

AN ORDINANCE AUTHORIZE AND APPROVE A TWO-YEAR CONTRACT BETWEEN THE CITY OF WILMINGTON AND PENN/MD MATERIALS, DIV. OF H&K GROUP, INC.

#4398

Sponsor:

**Council
Member
Turner**

WHEREAS, pursuant to Section 2-308 and Section 8-200 of the City Charter, City Council may, by Ordinance, authorize contracts for the rendering of services for a period of more than one year; and

WHEREAS, the City publicly advertised the specifications for Contract 18024PW – Mineral Aggregates (“the Contract”) – in accordance with the requirements of Section 8-200 of the City Charter, and subsequently awarded the Contract, a copy of which, in substantial form, is attached hereto and incorporated by reference herein as Exhibit “A”, to Penn/MD Materials, Div. of H&K Group, Inc. (the “Contractor”), the lowest responsive bid; and

WHEREAS, the term of the Contract is for a period of two (2) years from on or about July 1, 2017 through June 30, 2019, at an estimated price of \$54,578.00 per year for a total price of \$109,156.00, with the possibility of two, one-year extensions thereafter with the same terms and conditions, at the option of the City, subject to budget appropriation; and

WHEREAS, the primary purpose of the Contract is to provide construction materials such as crushed stone to the Department of Public Works; and

WHEREAS, said extension periods were included in the Contract in order to provide for continuity of service; and

WHEREAS, it is the recommendation of the Department of Public Works that the City enter into the Contract with the Contractor for a period of Two (2) years, i.e., from on or about July 1, 2017 through June 30, 2019, and reserve the right to extend the Contract for two (2) additional periods of one (1) year thereafter, at the option of the City.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON
HEREBY ORDAINS:**

SECTION 1. Contract 18024PW – Mineral Aggregates - between the City of Wilmington and Penn/MD Materials, Div. of H&K Group, Inc., a copy of which Contract is attached hereto as Exhibit “A,” for the period of two (2) years from on or about July 1, 2017 through June 30, 2019, at an estimated price of \$54,578.00 per year for a total price of \$109,156.00 with the possibility of two (2) additional extensions of one (1) year thereafter with the same terms and conditions, at the option of the City, is hereby approved, and the Mayor and the City Clerk are hereby authorized and directed to execute as many copies of the Contract, as well as all additional undertakings related thereto, as may be necessary.

SECTION 2. This Ordinance shall become effective upon its passage by City Council and approval by the Mayor.

First Reading..... September 7, 2017
Second Reading..... September 7, 2017
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved as to form this ____ day of
_____, 2017.

Assistant City Solicitor

Approved this ____ day of _____, 2017.

Mayor

SYNOPSIS: This Ordinance authorizes the execution of Contract 18024PW – Mineral Aggregates - between the City of Wilmington and Penn/MD Materials, Div. of H&K Group, Inc. for the period of two (2) years from on or about July 1, 2017 through June 30, 2019, at an estimated price of \$54,578.00 per year for a total price of \$109,156, with the possibility of two (2) additional extensions of one (1) year thereafter with the same terms and conditions, at the option of the City.

FISCAL IMPACT STATEMENT: This fiscal impact of this Ordinance is a contract for the period of two (2) years from on or about July 1, 2017 through June 30, 2019, at an estimated price \$54,578.00 per year for a total price of \$109,156.00, with the possibility of two (2) additional extensions of one (1) year thereafter with the same terms and conditions, at the option of the City.

Ad Number: 0002096441

Run Dates: 04/27/17

The City of Wilmington
will receive sealed bids
at the Division of Procurement &
Records, 5th Fl.,
Louis L. Redding Bldg.,
800 French St., Wilm., DE 19801 for:

18024PW – MINERAL AGGREGATES

Bid opening: Tuesday, May, 16,
2017, at 3:00 p.m., in the 5th Floor
Finance Conference Room, Louis L.
Redding City/County Building, 800
French Street, Wilmington, DE
19801.

