

LETTER OF AGREEMENT

This Letter of Agreement, for the purchase of materials ("Agreement"), is entered into by and between the City of Killeen ("City") and **Asphalt Inc, LLC dba Lone Star Paving** ("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 anticipated quantity and agreed upon unit price (the "Project"):

Type D Asphalt, FOB Plant estimated quantity 25,000 tons at \$76.00 per ton
Type C Asphalt, FOB Plant estimated quantity of 1,500 tons at \$76.00 per ton
Cold Mix Asphalt, FOB Plant estimated quantity 2,500 tons at \$88.00 per ton
Cold Mix Asphalt, FOB Destination estimated quantity of 2,500 tons at \$105.00 per ton

Type D / Type C Asphalt

Asphalt shall be Texas Department of Transportation Item 340 Type D / C Hot Mix Asphalt. Pick up shall be made available by 8:00 am on the same day of order placement unless otherwise specified by the City.

Cold Mix Asphalt

Material shall be Texas Department of Transportation specification Item 330 LRA Premix CC material. Material shall be delivered within five (5) business days of order placement.

The above quantities 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 automatically terminate after one year. After the Agreement terminates, the City may request up to an additional sixty (60) days past any contract term to advertise an award a new bid for such items without pricing adjustments.

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.

Additional Funding Availability. Project may be funded in whole or in part by the U.S. Department of Housing and Urban Development Community Development Block Grant (CDBG) or Home Investment Partnerships Act (HOME Program) and may be subject to submittal of certified payroll documentation as required by HUD funded construction projects to the extent required by Davis-Bacon and Related Acts (DBRA); confirmation of eligibility for participation through the Excluded Parties Listing System (EPLS) - System for Award Management (SAM.gov) or the Texas Debarred Vendor List.

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.

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, and only to the extent of, the negligent acts or omissions of the 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 Date
City Manager

[Name] Date
[Title]

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This Letter of Agreement, for the purchase of materials (“Agreement”), is entered into by and between the City of Killeen (“City”) and **Crafco Inc.** (“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 anticipated quantity and agreed upon unit price (the “Project”):

Crafco Polyflex III, estimated quantity **100,000** pounds at **\$0.70** per pound.

Crackseal Polyflex III

Material shall be Polyflex III as specified by Crafco Incorporated material and shall be delivered within seven (7) business days of order placement.

The above quantities 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.

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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.

Additional Funding Availability. Project may be funded in whole or in part by the U.S. Department of Housing and Urban Development Community Development Block Grant (CDBG) or Home Investment Partnerships Act (HOME Program) and may be subject to submittal of certified payroll documentation as required by HUD funded construction projects to the extent required by Davis-Bacon and Related Acts (DBRA); confirmation of eligibility for participation through the Excluded Parties Listing System (EPLS) - System for Award Management (SAM.gov) or the Texas Debarred Vendor List.

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.

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, and only to the extent of, the negligent acts or omissions of the 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 Date
City Manager

[Name] Date
[Title]

LETTER OF AGREEMENT

This Letter of Agreement, for the purchase of materials (“Agreement”), is entered into by and between the City of Killeen (“City”) and **DIJ Construction Inc.** (“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 anticipated quantity and agreed upon unit price (the “Project”):

Thermoplastic - White estimated quantity of **30,000** pounds at **\$0.80** per pound

Thermoplastic - Yellow estimated quantity of **15,000** pounds at **\$0.80** per pound

Thermoplastic - Black estimated quantity of **8,000** pounds at **\$0.75** per pound

Glass Traffic Beads Type II, FOB Plant, estimated quantity **2,500** pounds at **\$0.75** per pound.

Glass Traffic Beads Type II, FOB Destination, estimated quantity **2,500** pounds at **\$0.78** per pound.

Glass Traffic Beads Type III, FOB Plant, estimated quantity **24,000** pounds at **\$1.00** per pound.

Glass Traffic Beads Type III, FOB Destination, estimated quantity **24,000** pounds at **\$1.05** per pound.

Thermoplastic Material

Thermoplastic shall be Texas Department of Transportation specification Item 666.2 Type I Marking Materials Specification D-9-8200 **WHITE / BLACK** in color. Materials shall be delivered within ten (10) business days of order placement.

Thermoplastic shall be Texas Specification Alkaloid Granular thermoplastic conforming to Texas Department of Transportation specification item 666.2 Type I Marking Materials Specification D-9-8200 **YELLOW** in color. Materials shall be delivered within ten (10) business days of order placement.

Glass Traffic Beads Type II / Type III

All traffic beads must meet the TXDOT (Texas Department of Transportation) requirements. These are based on Item # 666 Reflective Pavement Markings and TXDOT Material Specifications DMS-8290.

Per Contractor stipulation - Thermoplastic materials- minimum of 4-ton order for delivery, less than 4-tons City required pick-up at Bertram location, no delivery available. All Glass Traffic Beads minimum of 1 ton purchase required. Type III beads possible manufacturer shortages occurring since 2024.

