

**EXHIBIT**

**"A"**

**CITY OF ROUND ROCK  
AGREEMENT FOR PURCHASE OF CONCRETE  
WITH  
CENTEX MATERIAL, LLC**

**THE STATE OF TEXAS**

§

**CITY OF ROUND ROCK**

§

**KNOW ALL BY THESE PRESENTS:**

§

**COUNTY OF WILLIAMSON**

§

**COUNTY OF TRAVIS**

§

§

THAT THIS Agreement for purchase of concrete for the Transportation Department of the City of Round Rock, Texas (referred to herein as the "Agreement"), is made and entered into on this the \_\_\_\_ day of the month of \_\_\_\_\_, 2018, by and between the CITY OF ROUND ROCK, TEXAS, a home-rule municipality whose offices are located at 221 East Main Street, Round Rock, Texas 78664 (referred to herein as the "City") and CENTEX MATERIAL, LLC, whose offices are located at 3019 Alvin Devane Boulevard, Austin, Texas 78741 (referred to herein as the "Vendor").

**RECITALS:**

WHEREAS, City desires to purchase concrete, and City desires to procure same from Vendor; and

WHEREAS, City has issued its "Invitation for Bid" for the provision of said goods and services, and City has selected the Bid submitted by the Vendor, which provides the best value to the City; and

WHEREAS, the parties desire to enter into this Agreement to set forth in writing their respective rights, duties, and obligations;

NOW, THEREFORE, WITNESSETH:

That for and in consideration of the mutual promises contained herein and other good and valuable consideration, sufficiency and receipt of which are hereby acknowledged, it is mutually agreed between the parties as follows:

**1.01 DEFINITIONS**

A. **Agreement** means the binding legal contract between City and Vendor whereby City is obligated to buy specified services and Vendor is obligated to supply said goods and services. The Agreement includes the following: (a) City's Invitation for Bid, designated Solicitation Number 18-038; (b) Vendor's Response to the IFB; (c) contract award; and (d) any exhibits, addenda, and/or amendments thereto. Any inconsistencies or conflicts in the contract documents shall be resolved by giving preference in the following order:

- (1) This Agreement;
- (2) Vendor's Response to IFB;
- (3) City's Invitation for Bids, exhibits, and attachments.

B. **City** means the City of Round Rock, Williamson and Travis Counties, Texas.

C. **Effective Date** means the date upon which the binding signatures of both parties to this Agreement are affixed.

D. **Force Majeure** means acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind from the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, restraint of the government and the people, civil disturbances, explosions, or other causes not reasonably within the control of the party claiming such inability.

E. **Goods and services** mean the specified services, supplies, materials, commodities, or equipment.

## **2.01 EFFECTIVE DATE; TERM**

A. This Agreement shall be effective on the date it has been signed by both parties hereto, and shall remain in full force and effect, unless and until it expires by operation of the term stated herein, or until terminated as provided herein.

B. The term of this Agreement is for sixty months (60) months from the effective date hereof. City reserves the right to review the relationship at any time, and may elect to terminate this Agreement, with or without cause, or may elect to continue.

## **3.01 CONTRACT DOCUMENTS AND EXHIBITS**

City selected Vendor to supply the goods and services as outlined in the IFB and Response to IFB submitted by Vendor, all as specified in Exhibit "A," attached hereto and incorporated herein by reference. The intent of these documents is to formulate an Agreement listing the responsibilities of both parties as outlined in the IFB and as offered by Vendor in its Response to the IFB.

The goods and services which are the subject of this Agreement are described in Exhibit "A" and, together with this Agreement, comprise the total Agreement and they are fully a part of this Agreement as if repeated herein in full.

#### 4.01 ITEMS AWARDED; SCOPE OF WORK

A. All bid items listed on “Attachment A – Bid Sheet” in Exhibit “A” are awarded to Vendor.

B. For purposes of this Agreement, City has issued documents delineating the required goods and services (specifically Invitation for Bid Solicitation Number 18-038). Vendor has issued its response agreeing to provide all such required goods and services in all specified particulars. All such referenced documents are included in Exhibit “A.” When taken together with the appended exhibits, this Agreement shall evidence the entire understanding and agreement between the parties and shall supersede any prior proposals, correspondence or discussions.

C. Vendor shall satisfactorily provide all goods and services described under the attached exhibits within the contract term specified in Section 2.01. Vendor’s undertakings shall be limited to providing goods and services for the City and/or advising City concerning those matters on which Vendor has been specifically engaged. Vendor shall provide its goods and services in accordance with this Agreement, in accordance with the appended exhibits, in accordance with due care, and in accordance with prevailing industry standards for comparable goods and services.

#### 5.01 COSTS

A. The bid costs listed on Attachment A – Bid Sheet of Exhibit “A,” which are specifically relevant to the referenced bid items, shall be the basis of any charges collected by Vendor.

B. Vendor specifically acknowledges and agrees that City may not expend in excess of **One Hundred Forty-One Thousand Seven Hundred Fifty and No/100 Dollars (\$141,750.00) per year** for Vendor’s goods and services for a total not-to-exceed amount of **Seven Hundred Eight Thousand Seven Hundred Fifty and No/100 Dollars (\$708,750.00)** for the term of this Agreement.

#### 6.01 INVOICES

All invoices shall include, at a minimum, the following information:

- A. Name and address of Vendor;
- B. Purchase Order Number;
- C. Description and quantity of items received or services provided; and
- D. Delivery or performance dates.

