



## SUPPLY AGREEMENT NO. 1242

### Thermoplastics Material for Street Department

THIS **Thermoplastics Material for Street Department Supply Agreement** ("Agreement") is entered into by and between the City of Corpus Christi, a Texas home-rule municipal corporation ("City") and Flint Trading Inc. ("Supplier"), effective for all purposes upon execution by the City Manager or the City Manager's designee ("City Manager").

WHEREAS, Supplier has bid to provide Thermoplastics Material for Street Department in response to Request for Bid No. **N/A** ("RFB"), which RFB includes the required scope of work and all specifications and which RFB and the Supplier'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 Supplier agree as follows:

- 1. Scope.** Supplier will provide Thermoplastics Material for Street Department 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 12 months. This Agreement includes an option to extend the term for up to two additional 12-month periods ("Option Period"), provided, the parties do so prior to expiration of the original term or the then-current Option Period. The decision to exercise the option to extend the term of this Agreement is, at all times, within the sole discretion of the City and is conditioned upon the prior written agreement of the Supplier and the City Manager.
- 3. Compensation and Payment.** The total value of this Agreement is not to exceed \$80,689.20, 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.
- 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: Peter Muniz  
Department: Streets  
Phone: 361-826-1951  
Email: petermu@cctexas.com

5. **Insurance.** Before performance can begin under this Agreement, the Supplier 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 Supplier 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 Supplier 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 Supplier until such time as the products are delivered and accepted by the City.
7. **Inspection and 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 Supplier, 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 Supplier within 30 days of receipt of City's invoice.
8. **Warranty.** The Supplier 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 Supplier warrants that it has clear title to the products and that the products are free of liens or encumbrances. In addition, the products purchased under this

Agreement shall be warranted by the Supplier 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.** Supplier 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 Supplier be considered an employee of the City.
- 12. Subcontractors.** Supplier may use subcontractors in connection with the work performed under this Agreement. When using subcontractors, however, the Supplier must obtain prior written approval from the Contract Administrator if the subcontractors were not named at the time of bid. In using subcontractors, the Supplier is responsible for all their acts and omissions to the same extent as if the subcontractor and its employees were employees of the Supplier. 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 Supplier and its employees had performed the work.
- 13. Amendments.** This Agreement may be amended or modified only by written change order signed by both parties. Change orders may be used to modify quantities as deemed necessary by the City.

- 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 Supplier covenants to pay payroll taxes, Medicare taxes, FICA taxes, unemployment taxes and all other related 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: Peter Muniz  
Title: Finance & Resource Manager  
Address: 2525 Hygeia St., Corpus Christi, TX 78415  
Fax: 361-826-1627

**IF TO SUPPLIER:**

Flint Trading Inc.  
Attn: Jason Schneider  
Title: Regional Sales Manager  
Address: P.O. Box 160, Thomasville, NC 27361  
Fax: 336-475-7900

- 17. SUPPLIER AGREES TO 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 ANY NATURE WHATSOEVER ON ACCOUNT OF PERSONAL INJURIES (INCLUDING DEATH AND WORKERS' COMPENSATION CLAIMS), 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 THIS AGREEMENT OR THE PERFORMANCE OF THIS AGREEMENT, REGARDLESS OF WHETHER THE INJURIES, DEATH OR DAMAGES ARE CAUSED OR ARE CLAIMED TO BE CAUSED BY THE**

**CONCURRENT OR CONTRIBUTORY NEGLIGENCE OF INDEMNITEES, BUT NOT IF BY THE SOLE NEGLIGENCE OF INDEMNITEES UNMIXED WITH THE FAULT OF ANY OTHER PERSON. SUPPLIER 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 FROM ANY SAID LIABILITY, DAMAGE, LOSS, CLAIMS, DEMANDS, SUITS, OR ACTIONS. THE INDEMNIFICATION OBLIGATIONS OF SUPPLIER UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.**

**18. Termination.**

(A) The City Manager may terminate this Agreement for Supplier's failure to perform the work specified in this Agreement or to keep any required insurance policies in force during the entire term of this Agreement. The Contract Administrator must give the Supplier written notice of the breach and set out a reasonable opportunity to cure. If the Supplier 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 Supplier. The City Manager may also terminate this Agreement upon 24 hours written notice to the Supplier for failure to pay or provide proof of payment of taxes as set out in this Agreement.

**19. Assignment.** No assignment of this Agreement by the Supplier, 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 Supplier 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.

