



**DE WITT COUNTY, TEXAS
REQUEST FOR SEALED BIDS
BULK HYDRATED LIME**

GENERAL INFORMATION

- Bid Packet:** De Witt County Bid Packet No. 2025-0013
- Regarding:** This Request for Sealed Bids ("Bid Packet") is issued by De Witt County, Texas ("County") for the County's competitive procurement and purchase of the material ("Material") herein described.
- Requirements:** The requirements and conditions for the competitive procurement and sealed bid procedure regarding the Material are contained in this Bid Packet. The contents of this Bid Packet, and all attached documents, are incorporated by reference.
- Attachments:** The following documents are attached to this Bid Packet: **Exhibit A** -- Material Description/Specifications and Bid Forms; **Exhibit B** -- Bid Conditions for Material Procurement; and **Exhibit C** -- Proposed Material Procurement Contract.
- Bid Delivery:** Sealed bids for the Material shall be delivered in person or by mail **on or before Wednesday, June 4, 2025 at 3:00 p.m.** to the business office of Neomi Williams, County Auditor, De Witt County, Texas ("County Auditor"), De Witt County Annex, 102 N Clinton, Suite 240, Cuero, Texas 77954, as described in the attached **Exhibit B** of this Bid Packet. **BIDS MUST BE PLACED IN A SEALED ENVELOPE MARKED "ROAD MATERIALS BID".**
- Bid Opening:** Delivered Bids shall be opened, read aloud, and tabulated **on Wednesday, June 4, 2025 at 3:00 p.m.** by the County Auditor, De Witt County Annex, 102 N. Clinton, Suite 240, Cuero, Texas 77954, as described in the attached **Exhibit B** of this Bid Packet.
- Bid Presentment:** Delivered bids shall be presented by the County Auditor to the Commissioners Court of De Witt County, Texas ("Commissioners Court") for consideration and/or action **on June 9, 2025 at 9:00 a.m.** at a public meeting of the Commissioners Court conducted at the Commissioners Courtroom, De Witt County Courthouse, First Floor, 307 North Gonzales Street, Cuero, Texas 77954, as described in the attached **Exhibit B** of this Bid Packet.

Bid Award:

A bid award or other action allowed by law regarding the delivered bids shall be made by the Commissioners Court **on June 9, 2025 at 9:00 a.m.** at the public meeting of the Commissioners Court conducted at the Commissioners Courtroom, De Witt County Courthouse, First Floor, 307 North Gonzales Street, Cuero, Texas 77954, or at a subsequent public meeting of the court, as described in the attached **Exhibit B** of this Bid Packet.

Public Notice:

Public notice regarding the issuance of this Bid Packet shall be: (a) published in The Cuero Record, a newspaper of general circulation in De Witt County, Texas as required by law; and (b) posted on the County's internet website at <http://co.dewitt.tx.us>. Copies of this Bid Packet may be obtained from the County Auditor at her business office address herein described.

Bidder Inquiry:

The County may answer written questions regarding this competitive procurement procedure and Bid Packet, but is not obligated to do so. Written questions must be delivered in writing **on or before May 30, 2025, at 9:00 a.m.** to the County Auditor as described in the attached **Exhibit B** of this Bid Packet.

Bid Form:

All bids shall be in writing, sealed, and submitted to the County in a timely manner and correct form as described in the attached **Exhibits A and B** of this Bid Packet.

EXHIBIT A TO BID PACKET:

**BULK HYDRATED LIME
OFFICIAL BID SHEET
DE WITT COUNTY, TEXAS**

Bid Contract Date: June 9, 2025 – April 13, 2026

Materials Specifications and Requirements

All materials must meet the Texas Department of Transportation Specifications as of 2014.

This is a fixed rate bid.

Please circle if the bid is by yard or ton.