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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.

Additional Funding Availability. Project may be funded in whole or in part by the U.S. Department of Housing and Urban Development Community Development Block Grant (CDBG) or Home Investment Partnerships Act (HOME Program) and may be subject to submittal of certified payroll documentation as required by HUD funded construction projects to the extent required by Davis-Bacon and Related Acts (DBRA); confirmation of eligibility for participation through the Excluded Parties Listing System (EPLS) - System for Award Management (SAM.gov) or the Texas Debarred Vendor List.

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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, and only to the extent of, the negligent acts or omissions of the 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.

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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:

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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 Date
City Manager

[Name] Date
[Title]

LETTER OF AGREEMENT

This Letter of Agreement, for the purchase of materials ("Agreement"), is entered into by and between the City of Killeen ("City") and **Killeen Crushed Stone** ("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 anticipated quantity and agreed upon unit price (the "Project"):

Bedding Material 3/8"F, FOB Plant estimated quantity **1,000** tons at **\$16.50** per ton
Bedding Material 3/8"F, FOB Destination estimated quantity of **1,000** tons at **\$24.50** per ton
Bedding Material 1/2"D, FOB Plant estimated quantity **1,000** tons at **\$18.00** per ton
Bedding Material 1/2"D, FOB Destination estimated quantity of **1,000** tons at **\$24.50** per ton
Bedding Material 1"D, FOB Plant estimated quantity **1,000** tons at **\$18.00** per ton
Bedding Material 1"D, FOB Destination estimated quantity of **1,000** tons at **\$24.50** per ton
Quality Sandy Loam, FOB Plant, estimated quantity of **4,000** tons at **\$20.00** per ton
Quality Sandy Loam, FOB Destination, estimated quantity of **10,000** tons at **\$20.00** per ton
Base Material, FOB Plant, estimated quantity of **9,800** tons at **\$12.00** per ton
Base Material, FOB Destination, estimated quantity of **13,000** tons at **\$18.50** per ton
Rip Rap 18-24", **FOB Plant** estimated quantity **1,000** tons at **\$30.00** per ton
Rip Rap 18-24", **FOB Destination** estimated quantity of **1,500** tons at **\$36.50** per ton
Rip Rap 12-18", **FOB Plant** estimated quantity **1,000** tons at **\$30.00** per ton
Rip Rap 12-18", **FOB Destination** estimated quantity of **1,500** tons at **\$36.50** per ton
Rip Rap 8-12", **FOB Plant** estimated quantity **500** tons at **\$30.00** per ton
Rip Rap 8-12", **FOB Destination** estimated quantity of **500** tons at **\$36.50** per ton
Rip Rap 3-5", **FOB Plant** estimated quantity **1,500** tons at **\$30.00** per ton
Rip Rap 3-5", **FOB Destination** estimated quantity of **5,500** tons at **\$36.50** per ton
Crusher Fines, FOB Plant estimated quantity **2,500** tons at **\$8.00** per ton
Crusher Fines, FOB Destination estimated quantity of **2,500** tons at **\$14.50** per ton
M-Sand, FOB Plant estimated quantity **2,500** pounds at **\$10.00** per pound
M-Sand, FOB Destination estimated quantity of **2,500** pounds at **\$16.50** per pound

Bedding Material shall be of Limestone, River Rock, or Granite. All bedding shall be well blended mix. Orders will be placed by 12:01pm for delivery by 8:00 am the following day, unless otherwise specified by the City. If delivery is more than one (1) hour after the scheduled delivery time, liquidated damages of \$50.00/hour, including any partial hour, will be assessed.

Quality Sandy Loam Plant / Destination

Screened Sandy Loam/Topsoil shall consist of natural friable surface soil without admixture of undesirable subsoil, refuse, or foreign materials. It shall be reasonably free of roots, hard clay, coarse gravel, rock fragments, and stones larger than ¼ inch. This material will be used on the surface of public grounds, so the proper appearance is critical. Rock fragments of less than ¼ inch in diameter should comprise no more than 5% of the soil volume. Sandy Loam/Topsoil shall be free of any aggregate larger than ¼ inch or larger. Screened Sandy Loam / Top Soil shall consist of no more than 10% - 15% sand or mixture of sand. Screened Sandy Loam must contain no less than 3%, or more than 20% organic material or Humus.

Delivery shall be within one (1) hour of the time agreed upon during order placement. Late deliveries shall be charged back to the vendor at the rate of \$50.00 per hour after the first hour.

Base Material Plant/Destination

The Base Material shall be crushed limestone base material, as specified by the State of Texas Department of Transportation Item 247, Type A, Grade 2, or better. Base Material FOB Destination will be ordered in full truckload quantities, maximum of 25 tons. Delivery shall be made using bobtail trucks. The configuration of the City stockpile area will not accommodate 18-wheel tractor trailers with end dumps or lowboy trailers.