Specifications may be obtained at
the above address for the Division
of Procurement & Records.

Philip Ceresini
Purchasing Agent II
Division of Procurement and
Records
Department of Finance
4/27-NJ

0002096441-01

INSTRUCTIONS TO BIDDERS

1. Bids on **City Contract 18024PW – MINERAL AGGREGATES** will be publicly opened and read aloud in the 5th Floor Finance Conference Room, Louis L. Redding City/County Building, 800 French Street, Wilmington, DE 19801 on **TUESDAY, MAY 16, 2017, AT 3:00 p.m.**
2. Proposals must be in triplicate, sealed in an envelope, and the envelope endorsed "**Bid for City Contract 18024PW – MINERAL AGGREGATES**" and addressed to the Department of Finance, Division of Procurement and Records, 5th Floor, Louis L. Redding City/County Building, 800 French Street, Wilmington, Delaware.
3. Any bid may be withdrawn prior to the schedule time for opening of bids or authorized postponement thereof. No bid may be withdrawn within thirty (30) calendar days after the actual opening thereof.
4. The successful bidder will be required to have or obtain an appropriate business license from the Department of Finance, Revenue Division, City of Wilmington, in order to be awarded the contract. Before obtaining a City of Wilmington Business License, all applicants must show proof of a current State of Delaware Business License.
5. The corporation, the successful bidder shall furnish a certificate from the State where it is incorporated, stating that it is a subsisting corporation. The corporation shall also furnish one (1) original and two (2) copies of the excerpts of the corporate minutes, which grant authority to those who sign and attest the contract. The Corporate Seal shall be affixed where signatures are attested.
6. The successful bidder will be required to withhold City of Wilmington Wage Tax from their employees and withheld taxes paid to the City of Wilmington pursuant to the provisions of the Wilmington Wage Tax Law. This law applies to people living and/or working in the City of Wilmington.
7. The U.S. Department of Commerce monitors Procurement transaction made to minority business enterprises by the City of Wilmington. The Minority Business Developments Agency's District Office reserves the right to contact the successful minority bidder and/or subcontractor to confirm any participation in the Procurement process.
8. The successful bidder certifies that they are not listed on the Federal Government, Excluded Parties List System (www.sam.gov). This will be verified by the City of Wilmington and if listed may be grounds for rejection of the bid or proposal.
9. Any person doing business or seeking to do business with the City shall abide by the following Global Sullivan Principles:
 - A. Support universal human rights and particularly, those of employees, the communities within which you operate, and parties with whom you do business.
 - B. Promote equal opportunity for employees at all levels of the company with respect to issues such as color, race, gender, age, ethnicity, or religious beliefs, and operate without unacceptable worker treatment such as the exploitation of children, physical punishment, female abuse, involuntary servitude, or other forms of abuse.
 - C. Respect employee's voluntary freedom of association.
 - D. Compensate employees to enable them to meet at least their basic needs and provide the opportunity to improve their skill and capability in order to raise their social and economic opportunities.

- E. Provide a safe and healthy workplace; protect human health and the environment; and promote sustainable development.
- F. Promote fair competition including respect for intellectual and other property rights, and not offer, pay, or accept bribes.
- G. Work with governments and communities in which you do business to improve the quality of life in those communities -- their educational, cultural, economic, and social well-being -- and seek to provide training and opportunities for workers from disadvantaged backgrounds.
- H. Promote the application of these principles by those with whom you do business.

10. **Award and Execution of Contract**

- A. **Consideration of Proposals.** After the proposals are opened and read, they will be compared on the basis of the summation of the products of the approximate quantities shown in the bid schedule by the unit bid prices, unless the proposals states a different basis for comparing bids. In the event of a discrepancy between unit bid prices and extensions, the unit bid price shall govern.

Before awarding the contract, a bidder may be required to show that he/she has the ability, experience, necessary equipment, experienced personnel, and financial resources to successfully carry out the work required by the contract.

