

SUPPLY AGREEMENT NO. 1362

Brass Fittings for the City Warehouse

THIS **Brass Fittings for the City Warehouse Supply Agreement** ("Agreement") is entered into by and between the City of Corpus Christi, a Texas home-rule municipal corporation ("City") and Ferguson Enterprises, Inc. ("Supplier"), effective upon execution by the City Manager or the City Manager's designee ("City Manager").

WHEREAS, Supplier has bid to provide Brass Fittings for the City Warehouse in response to Request for Bid No. **1362** ("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 Brass Fittings for the City Warehouse 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 36 months. The parties may mutually extend the term of this Agreement for up to zero additional zero-month periods ("Option Period(s)"), provided, the parties do so in writing and 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.** The total value of this Agreement is not to exceed \$144,149.15, 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:

Robert Presnell
Department: Finance
Phone: 361-826-1750
Email: RobertPR@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 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.** 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: Robert Presnell
Title: Store Supervisor
Address: 5352 Ayers St. Bldg. 6, Corpus Christi, Texas 78415
Fax: 361-826-3174

IF TO SUPPLIER:

Ferguson Enterprises, Inc.
Attn: Bryan Steele
Title: Sales
Address: 221 Junior Beck Dr., Corpus Christi, Texas 78405
Fax: 361-289-1968

17. SUPPLIER 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 SUPPLIER OR RESULTS FROM THE NEGLIGENT ACT, OMISSION, MISCONDUCT, OR FAULT OF THE SUPPLIER OR ITS EMPLOYEES OR AGENTS. 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 OR RESULTING 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 (excluding attachments and exhibits);
 - B. its attachments;
 - C. the bid solicitation document including any addenda (Exhibit 1); then,
 - D. 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. Verification Regarding Israel.** In accordance with Chapter 2270, Texas Government Code, the City may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The signatory executing this Agreement on behalf of the Supplier verifies that the company does not boycott Israel and will not boycott Israel during the term of this Agreement.

- 24. 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.
- 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)

SUPPLIER

Signature: _____

Printed Name: _____

Title: _____

Date: _____

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. 1362

Exhibit 2: Supplier's Bid Response

Attachment A: Scope of Work

1.1 General Requirements/Background Information

The Contractor shall provide Brass Fittings for the Warehouse Department as outlined in this Scope of Work. The brass fittings are for the main cut-off water to residential homes and businesses. They are installed at the street or alley way of every resident and business in the City.

1.2 Scope of work

- A. The Contractor shall provide brass fittings, as outlined on the bid/pricing schedule, stamped with the letters "NL" (lead free) and the materials shall comply with American National Standards Institute/National Sanitation Foundation (ANSI/NSF) Standard 60/61 which must be obtained from NSF, UL, or an agency recognized by the Texas Natural Resource and Conservation Commission (TNRCC). In lieu of certified parts, TNRCC's interim order, which would grant the purchase of a different type (that would serve the same purpose) may be acceptable only if no product in that category has been certified. This specification covers various fittings used by the City of Corpus Christi, Texas. The products listed in this specification will be used to restock the Warehouse Department.
- B. The Contractor will cross reference the City's stock number listed on the bid sheet. The City agrees not to change the stock numbers assigned to each item for the duration of the contract.
- C. All brass fittings will be defect free, properly packed and shipped to ensure a safe delivery.

1.3 Contractor Quality Control

Any fines or other costs imposed on the City by TNRCC, or any successor agency, for accepting non-certified products, will be passed on to and born by the Contractor.

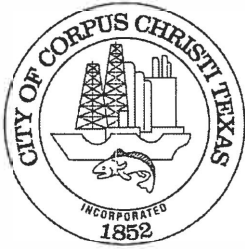
1.4 Special Instructions

- A. Delivery
 - 1. Contractor shall ship the materials in a specified time frame dictated by the Department Requestor.
 - 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 to specifications will not be accepted by the City.

4. 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.
5. Cancellations shall be in writing and sent to Contractor by email, fax or mail.
6. 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.

B. Defective Goods

Contractor 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.