Delivery Address

Precinct 1: 1100 Hwy 72 W, Cuero, TX or Job Site
Precinct 2: Hwy 77 Business – Yoakum, TX., Hwy 183 – Hochheim, TX., FM 1447 & Sapp Rd.
Yoakum, TX or Job Site
Precinct 3: 408 S Mehnert, Yorktown, TX or Job Site
Precinct 4: 20 FM 236, Cuero, TX or Job Site

Bid Item	Products	Pct. 1	Pct. 2	Pct. 3	Pct. 4	Minimum
		Cuero	Yoakum	Yorktown	Cuero	Load
1	Bulk Hydrated Lime					
	Delivered-Per Yard/Per Ton					
	Not Delivered-Per Yard/Per Ton					

Comments:

Payment shall be made by the County for the Material as described in this Bid Packet (see attached upon the: (a) timely receipt and acceptance of the Material by the County; (b) timely submission to the County Auditor of a valid and proper billing invoice for the Material; and (c) approval of said billing invoice by the Commissioners Court. LGC 113.064; GC CHAPTER 2251. **NOTE: Invoices must state the bid packet number 2025-0013 and bid item number. Invoices are accepted by mail, 102 N. Clinton, Suite 240, Cuero, TX 77954 or by email at accounts-payable@dwcotx.org.**

I have read the bid specifications and bid packet and shall carry out the requirements of the bid.

This bid is submitted by:

Company Name

Signature

Street, P.O. Box No.

Printed Name

Title

City

State

Zip Code

Phone Number

E-Mail Address

EXHIBIT B TO BID PACKET:

BID CONDITIONS FOR MATERIAL PROCUREMENT

The following conditions shall apply to all bids submitted to the County for the Material described in the Bid Packet:

(1) **Incorporation by Reference.** The contents of the above and foregoing Bid Packet, and all documents thereto attached, are incorporated by reference.

(2) **Definitions.** As used in the Bid Packet, unless otherwise designated:

(a) **“Bidder”** shall mean a person, business entity, or other entity who submits a bid to the County regarding the Material;

(b) **“Contract”** shall mean the contract to be executed between the County and the successful Bidder for the Material pursuant to this competitive procurement procedure, in the form and scope described in the attached **Exhibit C** of the Bid Packet;

(c) **“County”** shall mean De Witt County, Texas, by and through its governing body, same being the De Witt County Commissioners Court (**“Commissioners Court”**), and also shall include the elected and appointed officials, employees, and agents of the County;

(d) **“County Auditor”** shall mean the County Auditor of De Witt County, Texas, as previously identified in this Bid Packet, or her successor.

(e) **“Material”** shall mean the material described in the attached **Exhibit A** of the Bid Packet to be purchased by the County pursuant to this competitive procurement procedure;

(f) Singular nouns and pronouns shall include the plural, and the masculine gender shall include the feminine gender, and vice versa, when necessary for a correct meaning.

(3) **Purpose and Interpretation.** These conditions describe the minimum requirements in sufficient detail to secure accurate, sealed competitive bids delivered to the County regarding the Material. Each unit of the Material: (a) must be a new, unused model or current production item; (b) must not be a prototype or discontinued model; and (c) shall include all related equipment and accessories considered as standard to the unit. Should the Bid Packet fail to include a necessary description or specification regarding the Material, the Bid Packet shall be construed to require the application of the best commercial practices regarding those matters as they pertain to the Material.

(4) **Material Description and Payment.** The Material made the subject of this competitive procurement procedure is specifically described in the attached **Exhibit A** of the Bid Packet by type, quality, and quantity. The Material shall be delivered by the successful Bidder to the County, and resulting payment made by the County, in the form and manner described in the Bid Packet and Contract.

(5) **Contract and Addenda.** The successful Bidder shall enter into the Contract for the sale of the Material to the County in the form and scope of the Contract described in the attached **Exhibit C** to the Bid Packet. The Contract shall include or reference all requirements and conditions of the Bid Packet. The Bid Packet and Contract shall be governed and interpreted pursuant to the law of the State of Texas. Addenda to the Bid Packet, if any, issued by the County during the time allowed for the preparation and submittal of bids, shall be: (a) addressed and followed by the Bidder in the bid delivery; and (b) included or referenced in the Contract between the County and successful Bidder.