## **7.01 INTERLOCAL COOPERATIVE CONTRACTING/PURCHASING**

Authority for local governments to contract with one another to perform certain governmental functions and services, including but not limited to purchasing functions, is granted under Government Code, Title 7, Chapter 791, Interlocal Cooperation Contracts, Subchapter B and Subchapter C, and Local Government Code, Title 8, Chapter 271, Subchapter F, Section 271.101 and Section 271.102.

Other governmental entities within the State of Texas may be extended the opportunity to purchase off of the City's bid, with the consent and agreement of the successful vendor(s) and the City. Such agreement shall be conclusively inferred for the vendor from lack of exception to this clause in the vendor's response. However, all parties hereby expressly agree that the City is not an agent of, partner to, or representative of those outside agencies or entities and that the City is not obligated or liable for any action or debts that may arise out of such independently-negotiated "piggyback" procurements.

## **8.01 NON-APPROPRIATION AND FISCAL FUNDING**

This Agreement is a commitment of City's current revenues only. It is understood and agreed that City shall have the right to terminate this Agreement at the end of any City fiscal year if the governing body of City does not appropriate funds sufficient to purchase the goods and services as determined by City's budget for the fiscal year in question. City may effect such termination by giving Vendor a written notice of termination at the end of its then current fiscal year.

## **9.01 PROMPT PAYMENT POLICY**

In accordance with Chapter 2251, V.T.C.A., Texas Government Code, payment to Vendor will be made within thirty (30) days of the day on which City receives the performance, supplies, materials, equipment, and/or deliverables, or within thirty (30) days of the day on which the performance of services was complete, or within thirty (30) days of the day on which City receives a correct invoice for the performance and/or deliverables or services, whichever is later. Vendor may charge interest on an overdue payment at the "rate in effect" on September 1 of the fiscal year in which the payment becomes overdue, in accordance with V.T.C.A., Texas Government Code, Section 2251.025(b); however, this Policy does not apply to payments made by City in the event:

- A. There is a bona fide dispute between City and Vendor, a contractor, a subcontractor or supplier about the goods delivered or the service performed that cause the payment to be late; or
- B. The terms of a federal contract, grant, regulation, or statute prevent City from making a timely payment with federal funds; or
- C. There is a bona fide dispute between Vendor and a subcontractor or between a

subcontractor and its supplier about the goods delivered or the service performed that causes the payment to be late; or

- D. Invoices are not mailed to City in strict accordance with instructions, if any, on the purchase order or the Agreement or other such contractual agreement.

#### **10.01 GRATUITIES AND BRIBES**

City may, by written notice to Vendor, cancel this Agreement without liability to Vendor if it is determined by City that gratuities or bribes in the form of entertainment, gifts, or otherwise were offered or given by Vendor or its agents or representatives to any City officer, employee or elected representative with respect to the performance of this Agreement. In addition, Vendor may be subject to penalties stated in Title 8 of the Texas Penal Code.

#### **11.01 TAXES**

City is exempt from Federal Excise and State Sales Tax; therefore, tax shall not be included in Vendor's charges.

#### **12.01 ORDERS PLACED WITH ALTERNATE VENDORS**

If Vendor cannot provide the goods as specified, City reserves the right and option to obtain the products or services from another supplier or suppliers.

#### **13.01 INSURANCE**

Vendor shall meet all requirements as stated in the attached IFB Number 18-038, including all attachments and exhibits thereto, and Vendor's bid response.

#### **14.01 CITY'S REPRESENTATIVE**

City hereby designates the following representatives authorized to act in its behalf with regard to this Agreement:

Gary Hudder  
Transportation Director  
2008 Enterprise Drive  
Round Rock, Texas 78664  
(512) 218-5560  
ghudder@roundrocktexas.gov

#### **15.01 RIGHT TO ASSURANCE**

Whenever either party to this Agreement, in good faith, has reason to question the other party's intent to perform hereunder, then demand may be made to the other party for written

assurance of the intent to perform. In the event that no written assurance is given within the reasonable time specified when demand is made, then and in that event the demanding party may treat such failure as an anticipatory repudiation of this Agreement.

#### **16.01 DEFAULT**

If Vendor abandons or defaults under this Agreement and is a cause of City purchasing the specified goods or services elsewhere, Vendor agrees that it may be charged the difference in cost, if any, and that it will not be considered in the re-advertisement of the goods and services and that it may not be considered in future bids for the same type of work unless the scope of work is significantly changed.

Vendor shall be declared in default of this Agreement if it does any of the following:

- A. Fails to make any payment in full when due;
- B. Fails to fully, timely and faithfully perform any of its material obligations under this Agreement;
- C. Fails to provide adequate assurance of performance under the "Right to Assurance" section herein; or
- D. Becomes insolvent or seeks relief under the bankruptcy laws of the United States.

#### **17.01 TERMINATION AND SUSPENSION**

A. City has the right to terminate this Agreement, in whole or in part, for convenience and without cause, at any time upon thirty (30) days' written notice to Vendor.

B. In the event of any default by Vendor, City has the right to terminate this Agreement for cause, upon ten (10) days' written notice to Vendor.

C. Vendor has the right to terminate this Agreement only for cause, that being in the event of a material and substantial breach by City or by mutual agreement to terminate evidenced in writing by and between the parties.

D. In the event City terminates under subsections (A) or (B) of this section, the following shall apply: Upon City's delivery of the referenced notice to Vendor, Vendor shall discontinue all services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement. Within thirty (30) days after such notice of termination, Vendor shall submit a statement showing in detail the goods and/or services satisfactorily performed under this Agreement to the date of termination. City shall then pay Vendor that portion of the charges, if undisputed. The parties agree that Vendor is not entitled to compensation for services it would have performed under the remaining term of the Agreement except as provided herein.

