

## SUPPLY AGREEMENT NO. 2583

### Animal Food and Supplies for Animal Care

THIS **Animal Food and Supplies for Animal Care Supply Agreement** ("Agreement") is entered into by and between the City of Corpus Christi, a Texas home-rule municipal corporation ("City") and Miller Veterinary Supply Co., Inc. ("Contractor"), effective upon execution by the City Manager or the City Manager's designee ("City Manager").

WHEREAS, Contractor has bid to provide Animal Food and Supplies for Animal Care in response to Request for Bid No. **2583** ("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 Animal Food and Supplies for Animal Care 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.** This Agreement is for five years. The parties may mutually extend the term of this Agreement for up to zero additional zero-year periods ("Option Period(s)"), provided, the parties do so by written amendment prior to the expiration of the original term or the then-current Option Period. The City's extension authorization must be executed by the City Manager or designee.
- 3. Compensation and Payment.** This Agreement is for an amount not to exceed \$584,511.00, 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. Contractor shall invoice no more frequently than once per month. 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 will 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:

Michelle Jorgensen  
Animal Care  
Phone: 361-826-4605  
Email: MichelleJ@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 30<sup>th</sup> 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.** Contractor may use subcontractors in connection with the work performed under this Agreement. When using subcontractors, however, the Contractor must obtain prior written approval from the Contract Administrator unless the subcontractors were named in the bid or in an attachment to this Agreement. In using subcontractors, the Contractor is responsible for all their acts and omissions to the same extent as if the subcontractor and its employees were employees of the Contractor. All requirements set forth as part of this Agreement, including the necessity of providing a COI in advance to the City, are applicable to all subcontractors and their employees to the same extent as if the Contractor and its employees had performed the work.

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: Michelle Jorgensen  
Management Assistant Animal Care Services  
Address: 2626 Holly Rd., Corpus Christi, TX 78415  
Phone: 361-826-4605  
Fax: 361-826-4611

**IF TO CONTRACTOR:**

Miller Veterinary Supply Co., Inc.  
Attn: Randi Charleston  
Inside Representatiave  
201 S. Adams, Fort Worth, TX 76104  
Phone: 817-335-5487 ext 6319  
Fax: 817-334-0891

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**

**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 Manager may terminate this Agreement for Contractor's failure to comply with any of the terms of this Agreement. The Contract Administrator 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 Manager may terminate this Agreement immediately thereafter.

(B) Alternatively, the City Manager may terminate this Agreement for convenience upon 30 days advance written notice to the Contractor. The City Manager 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. 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.

**21. 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.

22. **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).
  
23. **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.
  
24. **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.
  
25. **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.

**(SIGNATURE PAGE FOLLOWS)**

**CONTRACTOR**

Signature: Randi Charleston

Printed Name: Randi Charleston

Title: Inside Representative

Date: 11/20/19

**CITY OF CORPUS CHRISTI**

\_\_\_\_\_  
Kim Baker  
Director of Contracts and 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. 2583
- Exhibit 2: Contractor's Bid Response

## Attachment A: Scope of Work

### 1.1 General Requirements/Background Information

The Contractor shall supply animal food and supplies for Animal Care as outlined in this Scope of Work.

### 1.2 Scope of Work

A. Contractor must supply Animal Care with the following animal food and supplies every two months:

1. 95 each of Purina Pro Plan EN Gastroenteric (13668), 32 lb. hospital pack
2. 22 each of Purina Pro Plan Focus Puppy Chicken & Rice (02773), 12 X 13 oz. can
3. 20 each of Purina Pro Plan Savor Feline Adult Chicken & Rice (13154), 16 lb. bag
4. 20 each of Purina Pro Plan Focus Kitten Chicken & Rice (131627), 7 lb. bag
5. 17 each of Purina Pro Plan Focus Kitten Chicken & Liver (02763), 24 X 3 oz. can
6. 3 each of Purina Pro Plan CN Critical Nutrition (14720), 24 X 5.5 oz. can
7. 3 each of Purina Pro Plan Canine Fortiflora (12991), 6 X 30-1 g sachets per box
8. 3 each of Purina Pro Plan Feline Fortiflora (12990), 6 X 30-1 g sachets per box
9. 3 each of Purina Pro Plan Savor Feline Adult Crunchy Bites with Chicken (14969), 10 X 2.1 oz. bag
10. 10 cases of 10 - NutriSentials Lean Treats for Dogs
11. 10 cases of 8 - NutriSentials Large Breed Lean Treats for Dogs
12. 80 each of Tidy Cats by Purina (or a comparable brand) 35lb Pail
13. 170 each of Virbac CET Chews size: Small
14. 170 each of Virbac CET Chews size: Medium
15. 340 each of Virbac CET Chews size: Large
16. 170 each of Virbac CET Chews size: Extra Large



- B. All products must have a minimum shelf life of six months remaining at the time of delivery.
- C. All items must be delivered during normal working hours, Monday through Friday between the hours of 8:00 a.m. and 5 p.m., to the back end of the Animal Care Complex building located at 2626 Holly Rd., Corpus Christi, TX 78415.