(6) **Bidder Knowledge.** By delivering a bid to the County for the Materials, the Bidder acknowledges and confirms it read and fully understands all contents of the Bid Packet. Should the Bidder believe that a conflict, error, ambiguity, or discrepancy exists regarding the content of, or any document attached or related to, the Bid Packet, the Bidder promptly and in writing shall notify the County Auditor.

(7) **Waiver of Formalities.** Regarding this competitive procurement procedure, and to the extent permitted by law, the County, using its sole discretion and best business judgment, may: (a) reschedule, extend, or cancel said procedure at any time; (b) reject any or all bids, or a part of any bid, submitted to the County; and (c) waive any formality or irregularity regarding said procedure. The County shall rely on all protections afforded it by law regarding this competitive procurement procedure.

(8) **Bidder Inquiry:** The County may answer written questions regarding this sealed competitive procurement procedure or the Bid Packet, but is not obligated to do so. County responses to written questions will be delivered by email; therefore, written inquiries should contain the name and e-mail address of the person to whom the County response should be sent. This provision shall not limit the County's right to: (a) issue addenda to the Bid Packet prior to the opening of the sealed bid proposals; and (b) delay the date and/or time of said opening in order to ensure that that actual and prospective Bidders are aware of and have sufficient time to consider the addenda. Written questions regarding this competitive procurement procedure or Bid Packet must be timely delivered to the County as described in this Bid Packet.

(9) **Bid Delivery.** A bid delivered to the County regarding the Material shall include the following information: (a) the Bidder's business name, principal business address, e-mail address, and telephone numbers; (b) the name of the individual representing the Bidder with regard to the submitted bid, and that person's title, telephone numbers and e-mail address; and (c) all other information required by the Bid Packet. **All bids shall be placed in a sealed envelope marked "ROAD MATERIALS BID" and submitted to the County in a timely manner and correct form, as described in the Bid Packet.**

(10) **Bid Presentation and Award.** The bids delivered to the County regarding the Material shall be: (a) opened, read aloud, and tabulated by the County Auditor as described in this Bid Packet; and (b) thereafter presented by the County Auditor for consideration/action to the Commissioners Court during its public meeting described in the Bid Packet, and thereafter (at the same or a subsequent public meeting), the Commissioners Court may make a bid award for the Contract for the County's procurement of the Material, as allowed by law, to the responsible Bidder who submits the lowest and best bid. Should the Contract be terminated or cancelled, the County may award a new contract to the next lowest and best Bidder for the Material if the Commissioners Court, using its sole discretion and best business judgment, determines that to do so is in the best interests of the County. After the Contract award, but before the Contract is signed, the County may negotiate and approve a modification of the Contract if the modification is in the best interests of the County and does not: (a) change the scope of the Contract; or (b) cause the Contract amount to exceed the next lowest bid.

(11) **Waiver and Indemnity.** A bid delivered/submitted to the County for the Material conspicuously shall contain the following Bidder statement: **The undersigned Bidder, to the extent permitted by law, does hereby waive and release De Witt County, Texas ("County," including its elected officials, appointed officials, employees, agents, and representatives), and further, shall indemnify, defend, and hold harmless the County, regarding all claims, causes of action, suits, judgments, and damages of any kind or character that: (a) said Bidder may have against the County, now or in the future, regarding, arising from, or directly or proximately caused by the competitive procurement procedure conducted by the County for the Material; and (b) a Third-Party may have against County, now or in the future, regarding, arising from, or directly or proximately caused by the competitive procurement procedure conducted by the County for the Material.**

(12) **Conflict Disclosure.** Prior to the delivery of a bid to the County regarding the Material, the Bidder shall timely file with the appropriate government office and officer all applicable conflict disclosure statements, disclosure and certificates of interested parties, or other documents required for a vendor by: (a) Chapter 176 of the Texas Local Government Code; (b) Section 2252.908 of the Texas Government Code; and (c) Title 1, Sections 46.1, 46.3, and 46.5, of the Texas Administrative Code. The Bidder shall include true and correct copies of said documents in the bid delivered to the County for the Material. www.ethics.state.tx.us reference [Form CIQ](#) and [Form 1295](#).