## **18.01 INDEMNIFICATION**

Vendor shall defend (at the option of City), indemnify, and hold City, its successors, assigns, officers, employees and elected officials harmless from and against all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorney's fees, resulting from the fault of Vendor, or Vendor's agents, employees or subcontractors, in the performance of Vendor's obligations under this Agreement, no matter how, or to whom, such loss may occur. Nothing herein shall be deemed to limit the rights of City or Vendor (including, but not limited to the right to seek contribution) against any third party who may be liable for an indemnified claim.

## **19.01 COMPLIANCE WITH LAWS, CHARTER AND ORDINANCES**

A. Vendor, its agents, employees and subcontractors shall use best efforts to comply with all applicable federal and state laws, the Charter and Ordinances of the City of Round Rock, as amended, and with all applicable rules and regulations promulgated by local, state and national boards, bureaus and agencies.

B. Vendor acknowledges and understands that City has adopted a Storm Water Management Program (SWMP) and an Illicit Discharge Ordinance, Sections 14-139 through 14-152 of the City's Code of Ordinances, to manage the quality of the discharges from its Municipal Separate Storm Sewer System (MS4) and to comply with the requirements of the Texas Commission on Environmental Quality (TCEQ) and the Texas Pollutant Discharge Elimination System (TPDES). The Vendor agrees to perform all operations on City-owned facilities in compliance with the City's Illicit Discharge Ordinance to minimize the release of pollutants into the MS4. The Vendor agrees to comply with of the City's stormwater control measures, good housekeeping practices and any facility specific stormwater management operating procedures specific to a certain City facility. In addition, the Vendor agrees to comply with any applicable TCEQ Total Maximum Daily Load (TMDL) Requirements and/or I-Plan requirements.

C. In accordance with Chapter 2270, Texas Government Code, a governmental entity may not enter into a contract with a company for goods and services unless the contract contains written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of this contract. The signatory executing this Agreement on behalf of Vendor verifies that Vendor does not boycott Israel and will not boycott Israel at any term of this Agreement.

## **20.01 ASSIGNMENT AND DELEGATION**

The parties each hereby bind themselves, their successors, assigns and legal representatives to each other with respect to the terms of this Agreement. Neither party shall assign, sublet or transfer any interest in this Agreement without prior written authorization of the other party.

## **21.01 NOTICES**

All notices and other communications in connection with this Agreement shall be in writing and shall be considered given as follows:

1. When delivered personally to the recipient's address as stated in this Agreement; or
2. Three (3) days after being deposited in the United States mail, with postage prepaid to the recipient's address as stated in this Agreement.

### **Notice to Vendor:**

Centex Material, LLC  
3019 Alvin Devane Boulevard  
Austin, Texas 78741

### **Notice to City:**

City Manager  
221 East Main Street  
Round Rock, TX 78664

AND TO:      Stephan L. Sheets, City Attorney  
309 East Main Street  
Round Rock, TX 78664

Nothing contained herein shall be construed to restrict the transmission of routine communications between representatives of City and Vendor.

## **22.01 APPLICABLE LAW; ENFORCEMENT AND VENUE**

This Agreement shall be enforceable in Round Rock, Texas, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for same shall lie in Williamson County, Texas. This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

## **23.01 EXCLUSIVE AGREEMENT**

This document, and all appended documents, constitutes the entire Agreement between Vendor and City. This Agreement may only be amended or supplemented by mutual agreement of the parties hereto in writing, duly authorized by action of the City Manager or City Council.

## **24.01 DISPUTE RESOLUTION**

City and Vendor hereby expressly agree that no claims or disputes between the parties arising out of or relating to this Agreement or a breach thereof shall be decided by any arbitration proceeding, including without limitation, any proceeding under the Federal Arbitration Act (9 USC Section 1-14) or any applicable state arbitration statute.

## **25.01 SEVERABILITY**

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

## **26.01 MISCELLANEOUS PROVISIONS**

**Standard of Care.** Vendor represents that it employs trained, experienced and competent persons to perform all of the services, responsibilities and duties specified herein and that such services, responsibilities and duties shall be performed in a manner according to generally accepted industry practices.

**Time is of the Essence.** Vendor understands and agrees that time is of the essence and that any failure of Vendor to fulfill obligations for each portion of this Agreement within the agreed timeframes will constitute a material breach of this Agreement. Vendor shall be fully responsible for its delays or for failures to use best efforts in accordance with the terms of this Agreement. Where damage is caused to City due to Vendor's failure to perform in these circumstances, City may pursue any remedy available without waiver of any of City's additional legal rights or remedies.

**Force Majeure.** Neither City nor Vendor shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder by reasons for which it is not responsible as defined herein. However, notice of such impediment or delay in performance must be timely given, and all reasonable efforts undertaken to mitigate its effects.

**Multiple Counterparts.** This Agreement may be executed in multiple counterparts, any one of which shall be considered an original of this document; and all of which, when taken together, shall constitute one and the same instrument.

[Signatures on the following page.]

IN WITNESS WHEREOF, City and Vendor have executed this Agreement on the dates indicated.

