

SUPPLY AGREEMENT NO. 5220

Non-Shear Flexible Couplings

THIS **Non-Shear Flexible Couplings Supply Agreement** ("Agreement") is entered into by and between the City of Corpus Christi, a Texas home-rule municipal corporation ("City") and F and D Supply LLC ("Contractor"), effective upon execution by the City Manager or the City Manager's designee ("City Manager").

WHEREAS, Contractor has bid to provide Non-Shear Flexible Couplings in response to Request for Bid No. **5220** ("RFB"), which RFB includes the required scope of work and all specifications and which RFB and the Contractor's bid response are incorporated by reference in this Agreement as Exhibits 1 and 2, respectively, as if each were fully set out here in its entirety.

NOW, THEREFORE, City and Contractor agree as follows:

1. **Scope.** Contractor will provide Non-Shear Flexible Couplings in accordance with the attached Scope of Work, as shown in Attachment A, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety. "Goods," "products", and "supplies", as used in this Agreement, refer to and have the same meaning.

2. **Term.**

(A) The Term of this Agreement is one year beginning on the date provided in the Notice to Proceed from the Contract Administrator or the City's Procurement Division. The parties may mutually extend the term of this Agreement for up to two additional one-year periods ("Option Period(s)"), provided, the parties do so in writing prior to the expiration of the original term or the then-current Option Period.

(B) At the end of the Term of this Agreement or the final Option Period, the Agreement may, at the request of the City prior to expiration of the Term or final Option Period, continue on a month-to-month basis for up to six months with compensation set based on the amount listed in Attachment B for the Term or the final Option Period. The Contractor may opt out of this continuing term by providing notice to the City at least 30 days prior to the expiration of the Term or final Option Period. During the month-to-month term, either Party may terminate the Agreement upon 30 days' written notice to the other Party.

3. **Compensation and Payment.** This Agreement is for an amount not to exceed \$76,780.93, subject to approved extensions and changes. Payment will be made

for goods delivered and accepted by the City within 30 days of acceptance, subject to receipt of an acceptable invoice. All pricing must be in accordance with the attached Bid/Pricing Schedule, as shown in Attachment B, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety. Any amount not expended during the initial term or any option period may, at the City's discretion, be allocated for use in the next Option Period.

Invoices must be mailed to the following address with a copy provided to the Contract Administrator:

City of Corpus Christi
Attn: Accounts Payable
P.O. Box 9277
Corpus Christi, Texas 78469-9277

- 4. Contract Administrator.** The Contract Administrator designated by the City is responsible for approval of all phases of performance and operations under this Agreement, including deductions for non-performance and authorizations for payment. The City's Contract Administrator for this Agreement is as follows:

Name: Robert Presnell
Department: CCW
Phone: (361) 826-1750
Email: RobertPr@cctexas.com

- 5. Insurance.** Before performance can begin under this Agreement, the Contractor must deliver a certificate of insurance ("COI"), as proof of the required insurance coverages, to the City's Risk Manager and the Contract Administrator. Additionally, the COI must state that the City will be given at least 30 days' advance written notice of cancellation, material change in coverage, or intent not to renew any of the policies. The City must be named as an additional insured. The City Attorney must be given copies of all insurance policies within 10 days of the City Manager's written request. Insurance requirements are as stated in Attachment C, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety.
- 6. Purchase Release Order.** For multiple-release purchases of products to be provided by the Contractor over a period of time, the City will exercise its right to specify time, place and quantity of products to be delivered in the following manner: any City department or division may send to Contractor a purchase release order signed by an authorized agent of the department or division. The purchase release order must refer to this Agreement, and products will remain with the Contractor until such time as the products are delivered and accepted by the City.

7. Inspection and Acceptance. City may inspect all products supplied before acceptance. Any products that are delivered but not accepted by the City must be corrected or replaced immediately at no charge to the City. If immediate correction or replacement at no charge cannot be made by the Contractor, a replacement product may be bought by the City on the open market and any costs incurred, including additional costs over the item's bid price, must be paid by the Contractor within 30 days of receipt of City's invoice.

