



**GOVERNMENT CONTRACT AND PURCHASING RIDER
FOR CONTRACTS WITH THE CITY OF NORTH RICHLAND HILLS, TEXAS**

By submitting a response to a solicitation or bid, or by entering into a contract for goods or services and/or by accepting a purchase order, the Contractor, Consultant, Vendor, or other party identified below (collectively, "Contractor"), agrees that the terms and conditions herein shall govern all agreements with the City unless otherwise agreed to by a **specifically executed provision** within the contract or purchase order, provided same is permissible by law. The terms and conditions herein are **BINDING** and **SUPERSEDE** any and all other terms and conditions whether oral or written in any separate agreement or found on Contractor's website or other electronic platform.

APPLICATION. This **GOVERNMENT CONTRACT AND PURCHASING RIDER FOR CONTRACTS WITH THE CITY OF NORTH RICHLAND HILLS, TEXAS** ("Government Rider") applies to, is considered a part of, is incorporated into, and takes precedence over any conflicting provision in, or attached to, the Agreement, as defined herein, between the City of North Richland Hills, Texas (the "City") and the contractor, consultant, vendor, or other party identified below (collectively, "Contractor"). The Agreement shall include any applicable Response to Solicitation or Bid, Contract, Purchase Order, Agreement for Purchase or Sale, Standard Terms and Conditions, Quote, Invoice, or other applicable agreement of the Contractor and the documents specifically described as follows:

Title of Agreement with Additional Terms: | Martin Marietta Standard Terms and Conditions |
Legal Name of Cooperative Contractor: | Martin Marietta Materials, Inc. |
Legal Name of Third-Party Contractor (if applicable) (if not applicable enter N/A): N/A
Description of Goods or Services ("Goods or Services"): | Construction Lime Slurry |
Cooperative Agreement: | The term of this Agreement and this Government Rider is intended to run concurrently with the term of that certain Bid No. F2024066 – Annual Contract for Cement Slurry and Cementitious Slurry Services – Countywide – Martin Marietta Materials – Per Unit Price dated April 2, 2024, by and between Martin Marietta Materials, Inc., and Tarrant County, Texas, pursuant to the City's interlocal agreement with Tarrant County. The term of such bid currently runs through April 29, 2026, with one additional optional renewal period of twelve (12) months, extending the bid through April 29, 2027, if all renewal options are exercised. |
Contract Price: \$ 200,000 per year |

Notwithstanding any language to the contrary in the attached Agreement between Contractor and the **City of North Richland Hills ("City")**, individually referred to as a "party" and collectively referred to as the "parties," the parties stipulate by evidence of execution of this Government Rider below by a representative of each party duly authorized to bind the parties hereto, that the parties hereby agree that the provisions in this Government Rider shall be applicable to and shall modify and supersede the Agreement as set forth below:

SECTION 1. TIME FOR PAYMENT AND INTEREST. The City's payments under the Agreement, including the time of payment and the payment of interest on overdue amounts, are subject to Chapter 2251 of the Texas Government Code. Payment shall be due within thirty (30) days of (i) the date of the City's receipt of the goods under the Agreement; (ii) the date the performance of the services under the Agreement are completed; or (iii) the date the City receives an invoice for the goods or services, whichever is later. Interest on any overdue payment shall not exceed 1% plus the prime rate as published by the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. If the City disputes any amount invoiced, it shall inform Contractor of the dispute within thirty (30) days after receipt of Contractor's invoice and provide sufficient information to allow Contractor to investigate such claims. To the extent the Agreement requires the City to agree to a higher rate of interest than allowed by law or to incur penalties or late fees prior to thirty (30) days before receipt of invoice or services, any such requirements shall be null and void, are hereby deleted from the Agreement, and shall have no force or effect.

SECTION 2. INDEMNIFICATION; LIABILITY; NO FUTURE DEBT.