**City of Round Rock, Texas**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

**Attest:**

By: \_\_\_\_\_  
Sara White, City Clerk

**For City, Approved as to Form:**

By: \_\_\_\_\_  
Stephan L. Sheets, City Attorney

**Centex Material, LLC**

By: Ian Bird  
Printed Name: IAN BIRD  
Title: SALES  
Date Signed: \_\_\_\_\_

**EXHIBIT "A"**



**City of Round Rock, Texas**  
**Purchasing Division**  
221 East Main Street  
Round Rock, Texas 78664-5299  
[www.roundrocktexas.gov](http://www.roundrocktexas.gov)

**INVITATION FOR BID (IFB)**

**Concrete**

**SOLICITATION NUMBER 18-038**

**SEPTEMBER 2018**

# EXHIBIT "A"

City of Round Rock  
Concrete  
IFB No. 18-038  
Class/Item: 750-21  
September 2018

## CONCRETE PART I GENERAL REQUIREMENTS

1. **PURPOSE:** The City of Round Rock, herein after "the City" seeks a bid from firms experienced in providing concrete.
2. **BACKGROUND:** The City of Round Rock – Transportation Department is seeking bids for concrete, Class A, 3000 PSI, 5.0 Sk Cement per CY, 500 Minimum Beam 7 Day PSI, 6.5 Maximum WC Ratio, Coarse Aggregate No. 1, 2, 3, 4, 5, for pick-up "only" on an as needed basis for street repairs.
3. **SOLICITATION PACKET:** This solicitation packet is comprised of the following:

Description	Index
Part I – General Requirements	Page(s) 2-5
Part II – Definitions, Standard Terms and Conditions and Insurance Requirements	Page 6
Part III – Supplemental Terms and Conditions	Page(s) 7 - 10
Part IV – Specifications	Page(s) 11
Attachment A – Bid Sheet	Page 12
Attachment B – Reference Sheet	Page 13
Attachment C – Concrete for Structures Specification, Reference: Texas Department of Transportation – Item No. 403	Page 14

4. **AUTHORIZED PURCHASING CONTACT:** For questions or clarification of specifications, you may contact:

Michael Schurwon, CPPB, CTPM  
Purchaser  
Purchasing Division  
City of Round Rock  
Phone: 512-218-6682  
E-mail: [mschurwon@roundrocktexas.gov](mailto:mschurwon@roundrocktexas.gov)

The individual listed above may be contacted by e-mail for clarification of the specifications only. No authority is intended or implied that specifications may be amended, or alterations accepted prior to solicitation opening without written approval of the City of Round Rock through the Purchasing Department.

## EXHIBIT "A"

City of Round Rock  
Concrete  
IFB No. 18-038  
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5. **SCHEDULE OF EVENTS:** It is the City's intention to follow the solicitation timeline below.

EVENT	DATES
Solicitation released	September 21, 2018
Deadline for submission of questions	September 27, 2018 @ 5:00 PM, CST
City responses to questions or addendums	September 28 @ 5:00 PM, CST
<b>Deadline for submission of responses</b>	<b>October 5, 2018, @ 3:00 PM, CST</b>

All questions regarding the solicitation shall be submitted in writing by 5:00 PM, CST on the due date noted above. A copy of all questions submitted and the City's response to the questions shall be posted on the City's webpage in the form of an addendum at:

<https://www.roundrocktexas.gov/businesses/solicitations/>

Questions shall be submitted in writing to the "Authorized Purchasing Contact". The City reserves the right to modify these dates. Notice of date change will be posted to the City's website:

<http://www.roundrocktexas.gov/bids>

6. **SOLICITATION UPDATES:** Bidders shall be responsible for monitoring the City's website at <http://www.roundrocktexas.gov/bids> for any updates pertaining to the solicitation described herein. Various updates may include addendums, cancellations, notifications, and any other pertinent information necessary for the submission of a correct and accurate response. The City will not be held responsible for any further communication beyond updating the website.

7. **RESPONSE DUE DATE:** Signed and sealed responses are due at or before 3:00 PM, on the due date noted in PART I, Section 5 – Schedule of Events. Mail or hand deliver sealed responses to:

City of Round Rock  
Attn: Michael Schurwon, CPPB, CTPM  
Purchasing Department  
221 E. Main Street  
Round Rock, Texas 78664-5299

- 7.1 Sealed responses shall be clearly marked on the outside of packaging with the company name, solicitation title, bid number, due date/time and "DO NOT OPEN".
- 7.2 Facsimile or electronically transmitted responses are not acceptable.
- 7.3 Responses cannot be altered or amended after opening.
- 7.4 No response can be withdrawn after opening without written approval from the City for an acceptable reason.
- 7.5 The City will not be bound by any oral statement or Bid made contrary to the written specifications.
- 7.6 Samples and/or copies shall be provided at the Bidder's expense and shall become the property of the City.
8. **BIDDER REQUIREMENTS:** The City of Round Rock makes no warranty that this checklist is a full comprehensive listing of every requirement specified in the solicitation. This list is only a tool to assist participating Bidders in compiling their final responses. Bidders are encouraged to carefully read the entire solicitation.

Bidder shall submit one (1) evident signed "Original" and two (2) copies of the IFB response and one (1) electronic copy of the IFB response on a flash drive. The submittal is required to include all addendums and requested attachments. The bid response along with samples and/or copies shall be provided at the Bidder's expense and shall become the property of the City.

## EXHIBIT "A"

City of Round Rock  
Concrete  
IFB No. 18-038  
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September 2018

This invitation for bid (IFB) does not commit the City to contract for any supply or service. Bidders are advised that the City will not pay for any administrative costs incurred in response preparation to this IFB; all costs associated with responding to this IFB will be solely at the interested parties' expense. Not responding to this IFB does not preclude participation in any future RFP/RFQ/IFB.

**For your bid to be responsive, addendums and the attachments identified below shall be submitted with your proposal.**

**Addendums:** Addendums may be posted to this solicitation. Bidders are required to submit signed addendums with their sealed response. The Bidder shall be responsible for monitoring the City's website at <http://www.roundrocktexas.gov/bids> for any updates pertaining to the solicitation.