8. Warranty.

(A) The Contractor warrants that all products supplied under this Agreement are new, quality items that are free from defects, fit for their intended purpose, and of good material and workmanship. The Contractor warrants that it has clear title to the products and that the products are free of liens or encumbrances.

(B) In addition, the products purchased under this Agreement shall be warranted by the Contractor or, if indicated in Attachment D by the manufacturer, for the period stated in Attachment D. Attachment D is attached to this Agreement and is incorporated by reference into this Agreement as if fully set out here in its entirety.

9. Quality/Quantity Adjustments. Any quantities indicated on the Bid/Pricing Schedule are estimates only and do not obligate the City to order or accept more than the City's actual requirements nor do the estimates restrict the City from ordering less than its actual needs during the term of the Agreement and including any Option Period. Substitutions and deviations from the City's product requirements or specifications are prohibited without the prior written approval of the Contract Administrator

10. Non-Appropriation. The continuation of this Agreement after the close of any fiscal year of the City, which fiscal year ends on September 30th annually, is subject to appropriations and budget approval specifically covering this Agreement as an expenditure in said budget, and it is within the sole discretion of the City's City Council to determine whether or not to fund this Agreement. The City does not represent that this budget item will be adopted, as said determination is within the City Council's sole discretion when adopting each budget.

11. Independent Contractor. Contractor will perform the work required by this Agreement as an independent contractor and will furnish such products in its own manner and method, and under no circumstances or conditions will any agent, servant or employee of the Contractor be considered an employee of the City.

12. Subcontractors. In providing the Goods, Contractor will not enter into subcontracts or utilize the services of subcontractors.

- 13. Amendments.** This Agreement may be amended or modified only in writing executed by authorized representatives of both parties.
- 14. Waiver.** No waiver by either party of any breach of any term or condition of this Agreement waives any subsequent breach of the same.
- 15. Taxes.** The Contractor covenants to pay payroll taxes, Medicare taxes, FICA taxes, unemployment taxes and all other applicable taxes. Upon request, the City Manager shall be provided proof of payment of these taxes within 15 days of such request.
- 16. Notice.** Any notice required under this Agreement must be given by fax, hand delivery, or certified mail, postage prepaid, and is deemed received on the day faxed or hand-delivered or on the third day after postmark if sent by certified mail. Notice must be sent as follows:

IF TO CITY:

City of Corpus Christi
Attn: Robert Presnell
Title: Stores Supervisor
Address: 2726 Holly Road, Corpus Christi, Texas 78415
Phone: (361) 826-1750
Fax: N/A

IF TO CONTRACTOR:

F and D Supply LLC
Attn: Patricia Kowalczyk
Title: Owner
Address: 3650 South Pointe Circle #205-14, Laughlin, Nevada 89028
Phone: 951-456-1173
Fax: N/A

- 17. CONTRACTOR SHALL FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY OF CORPUS CHRISTI AND ITS OFFICERS, EMPLOYEES AND AGENTS ("INDEMNITEES") FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, CLAIMS, DEMANDS, SUITS, AND CAUSES OF ACTION OF WHATEVER NATURE, CHARACTER, OR DESCRIPTION ON ACCOUNT OF PERSONAL INJURIES, PROPERTY LOSS, OR DAMAGE, OR ANY OTHER KIND OF INJURY, LOSS, OR DAMAGE, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, ATTORNEYS' FEES AND EXPERT WITNESS FEES, WHICH ARISE OR ARE CLAIMED TO ARISE OUT OF OR IN CONNECTION WITH A BREACH OF THIS AGREEMENT OR THE PERFORMANCE OF THIS**