2.1 Multiyear Contracts. If the NRH City Council does not appropriate funds sufficient to make any payment for a fiscal year after the City's fiscal year in which the Agreement become effective, and there are no proceeds available for payment from the sale of bonds or other debt instruments, then the Agreement shall automatically terminate at the end of the fiscal year for which funds were appropriated, in accordance with Section 5, Article XI of the Texas Constitution. The City shall have the right to terminate the Agreement at the end of any City fiscal year, without any penalty to the City, if the NRH City Council does not appropriate sufficient funds to continue the Agreement to the next fiscal year. The City shall provide Contractor with as much advance written notice of such termination as is reasonably possible, but not less than thirty (30) days.

2.2 No Future Debt. In compliance with Section 5, Article XI of the Texas Constitution, all payment obligations of the City hereunder are subject to the availability of funds. If such funds are not appropriated or become unavailable during the Term of the Agreement, or in any renewal year of the Agreement, the City shall have the right to terminate the Agreement, except for those portions of funds which have been appropriated prior to termination. To the extent the Agreement require the City to agree to the creation of future debt for which funds are not appropriated, any such requirement shall be null and void, is hereby deleted from the Agreement, and shall have no force or effect. The City agrees not to order any goods for which there are not sufficient funds appropriated to pay Contractor.

2.3 INDEMNIFICATION AND LIABILITY. CONTRACTOR SHALL BE LIABLE FOR, AND SHALL INDEMNIFY AND HOLD THE CITY AND ITS OFFICERS, AGENTS, EMPLOYEES, VOLUNTEERS, AND REPRESENTATIVES (collectively "CITY INDEMNITEES") HARMLESS FROM ANY INJURY, LOSS, OR DAMAGE TO THE EXTENT DUE TO, OR ARISING OUT OF, THE NEGLIGENCE ACTS OR OMISSIONS OR INTENTIONAL MISCONDUCT OF CONTRACTOR. NOTWITHSTANDING THE FOREGOING, CONTRACTOR SHALL NOT BE REQUIRED TO INDEMNIFY OR HOLD HARMLESS THE CITY INDEMNITEES FROM ANY INJURY, LOSS, OR DAMAGE TO THE EXTENT ARISING OUT OF THE SOLE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY INDEMNITEES. TO THE EXTENT THE AGREEMENT REQUIRES THE CITY TO INDEMNIFY, DEFEND, AND/OR HOLD CONTRACTOR OR ANY OF ITS AFFILIATES, EMPLOYEES, DIRECTORS, OFFICERS, VOLUNTEERS, OR REPRESENTATIVES (collectively the "CONTRACTOR INDEMNITEES") HARMLESS, THE CITY SHALL NOT BE REQUIRED TO DEFEND ANY CONTRACTOR INDEMNITEES UNDER THE AGREEMENT AND THE CITY SHALL ONLY INDEMNIFY OR HOLD ANY CONTRACTOR

INDEMNITEES HARMLESS TO THE EXTENT PERMITTED BY APPLICABLE LAW, AND ONLY TO THE EXTENT SUCH INJURY, LOSS, OR DAMAGE IS DUE TO THE NEGLIGENT ACTS OR OMISSIONS OR INTENTIONAL MISCONDUCT OF THE CITY. THE CITY SHALL NOT BE UNDER ANY OBLIGATION TO CREATE ANY SINKING FUND TO SATISFY ANY OBLIGATION TO INDEMNIFY UNDER THE AGREEMENT. NOTWITHSTANDING ANY OF THE FOREGOING, IN NO EVENT SHALL EITHER PARTY'S LIABILITY EXCEED THE TOTAL AMOUNT OF FEES DUE TO CONTRACTOR UNDER THE AGREEMENT. HOWEVER, THE LIMITATION OF LIABILITY IN THE PRECEDING SENTENCE DOES NOT LIMIT EITHER PARTY'S INDEMNIFICATION OBLIGATIONS UNDER THIS SECTION. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES UNDER THE AGREEMENT. THIS PROVISION SHALL SUPERSEDE AND REPLACE ANY OTHER INDEMNIFICATION PROVISION OF CONTRACTOR IN THE AGREEMENT.

