

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 Centerline Supply ("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"):

Glass Traffic Beads, FOB Plant, estimated quantity **2,500** pounds at **\$4.35** per pound.

Glass Traffic Beads, FOB Destination, estimated quantity **2,500** pounds at **\$4.355** per pound.

Glass Traffic Beads

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 referenced Bid 24-16, Street Construction Materials - Specifications

The above quantities are anticipated quantities only and are not guaranteed. The City reserves the right to purchase all material 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 (1) 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.

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.

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.

Contractor hereby permits 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.

Standard of Care. The standard of care for all professional engineering and related services performed or furnished by Contractor under this Agreement will be the care and skill ordinarily used by members of the Contractor's profession practicing under similar circumstances at the same time and in the same locality.

Insurance. Contractor shall procure and maintain insurance in the following amounts:

| | |
|------------------------|--|
| Worker's Compensation | Statutory |
| Automobile Liability | \$500,000 Combined single Limit for each accident (Bodily injury and property damage). |
| General Liability | \$1,000,000 each occurrence (Bodily injury and property damage). |
| Professional Liability | \$1,000,000 general aggregate. |

On all policies, except Worker's Compensation and Professional Liability, City shall be listed as an additional insured with a full waiver of subrogation. A certificate of coverage shall be provided to the City prior to commencing work on the Project.

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 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.
- 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.

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: Carrie Vanderpool

Date 12/21/2023

Title Government Sales Manager

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 Crafc0, 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"):

Crafc0 Polyflex III, estimated quantity **100,000** pounds at **\$0.735** per pound.

Crackseal Polyflex III

Material shall be Polyflex III as specified by Crafc0 Incorporated material and shall be delivered within seven (7) business days of order placement. Per referenced Bid 24-16, Street Construction Materials - Specifications

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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.

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.

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.

Contractor hereby permits 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.

Standard of Care. The standard of care for all professional engineering and related services performed or furnished by Contractor under this Agreement will be the care and skill ordinarily used by members of the Contractor's profession practicing under similar circumstances at the same time and in the same locality.

Insurance. Contractor shall procure and maintain insurance in the following amounts:

| | |
|------------------------|--|
| Worker's Compensation | Statutory |
| Automobile Liability | \$500,000 Combined single Limit for each accident (Bodily injury and property damage). |
| General Liability | \$1,000,000 each occurrence (Bodily injury and property damage). |
| Professional Liability | \$1,000,000 general aggregate. |

On all policies, except Worker's Compensation and Professional Liability, City shall be listed as an additional insured with a full waiver of subrogation. A certificate of coverage shall be provided to the City prior to commencing work on the Project.

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.

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 **\$0.80** per pound

Thermoplastic Material

Thermoplastic shall be Texas Department of Transportation specification Item 666.2 Type I Marking Materials Specification D-9-8200 **WHITE** 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.

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

Per referenced Bid 24-16, Street Construction Materials - Specifications

Per Contractor – delivery within ten (10) days of award with Stipulation of four (4) ton minimum order for delivery, if less than four (4) tons is to be purchased at a time it will be the City’s responsibility to pick up from manufacturers location in Bertram Texas, materials must be purchased in one (1) ton increments

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Term of Agreement. This Agreement shall become effective on the date that the last required signature is affixed and shall automatically terminate after one (1) 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.

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.

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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Contractor hereby permits 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.

Standard of Care. The standard of care for all professional engineering and related services performed or furnished by Contractor under this Agreement will be the care and skill ordinarily used by members of the Contractor's profession practicing under similar circumstances at the same time and in the same locality.

Insurance. Contractor shall procure and maintain insurance in the following amounts:

| | |
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| Worker's Compensation | Statutory |
| Automobile Liability | \$500,000 Combined single Limit for each accident (Bodily injury and property damage). |
| General Liability | \$1,000,000 each occurrence (Bodily injury and property damage). |
| Professional Liability | \$1,000,000 general aggregate. |

On all policies, except Worker's Compensation and Professional Liability, City shall be listed as an additional insured with a full waiver of subrogation. A certificate of coverage shall be provided to the City prior to commencing work on the Project.

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.

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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 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.
- 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.