AGREEMENT BY THE CONTRACTOR OR RESULTS FROM THE NEGLIGENT ACT, OMISSION, MISCONDUCT, OR FAULT OF THE CONTRACTOR OR ITS EMPLOYEES OR AGENTS. CONTRACTOR MUST, AT ITS OWN EXPENSE, INVESTIGATE ALL CLAIMS AND DEMANDS, ATTEND TO THEIR SETTLEMENT OR OTHER DISPOSITION, DEFEND ALL ACTIONS BASED THEREON WITH COUNSEL SATISFACTORY TO THE CITY ATTORNEY, AND PAY ALL CHARGES OF ATTORNEYS AND ALL OTHER COSTS AND EXPENSES OF ANY KIND ARISING OR RESULTING FROM ANY SAID LIABILITY, DAMAGE, LOSS, CLAIMS, DEMANDS, SUITS, OR ACTIONS. THE INDEMNIFICATION OBLIGATIONS OF CONTRACTOR UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

18. Termination.

(A) The City may terminate this Agreement for Contractor's failure to comply with any of the terms of this Agreement. The City must give the Contractor written notice of the breach and set out a reasonable opportunity to cure. If the Contractor has not cured within the cure period, the City may terminate this Agreement immediately thereafter.

(B) Alternatively, the City may terminate this Agreement for convenience upon 30 days advance written notice to the Contractor. The City may also terminate this Agreement upon 24 hours written notice to the Contractor for failure to pay or provide proof of payment of taxes as set out in this Agreement.

19. Owner's Manual and Preventative Maintenance. Contractor agrees to provide a copy of the owner's manual and/or preventative maintenance guidelines or instructions if available for any equipment purchased by the City pursuant to this Agreement. Contractor must provide such documentation upon delivery of such equipment and prior to receipt of the final payment by the City.

20. Limitation of Liability. The City's maximum liability under this Agreement is limited to the total amount of compensation listed in Section 3 of this Agreement. In no event shall the City be liable for incidental, consequential or special damages.

21. Assignment. No assignment of this Agreement by the Contractor, or of any right or interest contained herein, is effective unless the City Manager first gives written consent to such assignment. The performance of this Agreement by the Contractor is of the essence of this Agreement, and the City Manager's right to withhold consent to such assignment is within the sole discretion of the City Manager on any ground whatsoever.

- 22. Severability.** Each provision of this Agreement is considered to be severable and, if, for any reason, any provision or part of this Agreement is determined to be invalid and contrary to applicable law, such invalidity shall not impair the operation of nor affect those portions of this Agreement that are valid, but this Agreement shall be construed and enforced in all respects as if the invalid or unenforceable provision or part had been omitted.
- 23. Order of Precedence.** In the event of any conflicts or inconsistencies between this Agreement, its attachments, and exhibits, such conflicts and inconsistencies will be resolved by reference to the documents in the following order of priority:
- A. this Agreement (excluding attachments and exhibits);
 - B. its attachments;
 - C. the bid solicitation document including any addenda (Exhibit 1); then,
 - D. the Contractor's bid response (Exhibit 2).
- 24. Certificate of Interested Parties.** Contractor agrees to comply with Texas Government Code Section 2252.908, as it may be amended, and to complete Form 1295 "Certificate of Interested Parties" as part of this Agreement if required by said statute.
- 25. Governing Law.** Contractor agrees to comply with all federal, Texas, and City laws in the performance of this Agreement. The applicable law for any legal disputes arising out of this Agreement is the law of the State of Texas, and such form and venue for such disputes is the appropriate district, county, or justice court in and for Nueces County, Texas.
- 26. Public Information Act Requirements.** This paragraph applies only to agreements that have a stated expenditure of at least \$1,000,000 or that result in the expenditure of at least \$1,000,000 by the City. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the Contractor agrees that the contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.
- 27. Entire Agreement.** This Agreement constitutes the entire agreement between the parties concerning the subject matter of this Agreement and supersedes all prior negotiations, arrangements, agreements and understandings, either oral or written, between the parties.

CONTRACTOR

Signature: DocuSigned by: Patricia Kowalczyk
FAD868B46288447...