**20. 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.

- 21. 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 and its attachments
  - B. the bid solicitation document, including addenda (Exhibit 1)
  - C. the Supplier's bid response (Exhibit 2)
- 22. Certificate of Interested Parties.** Supplier 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.
- 23. Governing Law.** This Agreement is subject to all federal, State, and local laws, rules, and regulations. 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.
- 24. 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)

**SUPPLIER**

Signature: \_\_\_\_\_ 

Printed Name: Scott Seeley

Title: Vice President

Date: 8-3-17

**CITY OF CORPUS CHRISTI**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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. N/A
- Exhibit 2: Supplier's Bid Response

## **Attachment A: Scope of Work**

### **1. General Requirements**

The Supplier will provide thermoplastic materials in accordance with the specifications listed herein. These supplies will be utilized by the Corpus Christi Streets Department. This term contract will provide unit pricing for specified items to be purchased on an "as needed" basis by the Streets Department.

### **2. Scope of work**

Specification for Thermo Plastic Pavement Markings

A. A durable, retroreflective pavement marking material suitable for use as roadway, intersection, commercial or private pavement delineation and markings.

B. The markings must be a resilient white or yellow thermoplastic product with uniformly distributed glass beads throughout the entire cross sectional area. The markings must be resistant to the detrimental effects of motor fuels, lubricants, hydraulic fluids, antifreeze, etc. Lines, legends and symbols are capable of being affixed to bituminous and/or portland cement concrete pavements by the use of the normal heat of a propane torch. Other colors shall be available as required.

C. The markings must be capable of conforming to pavement contours, breaks and faults through the action of traffic at normal pavement temperatures. The markings shall have resealing characteristics, such that it is capable of fusing with itself and previously applied thermoplastic when heated with the torch.

D. The markings shall not have minimum ambient and road temperature requirements for application, storage, or handling.

E. **MANUFACTURING CONTROL AND ISO CERTIFICATION:** The manufacturer must be ISO 9001:2008 certified and provide proof of current certification. The scope of the certification shall include manufacture of preformed thermoplastic marking materials.

F. **MATERIAL:** Must be composed of an ester modified rosin resistant to degradation by motor fuels, lubricants etc. in conjunction with aggregates, pigments, binders and glass beads which have been factory produced as a finished product, and meets the requirements of the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways. The thermoplastic material conforms to AASHTO



designation M249, with the exception of the relevant differences due to the material being supplied in a preformed state.

G. Graded Glass Beads:

1. The material must contain a minimum of thirty percent (30%) intermixed graded glass beads by weight. The intermixed beads shall be conforming to AASHTO designation M247, with minimum 80% true spheres and minimum refractive index of 1.50.

2. The material must have factory applied coated surface beads in addition to the intermixed beads at a rate of 1 lb. ( $\pm 10\%$ ) per 10 sq. ft. The factory applied coated surface beads shall have a minimum of 90% true spheres, minimum refractive index of 1.50, and meet the following gradation:

Size Gradation		Retained, %	Passing, %
US Mesh	$\mu\text{m}$		
12	1700	0 - 2%	98 - 100%
14	1400	0 - 3.5%	96.5 - 100%
16	1180	2 - 25%	75 - 98%
18	1000	28 - 63%	37 - 72%
20	850	63 - 72%	28 - 37%
30	600	67 - 77%	23 - 33%
50	300	89 - 95%	5 - 11%
80	200	97-100%	0 - 3%

A. Delivery

Supplier shall make inside delivery to City locations within five calendar days to the addresses specified. All prices will be quoted F.O.B. destination, inside delivery to City of Corpus Christi facility, freight prepaid. Expedited forty-eight hour delivery services may be required in some instances; therefore, Supplier must be able to provide such service. Additional freight will be paid only when the City has made a request for expedited delivery.

Delivery, as used in this section, means the products have been ordered and received by the City. Receipt of products that do not conform to specifications will not be accepted by the City. Supplier understands and agrees that the City may, at its discretion, cancel any backorders due to the Supplier's inability to deliver the product within the five

calendar day stipulation. Cancellations shall be in writing and sent to Vendor by email, fax, or mail. **No restocking fee or payment of any kind shall be owed for orders canceled due to Contractor's inability to meet the five day delivery deadline. Returns to Contractor of late orders received after the cancellation notice has been sent shall be at Contractor's expense.** The City may seek the products from another party if Supplier fails to deliver on time.

Delivery must be made during normal working hours, Monday through Friday, 8:00 a.m. to 5:00 p.m. C.T.