(13) **Safety Record of Bidder.** When considering a bid submitted to the County for the Material, the Commissioners Court may consider the safety record of the Bidder, including: (a) any firm, corporation, partnership, or institution represented by the Bidder; and (b) anyone acting for said firm, corporation, partnership, or institution.

(14) **Pre-Bid Conference.** A Bidder for the materials (through a principal, officer, or employee of the Bidder) shall attend a mandatory pre-bid conference conducted by the County for the purpose of discussing contract requirements and answering Bidder questions. **The mandatory pre-bid conference shall occur at the following date, time, and location:**

Date: _____, 20____
Time: _____ m. local time
Location: _____
**Not applicable
for this bid**

(15) **No Reimbursement.** The County shall not reimburse a Bidder for any costs incurred as a result of Bidder participation in this competitive procurement procedure, including but not limited to travel, office expenses, or attorney or other consultant fees.

(16) **Payment.** Payment shall be made by the County for the Material as described in the Bid Packet (see attached **Exhibits A and C**) upon the: (a) timely receipt and acceptance of the Material by the County; (b) timely submission to the County Auditor of a valid and proper billing invoice for the Material; and (c) approval of said billing invoice by the Commissioners Court. LGC 113.064; GC Chapter 2251. **NOTE: Invoices must state the bid packet number 2025-0013 and bid item number.**

(17) **Sales Tax.** The County is exempt from the collection of sales tax pursuant to Texas law. Upon written request to the County Auditor, a sales tax exemption form will be provided to the successful Bidder.

(18) **Equal Opportunity Statement.** The County is an equal opportunity employer and encourages

the submission of bids regarding this competitive procurement procedure from any business entity or individual regardless of race, national origin, age, religion, gender, marital status, veteran status, medical condition, disability, or any other legally protected status recognized by federal or Texas law.

(19) **County Appropriations.** Pursuant to the Contract, the County's obligation to make monetary payment to a successful Bidder for the Material is: (a) an obligation to make payment from the County's current revenues; and (b) subject to the appropriation and budget action by the Commissioners Court to appropriate current revenues sufficient to pay that and any other monetary obligation of the County under the Contract. Pursuant to Section 271.903 of the Texas Local Government Code and other authority, the County shall retain the right to terminate the Contract at the expiration of each County budget period, and furthermore, the Contract shall be conditioned on a best effort attempt by the County to obtain and appropriate funds for the payment of any monetary obligation of the County under the Contract. A termination of the Contract under the circumstances described in this paragraph is required by law, and shall not constitute a default under the Contract.

[End of Bid Conditions]

EXHIBIT C TO BID PACKET:

MATERIAL PROCUREMENT CONTRACT
(De Witt County Bid Packet No. 2025-0013)

THIS MATERIAL PROCUREMENT CONTRACT (“Contract”) is made on its Effective Date by De Witt County, Texas (“**County**”), acting by and through its governing body, the De Witt County Commissioners Court (“**Commissioners Court**”), and _____ (“**Seller**”), and the contracting Parties do hereby agree as follows:

Preliminary Recitals

WHEREAS, County conducted a competitive procurement procedure, as authorized by law, for the purchase of the material (“**Material**”) pursuant to the procedure described in the following documents: bid packet, bid submission, and commissioner’s court award minutes, the contents of which are incorporated by reference: **De Witt County Bid Packet No. 2025-0013 and bid item number**; and

WHEREAS, County made a bid award to Seller, the successful bidder, pursuant to said competitive procurement procedure, and the Parties now desire to confirm and implement County’s purchase of the Material from Seller in accordance with this Contract.