Printed Name: Patricia Kowalczyk

Title: owner

Date: 10/16/2023

CITY OF CORPUS CHRISTI

Josh Chronley
Assistant Director of Finance – Procurement

Date: _____

Attached and Incorporated by Reference:

Attachment A: Scope of Work
Attachment B: Bid/Pricing Schedule
Attachment C: Insurance Requirements
Attachment D: Warranty Requirements

Incorporated by Reference Only:

Exhibit 1: RFB No. 5220
Exhibit 2: Contractor's Bid Response

ATTACHMENT A: SCOPE OF WORK

General Requirements/Background Information

The Contractor shall provide non-shear flexible couplings for the Corpus Christi Water (CCW) Warehouse as outlined in this Scope of Work. The non-shear flexible couplings are used by the Water and Wastewater divisions of CCW to splice and repair existing utility lines, pipe repair and new construction projects located throughout the City.

Scope of Work

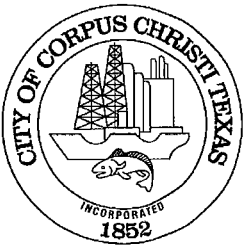
- A. The Contractor shall provide Non-Shear Flexible Couplings. This specification covers various couplings used by the City.
- B. Applicable Specifications: ANSI/NSF 61, ASTM A536, ASTM A325, ASTM A563 or AWWA C111, ASTM A307, stainless steel series 300, ASTM C564, ASTM A167, ASTM C1173, ASTM A240, ASTM C425. Certification of compliance with ANSI/NSF is not required for wastewater couplings.
- C. Functional and Performance Requirements: Non-Shear Flexible Couplings - Wastewater Systems (Mission Rubber Co. MR-ARC or Fernco 5000 RC Series) Couplings are for joining various combinations of vitrified clay sewer pipe and/or schedule 40 PVC pipe in underground drainage and sewer piping systems. Couplings shall meet the requirements of ASTM C1173-91, Type A. Couplings to have shear ring and center stop. Tension bands and exterior shear rings shall be constructed of 300 series stainless steel and conform to ASTM A240. Couplings designed for different sized pipe joints (e.g., clay x pvc) shall be of concentric, single piece (exclusive of shear ring and tension bands) construction. They shall not use separate, loose, inserts (bushings) to size the small diameter end.
- D. Bid form references specific model numbers. These model numbers are referenced for comparable purposes only. The bidder needs to submit manufacturer/brand request for approval through Request for Clarification process.

Delivery

- 1. The Contractor shall ship the materials in a specified time frame coordinated with the Stores Supervisor:

Attn: Robert Presnell
2726 Holly Road
Corpus Christi, Texas 78415

2. All contract prices are F.O.B destination, inside delivery to the City of Corpus Christi Facility, freight prepaid.
3. Receipt of products that do not conform will not be accepted by the city.
4. The Contractor shall pay for return shipment on any products that arrive in a defective, unusable or inoperable condition. The contractor must arrange for the return shipment of damaged products.
5. The Contractor understands and agrees that the City may, at its discretion, cancel any backorders due to the Contractor's inability to deliver the product within the set time frame.
6. Cancellations shall be in writing and sent to Contractor by email, fax or mail.
7. No restocking fee or payment of any kind shall be owed for orders cancelled due to Contractor's inability to meet the deadline delivery date.



CITY OF CORPUS CHRISTI CONTRACTS AND PROCUREMENT BID FORM

RFB No. 5220

Non-Shear Flexible Couplings

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Date: 09/19/2023

Bidder: F n D Supply LLC

Authorized
Signature: _____

1. Refer to "Instructions to Bidders" and Contract Terms and Conditions before completing bid.
2. Quote your best price for each item.
3. In submitting this bid, Bidder certifies that:
 - a. the prices in this bid have been arrived at independently, without consultation, communication, or agreement with any other Bidder or competitor, for the purpose of restricting competition with regard to prices.
 - b. Bidder is an Equal Opportunity Employer, and the Disclosure of Interest information on file with City's Contracts and Procurement office, pursuant to the Code of Ordinances, is current and true.
 - c. Bidder is current with all taxes due and company is in good standing with all applicable governmental agencies.
 - d. Bidder acknowledges receipt and review of all addenda for this RFB.