The right is reserved to reject any and/or all proposals, to waive technicalities, to advertise for new proposals, or to proceed to do the work otherwise, if in the judgment of the department the best interest of the City will be promoted thereby.

- B. **Award of Contract.** The award of the contract, if it be awarded, must be within thirty (30) calendar days after the opening of proposals to the lowest responsible and qualified bidder whose proposal complies with all the requirements prescribed. The successful bidder will be notified by letter mailed to the address shown on his proposals that his bid has been accepted and has been awarded the contract.
- C. **Cancellation of Award.** The City reserves the right to cancel the award of any contract at any time before the execution of said contract by all parties without any liability against the City.
- D. **Right to Audit.** The City Auditor or his designee shall have the right to audit the contract and any books, documents, or records relating thereto.

Questions should be directed to Phil Ceresini via email at pceresini@wilmingtonde.gov. Questions will not be accepted within 1 week of bid opening.

THIS CONTRACT DOES NOT REQUIRE A BID BOND OR PERFORMANCE BOND.

CITY OF WILMINGTON, DELAWARE

MINERAL AGGREGATES

SPECIFICATIONS

18024PW

This contract is for the furnishing and delivering of certain construction materials specified below and in accordance with the requirements of the State of Delaware, Department of Transportation, Standard Specifications dated August 2001 and all supplementals. This document is available at:
www.deldot.gov/information/pubs_forms/manuals/standard_specifications/pdf/2001StdSpecForRoadAndBridgeConstruction.pdf .

This contract shall remain in effect from July 1, 2017 until midnight, June 30, 2019. The City of Wilmington maintains the option to extend this contract for two (2) additional periods of one (1) year each which will run from July 1st until June 30th. Terms and conditions of the contract must remain the same. Materials in this contract shall be supplied "AS REQUIRED" in accordance with the unit price bid for each item. Unit prices are to be provided for materials delivered in supplier's trucks and for materials picked up in owner's trucks.

The quantities that appear on the Proposal Form are approximate only and will be the basis for comparing bids. The City of Wilmington makes no guarantee as to the total quantity of any type that will be purchased under this contract. The Proposal Form quantities are only an estimate of the requirements of the City of Wilmington during the period the contract is in effect.

The City of Wilmington agrees to purchase materials covered by this contract from the contractor under the terms of this contract.

In the event that the contractor is unable or unwilling by reason of any circumstance or combination of circumstances, to supply material or make deliveries upon request, of the quantity or quality of material as specified, within the periods of time hereinafter specified, the City of Wilmington reserves the right to purchase said materials elsewhere.

The City of Wilmington will not place an order for delivery with a weight of less than 5

tons. The City of Wilmington agrees to give notice to the contractor according to the following schedule for all deliveries made in any working day:

1. For materials delivered in supplier's trucks:

5 to 50 tons.....8 hours
50 to 200 tons.....24 hours
Over 200 tons.....48 hours

2. For materials picked up in owner's trucks:

1 to 50 tons.....1 hour
50 to 200 tons.....4 hours
Over 200 tons.....24 hours

The contractor agrees to perform in accordance with the schedule above.

The contractor shall invoice the owner monthly for the quantity of materials received and accepted by the owner during the previous month at the unit prices bid for each item, and under the terms and conditions of this contract. Certified weight slips will be attached to each invoice. Invoices may be mailed to the City of Wilmington, Accounts Payable Department or emailed to accountspayable@wilmingtonde.gov.

Certified weight slips shall be the method of measurements and the basis for payment, which price and payment shall be full compensation for deliveries accepted as stated above.

This contract may be terminated before the expiration date of midnight June 30, 2019, in writing, by the City of Wilmington to the contractor if they fail to meet the terms of this specification.

**THE CONTRACTOR WILL BE REQUIRED TO LOAD AND REMOVE AT HIS COST;
ANY MATERIAL SUPPLIED OR DELIVERED THAT DOES NOT MEET THESE
REQUIREMENTS.**

MATERIAL REQUIREMENTS

All materials contracted for through this contract shall conform to the latest requirements of the State of Delaware, Department of Transportation, Standard Specifications dated August 2001 and all supplementals. This document is available at:
http://www.deldot.gov/information/pubs_forms/manuals/standard_specifications/pdf/2001StdSpecForRoadAndBridgeConstruction.pdf .