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

Kellen Floyd

Digitally signed by Kellen Floyd
Date: 2023.12.20 13:55:19 -06'00'

Name: Date

Title coo

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"):

Concrete 3,000 PSI estimated quantity 3,500 cubic yards at \$160.00 per cubic yard
Concrete 3,000 PSI plus 2% Calcium estimated quantity of 500 cubic yards at \$180.00 per cubic yard
Concrete 4,000 PSI estimated quantity 325 cubic yards at \$180.00 per cubic yard
Concrete 4,000 PSI plus 2% Calcium estimated quantity of 250 cubic yards at \$200.00 per cubic yard
8 Sac Grout estimated quantity of 250 cubic yards at \$220.00 per cubic yard
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 \$23.00 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

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.

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 ground 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.

Per referenced Bid 24-16, Street Construction Materials - Specifications

The above quantities are anticipated quantities only and are not guaranteed. The City reserves the right to purchase all material 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.

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.

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Contractor 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.

Standard of Care. The standard of care for all professional engineering and related services performed or furnished by Contractor under this Agreement will be the care and skill ordinarily used by members of the Contractor's profession practicing under similar circumstances at the same time and in the same locality.

Insurance. Contractor shall procure and maintain insurance in the following amounts:

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| Worker's Compensation | Statutory |
| Automobile Liability | \$500,000 Combined single Limit for each accident (Bodily injury and property damage). |
| General Liability | \$1,000,000 each occurrence (Bodily injury and property damage). |
| Professional Liability | \$1,000,000 general aggregate. |

On all policies, except Worker's Compensation and Professional Liability, City shall be listed as an additional insured with a full waiver of subrogation. A certificate of coverage shall be provided to the City prior to commencing work on the Project.

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 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.
- 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.

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

 12-23-23
Name: _____ Date
Title GM

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 Texas Materials Group, 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"):

Type D Asphalt, FOB Plant estimated quantity 25,000 tons at \$100.00 per ton
Type C Asphalt, FOB Plant estimated quantity of 1,500 tons at \$100.00 per ton
Cold Mix Asphalt, FOB Plant estimated quantity 2,500 tons at \$100.00 per ton
Cold Mix Asphalt, FOB Destination estimated quantity of 2,500 tons at \$140.00 per ton

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. Per referenced Bid 24-16, Street Construction Materials - Specifications

The above quantities are anticipated quantities only and are not guaranteed. The City reserves the right to purchase all material 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 (1) 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.

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.

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.

Contractor hereby permits 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.

Standard of Care. The standard of care for all professional engineering and related services performed or furnished by Contractor under this Agreement will be the care and skill ordinarily used by members of the Contractor's profession practicing under similar circumstances at the same time and in the same locality.

Insurance. Contractor shall procure and maintain insurance in the following amounts:

| | |
|------------------------|--|
| Worker's Compensation | Statutory |
| Automobile Liability | \$500,000 Combined single Limit for each accident (Bodily injury and property damage). |
| General Liability | \$1,000,000 each occurrence (Bodily injury and property damage). |
| Professional Liability | \$1,000,000 general aggregate. |

On all policies, except Worker's Compensation and Professional Liability, City shall be listed as an additional insured with a full waiver of subrogation. A certificate of coverage shall be provided to the City prior to commencing work on the Project.

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.

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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.

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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

Adam Newsom

Signature signed by Adam Newsom
C:\Users\adamnewsom\Documents\City of Killeen Letter of Agreement for Materials (rev. 12.12.23).docx
12/23/23 11:28 AM

Name:

Date

Title

Area Manager

Delegation of Financial Approval Authority

The delegator named below hereby delegates to the person named below ("Agent") approved authority with respect to the Category(ies) set forth below. The delegated authority entitles the Agent to act in the name and on behalf of OMG , its sectors, divisions, companies and subsidiaries in respect of the Lines of Business named below with respect to the Category(ies), but only up to and including the dollar limit, if applicable, imposed on the Agent with respect to each Category.

The Agent is authorized (i) to legally commit or obligate the Division to any transaction with consequences financial or otherwise, including without limitation capital and operation expenditures pertaining to the Category(ies) listed below and (ii) to approve payments for commitments or obligations of the type described in such Category(ies).