**1.4 Work Site and Conditions**

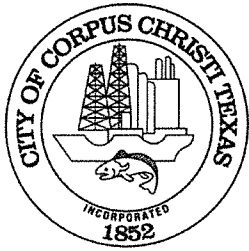
- A. Items can be delivered loose or on pallets. The Complex building does not have a loading dock; therefore, a lift gate and pallet jack may be required.
- B. Depending on the method of delivery, the Contractor must provide a lift gate and pallet jack if required.

**1.5 Special Instructions**

Contractor must contact either the facility primary contact or the additional delivery contact listed below prior to delivery or shipment may not be accepted:

Primary Contact: Michelle Jorgensen (361) 826-4605

Additional Delivery Contact: Rose Gerstenberger (361) 826-1304



**Attachment B: Bid/Pricing Schedule**

**CITY OF CORPUS CHRISTI  
CONTRACTS AND PROCUREMENT  
DEPARTMENT  
BID FORM**

**RFB No. 2583**

**Animal Food and Supplies for Animal Care**

Date: 9/27/19

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Bidder: Miller Veterinary Supply Authorized Signature: Harli Charlis

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.

ITEM	DESCRIPTION (5-YEAR SUPPLY)	UNIT	QTY	UNIT PRICE	TOTAL PRICE
1.	Purina Pro Plan EN Gastroenteric, 32 lb. hospital pack	EA	2,850	\$34.99	\$99721.50
2.	Purina Pro Plan Focus Puppy Chicken & Rice, 12 X 13 oz. can	EA	660	\$14.77	\$9748.20
3.	Purina Pro Plan Savor Feline Adult Chicken & Rice, 16 lb. bag	EA	600	\$29.11	\$17466.00
4.	Purina Pro Plan Focus Kitten Chicken & Rice, 7 lb. bag	EA	600	\$17.39	\$10434.00
5.	Purina Pro Plan Focus Kitten Chicken & Liver, 24 X 3 oz. can	EA	510	\$18.97	\$9674.70
6.	Purina Pro Plan CN Critical Nutrition, 24 X 5.5 oz. can	EA	90	\$41.33	\$3719.70
7.	Purina Pro Plan Canine Fortiflora, 6 X 30-1 g sachets per box	EA	90	\$114.01	\$10260.90

ITEM	DESCRIPTION (5-YEAR SUPPLY)	UNIT	QTY	UNIT PRICE	TOTAL PRICE
8.	Purina Pro Plan Feline Fortiflora, 6 X 30-1 g sachets per box	EA	90	\$114.01	\$10260.90
9.	Purina Pro Plan Savor Feline Adult Crunchy Bites with Chicken, 10 X 2.1 oz. bag	EA	90	\$14.99	\$1349.10
10.	10 cases of 10 - NutriSentials Lean Treats for Dogs *substitution*	EA	600	\$39.95	\$23970.00
11.	10 cases of 8 - NutriSentials Large Breed Lean Treats for Dogs *substitution*	EA	300	\$39.95	\$11985.00
12.	Tidy Cats by Purina, or a comparable brand, 35 lb. Pail	EA	2,400	\$24.14	\$57936.00
13.	Virbac CET Chews size: Small	EA	5,100	\$8.30	\$42330.00
14.	Virbac CET Chews size: Medium	EA	5,100	\$10.40	\$53040.00
15.	Virbac CET Chews size: Large	EA	10,200	\$13.50	\$137,700.00
16.	Virbac CET Chews size: Extra Large	EA	5,100	\$16.65	\$84915.00
<b>Total</b>					<b>\$584511.00</b>

## **Attachment C: Insurance Requirements**

No insurance is required for this supply agreement; therefore, Section 5, Insurance, is null and void.

## **Attachment D: Warranty Requirements**

No warranty is required for this supply agreement; therefore, Section 8, Warranty, subsection 8 (B) is null and void.