SECTION 3. TERMINATION. Notwithstanding Section 2 above, and unless otherwise specifically agreed to by the parties, either party may terminate the Agreement by providing thirty (30) days prior written notice of such termination to the other party. Termination pursuant to this Section shall not relieve Contractor of any obligation or liability that has accrued prior to cancellation. The City shall pay Contractor for any goods delivered up to and including the effective date of such termination. **This Agreement is subject to termination, without penalty, at any time the City deems Contractor to be non-compliant with contractual obligations.** Unless otherwise specifically agreed to by the parties in writing, to the extent the Agreement requires the City to (i) agree to a shorter termination period than thirty (30) days; (ii) agree to automatic renewals not included as a part of the "Term of Agreement" listed above in this Government Rider; or (iii) incur a termination penalty, any such requirement shall be null and void, is hereby deleted from the Agreement, and shall have no force or effect.

SECTION 4. INSURANCE. The City is a Governmental entity under the laws of the state of Texas, and pursuant to Chapter 2259 of the Texas Government Code, "Self-Insurance by Government Units," the City is self-insured and therefore is not required to purchase insurance. The City shall not be required to purchase an insurance policy under the Agreement. Any such requirement in the Agreement shall be null and void, is hereby deleted from the Agreement, and shall have no force or effect. The City will provide a letter of self-insured status as requested by Contractor.

SECTION 5. CONFIDENTIALITY. The City is a Governmental entity under the laws of the state of Texas, and all documents or information held or maintained by the City are subject to disclosure under the Texas Public Information Act, Chapter 552 of the Texas Government Code (the "Act"). To the extent any provision in the Agreement attempts to prevent the disclosure of information that is subject to public disclosure under federal law or Texas law including any provision that prohibits disclosure of the terms and conditions of the Agreement, such provision shall be null and void, is hereby deleted from the Agreement, and shall have no force or effect.

SECTION 6. TAX EXEMPTION. The City shall not be liable to Contractor for any federal, state, or local taxes for which the City is not liable by law, including state and local sales and use taxes, pursuant to Section 151.309 of Title 3, Texas Tax Code, and federal excise tax, pursuant to Subtitle D of the Internal Revenue Code. Accordingly, those taxes shall not be added to any goods or services under the Agreement. The City shall furnish a copy of the applicable tax exemption certificate upon request from Contractor. If the City is billed for any taxes not in compliance with this Section 6, the City shall be authorized to remit payment less the taxes imposed.

SECTION 7. GOVERNING LAW AND VENUE. The Agreement, this Government Rider, and the rights and obligations of the parties hereto shall be governed by and construed in accordance with the laws of the United States and the state of Texas, exclusive of conflict of law provisions. Venue for any suit brought under the Agreement or this Government Rider shall be in a court of competent jurisdiction in Tarrant County, Texas. To the extent the Agreement is required to be governed by any state law other than Texas or venue in any jurisdiction other than Tarrant County, any such requirement in the Agreement shall be null and void, is hereby deleted from the Agreement, and shall have no force or effect.

SECTION 8. ATTORNEYS' FEES; PENALTIES; LIQUIDATED DAMAGES: The City shall only be liable for attorneys' fees for breach of the Agreement to the extent such attorneys' fees are reasonable and necessary and equitable and just as authorized by Section 271.153 of the Texas Local Government Code. To the extent the Agreement requires the City to pay attorneys' fees for any action contemplated or taken, or to incur penalties or liquidated damages in any amount not authorized by Section 271.153, any such requirement shall be null and void, is hereby deleted from the Agreement, and shall have no force or effect.

SECTION 9. SOVEREIGN IMMUNITY. Nothing in the Agreement, or herein this Government Rider, constitutes a waiver of the City's sovereign immunity. To the extent the Agreement require the City to waive its rights or immunities as a Governmental entity, any such requirement shall be null and void, is hereby deleted from the Agreement, and shall have no force or effect.