**Attachment A: BID SHEET:** The bid response shall be submitted on itemized, signed Bid Sheet provided in the solicitation packet. Failure to complete and sign the original bid sheet may result in disqualification. If there is a conflict between the unit price and extended price, the unit price will take precedence. Submission of responses on forms other than the City's Solicitation Document may result in disqualification of the response.

**Attachment B: REFERENCE SHEET:** Provide the name, address, telephone number and **E-MAIL** of at least three (3) valid Municipal, Government agencies or firms of comparable size that have utilized services that are similar in type and capacity within the last two (2) years. City of Round Rock references are not applicable. References may be checked prior to award. If references cannot be confirmed or if any negative responses are received it may result in the disqualification of submittal.

9. **BEST VALUE EVALUATION AND CRITERIA:** The City reserves the right to reject any or all responses, or to accept any response deemed most advantageous, or to waive any irregularities or informalities in the response received that best serves the interest and at the sole discretion of the City. All solicitations received may be evaluated based on the best value for the City. In determining best value, the City may consider:

- 9.1 Purchase price;
- 9.2 Reputation of Bidder and of Bidder's goods and services;
- 9.3 Quality of the Bidder's goods and services;
- 9.4 The extent to which the goods and services meet the City's needs;
- 9.5 Bidder's past performance with the City;
- 9.6 The total long-term cost to the City to acquire the Bidder's goods or services;
- 9.7 Any relevant criteria specifically listed in the solicitation.

Bidders may be contacted for clarification of bid and/or to discuss details of the services they are proposing. This may include a presentation and/or the request for additional material/information.

10. **CONFIDENTIALITY OF CONTENT:** As stated in Section 16 of City of Round Rock Purchasing Definitions, Standard Terms and Conditions, all documents submitted in response to a solicitation shall be subject to the Texas Public Information Act. Following an award, responses are subject to release as public information unless the response or specific parts of the response can be shown to be exempt from the Texas Public Information Act. Pricing is not considered to be confidential under any circumstances

- 10.1 Information in a submittal that is legally protected as a trade secret or otherwise confidential must be clearly indicated with stamped, bold red letters stating "CONFIDENTIAL" on that section of the document. The City will not be responsible for any public disclosure of confidential information if it is not clearly marked as such.
- 10.2 If a request is made under the Texas Public Information Act to inspect information designated as confidential, the Bidder shall, upon request from the City, furnish sufficient written reasons and information as to why the information should be protected from disclosure. The matter will then be presented to the Attorney General of Texas for final determination.

# EXHIBIT "A"

City of Round Rock  
Concrete  
IFB No. 18-038  
Class/Item: 750-21  
September 2018

## PART III SUPPLEMENTAL TERMS AND CONDITIONS

1. **AGREEMENT TERM:** The terms of the awarded agreement shall include but not be limited to the following:
  - 1.1 The term of the Agreement shall begin from date of award and shall remain in full force for sixty (60) months.
  - 1.2 Upon expiration of the contract term, the Contractor agrees to hold over under the terms and conditions of this agreement for such a period as is reasonably necessary to re-solicit and/or complete the project up to 90 days.
2. **BIDDER QUALIFICATIONS:** The City has established the following minimum qualifications. Bidders who do not meet the minimum qualifications will not be considered for award. The Bidder shall:
  - 2.1 Be firms, corporations, individuals or partnerships normally engaged in providing Class A, 3000 PSI, 5.0 Sk Cement per CY, 500 Minimum Beam 7 Day PSI, 6.5 Maximum WC Ratio, Coarse Aggregate No. 1, 2, 3, 4, 5, concrete specified herein and have adequate organization, facilities, equipment, financial capability, and personnel to ensure prompt and efficient service to the City;
  - 2.2 Provide all labor, supplies and materials required to satisfactorily provide the goods as specified herein and own or acquire at no cost to the City all construction aids, appliances, and equipment Bidder deems necessary and maintain sole responsibility for the maintenance and repair of Bidder's vehicles, equipment, tools and all associated costs. The City shall not be responsible for any Bidder's tools, equipment or materials lost or damaged during the performance of the services specified herein;
  - 2.3 Be domiciled in or have a home office inside the United States. Bidders domiciled outside the United States, or not having a home office inside the United States will not be included for consideration in this procurement process.
  - 2.4 The Bidder's "concrete operation" shall be located within 35 miles of the City of Round Rock – Transportation site located at 910 Luther Peterson, Round Rock, Texas 78664. The City reserves the right to inspect the awarded Contractor's site.
3. **SUBCONTRACTORS:** Bidder shall not subcontract or otherwise engage subcontractors to perform required services. The City seeks to do business directly with a company experienced in providing concrete, Class A, 3000 PSI.
4. **PRICING:** The Bidder shall determine and submit a fixed cost for the work and shall include all incidental costs, labor, overhead charges, travel, payroll expenses, freight, equipment acquisition and maintenance, demurrage, fuel surcharges, delivery charges, costs associated with obtaining permits, insurance, bonds and risk management. No separate line item charges shall be permitted for either response or invoice purposes.
5. **PRICE INCREASE:** Contract prices for Class A, 3000 PSI, 5.0 Sk Cement per CY, 500 Minimum Beam 7 Day PSI, 6.5 Maximum WC Ratio, Coarse Aggregate No. 1, 2, 3, 4, 5, concrete shall remain firm throughout the initial twelve (12) month term of the contract. A price increase to the agreement may be considered on the anniversary date of the Contract each year and shall be equal to the consumer price index for that year, but at no time can the increase be greater than 15% for any single line item.
  - 5.1 **Consumer Price Index (CPI):** Price adjustments will be made in accordance with the percentage change in the U.S. Department of Labor Consumer Price Index (CPI-U) for all Urban Consumers. The price adjustment rate will be determined by comparing the percentage difference between the CPI in effect for the base year six-month average (January through June OR July through December); and each (January through June OR July through December six month average) thereafter. The percentage difference between those two CPI issues will be the price adjustment rate. No retroactive contract price adjustments will be allowed. The Consumer Price Index (CPI) is found at the Bureau of Labor Statistics, Consumer Price Index website: <http://www.bls.gov/cpi/>.