In addition to meeting the DeIDOT's gradation specification for each material, all materials provided must be delivered to the City in a workable state, more specifically they shall not be frozen, clumped, or mixed with foreign materials. Materials delivered in this condition, in the sole opinion of the City, will be rejected immediately.

NOTICE: **The City reserves the right to award this contract in its entirety or to split the award by item.**

MINERAL AGGREGATES
Proposal Form

PW18024

DATE: 05/10/17

City of Wilmington Business License Number is 1989004725 - State of Delaware

This proposal is submitted with the knowledge that the Department of Finance, Division of Procurement and Records, reserves the right to reject any and all proposals, when in its judgment, it is in the best interest of the City of Wilmington to do so.

We, the undersigned, hereby agree to furnish and deliver, per specifications, the item(s) listed below to the City of Wilmington, between July 1, 2017, and June 30, 2019, This would also apply if the City of Wilmington exercises the option to extend this contract for two (2) additional periods of one (1) year each which will run from July 1st until June 30th. Terms and conditions of the contract must remain the same. **All deliveries are to be made to the City's Public Works Facility at 500 Wilmington Avenue, Wilmington, Delaware 19801.**

SPECIAL PROPOSAL FORM NOTE:

Part (a) of each item requires the bidder to extend the **DELIVERED** bid price for stated quantity of materials and enter the total in the blank provided.

Part (b) of each item requires the bidder to state the unit price bid per ton of material. **DO NOT EXTEND THIS PART OF THE BID.**

<u>ITEM</u>	<u>Description</u>	<u>TOTAL</u>	
1.a	<u>200 Tons Crushed Stone</u> <u>Del # 57 (or 106A)</u>		
	Delivered by Supplier	\$ <u>18.34</u> /ton	\$ <u>3,668.00</u>
1.b	Price per ton at suppliers yard	\$ <u>8.40</u> /ton	

<u>ITEM</u>	<u>Description</u>	<u>TOTAL</u>	
2.a	<u>100 Tons Crushed Stone</u> <u>Del # 67 (or 113)</u>		
	Delivered by Supplier	\$ <u>19.44</u> /ton	\$ <u>1944.00</u>
2.b	Price per ton at suppliers yard	\$ <u>9.50</u> /ton	
3.a	<u>200 Tons Crushed Stone</u> <u>Del # 3 (or 106)</u>		
	Delivered by Supplier	\$ <u>17.64</u> /ton	\$ <u>3528.00</u>
3.b	Price per ton at suppliers yard	\$ <u>7.70</u> /ton	
4.a	<u>2000 Tons Graded Aggregate</u> <u>Base Course – Type "A"</u> <u>Del # 302 (CR-1)</u>		
	Delivered by Supplier	\$ <u>16.14</u> /ton	\$ <u>32280.00</u>
4.b	Price per ton at suppliers yard	\$ <u>6.20</u> /ton	
5.a	<u>200 Tons Graded Aggregate</u> <u>Base Course – Type "B"</u> <u>Del # 302 (Crusher Run)</u>		
	Delivered by Supplier	\$ <u>15.79</u> /ton	\$ <u>3158.00</u>
5.b	Price per ton at suppliers yard	\$ <u>5.85</u> /ton	

GRAND TOTAL FOR PART (a) ONLY

\$ 41,578.00

Allowance for materials not specifically listed above

\$10,000.00

FIRM: Penn/MD Materials Div. of H&K Group, Inc.
Corporation / Partnership / Individual

PER: John R Kibbleshouse, Jr.
Name (Typed or Printed)

TITLE: Vice President

SIGNATURE: John R Kibbleshouse, Jr.