SECTION 10. ASSIGNMENT. To the extent the Agreement addresses the right to assign any rights or interest in the Agreement to another party, such right of assignment shall be reciprocal, and neither party shall have the right to assign or transfer any of its rights or interests in the Agreement without the express prior written consent of the other party. Notwithstanding, the Contractor shall have the right to assign the Agreement to any entity in which it is a recognized legal affiliate or subsidiary or which such entity obtains a majority interest without the consent of the City; however, Contractor shall give the City at least thirty (30) days' written notice of any such assignment or transfer of interest.

SECTION 11. RIGHT TO TRIAL BY JURY. The City reserves its right to settle disputes by trial by jury. Any provision in the Agreement that requires the City to waive its right to a trial by jury shall be null and void, is hereby deleted from the Agreement, and shall have no force or effect.

SECTION 12. ALTERNATIVE DISPUTE RESOLUTION. To the extent the Agreement requires all disputes to be resolved by binding arbitration, any such provision shall be null and void, is hereby deleted from the Agreement, and shall have no force or effect. Prior to instituting litigation under the Agreement, the parties may agree to mediation upon written mutual consent. Any such mediation shall be governed by the applicable rules of the American Arbitration Association, with mediation being held in Tarrant County, Texas. Each party shall share equally in the costs of the mediator, and shall be responsible for its own attorney's fees and expenses.

SECTION 13. LIMITATION ON CLAIMS. Any claim for breach of the Agreement shall be brought within four (4) years in accordance with Texas Civil Practices and Remedies Code, Sec. 16.004 and Texas Business and Commerce Code, Sec. 2.725. To the extent the Agreement requires a shorter period for limitation on claims, any such requirement shall be null and void, is hereby deleted from the Agreement, and shall have no force or effect.

SECTION 14. FORCE MAJEURE. Either party may terminate this Agreement and shall not be liable for any alleged damages or loss due to failure to perform its obligations under this Agreement if a party's performance of its obligations under this Agreement is delayed or canceled by reason of a Force Majeure event, including but not limited to, war; civil commotion; acts of God; inclement weather; Government restrictions, regulations, or interferences;

fires; labor strikes; material shortages; lockouts, national disasters; epidemics; pandemics; riots; transportation restrictions; or any other circumstances which are reasonably beyond the control of the party.

SECTION 15. RIGHT TO AUDIT. The City shall, until the expiration of three (3) years after final payment under the Agreement, have the right to access and the right to examine and photocopy any directly pertinent books, documents, papers, and records, whether electronic or hardcopy (collectively "Records") of Contractor involving transactions under this Agreement to ensure compliance herewith. The City shall have the right to access Contractor's Records during normal working hours and shall provide Contractor with reasonable advance notice of intended audits, but not less than ten (10) business days.

SECTION 16. SUCCESSORS AND ASSIGNS. The parties each bind themselves and their successors, executors, administrators, and assigns to the Agreement and to all covenants of the Agreement.

SECTION 17. CITY'S LOGO OR MARKS. The City's logo is protected by applicable federal and state copyright and trademark laws. Contractor may not use the City's name in a demeaning, obscene, or detrimental manner as determined by the City in its sole discretion, and Contractor shall not use the City's logo in any manner, except as specifically approved by the City in writing.

SECTION 20. RIDER CONTROLLING: If any provisions of the Agreement conflict with the terms of this Government Rider, are prohibited by applicable law, or conflict with any applicable rule, regulation, or ordinance of the City, the terms in this Government Rider shall control.

By signature below of an authorized representative, the parties hereby accept and agree to the terms and conditions set forth in this Government Rider.

CITY OF NORTH RICHLAND HILLS:

| Martin Marietta Materials, Inc. |

By: _____
Paulette A. Hartman, City Manager

By: _____
Tim Naumann
Senior Sales Rep
Date: 10/20/2025

Date: _____

By: _____
Director Name, Title
☐ Check box if total aggregate value is less than \$3,000.

ATTEST:

By: _____
Alicia Richardson, City Secretary/Chief Governance Officer

PURCHASING:

By: _____
Xiomara Abad, Purchasing Manager

APPROVED AS TO FORM AND LEGALITY:

By: _____
Bradley A. Anderle, City Attorney
*City Attorney signature not required for contracts with a
total aggregate value of less than \$50,000.