Terms and Provisions

NOW THEREFORE, in consideration of the terms, provisions, obligations, warranties, conditions, and consideration described in this Contract, the sufficiency of which is hereby acknowledged, the Parties agree to County’s purchase of the Material from Seller, as follows:

1. Definitions. Unless otherwise designated in this Contract: (a) “**Contract**” shall mean this Contract and all attached documents; (b) “**County**” shall mean De Witt County, Texas, a signatory Party to this Contract, acting by and through the De Witt County Commissioners Court (“**Commissioners Court**”), its governing body; (c) “**County Auditor**” shall mean the County Auditor of De Witt County, Texas, located at the De Witt County Courthouse, 102 N Clinton, Suite 240, Cuero, Texas 77954, telephone (361) 275-0926, and e-mail being dewitt-county-auditor@dwcotx.org ; (d) “**Effective Date**” shall mean the date on which the last Party signs this Contract; (e) “**Material**” shall mean the Material made the subject of this Contract as described in the attached **Exhibit A** and otherwise in this Contract; (f) “**Party**” shall mean a signatory Party to this Contract, including the elected officials, appointed officials, directors, officers, partners, members managers, employees, agents, successors, and permitted assigns; (g) “**Purchase Price**” shall mean the compensation to be paid by County for the purchase of the Material as described in the attached **Exhibit A** and otherwise by this Contract; (h) “**Seller**” shall mean the Seller named above, a signatory Party to this Contract; (i) “**Term**” shall mean the term of this Contract described in Paragraph 2; and (j) singular nouns and pronouns shall include the plural, and the masculine gender shall include the feminine gender, and vice versa, where necessary for a correct meaning in this Contract.

2. Term. The term of this Contract shall commence April 14, 2025 and end April 13, 2026 subject to the Contract’s termination or revision as herein provided.

3. Interpretation. All statements made in the caption, preamble, and preliminary recitals of this Contract, and all attached documents, are incorporated by reference. This Contract is the entire agreement of the Parties regarding the subject matter herein described, and no oral representations,

warranties, agreements, or promises exist pertaining to the subject matter of this Contract. Should a conflict exist between a term or provision of a competitive procurement procedure document described in the Preliminary Recitals, and a term or provision of this Contract, this Contract shall control and be fully operative. No amendment, modification, or revision of this Contract may be made except through a written instrument signed by the Parties.

4. Material. The Material made the subject of this Contract is more particularly described with specifications in the attached **Exhibit A** and otherwise in this Contract. The Parties agree that each unit of the Material must: (a) be a new, unused model or current production item; (b) not be a prototype or discontinued model; and (c) include all related equipment and accessories considered as standard to the unit.

5. Delivery of Material. The Material shall be delivered to County by Seller pursuant to the requirements described in the attached **Exhibit A** and otherwise in this Contract.

6. Payment. The Purchase Price for the Material shall be paid by County to Seller as described in **Exhibit A** and otherwise in this Contract. The Parties agree that payment of the Purchase Price shall be conditioned upon the: (a) timely delivery of the Material by Seller; (b) timely receipt and acceptance of the Material by County; (c) timely submission by Seller to the County Auditor of a valid and proper billing invoice for the Material; and (d) approval of the billing invoice by the Commissioners Court. LGC 113.064; GC CHAPTER 2251. **NOTE: Invoices must state the bid packet number 2025-0013 and bid item number.**

7. No Agent, Joint Venture, or Third-Party Beneficiary. Neither Party is an agent, servant, or employee of the other Party. This Project is not a joint venture or enterprise. The Parties do not intend to create any third-party beneficiaries of the rights or obligations described in this Contract. No person who is not a signatory Party to this Contract may enforce any right or obligation of the Contract as a third-party beneficiary.

8. Immunity. This Contract is subject to all protections afforded County pursuant to a proper application of the doctrine of governmental immunity. This Contract may not be interpreted to waive the immunity protection of the County.

9. Waiver, Release, and Indemnity. Seller, to the extent permitted by law, does hereby waive and release De Witt County, Texas ("County," including its elected officials, appointed officials, employees, agents, and representatives), and further, shall indemnify, defend, and hold harmless the County, regarding all claims, causes of action, suits, judgments, and damages of any kind or character that: (a) Seller may have against the County, now or in the future, regarding, arising from, or directly or proximately caused by the competitive procurement procedure conducted by the County for the Material.

