

Quotation

Attn:

Quote Name: BROWN COUNTY 2024 ANNUAL BID
Quote #: 601257

BROWN COUNTY COMMISS. COURT
PCT 1
BROWNWOOD, TX 76801-3146
Acct#: 209354

Brown County
Brownwood, TX 76801

Date: Wednesday, April 3, 2024
Quote Created: Tuesday, March 26, 2024

Sales Rep: Tyler Bradshaw
6301 East Highway 80
ABILENE, TX 79601
Phone: 210-505-9253
Fax: 325-676-0027
Email: bradshawty@vmcmail.com

Effective From: Monday, April 1, 2024
Quote Expiration: Tuesday, April 1, 2025
Price Expiration: Tuesday, April 1, 2025

Special Instructions:

QUOTING MATERIAL FOB VULCAN PLANTS.

Material is subject to availability

IF STATEWIDE LOGISTICS IS USED, CUSTOMER WILL BE CHARGED FOR SPECIFIC MILEAGE TO JOB LOCATION.

BROWNWOOD PLANT HAUL RATES PER TON:

- 10 MILE - \$5.99
- 15 MILE - \$7.24
- 20 MILE - \$9.48
- 25 MILE - \$10.89

UVALDE PLANT HAUL RATES PER TON:

- PCT 1 BROWNWOOD YARD \$52.90
- PCT 2 MAY YARD \$58.65
- PCT 3 EARLY YARD \$54.05
- PCT 4 BANGS YARD \$55.20

Bulk Hauling

Plant	Product Name	Product #	Qty U/M	F.O.B. Plant Per Unit
WEATHERFORD ASPHALT	HMCL TYPE D COMMERCIAL	327060	24 Tons	\$86.31
BROWNWOOD LIMESTONE	A-2 BASE	15101	24 Tons	\$9.20
BROWNWOOD LIMESTONE	STONE D/F BLEND 3/8" WASHED	28051	24 Tons	\$22.50
UVALDE ROCK ASPHALT	LRA Ty I Gr AA PLUS	027995	24 Tons	\$70.00
UVALDE ROCK ASPHALT	LRA Ty II Gr CS PLUS	327997	24 Tons	\$72.00
UVALDE ROCK ASPHALT	LRA Ty I Gr CC PLUS	427995	24 Tons	\$71.00
UVALDE ROCK ASPHALT	LRA Ty II Gr DS PLUS	427997	24 Tons	\$72.00
UVALDE ROCK ASPHALT	LRA Ty I Gr D PLUS	527995	24 Tons	\$73.00

*Cold mix,
Cover Stone,
Caliche*

*April 8, 2024
(Exhibit # 11)*

Prices quoted above do not include any state or local sales and use tax, if any applies for this project.

Prices quoted are for shipments during normal daytime working hours unless other shipping hours are mutually agreed upon in writing by both parties.

Prices are FOB plant as stated above. Terms are Net 15 prox. Please note standard terms and conditions apply. (Subject to credit approval)

This quote is valid for 30 days from the date of this quotation after which time quotation is subject to review/revision. Please contact Sales prior to placing the order

Accepted by:

Date:

Sales Representative:

Date:

We appreciate the opportunity to provide you this quote and trust that Vulcan will have the pleasure of serving your needs for this and future projects.

PRICES AND TERMS

Prices are based on the terms and conditions set forth on page 1 of this Quotation, of which these General Terms and Conditions form a part, the terms and conditions stated in Customer's Application for Business Credit, and, if applicable, any terms and conditions relating to the delivery or shipment of materials by truck, barge, vessel, rail or other means which are provided by Vulcan to Customer in addition to this Quotation (each, a "Vulcan Sales Document", and collectively, the "Vulcan Sales Documents"). Prices are available only to the customer specifically named therein, and are only for the quantities mentioned in such Quotation or Sales Order plus or minus 10% of such quantities. A charge of 1.5% per month, (18% annum), will accrue on a daily basis from the date of invoice and will continue to accrue on a daily basis on any unpaid balance, both before and after judgment, until the date the balance is paid in full, or at the maximum amount permitted by law in which the sale occurred, whichever is less. **However, the assessment of a finance charge on invoices paid in full by the payment due date will be waived.** Quotation is offered for furnishing the total aggregate requirements for the project only. Customer's contract with Vulcan regarding the sale by Vulcan to Customer of the materials listed in this Quotation is subject to the terms and conditions set forth in the Vulcan Sales Documents. Prices reflect Customer's acceptance of materials at the quoted plant based upon gradation analysis performed and reported by Vulcan's certified plant quality control personnel. Any penalties that result from in place sampling shall be the full responsibility of Customer.

