

#4804

Sponsor:

Council
Member
Oliver

Co-Sponsor:

Council
President
Shabazz

**AN ORDINANCE TO AUTHORIZE AND APPROVE A ONE-YEAR
EXTENSION OF CONTRACT 20024PW BETWEEN THE CITY OF
WILMINGTON AND DIAMOND MATERIALS LLC FOR THE PROVISION
OF BITUMINOUS CONCRETE**

WHEREAS, pursuant to Section 2-308 and Section 8-200 of the City Charter, the City of Wilmington is authorized to enter into contracts for the supply of personal property or the rendering of services for a period of more than one year if approved by City Council by ordinance; and

WHEREAS, the City publicly advertised the specifications for Contract 20024PW – Bituminous Concrete (the “Contract”) – in accordance with the requirements of Section 8-200 of the City Charter, and subsequently awarded the Contract to Diamond Materials LLC (the “Contractor”), the lowest responsible bidder, a copy of which is available for review in the Department of Public Works; and

WHEREAS, the Contract’s term is from July 1, 2019 to June 30, 2020, at an estimated price of ninety-two thousand three hundred seventy-five dollars (\$92,375.00); and

WHEREAS, the product provided by the Contractor is necessary for the paving and repair of public streets and thoroughfares; and

WHEREAS, in early 2020, the Centers for Disease Control designated the Coronavirus Disease (“COVID-19”) as a serious public health threat, and, therefore, social distancing is required to help mitigate exposure to (and community spread of) the COVID-19 virus; and

WHEREAS, the Governor of the State of Delaware, John C. Carney, declared a State of Emergency for the State of Delaware on Friday, March 13, 2020 that has

subsequently been modified and extended until June 7, 2020 due to the ongoing serious public health threat that COVID-19 poses to Delawareans throughout the State; and

WHEREAS, the Mayor of the City of Wilmington declared a State of Emergency for the City of Wilmington on Friday, March 13, 2020 in connection with COVID-19 and its anticipated effects that has been extended to July 13, 2020; and

WHEREAS, given the restrictions in place to stop the spread of COVID-19, and the public interaction associated with the competitive bidding process, it is not practical to competitively bid the Contract for Fiscal Year 2021; and

WHEREAS, in order to provide for the continuity of an essential service and to minimize disruption, the City would like to enter into an amendment to the Contract (the “Amcndment”), which would provide a one year extension of the Contract on the same terms and at the same price; and

WHEREAS, the cost to the City of the Amendment would be ninety-two thousand three hundred seventy-five dollars (\$92,375.00) for Fiscal Year 2021; and

WHEREAS, it is the recommendation of the Department of Public Works and the Department of Finance, Division of Procurement and Records, that the City enter into the Amendment.

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

SECTION 1. The Amendment to the Contract between the City and Diamond Materials LLC, a copy of which is attached hereto as Exhibit “A”, for a one-year extension of the Contract at the same cost of ninety-two thousand three hundred seventy-five dollars (\$92,375.00) and on the same terms is approved, and the City is

hereby authorized and directed to execute as many copies of said Amendment, as well as all additional undertakings related thereto, as may be necessary.

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

First Reading..... May 28, 2020
Second Reading..... May 28, 2020
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2020.

Mayor

SYNOPSIS: This Ordinance authorizes the City to enter into an amendment to Contract 20024PW – Bituminous Concrete (the “Contract”) -- between the City and Diamond Materials LLC which provides for a one-year extension of the Contract from July 1, 2020 to June 30, 2021 on the same terms and at the same cost.

FISCAL IMPACT: The cost to the City of the Amendment in Fiscal Year 2021 will be ninety-two thousand three hundred seventy-five dollars (\$92,375.00).

W110430

EXHIBIT A

**AMENDMENT TO CONTRACT 20024PW
(BITUMINOUS CONCRETE)
BETWEEN THE CITY OF WILMINGTON AND DIAMOND MATERIALS LLC**

This amendment (this "Amendment") is entered into this ____ day of _____ 2020, by and between the City of Wilmington, a municipal corporation of the State of Delaware, (the "City") and Diamond Materials LLC (the "Contractor").

WHEREAS, the City and the Contractor wish to amend City Contract 20024PW (Bituminous Concrete) (the "Contract") between the parties dated August 14, 2019, to extend the expiration date of the Contract for one year to allow the Contractor to continue to provide bituminous concrete to the City in accordance with the terms of this Amendment and the Contract.

NOW, THEREFORE, WITNESSETH the City and the Contractor hereby agree as follows:

1. The Contractor shall continue to provide bituminous concrete to the City in accordance with the Contract's specifications and other requirements.
2. The amount of this Amendment shall not exceed ninety-two thousand three hundred seventy five dollars (\$92,375.00).
3. The term of this Amendment shall not exceed twelve (12) months and shall become effective on July 1, 2020 and expire on June 30, 2021.
4. All other terms and conditions of the Contract shall remain in full force and effect.

IN WITNESS WHEREOF, the parties, through their duly authorized representatives, have executed this Amendment to the Contract on the date first written above.

THE CITY OF WILMINGTON

WITNESS: _____

By:
Title:

WITNESS:

Jon B. Wood

DIAMOND MATERIALS LLC

[Signature]

By: *Paul H. St...*
Title: *President*