10. Disputes, Venue, and Mediation. This Contract shall be governed by, construed, and enforced pursuant to the laws of the State of Texas. This Contract is performable in De Witt County, Texas. Each Party has a duty to mitigate damages. Proper venue regarding all suits, actions, or judicial proceedings regarding this Contract shall be in a court of competent jurisdiction in De Witt County, Texas or the appropriate federal court designated for said county. No suit shall be filed by a Party regarding a dispute arising under or related to this Contract unless the Parties first submit the dispute to mediation pursuant to Chapter 2009 of the Texas Government Code and Chapter 154 of the Texas Civil Practice and Remedies Code. Notwithstanding anything stated to the contrary in this Contract, however, a Party may file suit solely for injunction or mandamus relief regarding a dispute arising under

or related to this Contract without first submitting the dispute to mediation. Mediation regarding a dispute arising under or related to this Contract shall be held in De Witt County, Texas, unless otherwise agreed in writing by the Parties or required by this Agreement. Each Party shall pay its own expenses incurred for the mediation, including attorney fees, mediator fees, and travel expenses. The mediator shall be selected by the Parties' agreement; however, should they fail to agree on a mediator, the dispute shall be submitted to the following public institution for assignment of a mediator and the holding of the mediation at that institution: Center for Public Policy Dispute Resolution, School of Law, University of Texas at Austin, 727 East Dean Keeton Street, Austin, Texas 78705.

11. Force Majeure. Neither Party shall be deemed to be in default for any delay or failure in performance under this Contract resulting, directly or indirectly, from acts of God, civil or military authority, labor disputes, shortages of suitable supplies or materials, or any similar cause beyond the reasonable control of the Parties.

12. Notice. All notices to a Party required by this Contract shall be delivered by email (with confirmation of receipt) to the recipient Party at the following addresses: (a) if to County: dewitt-county-auditor@dwcotx.org; and (b) if to Seller (enter email address below):

Unless otherwise provided in this Contract, all notices shall be deemed delivered on the date of transmission, if notice occurs by email and receipt is confirmed. The Seller may change its notice delivery by sending written notice of the change to the County at the following address: De Witt County Auditor, 102 N. Clinton, Ste. 240, Cuero, TX 77954

13. Assignment. This Contract shall inure to, be for the benefit of, and obligate, the Parties, including their respective successors in interest, executors, heirs, beneficiaries and permitted assigns; however, this Contract is not assignable without the express, mutual, written consent of the Parties.

14. Attorney Fees. The prevailing Party in litigation filed regarding this Contract shall be entitled to recover, to the extent permitted by law, all reasonable and necessary attorney's fees, costs, interest, and other expenses incurred in the litigation.

15. No Waiver. The failure of a Party in one or more instances to insist upon the performance of any term or provision of this Contract shall not be construed as a waiver of rights with respect to any continuing or subsequent breach of that or any other term or provision of this Contract, and the same shall remain in full force and effect.

16. Representations and Warranties. The Parties warrant and represent as follows:

- (a) Each Party carefully reviewed and understands this Contract.
- (b) Each Party consulted with its respective attorney concerning this Contract or chose to enter this Contract without legal advice. Any question a Party may have pertaining to this Contract has been fully answered and explained by counsel, if any.
- (c) Each Party's decision to execute this Contract was not based on any statement or representation by any other person, other than those contained in this Contract.

(d) No understandings, statements, promises, or inducements (written or oral) exist that are contrary to this Contract, and it supersedes all prior agreements between the Parties relating to its subject matter.

(e) Each Party's signing representative has full authority to execute this Contract and bind his Party to this Contract.

(f) **Seller expressly warrants and represents that: (1) the Material is fit for the intended as stated on Exhibit A; (2) Seller is the sole and lawful owner of the Material; (3) the Material is not subject to any final, active, or threatened claim, judgment, lien, security interest, dispute, or litigation that would prevent, impair, or threaten the transfer of good and complete title of the Material to County now or upon Material delivery to County; (4) no unpaid or existing liens, claims, or demands exist by any subcontractors, materialmen, mechanics, laborers, or other persons or entities regarding the Material; (5) prior to the submission of this Contract for County approval and execution, Seller timely filed with the appropriate government office and officer all applicable conflict disclosure statements, disclosure and certificates of interested parties, or other documents required for a vendor by (i) Chapter 176 of the Texas Local Government Code, (ii) Section 2252.908 of the Texas Government Code, and (iii) Title 1, Sections 46.1, 46.3, and 46.5, of the Texas Administrative Code; (6) Seller included true and correct copies of said documents in the bid submitted to the County for the Material, and further, the contents of said documents remain true and correct at the time of Contract execution by the Parties; and (7) by submitting a bid to the County for the Materials, Seller acknowledges and confirms it read and fully understood all contents of County's Bid Packet for the Materials.**

(g) Any other representations or warranties made by the Parties in this Contract are incorporated by reference.

