated.

**US. Pennsylvania RTK - Hazardous Substances**

ASPHALT (CAS 8052-42-4)

**US. Rhode Island RTK**

Not regulated.

**US. California Proposition 65**

WARNING: This product contains a chemical known to the State of California to cause cancer.

**US - California Proposition 65 - CRT: Listed date/Carcinogenic substance**

ASPHALT (CAS 8052-42-4)

Listed: January 1, 1990

**International Inventories**

Country(s) or region	Inventory name	On inventory (yes/no)*
Australia	Australian Inventory of Chemical Substances (AICS)	Yes
Canada	Domestic Substances List (DSL)	Yes
Canada	Non-Domestic Substances List (NDSL)	No
China	Inventory of Existing Chemical Substances in China (IECSC)	Yes
Europe	European Inventory of Existing Commercial Chemical Substances (EINECS)	Yes
Europe	European List of Notified Chemical Substances (ELINCS)	No
Japan	Inventory of Existing and New Chemical Substances (ENCS)	Yes
Korea	Existing Chemicals List (ECL)	Yes
New Zealand	New Zealand Inventory	Yes
Philippines	Philippine Inventory of Chemicals and Chemical Substances (PICCS)	Yes
United States & Puerto Rico	Toxic Substances Control Act (TSCA) Inventory	Yes

\*A "Yes" indicates that all components of this product comply with the inventory requirements administered by the governing country(s)

A "No" indicates that one or more components of the product are not listed or exempt from listing on the inventory administered by the governing country(s).

**16. Other information, including date of preparation or last revision****Issue date** 03-31-2015**Version #** 01

**References** ACGIH  
EPA: AQUIRE database  
NLM: Hazardous Substances Data Base  
US. IARC Monographs on Occupational Exposures to Chemical Agents  
IARC Monographs. Overall Evaluation of Carcinogenicity  
National Toxicology Program (NTP) Report on Carcinogens  
ACGIH Documentation of the Threshold Limit Values and Biological Exposure Indices

**Disclaimer** The information provided in this Safety Data Sheet is correct to the best of our knowledge, information and belief at the date of its publication. The information given is designed only as a guidance for safe handling, use, processing, storage, transportation, disposal and release and is not to be considered a warranty or quality specification. The information relates only to the specific material designated and may not be valid for such material used in combination with any other materials or in any process, unless specified in the text. The information in the sheet was written based on the best knowledge and experience currently available.

**1. Identification****Product identifier** CQS-1HT**Other means of identification** Not available.**Recommended use** Not available.**Recommended restrictions** None known.**Manufacturer/Importer/Supplier/Distributor information****Manufacturer****Manufacturer:** Ergon Asphalt & Emulsions, Inc.**Address:** P. O. Box 1639

Jackson, MS 39215-1639

**Website:** www.ergonasphalt.com**Telephone:** 1-800-222-7122 (Customer Service)**E-mail:** sds@ergon.com**24 hour Emergency** North America 1-800-424-9300; International 1-703-527-3887**(CHEMTREC):****2. Hazard(s) identification****Physical hazards** Not classified.**Health hazards** Not classified.**Environmental hazards** Not classified.**OSHA defined hazards** Not classified.**Label elements****Hazard symbol** None.**Signal word** None.**Hazard statement** The mixture does not meet the criteria for classification.**Prevention** Observe good industrial hygiene practices.**Response** Wash hands after handling.**Storage** Store away from incompatible materials.**Disposal** Dispose of waste and residues in accordance with local authority requirements.**Hazard(s) not otherwise classified (HNOC)** None known.**Supplemental information** Vapors containing hydrogen sulfide may accumulate during storage or transport. HYDROGEN SULFIDE (H<sub>2</sub>S) can be harmful or fatal if inhaled.**3. Composition/information on ingredients****Mixtures**

Chemical name	Common name and synonyms	CAS number	%
ASPHALT		8052-42-4	55 - 75
WATER		7732-18-5	30 - 50
HYDROCHLORIC ACID		7647-01-0	< 1

**Composition comments** Components not listed are either non-hazardous or below the required disclosure threshold.**4. First-aid measures****Inhalation** If breathing is difficult, remove to fresh air and keep at rest in a position comfortable for breathing. Call a physician if symptoms develop or persist.**Skin contact** If clothing sticks to the skin, do not remove. Lotion or hand cream may aid in the removal of asphalt. Wash contact areas with soap and water. If needed, seek medical attention.**Eye contact** Immediately flush eyes with plenty of water for at least 15 minutes. Remove contact lenses, if present and easy to do. Continue rinsing. Get medical attention if irritation develops and persists.**Ingestion** Rinse mouth. DO NOT induce vomiting. Get medical attention immediately. If ingestion of a large amount does occur, call a poison control center immediately.

