

## SUPPLY AGREEMENT NO. 3600

### Aggregate Trap Rock for Public Works

THIS **Aggregate Trap Rock for Public Works Supply Agreement** ("Agreement") is entered into by and between the City of Corpus Christi, a Texas home-rule municipal corporation ("City") and Vulcan Construction Materials, LLC ("Contractor"), effective upon execution by the City Manager or the City Manager's designee ("City Manager").

WHEREAS, Contractor has bid to provide Aggregate Trap Rock for Public Works in response to Request for Bid No. **3600** ("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 Aggregate Trap Rock for Public Works 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) This Agreement is for three years. 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 \$1,552,500.00, 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. 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: Velma Pena  
Department: Public Works Department  
Phone: (361)-826-1933  
Email: VelmaP@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.** 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: Velma Peña  
Title: Contracts and Funds Administrator  
Address: 2525 Hygeia Street, Corpus Christi, Texas 78415  
Phone: 361-826-1927  
Fax: 361-826-1627

**IF TO CONTRACTOR:**

Vulcan Construction Materials, LLC  
Attn: Julia Farrar  
Title: Sales Analyst  
Address: 10101 Reunion Place, Suite 500 - San Antonio, Texas 78279  
Phone: 210-965-0719  
Fax: 210-524-3555

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.

**(SIGNATURE PAGE FOLLOWS)**

**CONTRACTOR**

DocuSigned by:  
Signature: Julia Farrar  
E99A17E67E81467...  
Printed Name: Julia Farrar  
Title: Sales Analyst  
Date: 6/23/2021

**CITY OF CORPUS CHRISTI**

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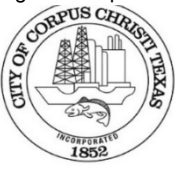
Josh Chronley  
Assistant Director, Contracts and Procurement  
Date: \_\_\_\_\_

**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. 3600
- Exhibit 2: Contractor's Bid Response



## ATTACHMENT A: SCOPE OF WORK

### 1.1 General Requirements/Background Information

The Contractor shall provide Aggregate Trap Rock for the Street Department as outlined in this Scope of Work (Specifications and Requirements).

### 1.2 Service Requirements

- A. This specification covers various street construction material used by the City of Corpus Christi, Texas.
- B. The material listed in this specification are used in the repair and maintenance programs of the Corpus Christi Public Works Department.

### 1.3 Specifications and Delivery

Materials shall be delivered as follows:

- A. The material shall meet the requirements of Item #302 Aggregates for Surface Treatment, TYPE D, GRADE 5 "Trap Rock, SAC A" of the 2014 Texas Department of Transportation Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges.
  - 1. Retained Gradation as follows:
    - 3/8" Sieve - 3% - 5%
    - #4 Sieve - 80% to 90%
    - #8 Sieve - 98% to 100%
  - 2. Washed Rock
    - Decantation: 0.7% max
    - LA Abrasion 15% max
- B. Testing reports shall be submitted by the selected Supplier to the Contract Administrator for approval prior to delivery. Packing slips or other suitable shipping documents shall accompany each shipment and shall show: (a) name and address of person delivering the load, (b) name and address of receiving department and/or delivery location, and (c) with each delivery, furnish a shipping or delivery ticket showing description of items and quantity.
- C. All material shall be transported from the plant to the designated stock storage yard or job site in tight vehicles with metal bottoms previously cleaned of all foreign matter and when necessary shall be covered to reduce loss material and to protect material from weather elements.
- D. Stock storage yard schedule delivery dates and standard services hours Monday through Friday between the hours of 7:00 a.m. – 5:00 p.m.
- E. City Staff will contact the Contractor one week in advance to set up the request for the Trap Rock.