## EXHIBIT "A"

City of Round Rock  
Concrete  
IFB No. 18-038  
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### 5.2 Procedure to Request Increase:

- 5.2.1 Mail the written price increase request with the rate detail comparison and comprehensive calculation and any supporting documentation to the designated City Contract Specialist a minimum of 45 days prior to the annual Contract anniversary date. The detailed written calculation will be verified and confirmed. All written requests for increases must include the City of Round Rock contract number, solicitation reference information and contact information for the authorized representative requesting the increase. Price increase requests shall be sent by mail to:

City of Round Rock  
Purchasing Department  
Attn: Contract Specialist  
221 East Main Street  
Round Rock, TX 79664-5299

- 5.2.2 Upon receipt of the request, the City reserves the right to either, accept the escalation and make change to the purchase order within 30 days of the request, negotiate with the Vendor or cancel the agreement or purchase order if an agreement cannot be reached on the value of the increase.

6. **PERFORMANCE REVIEW:** The City reserves the right to review the awarded Bidders' performance anytime during the contract term.

7. **ACCEPTANCE/INSPECTION:** Acceptance inspection should not take more than five (5) working days. The awarded Bidder will be notified within the time frame if the services delivered are not in full compliance with the specifications. In the event the services are not performed to the satisfaction of the City; the vendor shall agree to reperform services to specification at no additional cost to the City. If any agreement or purchase order is cancelled for non-acceptance, the needed services may be purchased elsewhere, and the vendor may be charged liquidated damages.

8. **SAMPLES:** - ALL TX DOT & COA APPROVED - SUBMITTALS UPON REQUEST

- 8.1 The Bidder shall provide a sample of Class A, 3000 PSI, 5.0 Sk Cement per CY, 500 Minimum Beam 7 Day PSI, 6.5 Maximum WC Ratio, Coarse Aggregate No. 1, 2, 3, 4, 5, concrete to be provided per the specification contained herein. This sample shall be provided within five (5) working days after request by the City and be picked up at the plant or taken from the truck.

- 8.2 Sample of Class A, 3000 PSI, 5.0 Sk Cement per CY, 500 Minimum Beam 7 Day PSI, 6.5 Maximum WC Ratio, Coarse Aggregate No. 1, 2, 3, 4, 5, concrete to be delivered to the City at the following address: ~~910 Luther Peterson, Round Rock, Texas 76664.~~

- 8.3 All products provided to the City under this solicitation will be evaluated or tested and must meet all requirements of the specification, regardless of whether or not all requirements are to be evaluated or tested.

- 8.4 ~~Samples will be provided at no cost to the City,~~ will be retained by the City, and may be used for use in assuring compliance with materials specifications after award. Failure to supply samples when requested shall subject the Bid to disqualification from consideration for award.

### 9. **MATERIALS SPECIFICATIONS/DESCRIPTIVE LITERATURE:**

- 9.1 If a solicitation refers to a Qualified Products List (QPL), Standard Products List (SPL) or a manufacturer's name and product, any Bidder Bidding products not referenced in the solicitation must submit as part of their bid materials specifications/descriptive literature for the non-referenced product. Materials specifications/descriptive literature must be identified to show the item(s) in the bid to which it applies.

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- 9.2 Materials specifications/descriptive literature are defined as product manufacturer's catalog pages, "cut sheets" applicable tests results, or related detailed documents that specify material construction, performance parameters, and any industrial standards that are applicable such as ANSI, ASTM, ASME, SAE, NFPA, NBS, EIA, ESL, and NSA. The submitted material specifications/descriptive literature must include the manufacturer's name and product number of the product being Bided.
- 9.3 The failure of the materials specifications/descriptive literature to show that the product Bided conforms to the requirements of the Solicitation shall result in rejection of the Bid.
- 9.4 Failure to submit the materials specifications/descriptive literature as part of the Bid may subject the Bid to disqualification from consideration for award.
10. **ORDER QUANTITY:** The quantities shown on the solicitation are estimates only. No guarantee of any minimum or maximum purchase is made or implied. The City will only order the services/goods needed to satisfy requirements within budgetary constraints, which may be more or less than indicated.
11. **PERMITS:** The Successful Bidder shall verify and obtain all necessary permits, licenses, and/or certificates required by federal, state and local laws, ordinances, rules or regulations for the completion of the services as specified if required for the project.
12. **AWARD:** The City reserves the right to enter into an Agreement or a Purchase Order with a single award, split award, primary and secondary award, non-award, or use any combination that best serves the interest and at the sole discretion of the City. Award announcement will be made upon City Council approval of staff recommendation and executed agreement. Award announcement will appear on the City's website at <http://www.roundrocktexas.gov/bids>.
13. **POST AWARD MEETING:** The City and Successful Bidder(s) may have a post award meeting to discuss, but not be limited to the following:
- 13.1 The method to provide a smooth and orderly transition of services performed from the current contractor;
- 13.2 Provide City contact(s) information for implementation of agreement.
- 13.3 Identify specific milestones, goals and strategies to meet objectives.
14. **POINT OF CONTACT / DESIGNATED REPRESENTATIVE:**
- 14.1 **Contractor's point of contact:** To maintain consistent standards of quality work performed across the City, the City shall be provided with a designated and identified point of contact upon award of the contract to include contact information. The City's designated representative shall be notified by the Bidder immediately should the point of contact change.
- 14.2 **The City's designated representative:**  
Mike Ackerman  
Transportation Superintendent  
Transportation  
Phone: (512) 341-3304  
E-mail: [mackerman@roundrocktexas.gov](mailto:mackerman@roundrocktexas.gov)

