

LETTER OF AGREEMENT - MATERIALS

This Letter of Agreement, for the purchase of materials ("Agreement"), is entered into by and between the City of Killeen ("City") and **Overrides Tire Service, LLC** ("Contractor"); collectively, the "Parties".

In consideration of the premises and of the mutual covenants and agreements contained in this Agreement, the Parties hereby agree as follows:

Scope of Agreement. The purpose of this Agreement is to enlist the services of the Contractor to:

Provide the following materials at the agreed upon unit price (the "Project") as submitted within Bid No. 26-04 Fleet Tire Services.

Description	Unit Cost
Normal Hours 0700-1700	\$75.00
After Hours: 1700-0700	\$75.00
Holidays: Those observed by the City of Killeen	\$75.00
Outside of Killeen City limits	\$75.00
Weekly Fleet Evaluation	\$75.00
Monthly Fleet Evaluation	\$75.00
15"-19.5"	\$22.50
22.5"-24.5"	\$35.00
Ag/Off-Road: Price per cross section	\$3.50
24/25 O Ring	\$15.00
15"-19.5"	\$22.50
22.5"-24.5"	\$35.00
Ag/Off-Road: Price per cross section	\$4.00
Valve Stems - Ag/Truck/Bus	\$6.00
Valve Stems - Off Road	\$22.50
Reconditioning	\$50.00
11R22.5	\$195.00
12R22.5	\$205.00
295/75R22.5	\$190.00
315/80R22.5	\$250.00
11R22.5	\$170.00
12R22.5	\$175.00
295/75R22.5	\$170.00
315/80R22.5	\$215.00
Repair	\$20.00

11R22.5	\$60.00
12R22.5	\$60.00
295/75R22.5	\$50.00
315/80R22.5	\$70.00
Solid Rubber Tire Filling	\$2.25
11R22.5	\$10.00
12R22.5	\$10.00
295/75R22.5	\$10.00
315/80R22.5	\$10.00
385/65R22.5	\$10.00
425/65R22.5	\$10.00
445/65R22.5	\$10.00
AG/Off Road: Price per Cross Section	\$5.50

The quantities listed in **Bid No. 26-04 Fleet Tire Services**, are anticipated quantities only and are not guaranteed. The City reserves the right to purchase materials from the next most responsible vendor for failure to provide specified material in the Agreement at time of order or if materials are not available at time requested.

Term of Agreement. This Agreement shall become effective on the date that the last required signature is affixed and shall be in effect for **one (1) year** upon execution of agreement.

The City may request up to an additional **sixty (60) days** Service Period past the initial or any renewal term to advertise and award a new contract for services / items, without any pricing adjustments.

It is agreed that the contract will automatically renew **two (2) times**, for **one (1) year renewal terms**, unless the City or Contractor serves written notice 60 days before the contract termination, or sixty (60) days before the end of any renewal term. The City will notify Contractor that the contract will not be renewed if funding is unavailable or if the contractor's past performance is not within industry standards. Notwithstanding anything to the contrary, this contract shall **not exceed a total of three (3) years**.

Consideration. City agrees to pay for the materials as ordered during the term of the Agreement for the unit price specified above. This contract is a commitment of the City's current revenues only as appropriated by the City's governing body for the current fiscal year.

Price Escalation Clause. Should market conditions warrant an increase, the successful contractor may submit documentation requesting permission to increase pricing **no later than 90 days before** the end of **each twelve (12) months** of the contract. If the contractor fails to give timely notice, the price may not be increased. Escalation may only occur after the initial twelve (12) months of the contract or after extension. Nevertheless, any request for an increase shall not be applied automatically but shall only apply upon written approval by the City which may only be withheld without just cause, including but not limited to, insufficient funding. Requests for price increases must be solely for the purpose of accommodating an increase in the contractor's cost, not profits.

Tariff Clause. In the event of any changes in tariffs, duties, or taxes imposed by governmental authorities that directly affect the cost of goods or services provided under this contract, the following provisions shall apply:

- Notification Requirement: The Contractor shall notify the Procuring Entity in writing within 10 business days upon becoming aware of any such changes. The notification must include:
 - The specific tariff or duty imposed or changed.
 - The effective date of the change.
 - The impact on the cost of the goods or services provided.
 - Supporting documentation, such as official notices or tariff schedules.
- Adjustment Mechanism: Upon receipt of the notification and supporting documentation, the Procuring Entity and the Contractor shall mutually agree on an equitable adjustment to the contract price. This adjustment will reflect the increased costs attributable to the tariff change and will be implemented in a manner that is fair and reasonable to both parties.
- Maximum Increase Limit: Any price adjustment due to tariff changes shall not exceed 10% of the original contract price.
- Limitations: Adjustments under this clause shall be limited to the direct costs incurred due to the tariff change and shall not exceed the actual increase in costs. No adjustments will be made for indirect costs or for any other reasons not directly attributable to the tariff change.
- Response Timeline: A response to the request for adjustment will be prepared by the Procuring Entity within 10 business days of receipt of the request.
- Finality of Determinations: All determinations made by the city regarding tariff-related adjustments are final.