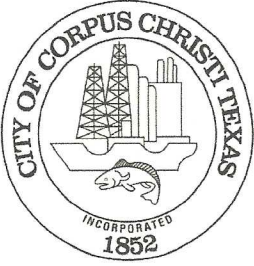
#### 1.4 Testing

- A. The City reserves the right to inspect and test materials for compliance to the specification at the supplier's location, at the point of delivery to the City Service Center yard or directly to 5352 Ayers, Corpus Christi, Texas 78415.
- B. If the laboratory tests indicate that the material delivered to the job site or City Yard, does not meet specifications, the City reserves the right to reject this material and supplier will be obligated to remove and replace rejected material with materials that will meet specifications.
- C. NOTE: The laboratory shall be hired by the City of Corpus Christi and the supplier shall cooperate with the laboratory at all times to be sure that the material meets City specifications.
- D. It shall be understood that the cost of all certified laboratory tests, materials and reports necessary to control the quality of material delivered, according to the City specifications, shall be accepted by the City but only on tested materials which meet City specifications.
- E. Deliveries are to be made as required. Delivery will be to the City of Corpus Christi Public Works Department Materials Storage Yard at 2626 Holly Road, Corpus Christi, Texas 78415. Material Storage Yard is located behind Corpus Christi Animal Care and Vector Service Center with drivable entry on Civitan Street. Delivery shall be in end-dump dump trucks.

#### 1.5 Contractor Quality Control and Superintendence

- A. The Contractor shall establish and maintain a complete Quality Control Program that is acceptable to the Contract Administrator to assure that the requirements of the Contract are provided as specified. The Contractor will also provide supervision of the work to insure it complies with the contract requirements.
- B. The Contractor and their employees will perform the above services following all necessary regulations and guidelines in accordance with the facilities safety requirements. All work being performed for the City must meet industry standards and accepted by the Contract Administrator.

Point of Contact:  
Will Quiroz, Work Coordinator  
(361) 826-1952 Office  
(361) 877-5383 Mobile



# CITY OF CORPUS CHRISTI CONTRACTS AND PROCUREMENT BID FORM

**RFB No. 3600**

**Aggregate Trap Rock for Public Works**

**PAGE 1 OF 1**

Date: 5/19/21

Bidder: Vulcan Construction  
Materials, LLC

Authorized  
Signature:

*Julia Yan*

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               | UNIT | 3-Year QTY | Unit Price | Total Price 3-Year Qty |
|---------------------|---------------------------|------|------------|------------|------------------------|
| 1                   | Trap Rock Type D, Grade 5 | Tons | 7,500      | \$ 64.00   | \$480,000              |
| 2                   | Trap Rock Type D, Grade 4 | Tons | 15,000     | \$ 65.00   | \$975,000              |
| 3                   | Trap Rock Type D, Grade 3 | Tons | 1,500      | \$ 65.00   | \$97,500               |
| <b>3 Year Total</b> |                           |      |            |            | <b>\$1,552,500</b>     |

| Item         | Description               | UNIT | 1st-Year Extension Qty | Unit Price | Total Price 1st-Year Extension |
|--------------|---------------------------|------|------------------------|------------|--------------------------------|
| 1            | Trap Rock Type D, Grade 5 | Tons | 2,500                  | \$ 66.00   | \$165,000                      |
| 2            | Trap Rock Type D, Grade 4 | Tons | 5,000                  | \$ 67.00   | \$335,000                      |
| 3            | Trap Rock Type D, Grade 3 | Tons | 500                    | \$ 67.00   | \$33,500                       |
| <b>Total</b> |                           |      |                        |            | <b>\$533,500</b>               |

| Item | Description               | UNIT | 2nd-Year Extension Qty | Unit Price | Total Price 2nd-Year Extension |
|------|---------------------------|------|------------------------|------------|--------------------------------|
| 1    | Trap Rock Type D, Grade 5 | Tons | 2,500                  | \$ 68.00   | \$170,000                      |
| 2    | Trap Rock Type D, Grade 4 | Tons | 5,000                  | \$ 69.00   | \$345,000                      |

|                                     |                                  |             |            |                 |                     |
|-------------------------------------|----------------------------------|-------------|------------|-----------------|---------------------|
| <b>3</b>                            | <b>Trap Rock Type D, Grade 3</b> | <b>Tons</b> | <b>500</b> | <b>\$ 69.00</b> | <b>\$ 34,500</b>    |
| <b>Total</b>                        |                                  |             |            |                 | <b>\$ 549,500</b>   |
| <b>3-Year plus Extensions Total</b> |                                  |             |            |                 | <b>\$ 2,635,500</b> |