The Agent is also hereby authorized to redelegate this authority in an amount not exceeding the maximum level of such Agents authority for the Category in respect of which authority is delegated provided, the appropriate block is marked below indicating the Agent is a delegator. Any delegation of authority by such delegator may, when necessary or advisable, be made a power of attorney or otherwise, provided such delegator furnishes a copy of such delegation to the OMG CFO, and if such authority is not delegated by completion of a form substantially the same as this form, then the General Counsel.

The authority hereby delegated shall become effective Immediately upon receipt of this form by the specific entity's Accounting Department, to the attention of the applicable CFO/Controller, and the Agent shall be authorized to act hereunder from the date hereof (a), if such person is an employee of OMG only so long as such person shall remain an employee of OMG or (b) until an express termination date or (c) until such time as this instrument has been revoked annulled and set aside by OMG or by an instrument or revocation signed by the entity President, or the Delegator, whichever may first occur.

| | | | |
|--------------------------------------|--|-------------------------|---|
| Agent's Name: | <input type="text" value="Adam Newsom"/> | Delegator's Name: | <input type="text" value="Robert Checkley"/> |
| Agent's Employee #: | <input type="text" value="636950"/> | Delegator's Employee #: | <input type="text" value="973"/> |
| Agent's Position: | <input type="text" value="Area Manager - Waco/Belton/Temple/K"/> | Delegator's Position: | <input type="text" value="Austin/Waco Area Manager"/> |
| May Agent redelegate this authority? | <input type="text" value="No"/> | Date Approved: | <input type="text"/> |
| Agent's Company Mailing Address: | <input type="text" value="Texas Materials Group, Inc. 1320 Arrow Point Dr, Ste 600 Cedar Park, TX 78613"/> | | |
| Company: | <input type="text" value="Texas Materials"/> | | |
| Line of Business: | <input type="text"/> | | |
| Agent's Signature: |  | Delegator's Signature: | <input type="text"/> |
| Agent's Initials: | <input type="text" value="AN"/> | Date: | <input type="text"/> |

| Category | US Dollar Limit |
|------------------------------------|-----------------|
| Other | |
| Purchasing Limits | \$1,000,000 |
| Reimbursements | \$15,000 |
| Construction Contracts | \$5,000,000 |
| Construction Bids | \$5,000,000 |
| Sales Pricing Quotes | \$2,000,000 |
| Sales Pricing Unit Price - Lowest | |
| Sales Pricing Unit Price - Highest | |
| Litigation | |
| Credit | |
| Tax | |
| Employee Cost | |
| Employee Loans | |
| Payroll | |
| Insurance | |
| PROACTIS | \$200,000 |

ACTION BY WRITTEN CONSENT
OF THE BOARD OF DIRECTORS
OF
TEXAS MATERIALS GROUP, INC.

The undersigned, being all of the members of the Board of Directors of Texas Materials Group, Inc., a Delaware corporation (the “**Corporation**”), do hereby, pursuant to applicable Delaware statute, give this written consent to the taking of the following actions, such actions to have the same force and effect had a meeting been duly called and held:

I. ELECTION OF OFFICERS

RESOLVED, that effective September 26, 2023, all previous elections of officers are terminated, and the following persons be, and hereby are, elected to serve as officers of the Corporation (each individually, an “**Officer**” and collectively, the “**Officers**”) in the capacities set forth opposite their respective names until such time as their successors shall be elected and qualified:

| | |
|-----------------|---|
| Aaron Price | President |
| Martin Merx | Secretary/Treasurer |
| Derek Angel | Vice President/Assistant Secretary |
| Kal A. Kincaid | Vice President/Assistant Secretary |
| John Shogren | Vice President/Assistant Secretary |
| Mike Brown | Vice President/Assistant Secretary |
| Rodney McCarn | Vice President/Assistant Secretary |
| Wayne Sweet | Vice President/Assistant Secretary |
| David M. Toolan | Admin. Vice President/Assistant Secretary |
| Robert Banks | Assistant Secretary |
| Kristin Davis | Assistant Secretary |
| Adam Newsome | GM of Waco |
| Jose Armenta | GM of Crushed Concrete |
| Robert Checkley | GM of Central - North |

FURTHER RESOLVED, that the Officers be, and each of them hereby is, authorized to execute and deliver agreements, contracts, documents, certificates, and other instruments, under the seal of the Corporation if required, for the purpose of conducting the Corporation’s business, including without limitation, selling products and securing construction work, and to take such other action, as they may deem necessary, advisable, convenient, or appropriate to carry out and fully perform duties incident to the office or offices so appointed, and such other duties as may be prescribed by the Board of Directors from time to time;