THE TERMS AND CONDITIONS OF THE VULCAN SALES DOCUMENTS GOVERN THE RIGHTS AND OBLIGATIONS OF THE PARTIES

If Customer has issued a purchase order for the materials quoted by Vulcan in this Quotation, this Quotation is not an acceptance of said purchase order, or any of its terms or conditions, which are hereby rejected. Any sale by Vulcan to Customer of the materials listed in this Quotation shall be subject to the terms and conditions set forth in the Vulcan Sales Documents, and Customer's receipt or acceptance of said materials shall constitute acceptance of the offer that this Quotation constitutes. Any terms or conditions of a subsequent purchase order issued by Customer that are inconsistent with the terms and conditions of the Vulcan Sales Documents shall be null and void.

SHIPMENT AND DELIVERY

Unless a "delivered" price is quoted by Vulcan in the Vulcan Sales Documents, all prices are F.O.B. point of shipment from the locations designated. All taxes applicable to the sale or delivery of materials that are not paid directly by Customer will be added to the sales price, invoiced to and paid by Customer, unless Customer provides Vulcan with satisfactory evidence of exemption from same. Shipment will be in accordance with Customer's reasonable instructions or, if none, then by whatever means Vulcan shall deem practicable. The quantities of material delivered to Customer shall be conclusively presumed to be the quantities shown on the tickets produced from a certified weigh scale at Vulcan's quarry or sales yard.

CREDIT AND DEFAULT

Vulcan shall have no obligation to ship or deliver except upon its determination prior to each shipment or delivery that Customer is worthy of the credit to be extended and is not in default upon any obligation to Vulcan. Upon default, Customer agrees to pay all of Vulcan's collection expenses, including attorneys' fees.

INSURANCE

A Memorandum of Insurance containing current information regarding Vulcan's insurance program is available at <https://marshdigital.marsh.com/marshconnect/viewMOI.action?clientId=632529479>.

EXCULPATORY PROVISIONS

Vulcan shall have no liability for delay or failure to make shipments, or delivery, as a result of strikes, labor problems, severe weather conditions, casualty, mechanical breakdown or other conditions beyond Vulcan's reasonable control. In no event shall Vulcan be liable for any incidental or consequential damages. Vulcan's liability and Customer's exclusive remedy for any cause of action arising out of the provision of material quoted herein shall be the replacement of, or payment of the purchase price for, the materials which are the subject of this Quotation.

CHANGE OF TERMS

Vulcan may change the price and/or quantity upon 30 days' notice to Customer. Vulcan shall also have right to change, modify or amend any other terms and conditions upon written notice of such change to customer. The effect of the change shall be as stated in the written notice and accepted by Customer upon placing of orders with seller following receipt of such notice.

APPLICABLE LAW

All orders are subject to acceptance by Vulcan at the headquarters of its Southwest Division in San Antonio, Texas, and the laws of the state in which the materials was shipped from shall apply to the sale of all materials subject hereto. In the event material is imported into the U.S., the law in the state in which the material was sold to the customer will prevail. All disputes regarding finance charges shall be governed by Alabama law.

LIMITED WARRANTY AND WARRANTY DISCLAIMER

Vulcan warrants for a period of one (1) year from date of delivery only that the material sold hereunder substantially complies with Vulcan's specifications for said material or the specifications set forth in Vulcan's quotation. **VULCAN HEREBY EXCLUDES ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PURPOSE, AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, OF THE MATERIAL SOLD HEREUNDER, OTHER THAN THE EXPRESS WARRANTY STATED ABOVE.** In addition, except to the extent otherwise set forth in the specifications described above, Vulcan makes no warranty whatsoever with respect to specific gravity, absorption, whether the material is innocuous, non-deleterious, or non-reactive, or whether the material is in conformance with any plans, other specifications, regulations, ordinances, statutes, or other standards applicable to Customer's job or to said material as used by Customer. **VULCAN SHALL IN NO EVENT BE RESPONSIBLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGE CAUSED BY NON-COMPLIANCE OF THE MATERIAL WITH SPECIFICATIONS, OR FOR ANY DEFECTS IN THE MATERIAL SOLD HEREUNDER.**