Attachment B: Bid/Pricing Schedule

CITY OF CORPUS CHRISTI BID FORM

PURCHASING DIVISION

RFB No. 1362

Brass Fittings for Warehouse Department

Date: 10-25-2017

Bidder: FERGUSON

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 Purchasing 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	QTY	Unit Price	Total Price
1	CURB STOP ¾" FIP X FIP FORD(B11-333-NL) OR MUELLER(MB20283NF)	EA	108	\$ 35.018	\$ 3,781.94
2	CURB STOP 1" FIP X FIP FORD(B11-444-NL) OR MUELLER (MB20283NG)	EA	108	\$ 53.285	\$ 5,754.78
3	METER STOP ¾" ANGLE F X MTR FORD(BA13-332W-NL) OR MUELLER(MB24265NEFF)	EA	144	\$ 44.781	\$ 6,448.46
4	METER ¾" ANGLE STOP FIPXMTR FORD(KV13-332W-NL) OR MUELLER(MH1465NFEF)	EA	108	\$ 19.515	\$ 2,107.62
5	METER ANGLE STOP 1" X 1-3/4" FORD(BA43-342W-NL) OR MUELLER(MP24258NEFG)	EA	144	\$ 58.620	\$ 8,441.28
6	ANGLE METER STOP 1" FIP X MTR Ford(BA13-444W-NL) OR MUELLER(MB24265NG)	EA	60	\$ 66.044	\$ 3,962.64
7	CURB STOP ¾" FIP X CTS COMP FORD(B41-333-NL) OR MUELLER(MP2172NF)	EA	144	\$ 41.053	\$ 5,911.63
8	CURB STOP 1" FIP X CTS COMP FORD(B41-444-NL) OR MUELLER(MP25172330N)	EA	60	\$ 62.232	\$ 3,733.92

Item	Description	UNIT	QTY	Unit Price	Total Price
9	ANGLE MTR STOP ¾" COM X MTR FORD(BA43-332W-NL) OR MUELLER(MP2458NEFF)	EA	162	\$ 51.679	\$ 8,372.00
10	ANGLE MTR STOP 1" COMP X MTR FORD(BA43-444W-NL) OR MUELLER(MP24258NG)	EA	120	\$ 77.546	\$ 9,305.52
11	METER STOP ¾" CTS X MTR FORD(B43-444-W-NL) OR MUELLER(MP24350NF)	EA	144	\$ 46.940	\$ 6,759.36
12	METER STOP 1" COMP X MTR FORD(B43-444W-NL) OR MUELLER(MP24350NG)	EA	90	\$ 69.394	\$ 6,245.46
13	COUPLING 1-1/2" CTS X CTS FORD(C44-66-NL) OR MUELLER(MP15403NJ)	EA	54	\$ 46.343	\$ 2,502.52
14	COUPLING 2" CTS X CTS FORD(C44-77-NL) OR MUELLER(MP15403NK)	EA	54	\$ 63.917	\$ 3,451.52
15	COUPLING ¾" MIP X MTR FORD(C38-23-2.5-NL) OR MUELLER(MH10890NF)	EA	825	\$ 6.119	\$ 5,048.18
16	COUPLING 1" MIP X MTR FORD(C38-44-2.625-NL) OR MUELLER(MH10890NG)	EA	240	\$ 9.415	\$ 2,259.60
17	CORP STOP ¾" MIP X CTS COMP FORD(F1100-3NL) OR MUELLER(MP15028NF)	EA	150	\$ 22.022	\$ 3,303.30
18	CORP STOP 1" MIP X CTS COMP FORD(F1100-4NL) OR MUELLER(MP15028NG)	EA	300	\$ 33.354	\$ 10,006.20
19	CORP STOP 1-1/2" MIP X CTS COM FORD(F1100-6NL) OR MUELLER(MP25029NJ)	EA	60	\$ 92.583	\$ 5,554.98
20	CORP STOP 2" MIP X CTS COMP FORD(FB1100-7NL) OR MUELLER(MP25028NK)	EA	90	\$ 156.334	\$ 14,070.06
21	U BRANCH 1" X ¾" X 7.5" FORD(U48-43-7-NL) OR MUELLER(MP15363NGF712)	EA	54	\$ 28.550	\$ 1,541.70
22	U BRANCH 1" C X ¾" M X 14" FORD(U48-43-14-NL) OR MUELLER(MP15363NGF1312)	EA	90	\$ 53.217	\$ 4,789.53
23	COUPLING ¾" COMP X COMP FORD(C44-33NL) OR MUELLER(MP15403NF)	EA	180	\$ 12.301	\$ 2,214.18
24	COUPLING 1" CTS COMP X COMP FORD(C44-44NL) OR MUELLER(MP15403NG)	EA	144	\$ 13.428	\$ 1,933.63
25	COUPLING ¾" MIPT X COMP FORD(C84-33-NL) OR MUELLER(MP15428NF)	EA	216	\$ 10.079	\$ 2,177.06
26	COUPLING 1" MIP X CTS COMP FORD(C84-44-NL) OR MUELLER(n/a)	EA	180	\$ 11.922	\$ 2,145.96
27	COUPLING 1" X 1-1/4" MIPT X COMP FORD(C84-45-NL) OR MUELLER(MP15428NH)	EA	65	\$ 23.012	\$ 1,495.78