FURTHER RESOLVED, that the following persons are hereby designated Officers solely for the purpose of attesting signatures of other Officers signing on behalf of the Corporation, and for executing and attesting various corporate documents, tax returns, affidavits, and other instruments as may be necessary from time to time:

| | |
|-------------------|---|
| Jessica Aldrich | Assistant Secretary/Assistant Treasurer |
| Derek Schluterman | Assistant Secretary |
| Michael F. Deaton | Assistant Secretary |
| Tim George | Assistant Secretary |
| William P. Jones | Assistant Secretary |
| David C. Lewis | Assistant Secretary |
| Robin Jennings | Assistant Secretary |

II. APPOINTMENT OF AUTHORIZED EMPLOYEES

RESOLVED, that effective September 26, 2023 all previous appointments of authorized employees are terminated, and that the following persons be and each of them hereby is appointed to serve as an authorized employee of the Corporation, which persons shall be authorized to execute and deliver such agreements, contracts, documents, certificates and other instruments, under the seal of the Corporation if required, for the purpose of conducting the Corporation's business including, without limitation, selling products and securing construction work:

| | |
|-------------------|-----------------------|
| Robert Brown | Kaylon Page |
| Melissa Willis | Robert Checkley |
| James A. Connor | Ron Stinson |
| Dean Donnellan | Stephen Koonce |
| Lance Phillips | Larry Martin |
| David Reese | Ben Liggett |
| Scott Blanchard | Donald Blackburn |
| Angela Kvarme | TJ Brown |
| Lisa Roberts | Derek Schluterman |
| Tom Hershberger | Sam Davis |
| Kelly Andrews | Kevin Guy |
| Phillip King | Linda Lancaster |
| Ben Wibbenmeyer | Kyle Lewis |
| Keith Pierson | Jacob Trim |
| Chris Michael | Dean W. Buchanan |
| Bobby Daggett | Jason (Thad) Traverse |
| Johnathan Murphy | Troy Rakes |
| Jake Kilgore | Geno Carrier IV |
| Eugene Carrier | Clint Teutsch |
| David Moore | Jared Dean |
| Nicholas Bockoven | |

FURTHER RESOLVED, that the President of the Corporation may, from time to time, without further action by the Board of Directors, appoint other persons to serve as authorized employees, or remove any individuals from this capacity, and to direct those appointed to take such action, as he may deem necessary, advisable, convenient or appropriate to carry out and fully perform the duties incident to the office of President.

III. AUTHORIZATION OF TRADE NAMES

RESOLVED, that the activities and operations of the Corporation may be carried on in any of the following manners or styles as may from time-to-time be deemed necessary or appropriate:

East Texas Asphalt, A CRH Company
Gulf Coast, A CRH company
Moore Brothers Construction, A CRH Company
Texas Bit, A CRH company
Texas Concrete, A CRH company
Texas Materials, A CRH company

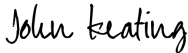
FURTHER RESOLVED, that the President of the Corporation may, from time to time, without further action by the Board of Directors, authorize the use of additional trade names, and to deem unauthorized any trade name previously authorized, as he may deem necessary, advisable, convenient or appropriate.


IV. MISCELLANEOUS

RESOLVED, that all actions previously taken by any Officer of the Corporation appointed hereunder in his/her capacity as such Officer be, and each of them hereby is, adopted, ratified, confirmed and approved in all respects as the authorized acts and deeds of the Corporation;

FURTHER RESOLVED, that each undersigned agrees that electronic signatures, whether digital or encrypted, of the Board of Directors are intended to authenticate this consent and to have the same force and effect as manual signatures. As used in the previous sentence, the term “electronic signatures” means any electronic sound, symbol or process attached to or logically associated with this consent and executed and adopted by a member of the Board of Directors with the intent to sign such consent, including, but not limited to, e-mail electronic signatures executed through DocuSign Services; and

FURTHER RESOLVED, that this Consent, following execution by all of the members of the Board of Directors, be filed in appropriate order in the minute book of the Corporation.

DocuSigned by:

6DBD0A4A9D404EA...
John J. Keating

DocuSigned by:

F877D38C11274ED...
Aaron Price