**Most important symptoms/effects, acute and delayed**

Direct contact with eyes may cause temporary irritation.

**Indication of immediate medical attention and special treatment needed**

Treat symptomatically.

**General information**

Ensure that medical personnel are aware of the material(s) involved, and take precautions to protect themselves.

## 5. Fire-fighting measures

**Suitable extinguishing media**

Foam. Dry chemical powder. Carbon dioxide (CO<sub>2</sub>).

**Unsuitable extinguishing media**

Water. Do not use water jet as an extinguisher, as this will spread the fire.

**Specific hazards arising from the chemical**

During fire, gases hazardous to health may be formed.

**Special protective equipment and precautions for firefighters**

Firefighters must use standard protective equipment including flame retardant coat, helmet with face shield, gloves, rubber boots, and in enclosed spaces, SCBA. Structural firefighters protective clothing will only provide limited protection.

**Fire-fighting equipment/instructions**

ALWAYS stay away from tanks engulfed in flame. Fight fire from maximum distance or use unmanned hose holders or monitor nozzles. Move containers from fire area if you can do so without risk. In the event of fire, cool tanks with water spray.

**Specific methods**

In the event of fire and/or explosion do not breathe fumes. In the event of fire, cool tanks with water spray.

**General fire hazards**

No unusual fire or explosion hazards noted.

## 6. Accidental release measures

**Personal precautions, protective equipment and emergency procedures**

Keep unnecessary personnel away. Keep people away from and upwind of spill/leak. Keep out of low areas. Do not touch damaged containers or spilled material unless wearing appropriate protective clothing. Ventilate closed spaces before entering them. For personal protection, see section 8 of the SDS.

**Methods and materials for containment and cleaning up**

This product is miscible in water.

Large Spills: Stop the flow of material, if this is without risk. Dike the spilled material, where this is possible. Cover with plastic sheet to prevent spreading. Absorb in vermiculite, dry sand or earth and place into containers. Prevent entry into waterways, sewer, basements or confined areas.

Small Spills: Wipe up with absorbent material (e.g. cloth, fleece). Clean surface thoroughly to remove residual contamination.

Never return spills to original containers for re-use. For waste disposal, see section 13 of the SDS. Absorb or cover with dry earth, sand or other non-combustible material and transfer to containers. Ventilate area and avoid breathing vapors or mist. For large spills, dike far ahead of liquid spill for later disposal. Do not release into sewers or waterways.

**Environmental precautions**

Avoid discharge into drains, water courses or onto the ground.

## 7. Handling and storage

**Precautions for safe handling**

Avoid prolonged exposure. Use only in well-ventilated areas. Hydrogen sulfide, a very highly toxic gas, may be present with this material. Keep face clear of tank and/or tank car openings. Good personal hygiene is necessary. Wash hands and contaminated areas with water and soap before leaving the work site.

**Conditions for safe storage, including any incompatibilities**

Prevent electrostatic charge build-up by using common bonding and grounding techniques. Store in original tightly closed container. Store in a well-ventilated place. Store away from incompatible materials (see Section 10 of the SDS). Do not allow material to freeze.

## 8. Exposure controls/personal protection

**Occupational exposure limits****US. OSHA Table Z-1 Limits for Air Contaminants (29 CFR 1910.1000)**

Components	Type	Value
HYDROCHLORIC ACID (CAS 7647-01-0)	Ceiling	7 mg/m <sup>3</sup>
		5 ppm

**US. ACGIH Threshold Limit Values**

Components	Type	Value	Form
ASPHALT (CAS 8052-42-4)	TWA	0.5 mg/m <sup>3</sup>	Inhalable fraction.