Ready-Mix Concrete
Terms and Conditions

1. **Terms and Conditions of Sale.** Any quote or other offer issued by Supplier to Purchaser for sale of the Materials (as defined below) ("Quote") includes and is governed by the express terms contained on the face of the Quote and the terms and conditions stated in Purchaser's Commercial Credit Application and Agreement (the "Credit Agreement"), if applicable. The Quote does not constitute an acceptance of any prior offer, proposal or purchase order by Supplier, and Supplier objects to and rejects any additional or different terms in such prior offer, proposal or purchase order. The Quote, the Credit Agreement, if applicable, and these Terms and Conditions (collectively, the "Contract") comprise the entire agreement between the parties. The Contract supersedes all prior agreements, orders, quotations, proposals, purchase orders and other communications concerning the Materials, and there are no other understandings or agreements, verbal or otherwise.
2. **Acceptance.** Any acceptance of the Quote is limited to and conditioned upon Purchaser's acceptance of these Terms and Conditions. Purchaser accepts the Quote, including these Terms and Conditions, by signing and returning the Quote, by sending a purchase order in response to the Quote, or by instructing Supplier to begin work. No terms, conditions or warranties other than those contained in the Contract and no agreement or understanding, oral or written, in any way purporting to modify the Contract, whether contained in Purchaser's purchase order or shipping release forms, or elsewhere, shall be binding on Supplier unless hereafter made in writing and signed by Supplier's authorized representative. Supplier expressly rejects any term or condition that is in addition to, or inconsistent with the Contract, and to any other term or condition proposed by Purchaser in accepting the Quote. Neither Supplier's subsequent lack of objection to any terms or conditions, nor the delivery of the Materials shall constitute an agreement by Supplier to any such term or condition.
3. **Pricing; Payment Terms.** Except as otherwise stated in the Contract, prices for and quantities of ready-mix concrete materials (the "Materials") are the full amounts estimated to be required for the job and are based on the volume of materials at the time of discharge from the delivery truck. Such prices are available only to Purchaser and are only for quantities referenced in the Quote. Unless a "delivered" price is quoted by Supplier in the Quote, all prices are F.O.B. point of shipment from the locations designated. All taxes applicable to the sale or delivery of materials are payable by Purchaser, unless Purchaser provides Supplier with satisfactory evidence of exemption from same. Special cements, aggregates, admixtures, fibers, or refrigerants required by job specification are not included in the quoted prices unless specifically noted in the Quote. Supplier may change the price and/or quantity upon thirty (30) days' written notice to Purchaser for any reason, including for (without limitation) fuel surcharges and costs of materials. Supplier shall also have the right to change, modify or amend any other terms and conditions upon written notice of such change to Purchaser. Credit will not be issued for any Materials returned to Supplier by Purchaser for any reason that is beyond the control of Supplier. Purchaser shall pay to Supplier all amounts due under this Contract, including applicable taxes, as required by the Credit Agreement. Payment terms are NET 15th PROX. (payment is due on the 15th day of the following month of the purchase). Any amounts not paid when due shall accrue interest at a rate of eighteen percent (18%) per annum. If at any time Supplier determines, in its sole discretion, that Purchaser's solvency or ability to perform is unsatisfactory to Supplier, then Supplier may require payment in advance, additional security or collateral, or a guarantee that invoices will be paid when due. Supplier may suspend performance until such assurances are provided.
4. **Credit and Breach.** Supplier shall have no obligation to ship or deliver the Materials to Purchaser except upon its determination prior to each shipment or delivery that Purchaser is worthy of the credit to be extended. Supplier reserves all rights and remedies granted to a seller under the Uniform Commercial Code as adopted in Alabama for Purchaser's failure to pay any amounts when due or any other breach by Purchaser of its obligations to Supplier. In addition to all other remedies available to Supplier (which Supplier does not waive by the exercise of any rights hereunder), Supplier may suspend shipment or delivery of any Materials if Purchaser fails to pay any amounts when due or breaches any other obligation to Supplier. Purchaser shall pay all attorney's and other costs of collection incurred by Supplier as the result of Purchaser's failure to pay any amounts when due or any other breach by Purchaser of its obligations to Supplier.
5. **Delivery.** All deliveries are contingent upon Material availability and shall be made during regular non-holiday work hours, Monday through Friday. Additional charges may apply for deliveries required outside of regular work hours. Purchaser must give Supplier at least forty-eight (48) hours advance notice of the time and rate of delivery. If for any reason Purchaser must cancel the delivery, Purchaser must notify Supplier at least twenty-four (24) hours in advance of the scheduled delivery time. Failure to provide advance notifications will result in the imposition of a cancellation charge to cover the costs incurred in connection with the cancellation and lost revenue as a result of the cancellation. All deliveries will be made to the best of Supplier's ability. Supplier will deliver the Materials only to the curb or public street line adjacent to the project. In the event Supplier is requested to deliver the Materials beyond the curb or public street adjacent to the project, Purchaser (i) shall provide and maintain a safe and reliable means of access for Supplier's trucks, (ii) hereby releases, indemnifies, and holds harmless Supplier from and against any and all liability for damages to the property arising out of or in connection with Supplier's delivery, and (iii) shall pay for any damages to Supplier's trucks and any costs incurred by Supplier for any towing or other costs incurred arising out of such delivery. Supplier may, in its discretion, refuse to make deliveries when there exists unsafe or unreliable road or site conditions, issues of right to access, or other matters outside of Supplier's control adversely affecting Supplier's delivery (including, without limitation, Material shortages, labor troubles, accidents, necessary repairs to machinery, fire, flood, weather conditions, natural phenomena). Supplier shall not be liable for any delivery delays due to job conditions or any other reason beyond Supplier's control. Purchaser shall supply and maintain a washout area, and shall remediate such area after completion of the job. No unused Materials may be returned to the mixer.