17. Captions and Counterparts. The captions of paragraphs or other parts of this Contract are inserted for reference only and shall not be deemed to modify or otherwise affect the provisions of this Contract. This Contract may be executed in several counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument. Electronic signatures and copies of signatures to this Contract are effective as original signatures.

18. Time. Time is of the essence. Unless otherwise specified, all references in this Contract to "days" shall mean calendar days. Business days, if used in this Contract, shall exclude Saturdays, Sundays, and legal public holidays as then recognized and observed by County. If the date for performance of any obligation falls on a Saturday, Sunday, or legal public holiday as then recognized and observed by County, the date for performance will be the next following regular business day.

19. County Appropriations. County's obligation to make monetary payment to Seller for the Material is: (a) an obligation to make payment from the County's current revenues; and (b) subject to the appropriation and budget action by the Commissioners Court to appropriate current revenues sufficient to pay that and any other monetary obligation of County under the Contract. Pursuant to Section 271.903 of the Texas Local Government Code and other authority, County shall retain the right to terminate the Contract at the expiration of each County budget period, and furthermore, the

Contract shall be conditioned on a best effort attempt by County to obtain and appropriate funds for the payment of any monetary obligation of County under the Contract. A termination of the Contract under the circumstances described in this Paragraph 20 is required by law, and shall not constitute a default under the Contract.

20. Termination. This Contract may be terminated: (a) automatically upon the expiration of the Contract Term; (b) by the express, mutual, written consent of the Parties; (c) unilaterally by County due to non-appropriation of funds, as described in Paragraph 19; and (d) unilaterally by a Party if a Contract default is committed by the other Party and not timely cured, as described in Paragraph 22.

21. Default and Cure Procedure. Should a Party by its conduct, act, or omission commit a default of this Contract (including a breach of warranty), written notice of the default shall be given by the non-defaulting Party to the defaulting Party. The defaulting Party shall have 14 business days from receipt of the default notice to cure the default; however, the cure period may be extended by the mutual, written consent of the Parties. If the default is not timely cured, the non-defaulting Party may immediately terminate this Contract by giving written notice to the defaulting Party, in which event any cost, reasonable expense, or damage incurred by the non-defaulting Party because of the default shall be paid by the defaulting Party unless otherwise provided in this Contract.

22. Remedies. This Contract shall not be construed as specifying the exclusive remedy for any default, and all remedies existing at law and in equity may be pursued by a Party to the Contract and shall be cumulative in nature, unless otherwise provided in this Contract. Notwithstanding anything to the contrary, however, stated in this Contract: (1) should a Party default in the performance of any obligation, representation, or warranty in this Contract, that default event, any related default claim, and this provision, shall survive the termination of the Contract and can be asserted in litigation against the defaulting Party; (2) County shall not reimburse Seller for any costs incurred as a result of Seller's participation in the competitive procurement procedure for the Material, including but not limited to travel, office expenses, or attorney or other consultant fees; and (3) **each Party hereby waives and releases all suits, claims, and causes of action, now or in the future, to recover litigation damages from the other, defaulting Party that are in the nature of special, consequential, punitive, or exemplary damages arising from a default or breach of this Contract.**

[Remainder of Page Intentionally Left Blank – Signature Page Follows]

EXECUTED on the Effective Date by the Parties to this Agreement.

COUNTY:

DE WITT COUNTY, TEXAS

By: Daryl Fowler, County Judge,
De Witt County, Texas

Signature

Date: _____, 20____

SELLER:

By:

Printed Name:

Signature

Title: _____

Date: _____, 20____