US. ACGIH Threshold Limit Values		Type	Value	Form
HYDROCHLORIC ACID (CAS 7647-01-0)		Ceiling	2 ppm	
US. NIOSH: Pocket Guide to Chemical Hazards		Type	Value	Form
ASPHALT (CAS 8052-42-4)		Ceiling	5 mg/m3	Fume.
HYDROCHLORIC ACID (CAS 7647-01-0)		Ceiling	7 mg/m3	
			5 ppm	
Biological limit values		No biological exposure limits noted for the ingredient(s).		
Appropriate engineering controls		Provide adequate ventilation, including appropriate local extraction, to ensure that the defined occupational exposure limit is not exceeded.		
Individual protection measures, such as personal protective equipment				
Eye/face protection		Wear safety glasses; chemical goggles (if splashing is possible).		
Hand protection		Chemical resistant gloves are recommended. If contact with forearms is likely wear gauntlet style gloves.		
Other		Wear appropriate clothing to prevent any possibility of liquid contact and repeated or prolonged vapor contact. Plastic or rubber gloves, apron and boots.		
Respiratory protection		When workers are facing concentrations above the exposure limit they must use appropriate certified respirators.		
Thermal hazards		Wear appropriate thermal protective clothing, when necessary.		
General hygiene considerations		Always observe good personal hygiene measures, such as washing after handling the material and before eating, drinking, and/or smoking. Routinely wash work clothing and protective equipment to remove contaminants.		

## 9. Physical and chemical properties

<b>Appearance</b>	Brown to black in color.
<b>Physical state</b>	Liquid.
<b>Form</b>	Liquid.
<b>Color</b>	Black.
<b>Odor</b>	Tar-like
<b>Odor threshold</b>	Not available.
<b>pH</b>	2.1 - 4
<b>Melting point/freezing point</b>	Not available.
<b>Initial boiling point and boiling range</b>	212 °F (100 °C) estimated
<b>Flash point</b>	> 212.0 °F (> 100.0 °C) estimated
<b>Evaporation rate</b>	< 1
<b>Flammability (solid, gas)</b>	Not available.
<b>Upper/lower flammability or explosive limits</b>	
<b>Flammability limit - lower (%)</b>	Not available.
<b>Flammability limit - upper (%)</b>	Not available.
<b>Explosive limit - lower (%)</b>	Not available.
<b>Explosive limit - upper (%)</b>	Not available.
<b>Vapor pressure</b>	Not available.
<b>Vapor density</b>	Not available.
<b>Relative density</b>	Not available.
<b>Solubility(ies)</b>	
<b>Solubility (water)</b>	Not available.
<b>Partition coefficient (n-octanol/water)</b>	Not available.
<b>Auto-ignition temperature</b>	> 700 °F (> 371.11 °C) estimated

<b>Decomposition temperature</b>	Not available.
<b>Viscosity</b>	Not available.
<b>Other information</b>	
<b>Density</b>	8.43 lb/gal estimated
<b>Flammability class</b>	Combustible IIIB estimated

## 10. Stability and reactivity

<b>Reactivity</b>	The product is stable and non-reactive under normal conditions of use, storage and transport.
<b>Chemical stability</b>	Stable under normal temperature conditions.
<b>Possibility of hazardous reactions</b>	Hazardous polymerization does not occur.
<b>Conditions to avoid</b>	Avoid temperatures exceeding the flash point. Contact with incompatible materials. Do not overheat product.
<b>Incompatible materials</b>	Strong oxidizing agents.
<b>Hazardous decomposition products</b>	Upon decomposition, this product may yield sulfur dioxide, carbon monoxide, carbon dioxide and/or low molecular weight hydrocarbons. Hydrogen sulfide.

## 11. Toxicological information

### Information on likely routes of exposure

<b>Ingestion</b>	Expected to be a low ingestion hazard.
<b>Inhalation</b>	Prolonged inhalation may be harmful.
<b>Skin contact</b>	No adverse effects due to skin contact are expected.
<b>Eye contact</b>	Harmful in contact with eyes.

**Symptoms related to the physical, chemical and toxicological characteristics**  
Direct contact with eyes may cause temporary irritation.

### Information on toxicological effects

#### Acute toxicity

Components	Species	Test Results
HYDROCHLORIC ACID (CAS 7647-01-0)		
<b>Acute</b>		
<i>Dermal</i>		
LD50	Mouse	1449 mg/kg
<i>Inhalation</i>		
LC50	Mouse	1108 ppm, 1 Hours
	Rat	3124 ppm, 1 Hours
<i>Oral</i>		
LD50	Rabbit	900 mg/kg
<i>Other</i>		
LD50	Mouse	1449 mg/kg

\* Estimates for product may be based on additional component data not shown.

<b>Skin corrosion/irritation</b>	Prolonged skin contact may cause temporary irritation.
<b>Serious eye damage/eye irritation</b>	Harmful in contact with eyes. None known.