Most-Favored Nation. If during any term of this Agreement, should Contractor enter into any contract with another municipality within Texas for commodities or services with similar scope of work with rates more favorable than those granted to the City of Killeen, Contractor agrees to modify this contract to include such more favorable rates.

Cooperative Governmental Purchasing Notice. Other governmental entities maintaining interlocal agreements with the City, may desire, but are not obligated, to purchase goods and services defined in this Agreement. All purchases by governmental entities, other than the City, will be billed directly to and paid by that governmental entity. The City will not be responsible for another governmental entity's debts. Each governmental entity will place their own orders with the Contractor and be responsible for ensuring full compliance with the Agreement. Prior to other governmental entities placing orders, the City will notify Contractor of their intent.

Contractor hereby [permits/does not permit] other governmental entities the ability to purchase pursuant to this Agreement.

Independent Contractor. Contractor shall act as an Independent Contractor. Under no circumstances shall Contractor be deemed an employee or partner of Owner.

Applicable Laws. Contractor shall follow all applicable local, State, and Federal laws, regulations, and requirements for the abatement and disposal of lead, asbestos, and other routinely encountered hazardous substances. If any unusual substances or extraordinary amounts of the aforementioned substances are encountered, the Contractor will contact the City to contact the State and the relevant agency with authority for regulation of the substance.

Subcontracts and Assignments. Contractor's rights and obligations hereunder are deemed to be personal and may not be transferred or assigned. Any assignments shall be void and of no effect.

Indemnification. To the fullest extent permitted by law, City or Contractor, as applicable, shall indemnify and hold harmless the other party, and the other party's officers, directors, partners and employees from

and against any and all costs, losses and damages (including, without limitation, all fees and charges of attorneys and other professionals, and all court or dispute resolutions costs) caused by the negligent acts or omissions of the City or Contractor, as applicable, or their respective officers, directors, partners, employees and consultants with respect to the performance under this Agreement or the Project.

Termination. This Agreement may be terminated by either party for cause upon thirty (30) calendar days' written notice, provided such cause cannot be reasonably cured within such thirty (30) day period. City may terminate this Agreement for convenience effective upon receipt of written notice declaring the same and Contractor shall be compensated for all work completed at that time in accordance with this Agreement.

Texas Law. This Agreement shall be subject to and governed by the laws of the State of Texas. The Parties agree that for venue purposes, any and all lawsuits, disputes, or causes of action shall be in Bell County, Texas.

Severability. If any provision of this Agreement shall, for any reason, be held to violate any applicable law, then the invalidity of such a specific provision in this Agreement shall not be held to invalidate the remaining provisions of this Agreement.

Survival. Any provision of this Agreement providing for indemnity, insurance or a duty that necessarily will not be completed until after the expiration or termination of this Agreement shall continue in full force and effect until such a time as all duties have been fully performed.

Non-waiver. Failure to enforce any provision of this Agreement by either party shall not constitute a waiver of that provision for purposes of the subsequent enforcement of that provision or the remainder of this Agreement.

Contract Verification. Texas law provides that a governmental entity may not enter into contracts over for goods and services valued at \$100,000 or more with a company that employs at least 10 full-time employees unless the company provides written verification regarding aspects of the company's business dealings. By signing Contractor agrees with the following provisions:

- Texas Government Code, Chapter 2271 – Contractor must verify that it does not boycott Israel and will not boycott Israel during the term of the contract. Boycott Israel is defined in Government Code Chapter 808.
- Texas Government Code, Chapter 2274 – Contractor must verify that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association. Discriminate, firearm entity and firearm trade association are defined in Government Code Chapter 2274.
- Texas Government Code, Chapter 2276 – Contractor must verify that it does not boycott energy companies and will not boycott energy companies during the term of the contract. Boycott energy company is defined in Government Code Chapter 809.

Entire Agreement. This Agreement shall represent the entire agreement by and between the Parties and it may not be changed except by written amendment duly executed by all Parties.

SIGNED, ACCEPTED, AND AGREED to by the undersigned Parties, on the dates indicated, who acknowledge that they have read and understand this Agreement and that the Agreement is issued in accordance with local, State, and Federal laws, and the undersigned Parties hereby execute this legal document voluntarily and of their own free will.

City

Contractor

Kent Cagle
City Manager

Date

Gonzalo Oyervides 9-26-25
Gonzalo Oyervides Date
[Title] Owner