Orders will be placed by 12:01pm for delivery by 8:00 am the following day, unless otherwise specified by the City. If delivery is more than one (1) hour after the scheduled delivery time, liquidated damages of \$50.00/hour, including any partial hour, will be assessed.

Rip Rap 3-24", Plant/Destination

Rip Rap Rock shall be of Edward Limestone and shall be 3-24 inches in diameter. Base Material FOB Destination will be ordered in full truckload quantities, maximum of 25 tons. Rip Rap Rock pick up shall be available by 8:00am on the same day of order placement unless otherwise specified by the City. Orders placed by 12:1pm for delivery by 8:00am the following day, unless otherwise specified by the City. If delivery is more than one (1) hour after the scheduled delivery time, liquidated damages of \$50.00/hour, including any partial hour, will be assessed.

Orders will be placed by 12:01 p.m. for delivery in 72 hours, unless otherwise specified by the City. If delivery is more than one (1) hour after the scheduled delivery time, liquidated damages of \$50.00/hour, including any partial hour, will be assessed.

Crusher Fines

Crusher Fines shall be as follows: Aggregate: Crushed stone shall consist of inert materials that are hard, durable, with stone free from surface coatings and deleterious materials. R-Value minimum of 70 determined by ASTM D 2488 Methodology (R-value is a measure of wear resistance). Sand Equivalent: - an engineering measurement of the proportion of sand to silt and clay will stay at a range of 30-55, as determined by ASTM D 2419 methodology

Orders will be placed by 12:01 p.m. for delivery in 72 hours, unless otherwise specified by the City. If delivery is more than one (1) hour after the scheduled delivery time, liquidated damages of \$50.00/hour, including any partial hour, will be assessed.

M-Sand (Manufactured Sand)

M-Sand (Manufactured Sand) shall be as follows: Substitute for river sand, crushed hard granite stone / Limestone Rock, cubical shaped with grounded edges, washed, and graded. Particles generally range in size from 1/8" to fine powder or less than 4.75mm

Orders will be placed by 12:01 p.m. for delivery in 72 hours, unless otherwise specified by the City. If delivery is more than one (1) hour after the scheduled delivery time, liquidated damages of \$50.00/hour, including any partial hour, will be assessed.

The above quantities 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 automatically terminate after one year. After the Agreement terminates, the City may request up to an additional sixty (60) days past any contract term to advertise an award a new bid for such items without pricing adjustments.

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

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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:

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- 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

[Name]
[Title]

Date

LETTER OF AGREEMENT

This Letter of Agreement, for the purchase of materials ("Agreement"), is entered into by and between the City of Killeen ("City") and **Killeen Ready Mix** ("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 anticipated quantity and agreed upon unit price (the "Project"):

Concrete 3,000 PSI estimated quantity **3,500** cubic yards at **\$165.00** per cubic yard

Concrete 3,000 PSI plus 2% Calcium estimated quantity of **500** cubic yards at **\$185.00** per cubic yard

Concrete 4,000 PSI estimated quantity **325** cubic yards at **\$185.00** per cubic yard

Concrete 4,000 PSI plus 2% Calcium estimated quantity of **325** cubic yards at **\$205.00** per cubic yard

8 Sac Grout estimated quantity of **250** cubic yards at **\$225.00** per cubic yard

Concrete

Concrete shall be Texas Department of Transportation Item 421 Class A (minimum 5-sack) with minimum compressive strength (3,000 or 4,000 PSI at 28 days). Orders will be placed by 12:01 p.m. for delivery by 8:00a.m. the following day, unless otherwise specified by the City. If delivery is more than one (1) hour after the scheduled delivery time, liquidated damages of \$150.00/hour, including any partial hour, will be assessed.

8 Sack Grout

Orders will typically be placed in association with the placement of curb & gutter. Delivery will be within 1 hour of order placement. If delivery is more than one (1) hour after the scheduled delivery time, liquidated damages of \$250.00/hour, including any partial hour, will be assessed.

Per Contractor stipulation – All Concrete and Sac Grout - minimum of 3 yard order, less than 3 yards City will pay additional \$150 fee per order.

The above quantities 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 automatically terminate after one year. After the Agreement terminates, the City may request up to an additional sixty (60) days past any contract term to advertise an award a new bid for such items without pricing adjustments.

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.

Additional Funding Availability. Project may be funded in whole or in part by the U.S. Department of Housing and Urban Development Community Development Block Grant (CDBG) or Home Investment Partnerships Act (HOME Program) and may be subject to submittal of certified payroll documentation as

required by HUD funded construction projects to the extent required by Davis-Bacon and Related Acts (DBRA); confirmation of eligibility for participation through the Excluded Parties Listing System (EPLS) - System for Award Management (SAM.gov) or the Texas Debarred Vendor List.

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.

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, and only to the extent of, the negligent acts or omissions of the 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 Date
City Manager

[Name] Date
[Title]