#### Respiratory or skin sensitization

<b>Respiratory sensitization</b>	Not available.
<b>Skin sensitization</b>	May cause skin disorders if contact is repeated or prolonged.

**Germ cell mutagenicity**  
No data available to indicate product or any components present at greater than 0.1% are mutagenic or genotoxic.

**Carcinogenicity**  
Risk of cancer cannot be excluded with prolonged exposure. IARC: occupational exposures to straight-run bitumens and their emissions during road paving are "possibly carcinogenic to humans" (Group 2B)

#### IARC Monographs. Overall Evaluation of Carcinogenicity

ASPHALT (CAS 8052-42-4)	2B Possibly carcinogenic to humans.
HYDROCHLORIC ACID (CAS 7647-01-0)	3 Not classifiable as to carcinogenicity to humans.

## US. OSHA Specifically Regulated Substances (29 CFR 1910.1001-1050)

Not listed.

<b>Reproductive toxicity</b>	Not classified.
<b>Specific target organ toxicity - single exposure</b>	Not classified.
<b>Specific target organ toxicity - repeated exposure</b>	Not classified.
<b>Aspiration hazard</b>	Not available.
<b>Chronic effects</b>	Prolonged exposure may cause chronic effects.
<b>Further information</b>	This product has no known adverse effect on human health.

## 12. Ecological information

**Ecotoxicity** Not expected to be harmful to aquatic organisms.

Components	Species	Test Results
HYDROCHLORIC ACID (CAS 7647-01-0)		
<b>Aquatic</b>		
Fish	LC50	Western mosquitofish ( <i>Gambusia affinis</i> ) 282 mg/l, 96 hours

\* Estimates for product may be based on additional component data not shown.

<b>Persistence and degradability</b>	No data is available on the degradability of this product.
<b>Bioaccumulative potential</b>	No data available.
<b>Mobility in soil</b>	No data available.
<b>Other adverse effects</b>	No other adverse environmental effects (e.g. ozone depletion, photochemical ozone creation potential, endocrine disruption, global warming potential) are expected from this component.

## 13. Disposal considerations

<b>Disposal instructions</b>	Collect and reclaim or dispose in sealed containers at licensed waste disposal site. Dispose in accordance with all applicable regulations. No components are identified as hazardous wastes. Disposal recommendations are based on uncontaminated material.
<b>Local disposal regulations</b>	Dispose in accordance with all applicable regulations.
<b>Hazardous waste code</b>	The waste code should be assigned in discussion between the user, the producer and the waste disposal company. Not applicable.
<b>Waste from residues / unused products</b>	Dispose of in accordance with local regulations. Empty containers or liners may retain some product residues. This material and its container must be disposed of in a safe manner (see: Disposal instructions). Avoid discharge into water courses or onto the ground.
<b>Contaminated packaging</b>	Empty containers should be taken to an approved waste handling site for recycling or disposal. Since emptied containers may retain product residue, follow label warnings even after container is emptied.

## 14. Transport information

### DOT

Not regulated as dangerous goods.

### IATA

Not regulated as dangerous goods.

### IMDG

Not regulated as dangerous goods.

**Transport in bulk according to Annex II of MARPOL 73/78 and the IBC Code** Not available.

## 15. Regulatory information

**US federal regulations** All components are on the U.S. EPA TSCA Inventory List.

### TSCA Section 12(b) Export Notification (40 CFR 707, Subpt. D)

Not regulated.

### CERCLA Hazardous Substance List (40 CFR 302.4)

ASPHALT (CAS 8052-42-4)

Listed.

HYDROCHLORIC ACID (CAS 7647-01-0)

Listed.

### US EPCRA Section 304 Extremely Haz. Subs. & CERCLA Haz. Subs.: Section 304 EHS reportable quantity

HYDROCHLORIC ACID (CAS 7647-01-0)

5000 LBS



**US. OSHA Specifically Regulated Substances (29 CFR 1910.1001-1050)**

Not listed.

**Superfund Amendments and Reauthorization Act of 1986 (SARA)****Hazard categories**

Immediate Hazard - No  
 Delayed Hazard - No  
 Fire Hazard - No  
 Pressure Hazard - No  
 Reactivity Hazard - No

**SARA 302 Extremely hazardous substance**

Chemical name	CAS number	Reportable quantity	Threshold planning quantity	Threshold planning quantity, lower value	Threshold planning quantity, upper value
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HYDROCHLORIC ACID	7647-01-0	5000	500 lbs		
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**SARA 311/312**

No

**Hazardous chemical****SARA 313 (TRI reporting)**

Not regulated.