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### **15. INTERLOCAL PURCHASING AGREEMENTS**

- 15.1** The City has entered into Interlocal Agreements with other Governmental agencies pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. The Contractor agrees to Bid the same price and terms and conditions to other eligible agencies that have an interlocal agreement with the City.
- 15.2** The City does not accept any responsibility or liability for the purchases by other government agencies through an interlocal cooperative agreement

## EXHIBIT "A"

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### PART IV SPECIFICATIONS

1. **Purpose:** The City of Round Rock, Texas herein after "City", is soliciting bids Class A, 3000 PSI, 5.0 Sk Cement per CY, 500 Minimum Beam 7 Day PSI, 6.5 Maximum WC Ratio, Coarse Aggregate No. 1, 2, 3, 4, 5, concrete for pick-up by the City of Round Rock – Transportation Department on an as needed basis for street repairs.
2. **Delivery/Pick-Up Requirements:** The City of Round Rock – Transportation Department will be responsible for pick-up of concrete orders from Contractor's location.
3. **Requirements:** Concrete must meet the minimum specifications in accordance with Texas Department of Transportation Specification Item No. 403, Concrete for Structures, pages 18 – 25.

<b>Dense-Graded, Concrete,</b>
--------------------------------

- |  |
|--|
| 1. Concrete, Class A, 3000 PSI, 5.0 Sk Cement per CY, 500 Minimum Beam 7 Day PSI, 6.5 Maximum WC Ratio, Coarse Aggregate No. 1, 2, 3, 4, 5, or better, Reference: TxDOT – Item No. 403 Concrete for Structures or buyers approved equal. |
|--|

## EXHIBIT "A"

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**Attachment A- Bid Sheet**  
**Concrete**  
**IFB No. 18-038**

The Bidder represents by their signature below that he/she is submitting a binding offer and is authorized to bind the Bidder to fully comply with the solicitation documents contained in IFB No. 18-038 - Concrete. The Bidder acknowledges that he/she has received and read the entire solicitation packet, attachments and all documents incorporated by reference, and agrees to be bound by the terms therein.

Special Instructions: All prices must be quoted in order to be considered responsive, be advised that exceptions taken to any portion of the solicitation may jeopardize acceptance of the bid. The City reserves the right to purchase more or less than the quantities indicated below.

No.	Description	Estimated Annual Quantity	Unit	Unit Cost (Cost per Cubic Yard)	Extended Total
1	Concrete: Class A, 3000 PSI, 5.0 Sk Cement per CY, 500 Minimum Beam 7 Day PSI, 6.5 Maximum WC Ratio, Coarse Aggregate No. 1, 2, 3, 4, 5. Reference: TxDOT - Item No. 403 or buyers approved equal	1,750	Cubic Yard	\$0.00	\$0.00
	ANNUAL TOTAL:		CY	\$81.00	\$141,750.00 - \$0.00 - (PPI)

↑  
PICK-UP  
PRICING

COMPANY NAME: CENTEX MATERIALS LLC

SIGNATURE OF AUTHORIZED REPRESENTATIVE: Ian Bird

PRINTED NAME: IAN BIRD

PHONE NUMBER: 512-803-6796

EMAIL ADDRESS: ibird@centexmaterials.com

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## ATTACHMENT B: REFERENCE SHEET

PLEASE COMPLETE AND RETURN THIS FORM WITH THE SOLICITATION RESPONSE

SOLICITATION NUMBER: 18-038  
BIDDER'S NAME: CENTEX MATERIALS LLC DATE: 10-2-18

Provide the name, address, telephone number and E-MAIL of at least three (3) valid Municipal, Government agencies or firms of comparable size that have utilized services that are similar in type and capacity within the last two (2) years. City of Round Rock references are not applicable. References may be checked prior to award. If references cannot be confirmed or if any negative responses are received it may result in the disqualification of submittal.

1. Company's Name COA - PARKS & REC  
Name of Contact SANDY BRANDT  
Title of Contact SENIOR BUYER SPECIALIST  
E-Mail Address SANDY.BRANDT@AUSTINTEXAS.GOV  
Present Address P.O. BOX 1088  
City, State, Zip Code AUSTIN, TX 78767-8845  
Telephone Number (512) 974-1783 Fax Number: ( )
  
2. Company's Name AUSTIN WATER UTILITY  
Name of Contact DARRELL RICHMOND  
Title of Contact CORPORATE PURCHASING MANAGER  
E-Mail Address DARRELL.RICHMOND@AUSTINTEXAS.GOV  
Present Address P.O. BOX 1088  
City, State, Zip Code AUSTIN, TX 78767  
Telephone Number (512) 972-0313 Fax Number: ( )
  
3. Company's Name BASTROP COUNTY  
Name of Contact LEON SCATTE  
Title of Contact PURCHASING AGENT  
E-Mail Address LEON.SCATTE@CO.BASTROP.TX.US  
Present Address 803 PINE ST., FLOOR 1  
City, State, Zip Code BASTROP, TX 78602  
Telephone Number (512) 581-7110 Fax Number: ( )