## ATTACHMENT C: INSURANCE REQUIREMENTS

### I. CONTRACTOR'S LIABILITY INSURANCE

- A. Contractor must not commence work under this contract until all insurance required has been obtained and such insurance has been approved by the City. Contractor must not allow any subcontractor, to commence work until all similar insurance required of any subcontractor has been obtained.
- B. Contractor must furnish to the City's Risk Manager and Contract Administrator one (1) copy of Certificates of Insurance with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City's Risk Manager. The City must be listed as an additional insured on the General liability and Auto Liability policies **by endorsement**, and a waiver of subrogation **endorsement** is required on all applicable policies. **Endorsements** must be provided with Certificate of Insurance. Project name and/or number must be listed in Description Box of Certificate of Insurance.

| TYPE OF INSURANCE  | MINIMUM INSURANCE COVERAGE   |
|--|--|
| <b>30-day advance written notice of cancellation, non-renewal, material change, or termination required on all certificates and policies.</b>  | <b>Bodily Injury and Property Damage</b><br>Per occurrence - aggregate |
| COMMERCIAL GENERAL LIABILITY including:<br><br>1. Commercial Broad Form<br>2. Premises – Operations<br>3. Products/ Completed Operations<br>4. Contractual Liability<br>5. Independent Contractors<br>6. Personal Injury- Advertising Injury | \$1,000,000 Per Occurrence   |
| AUTO LIABILITY (including)<br>1. Owned<br>2. Hired and Non-Owned<br>3. Rented/Leased   | \$500,000 Combined Single Limit  |
| WORKERS' COMPENSATION<br><br>EMPLOYER'S LIABILITY  | Statutory<br><br>\$500,000 /\$500,000 /\$500,000                       |

- C. In the event of accidents of any kind related to this contract, Contractor must furnish the Risk Manager with copies of all reports of any accidents within 10 days of the accident.

## II. ADDITIONAL REQUIREMENTS

- A. Applicable for paid employees, Contractor must obtain workers' compensation coverage through a licensed insurance company. The coverage must be written on a policy and endorsements approved by the Texas Department of Insurance. The workers' compensation coverage provided must be in statutory amounts according to the Texas Department of Insurance, Division of Workers' Compensation. An All States Endorsement shall be required if Contractor is not domiciled in the State of Texas.
- B. Contractor shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- VII.
- C. Contractor shall be required to submit renewal certificates of insurance throughout the term of this contract and any extensions within 10 days of the policy expiration dates. All notices under this Exhibit shall be given to City at the following address:
- City of Corpus Christi  
Attn: Risk Manager  
P.O. Box 9277  
Corpus Christi, TX 78469-9277
- D. **Contractor agrees that, with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:**
- List the City and its officers, officials, employees, and volunteers, as additional insureds by endorsement with regard to operations, completed operations, and activities of or on behalf of the named insured performed under contract with the City, with the exception of the workers' compensation policy;
  - Provide for an endorsement that the "other insurance" clause shall not apply to the City of Corpus Christi where the City is an additional insured shown on the policy;
  - Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and
  - Provide thirty (30) calendar days advance written notice directly to City of any, cancellation, non-renewal, material change or termination in coverage and not less than ten (10) calendar days advance written notice for nonpayment of premium.
- E. Within five (5) calendar days of a cancellation, non-renewal, material change or termination of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to

suspend Contractor's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.

- F. In addition to any other remedies the City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.
- G. Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractor's performance of the work covered under this contract.
- H. It is agreed that Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City of Corpus Christi for liability arising out of operations under this contract.
- I. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract.

**Bond Requirements:**

No bonds are required.

2021 Insurance Requirements

Ins. Req. Exhibit 4-B

Contracts for General Services – Services Performed Onsite

02/22/2021 Risk Management – Legal Dept.

## **ATTACHMENT D: WARRANTY REQUIREMENTS**

No product warranty applies to this Supply Agreement therefore, Section 8 Warranty Subsections 8(A) and 8(B) are void.