ADDRESS: PO Box 196

CITY, STATE ZIP: Skipack, PA 19474

PHONE: 610.222.3622

FAX: 610.584.1529

EMAIL: bsehatz@hkgroup.com

FED TAX ID: 23-1699847



DEPARTMENT OF PUBLIC WORKS
ADMINISTRATIVE DIVISION

MEMORANDUM

TO: Phil Ceresini
Division of Procurement and Records

FROM: Marlyn Dietz *MD*
Operations Director
Public Works Department

DATE: 26 May 2017

Re: Contract 18024PW - Mineral Aggregates - Recommendation of Award



We have reviewed the lone proposal regarding specification 18024PW and tabulation is as follows:

<u>BIDDER</u>	<u>AMOUNT BID</u>
Penn/MD Materials – Div. of Haines	\$54,578.00

The bid quantities and dollar amounts shown are considered as estimates and obtained for putting all bidders on the same basis for bidding purposes to determine apparent low bidders.

In the bid specification, we have asked the bidders to allow for additional materials not specifically listed in the specification in the amount of \$10,000.00. As such, the actual quantities may be increased or decreased as necessary over the life of the contract as stated in the bid specifications.

APPROVED:

Jeffery Starkey
For Jeffery Starkey
COMMISSIONER OF PUBLIC WORKS

cc: Jeffery Starkey
Rainer Hamilton
M. Husser
Vince Carroccia
Phil Ceresini
Jennifer Malcolm



CERTIFICATE OF AWARD OF CONTRACT

I hereby certify that Contract No. 18024PW is on this 28th of June, 2017 awarded to Penn/MD Materials, Div. of Haines & Kibblehouse, Inc. in the amount of \$54,578.00 as per Proposal dated 5/10/2017 and that this award is made in compliance with Wilm. Code (Charter), Section 8-200, to wit:

1. Plans and specifications for the work, supplies, or materials were filed with the Department of Finance, Division of Procurement and Records for public inspection on 4/27/2017
2. The advertisement calling for sealed bids on this contract was published in the News Journal on 4/27/2017 stated that bids would be opened at 3:00 p.m. on 5/16/2017.
3. All sealed bids received were publicly opened in the office of the Department of Finance, Division of Procurement and Records in the presence of the City Auditor and Department not represented desiring to make the purchase at 3:00 p.m. on 5/16/2017.. Other persons present at the opening of the bids were: Phil Ceresini, Tina Romano-Austin, Yvette
4. Bids were submitted by the following contractors in the following amounts:

Contractor	Address	Date of Bid	Amount
1. Penn/MD Materials	Peach Bottom, PA	5.16.17	\$54,578.00

5. City License Number _____

6. Upon recommendation of Commissioner of Public Works Department and after due consideration, I determined that the contractor to whom this award is made was the lowest responsible bidder. In support of this determination I have received the following written recommendations, which are on file at my office:

<u>Author</u>	<u>Employment Position</u>	<u>Date</u>
Jeffrey Starkey	Commissioner of Public Works	6.27.17
Marlyn Dietz	Operations Director	6.27.17

Approved as to Form


First Assistant City Solicitor


Department of Finance, Division of Procurement

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE

MAY 13, 2011

TO ALL WHOM THESE PRESENTS SHALL COME, GREETING:

I DO HEREBY CERTIFY THAT,

HAINES AND KIBBLEHOUSE, INC.

is duly Incorporated as a Pennsylvania Corporation under the laws of the Commonwealth of Pennsylvania and remains a subsisting corporation so far as the records of this office show, as of the date herein.

I DO FURTHER CERTIFY THAT, This Certificate of Good Standing shall not imply that all fees, taxes, and penalties owed to the Commonwealth of Pennsylvania are paid.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the Secretary's Office to be affixed, the day and year above written.

Carol A. Riddle

Secretary of the Commonwealth

Certification Number: 9533163-1

Verify this certificate online at <http://www.corporations.state.pa.us/corp/soskb/verify.asp>

Penn/MD Materials, Div. of H&K Group, Inc.