MODEL NUMBER REFERENCED ON DESCRIPTION IS USED FOR COMPARABLE PURPOSES ONLY; MUST FILL OUT ONE COLUMN FOR EITHER MODEL# UNIT PRICE OR EQUAL UNIT PRICE (SUBS).

Item	Description	Unit	Qty.	Model # Unit Price	Equal Unit Price	Total Price
1	3 CI PVC x 3 CI PVC Coup RC, Model # F105633 RC or equivalent	EA	27	MR56 33 ARC	\$12.24	\$330.48
2	4 Clay x 3 CI PVC COUP RC, Model # F500243RC or equivalent	EA	12	MR02 43 ARC	\$23.95	\$287.40
3	4 CI PVC x 4 CI PVC Coup RC, Model # F505644RC or equivalent	EA	865	MR56 44 ARC	\$15.08	\$13,044.20
4	4 Clay x 4 S40 PVC Coup RC Model #F500244RC or equivalent	EA	953	MR02 44 ARC	\$22.09	\$21,051.77
5	6 Clay x 6 S40 PVC Coup RC, Model #F500266RC or equivalent	EA	384	MR02 66 ARC	\$37.46	\$14,384.64
6	6 Clay x 6 Clay Coup RC, Model # F500166RC or equivalent	EA	2	MR01 66 ARC	\$28.70	\$57.40

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Item	Description	Unit	Qty.	Model # Unit Price	Equal Unit Price	Total Price
7	6 CI PVC x 6 PVC Coup RC, Model #F505666RC or equivalent	EA	176	MR56 66 ARC	\$28.70	\$5,051.20
8	8 CI PVC x 8 CI PVC COUP RC, Model #F505688RC or equivalent	EA	136	MR56 88 ARC	\$42.61	\$5,794.96
9	8 Clay x 8 Clay Coup RC, Model# F500188RC or equivalent	EA	2	MR01 88 ARC	\$42.61	\$85.22
10	8 Clay x 8 CI PVC Coup RC, Model #F500288RC or equivalent	EA	238	MR02 88 ARC	\$42.61	\$10,141.18
11	10 CI PVC x 10 CI PVC Coup RC, Model # F50561010RC or equivalent	EA	12	MR56 1010 ARC	\$55.43	\$665.16
12	10 Clay x 10 CI PVC Coup RC, Model #F50021010RC or equivalent	EA	24	MR02 1010 ARC	\$55.43	\$1,330.32
13	15 Clay x 15 CI PVC Coup RC, Model #F50021515RC or equivalent	EA	12	MR02 1515 ARC	\$128.11	\$1,537.32
14	15 CI PVC x 15 CI PVC Coup RC, Model #F50561515RC or equivalent	EA	12	MR56 1515 ARC	\$115.94	\$1,391.28
15	12 Clay x 12 CI PVC Coup RC, Model #F50021212RC or equivalent	EA	12	MR02 1212 ARC	\$67.85	\$814.20
16	12 CI PVC X 12 PVC Coup RC, Model #F50561212RC or equivalent	EA	12	MR56 1212 ARC	\$67.85	\$814.20
Total						\$76,780.93

ATTACHMENT C: NO INSURANCE REQUIREMENTS

The City's Legal Department has recommended there be no insurance requirements for this particular scope of work, Purchase Contracts – Supply Agreements – Equipment Leases - Goods or Equipment Delivered to City Other Than Hazardous Chemicals.

2023 Insurance Requirements

Ins. Req. Exhibit **1-A**

Purchase Contracts – Supply Agreements – Equipment Leases

Goods or Equipment Delivered to City Other Than Hazardous Chemicals

01/01/2023 Risk Management – Legal Dept.

ATTACHMENT D: WARRANTY REQUIREMENTS

Material shall be free from defects.