#### B. Defective Goods

Supplier shall pay for return shipment on any products that arrive in a defective, unusable or inoperable condition. Contractor must arrange for the return shipment of damaged products.

#### C. Product Expiration

Supplier shall provide supplies and medications with a minimum expiration date of 12 months after the delivery date. Any materials delivered with an expiration date of less than 12 months will be returned to Supplier for credit or replacement at Supplier's expense.

#### D. Discontinued Items

In the event that a manufacturer discontinues particular product(s), the City may allow Contractor to provide a substitute for the discontinued product(s) or delete the product(s) from the contract altogether. If Contractor requests permission to substitute a new product, Supplier shall provide the following to the City:

- a. Documentation from the manufacturer that the product has been discontinued.
- b. Documentation that names the replacement product.
- c. **Documentation that provides clear and convincing evidence that the replacement product meets or exceeds all specifications of the original product.**

- d. Documentation that provides clear and convincing evidence that the replacement product will be compatible with all the functions or uses of the discontinued product.
- e. Documentation confirming that the price for the replacement is the same as or less than the discontinued product.
- f. These provisions related to product discontinuance apply only to products specifically listed in this solicitation document.

### **3. Special Instructions**

All supplies will be shipped to:

2525 Hygeia St. Corpus Christi, TX 78415 Building 021

Before deliveries are made, please call Al Davila (361)-815-7069 or David Perez (361)-548-6721 so we can make arrangements to secure use of a forklift.

SLS1	SLS2	CSSS	DESIRED SHIP DATE		SHIP NUMBER	
04		SRB	04/10/2017			
TERMS DESCRIPTION		CUSTOMER PO NO		SHIP VIA		
Net 30 Days		QUOTE-AL DAVILA		DESTINATION		
ITEM ID	TX CL	UNITS	ORDERED	SHIPPED	UNIT PRICE	EXTENSION
8330241NB PM125WH Q2 NB 8' TURN ARW	0	PACK	60.000000	0.000000	179.99	10,799.40
8330240 PM125WH Q2 BD 9'10" STR ARW	0	PACK	30.000000	0.000000	155.12	4,653.60
8431064 PM125WH Q30' BD 12" WHITE LINE	0	PACK	300.000000	0.000000	86.49	25,947.00
8430566 PM125WH Q15' BD 24" WHITE LINE	0	PACK	300.000000	0.000000	86.30	25,890.00
8431065 PM125WH Q30' BD 16" WHITE LINE	0	PACK	60.000000	0.000000	115.32	6,919.20
8130102 PM125WH Q1 BD 8' "ONLY"	0	PACK	60.000000	0.000000	108.00	6,480.00
D *	1	EACH	1.000000	0.000000	0.00	0.00
TX CONTRACT 550-A2 CONTRACT DELIVER ARO 5 DAYS						
QUOTED BY STEPHANIE BRYAN						

To: Fax or Email: 

# Flint

TRADING INC.®

115 TODD COURT  
THOMASVILLE, NC 27360

## Price Quote

Phone: (336) 475-6600  
Fax: (336) 475-7900  
eMail: sales@flinttrading.com

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Quote # 00189009

Quote Date 4/10/2017

S 00371  
O CITY OF CORPUS CHRISTI / TX  
L ACCOUNTS PAYABLE DIVISION  
D P.O. BOX 9277  
T CORPUS CHISTI, TX 78469  
O

S 00371-1  
H CITY OF CORPUS CHRISTI  
I STREET OPERATIONS  
P 2525 HYGIEIA ROAD  
T CORPUS CHRISTI, TX 78415-4117  
O

Quote Amount 80,689.20

### INCOTERMS DESTINATION

SLS1	SLS2	CSSS	DESIRED SHIP DATE	SHIP NUMBER		
04		SRB	04/10/2017			
TERMS DESCRIPTION	CUSTOMER PO NO	SHIP VIA				
Net 30 Days	QUOTE-AL DAVILA	DESTINATION				
TEM ID	TX CL	UNITS	ORDERED	SHIPPED	UNIT PRICE	EXTENSION

We appreciate your business.

TAXABLE	NONTAXABLE	FREIGHT	SALES TAX	MISC	TOTAL
0.00	80,689.20	0.00	0.00	0.00	80,689.20
TOTAL DUE					80,689.20

## **Attachment C: Insurance Requirements**

Section 5. is null for this Service Agreement.

## **Attachment D: Warranty Requirements**

Section 8. Warranty is null for this Service Agreement.