CERTIFIED COPY OF RESOLUTIONS

I, the undersigned, Secretary of Penn/Md Materials, Div. of H&K Group, Inc., a (Pennsylvania) Corporation, hereby certify that the following Resolutions excerpted from the Minutes of the Corporation were duly adopted by unanimous consent of the Board of Directors of the Corporation, on the 3rd day of July 2017.

RESOLVED, that the President, Vice-President, Treasurer, Secretary Assistant Secretary of this Corporation be and he hereby is authorized to execute and deliver on behalf of this Corporation a contract and other contract documents by and between this Corporation and the City of Wilmington, Delaware, Department of Finance, 18024PW "Mineral Aggregates" for the Contract Price of \$ 54,578.00; and

FURTHER RESOLVED, that the Secretary of this Corporation be and he hereby is authorized to attest to the said contract and other documents.

I further certify that the foregoing Resolutions have not been rescinded or modified and remain in full force ad effect.

I further certify that the following are the names of all officers qualified to sign for the Corporation:

President:	<u>Scott B. Haines</u>
Vice President:	<u>H. Christian Budenz</u>
Treasurer:	<u>John R. Kibblehouse, Jr.</u>
Secretary:	<u>John R. Kibblehouse, Jr.</u>
Assistant Secretary:	<u>H. Christian Budenz</u>

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Corporation this 5th day of July 2017 A.D.

John R. Kibblehouse
Secretary

----- CONTRACT-----

THIS AGREEMENT, made the 6th day of July in the year **Two Thousand Seventeen** by and between the City of Wilmington, a municipal corporation of the State of Delaware, acting through the agency of the Department of Finance, Division of Procurement and Records, party of the first part (hereinafter designated the Owner), and **Penn/MD Materials-Division of H & K Group, Inc.**, party of the second part (hereinafter designated the Contractors)

WITNESSETH, that the Contractor, in consideration of agreements herein made by the Owner, agrees with the Owner as follows:

Article 1. The Contractor shall and will furnish and deliver per specifications, on contract **18024PW "Mineral Aggregates"** for the Department of Public Works in accordance with Advertisement for Bids by the Department of Finance, Division of Procurement and Records date **4/27/17** and specifications identified as Contract No. **18024PW** and by the signatures of the parties hereto, are, together with the said Advertisement for Bids, Instructions to Bidders, Forms of Proposal, and/or other documents pertinent thereto, hereby acknowledge and incorporated into these presents and are to be taken as a part of this Contract.

Article 2. It is understood and agreed by and between the parties hereto that the amount of this Contract is in the amount of **Fifty Four Thousand Five Hundred Seventy Eight -- 00/100 --** ~~-----Dollars (\$54,578.00)~~ as per Proposal dated **5/10/17** to the Department of Finance, Division of Procurement and Records.

Article 3. In the performance of this Contract, the Contractor shall not discriminate or permit discrimination against any person because of his race, color, religion or his national origin.

Article 4. This Agreement shall bind the heirs, executors, administrators, successors and assigns to the respective parties hereto.

In witness whereof the party of the first part has, by recommendation of the **Commissioner of Public Works Department**, caused the hand of **Michael S. Purzycki**, Mayor, and the corporate seal of the City of Wilmington, attested by the City Clerk, to be hereunto affixed; and the party of the second part has caused the hand of its' President, (or his authorized representative) and its' corporate seal, attested by the Secretary or assistant Secretary, to be hereunto affixed.

Dated the day and year first above written in the City of Wilmington, County of New Castle, State of Delaware.

Signed, Sealed and delivered
in the presence of:

THE CITY OF WILMINGTON

Witness

By: Michael S. Purzycki, Mayor

ATTEST:

City Clerk

Bonnie H. Ches
Witness

Penn/MD Materials – Div of H & K Group, Inc.

By: [Signature]
President (Seal)

ATTEST:

[Signature]
Secretary

Approved as to Form on this 17

Day of July, 2017

Walter B. [Signature]
First Assistant City Solicitor