Item	Description	UNIT	QTY	Unit Price	Total Price
28	COUPLING 1-1/2" MIP X CTS COMP FORD(C84-66-NL) OR MUELLER(MP15428NJ)	EA	36	\$ 32.943	\$ 1,185.95
29	COUPLING 2" MIP X CTS COMP FORD(C84-77NL) OR MUELLER(MP15428NK)	EA	72	\$ 48.004	\$ 3,456.29
30	RESETTER 5/8" X 3/4" X 7" FORD(V42-7W-NL) OR MUELLER(MH14118NEFW)	EA	36	\$ 58.566	\$ 2,108.38
31	RESETTER 5/8" X 3/4" X 1/2" FORD(V42-12W-NL) OR MUELLER(MH14118NEF12)	EA	30	\$ 63.434	\$ 1,903.02
32	RESETTER 5/8" X 3/4" X 9" FORD(V42-9W-NL) OR MUELLER(MH14118NEFY)	EA	36	\$ 60.464	\$ 2,176.70
Total					\$ 144,149.15

Attachment C: Insurance Requirements

Section 5. is null for this Supply Agreement.

Attachment D: Warranty Requirements

Limited Warranty

MUELLER CO. WARRANTS ITS PRODUCTS TO BE FREE OF DEFECTS IN WORKMANSHIP AND MATERIAL UNDER NORMAL USE AND SERVICE AND WHEN USED FOR THE PURPOSE AND UNDER THE CONDITIONS FOR WHICH THEY ARE INTENDED, FOR A PERIOD OF ONE YEAR FROM THE DATE OF SHIPMENT.

OBLIGATION UNDER THIS WARRANTY IS LIMITED, AT MUELLER'S OPTION; TO ADJUST, REPAIR OR REPLACE, F.O.B. POINT OF MANUFACTURE, THE DEFECTIVE PRODUCT. PURCHASER MUST IMMEDIATELY NOTIFY MUELLER CO. IN WRITING OF THE CLAIMED DEFECT. MUELLER SHALL HAVE THE RIGHT TO INSPECT SAID PRODUCT AND PURCHASER SHALL, IF REQUESTED, RETURN THE DEFECTIVE PRODUCT TO MUELLER CO. WITH TRANSPORTATION PREPAID. PURCHASER SHALL ASSUME ALL RESPONSIBILITY AND EXPENSE FOR REMOVAL AND REINSTALLATION AND FREIGHT CHARGES IN CONNECTION WITH THE FOREGOING REMEDY. MUELLER CO. SHALL NOT BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGE OR PENAL TIES AND DOES NOT ASSUME ANY LIABILITY OF PURCHASER TO OTHERS, OR TO ANYONE FOR INJURY TO PERSONS OR PROPERTY.

THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED AND IMPLIED INCLUDING THE WARRANTY OF MERCHANTABILITY.

ANY CLAIMS OR SHORTAGES OR DAMAGES MUST BE IN WRITING WITHIN TEN DAYS AFTER RECEIPT OF SHIPMENT. BUYER SHALL NOTE LOSS OR DAMAGE ON TRUCK SHIPMENTS BY PROVIDING A DELIVERY RECEIPT SIGNED BY THE DRIVER.