**Other federal regulations****Clean Air Act (CAA) Section 112 Hazardous Air Pollutants (HAPs) List**

HYDROCHLORIC ACID (CAS 7647-01-0)

**Clean Air Act (CAA) Section 112(r) Accidental Release Prevention (40 CFR 68.130)**

HYDROCHLORIC ACID (CAS 7647-01-0)

**Safe Drinking Water Act (SDWA)**

Not regulated.

**Drug Enforcement Administration (DEA). List 2, Essential Chemicals (21 CFR 1310.02(b) and 1310.04(f)(2))**

HYDROCHLORIC ACID (CAS 7647-01-0)

**DEA Essential Chemical Code Number**

HYDROCHLORIC ACID (CAS 7647-01-0) 6545

**Drug Enforcement Administration (DEA). List 1 & 2 Exempt Chemical Mixtures (21 CFR 1310.12(c))**

HYDROCHLORIC ACID (CAS 7647-01-0) 20 %WV

**DEA Exempt Chemical Mixtures Code Number**

HYDROCHLORIC ACID (CAS 7647-01-0) 6545

**US state regulations**

WARNING: This product contains a chemical known to the State of California to cause cancer.

**US. Massachusetts RTK - Substance List**

ASPHALT (CAS 8052-42-4)

HYDROCHLORIC ACID (CAS 7647-01-0)

**US. New Jersey Worker and Community Right-to-Know Act**

HYDROCHLORIC ACID (CAS 7647-01-0) 500 LBS

**US. Pennsylvania RTK - Hazardous Substances**

ASPHALT (CAS 8052-42-4)

HYDROCHLORIC ACID (CAS 7647-01-0)

**US. Rhode Island RTK**

HYDROCHLORIC ACID (CAS 7647-01-0)

**US. California Proposition 65**

WARNING: This product contains a chemical known to the State of California to cause cancer.

**US - California Proposition 65 - CRT: Listed date/Carcinogenic substance**

ASPHALT (CAS 8052-42-4)

Listed: January 1, 1990

**International Inventories**

Country(s) or region	Inventory name	On inventory (yes/no)*
Australia	Australian Inventory of Chemical Substances (AICS)	Yes
Canada	Domestic Substances List (DSL)	Yes
Canada	Non-Domestic Substances List (NDSL)	No
China	Inventory of Existing Chemical Substances in China (IECSC)	Yes
Europe	European Inventory of Existing Commercial Chemical Substances (EINECS)	Yes
Europe	European List of Notified Chemical Substances (ELINCS)	No
Japan	Inventory of Existing and New Chemical Substances (ENCS)	No

Country(s) or region	Inventory name	On inventory (yes/no)*
Korea	Existing Chemicals List (ECL)	No
New Zealand	New Zealand Inventory	Yes
Philippines	Philippine Inventory of Chemicals and Chemical Substances (PICCS)	No
United States & Puerto Rico	Toxic Substances Control Act (TSCA) Inventory	Yes

\*A "Yes" indicates that all components of this product comply with the inventory requirements administered by the governing country(s)

A "No" indicates that one or more components of the product are not listed or exempt from listing on the inventory administered by the governing country(s).

## 16. Other information, including date of preparation or last revision

<b>Issue date</b>	05-07-2015
<b>Version #</b>	01
<b>Further information</b>	HMIS® is a registered trade and service mark of the NPCA.
<b>NFPA ratings</b>	Health: 2 Flammability: 1 Instability: 0
<b>References</b>	ACGIH EPA: AQUIRE database NLM: Hazardous Substances Data Base US. IARC Monographs on Occupational Exposures to Chemical Agents IARC Monographs. Overall Evaluation of Carcinogenicity National Toxicology Program (NTP) Report on Carcinogens ACGIH Documentation of the Threshold Limit Values and Biological Exposure Indices
<b>Disclaimer</b>	The information provided in this Safety Data Sheet is correct to the best of our knowledge, information and belief at the date of its publication. The information given is designed only as a guidance for safe handling, use, processing, storage, transportation, disposal and release and is not to be considered a warranty or quality specification. The information relates only to the specific material designated and may not be valid for such material used in combination with any other materials or in any process, unless specified in the text. The information in the sheet was written based on the best knowledge and experience currently available.