FAILURE TO PROVIDE THE REQUIRED INFORMATION WITH THE SOLICITATION RESPONSE MAY AUTOMATICALLY DISQUALIFY THE RESPONSE FROM CONSIDERATION FOR AWARD. ADDITIONAL

## EXHIBIT "A"

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### ATTACHMENT

**Please note the following Attachment C – Texas Department of Transportation specifications is posted to the City's website at:**

<https://www.roundrocktexas.gov/departments/purchasing/purchasing-active-solicitations/>

Attachment C – Texas Department of Transportation – Item No. 403, Concrete for Structures

# EXHIBIT "A"



## CITY OF ROUND ROCK INVITATION FOR BID (IFB) CONCRETE

IFB No. 18-038

Addendum No. 1

Date: 09/28/18

Addendum No. 1, dated September 28, 2018, is being issued to change the allowable price adjustment from the Consumer Price Index (CPI) to the Producer Price Index (PPI) in Part III, Supplemental Terms and Conditions for IFB No. 18-038 – Concrete as outlined below:

### I. Clarification:

Part III – Supplemental Terms and Conditions, page 7 of 14.

### CHANGE PRICE INCREASE FROM:

5. **PRICE INCREASE:** Contract prices for Class A, 3000 PSI, 5.0 Sk Cement per CY, 500 Minimum Beam 7 Day PSI, 6.5 Maximum WC Ratio, Coarse Aggregate No. 1, 2, 3, 4, 5, concrete shall remain firm throughout the initial twelve (12) month term of the contract. A price increase to the agreement may be considered on the anniversary date of the Contract each year and shall be equal to the consumer price index for that year, but at no time can the increase be greater than 15% for any single line item.

5.1 **Consumer Price Index (CPI):** Price adjustments will be made in accordance with the percentage change in the U.S. Department of Labor Consumer Price Index (CPI-U) for all Urban Consumers. The price adjustment rate will be determined by comparing the percentage difference between the CPI in effect for the base year six-month average (January through June OR July through December); and each (January through June OR July through December six month average) thereafter. The percentage difference between those two CPI issues will be the price adjustment rate. No retroactive contract price adjustments will be allowed. The Consumer Price Index (CPI) is found at the Bureau of Labor Statistics, Consumer Price Index website: <http://www.bls.gov/cpi/>

### CHANGE PRICE INCREASE TO:

5. **PRICE INCREASE:** Contract prices for Class A, 3000 PSI, 5.0 Sk Cement per CY, 500 Minimum Beam 7 Day PSI, 6.5 Maximum WC Ratio, Coarse Aggregate No. 1, 2, 3, 4, 5, concrete shall remain firm throughout the initial twelve (12) month term of the contract. A price increase to the agreement may be considered on the anniversary date of the contract and shall be equal to the Bureau of Labor Statistics Data – Producer Price Index (PPI) for that year in accordance with Section 5.1 below, but at no time shall the increase be greater than 15% for any single line item.

5.1 **Producer Price Index (PPI):** Price adjustments will be made in accordance with the percentage change in the Bureau of Labor Statistics Data - Producer Price Index (PPI-Industry Data) Table 5 – Producer price indices for the net output of selected industries and their products under Industry/Product name/code "Ready-Mix Concrete Manufacturing, South Region, Series PCU327320327320C (the "index") current as of the date of the Contractor's Offer, and a copy of the index for the most current period. The price adjustment rate will be determined by comparing the percentage difference between the PPI-Industry Data in effect for the base six-month average (January through June OR July through December); and each (January through June OR July through

## EXHIBIT "A"

December six month average) thereafter. The percentage difference between those two PPI issues will be the price adjustment rate. No retroactive contract price adjustments will be allowed. The Producer Price Index (PPI) is found at the Bureau of Labor Statistics Data website at: <https://data.bls.gov/timeseries/PCU327320327320C>

Approved by: Michael Schurwon  
Michael Schurwon, CPPB, CTPM  
Purchaser

Date: 09/28/18

By the signatures affixed below this addendum is hereby incorporated into and made a part of the above referenced solicitation.

ACKNOWLEDGED

CENTEX MATERIALS LLC  
Vendor

[Signature]  
Authorized Signature

10-2-18  
Date

RETURN ONE SIGNED COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE WITH YOUR SEALED PROPOSAL. FAILURE TO DO SO MAY AUTOMATICALLY DISQUALIFY YOUR RESPONSE FROM CONSIDERATION FOR AWARD.

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ADDENDUM No. 2

IFB No. 18-038 – CONCRETE

CITY OF ROUND ROCK, TEXAS

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IFB No. 18-038

Addendum No: 2

Date: October 5, 2018

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This addendum is being issued to change the bid opening date for IFB No. 18-038 – Concrete as outlined below:

I. CHANGE:

CHANGE BID OPENING DATE FROM: OCTOBER 5, 2018 @ 3:00 p.m.

CHANGE BID OPENING DATE FROM: OCTOBER 12, 2018 @ 3:00 p.m.

APPROVED BY:

Michael Schurwon  
Michael Schurwon, CPPB, CTPM  
Purchaser

Date: 10-05-18

By the signature affixed below this addendum is hereby incorporated into and made a part of the above referenced solicitation.

ACKNOWLEDGED BY:

IAN BIRD  
Name

Ian Bird  
Authorized Signature

10-29-18  
Date

RETURN ONE SIGNED COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE WITH YOUR SEALED PROPOSAL. FAILURE TO DO SO MAY AUTOMATICALLY DISQUALIFY YOUR RESPONSE FROM CONSIDERATION FOR AWARD.