6. **LIMITED WARRANTY AND WARRANTY DISCLAIMER.** For a period of six (6) months from the date of delivery (the "Warranty Period"), Supplier warrants that the Materials substantially comply with the specifications set forth in the Contract (the "Specifications") when tested and sampled in accordance with this Section 6 (the "Limited Warranty"). EXCEPT FOR THE LIMITED WARRANTY, SUPPLIER HEREBY EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITING THE FOREGOING AND EXCEPT FOR THE LIMITED WARRANTY, SUPPLIER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO (1) WHETHER ANY AGGREGATES IN SAID MATERIAL ARE INNOCUOUS OR DELETERIOUS, OR CONTAIN, NON-REACTIVE AGGREGATES, (2) WHETHER ANY CONCRETE MATERIAL IS SUBJECT TO POP-OUTS, EXPANSION, CHECKING, DISCOLORING, SPALLING, FRETTING, CONSOLIDATION, SCALING, EFFLORESCENCE OR CRACKING, (3) THE DURABILITY OF THE CONCRETE, INCLUDING BUT NOT LIMITED TO SULFATE RESISTANCE, OR (4) WHETHER ANY CONCRETE MATERIAL, BOTH IN ITS QUALITY, QUANTITY, CHARACTERISTICS, AND PROPORTIONS, INCLUDING BUT NOT LIMITED TO CEMENT TYPE AND WATER-TO-CEMENT RATIO, IS IN CONFORMANCE WITH ANY PLANS, OTHER SPECIFICATIONS, REGULATIONS, ORDINANCES, STATUTE, OR OTHER STANDARDS APPLICABLE TO PURCHASER'S JOB OR TO SAID MATERIAL AS USED BY PURCHASER. THE LIMITED WARRANTY SHALL NOT APPLY IN THE EVENT THAT WATER OR ANY OTHER SUBSTANCE OR MATERIAL IS ADDED TO THE CONCRETE EITHER BY OR AT THE REQUEST OF PURCHASER. PURCHASER ACKNOWLEDGES THAT MIX DESIGNS ARE BASED UPON COMPRESSIVE STRENGTH OR CEMENT FACTOR AS DULY NOTED. PURCHASER SHALL HAVE THE RESPONSIBILITY TO VERIFY THAT QUOTED MIXES ARE IN CONFORMANCE WITH PLANS AND SPECIFICATIONS. To determine any claimed deficiency, Purchaser shall test Materials in accordance with ASTM standards at an independent testing laboratory. With respect to ready-mixed concrete Materials, Supplier shall not be liable for any claims resulting from: (i) the deviation from applicable ACI standards or any other factors beyond Supplier's control; (ii) any alteration of the concrete by the addition of any materials by Purchaser (including, without limitation, water, additives or other chemicals); (iii) any concrete mix designs not provided by Supplier, unless such mix design is tested and certified by Supplier; (iv) any color variations due to admixtures that are requested by Purchaser; (v) use of concrete for any purpose other than stated in the Contract.
7. **EXCLUSIVE REMEDY.** In the event of any breach of the Limited Warranty and Purchaser provides Supplier written notice of such breach within the Warranty Period, Supplier shall, in its sole and absolute discretion, either (i) replace the non-conforming Materials with conforming Materials, (ii) refund the amount paid for the non-conforming Materials, or (iii) credit Purchaser for the amount paid for the non-conforming Materials. In any such instance, Supplier shall have no further liability. THIS REMEDY IS PURCHASER'S SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF THE LIMITED WARRANTY.
8. **LIMITATION OF LIABILITY.** PURCHASER AGREES THAT SUPPLIER SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OR LOSS OF PROFITS ARISING OUT OF THIS CONTRACT, EVEN IF SUCH DAMAGES WERE FORESEEABLE OR SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IT IS FURTHER AGREED THAT SUPPLIER SHALL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO PURCHASER OR ANY OTHER PARTY FOR AN AMOUNT GREATER THAN THE AMOUNT PAID UNDER THIS CONTRACT, AND TO THE EXTENT PERMITTED BY LAW PURCHASER WAIVES ALL CLAIMS FOR LIABILITY IN EXCESS OF THE AMOUNT PAID UNDER THIS CONTRACT.
9. **Duty to Inspect.** Purchaser agrees to inspect and test all Materials upon receipt in accordance with Section 6 and agrees to promptly, but in any event no later than thirty (30) days from receipt, notify Supplier in writing of any alleged failure of the Materials to conform to the Limited Warranty and/or any failure by Supplier to comply with the Contract. In the event Purchaser fails to timely provide such notice, Purchaser shall be deemed to have irrevocably waived any claim that the Materials did not conform to the Limited Warranty and/or that Supplier failed to comply with the Contract.
10. **Indemnity.** Except caused by the gross negligence or willful misconduct of Supplier, Purchaser shall indemnify, defend and hold harmless Supplier, its officers, agents and employees, from all claims, damages, liability, actions, loss, costs, and expenses, including attorney's fees, arising out of the delivery or use of the Materials, including, but not limited to, those asserted by the end user of the Materials.
11. **Force Majeure.** Supplier shall have no liability for delay or failure to make shipments or delivery, as a result of strikes, severe weather conditions, casualty, labor problems, mechanical breakdowns, fires, floods, accidents, epidemics or pandemics, actions of any governmental authority, war, insurrection or riots, or shortages of labor, energy, raw materials, production facilities, or transportation, or any other condition beyond Supplier's reasonable control.
12. **Governing Law: WAIVER OF JURY TRIAL; Venue.** The Quote and Contract shall be governed by and construed in accordance with the laws of Alabama applicable to contracts executed, delivered and performed entirely within that state. PURCHASER AND SUPPLIER WAIVE TRIAL BY JURY IN ANY ACTION,

PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER CONCERNING ANY MATTERS ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE QUOTE, CONTRACT, AND/OR THE MATERIALS. The exclusive venue for any proceeding, action or counterclaim concerning any matters arising out of or in any way connected with the Quote, Contract, or the Materials shall be a federal or state court located in Jefferson County, Alabama. Purchaser (i) agrees not to commence any action, suit, or proceeding relating thereto except in such courts, (ii) submits to the personal jurisdiction and venue of such courts for such purposes, and (iii) waives all claims (by way of motion, as a defense or otherwise) of improper venue, that any such court is an inconvenient forum, and that such party is not subject personally to the jurisdiction of any such court.

13. **Assignment.** This Contract shall inure to the benefit of and shall be enforceable by the parties and their respective successors and permitted assigns; provided, however, Purchaser may not assign this Contract (including Purchaser's rights and obligations hereunder), whether by operation of law or otherwise (including by merger, sale of substantially all assets, sale of substantially all equity, or change of control), without the prior written consent of Supplier.

14. **Miscellaneous.** Supplier is an independent contractor selling Materials and nothing contained in this Contract is intended to create any other relationship or any fiduciary relationship between Supplier and Purchaser. Supplier is only a supplier of materials and cannot be considered a sub-contractor within the meaning of any laws, regulations, agreements, union contracts, or other rules or agreements. All notices shall be in writing by personal delivery at Supplier's office address. If any provision herein is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable and this Contract shall be construed and enforced as if such provision had never been a part hereof. The failure of Supplier to enforce any provision of this Contract shall not be construed as a waiver or limitation of Supplier's right to subsequently enforce strict compliance with every provision of this Contract. The Contract may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Prices quoted above do not include any state or local sales and use tax, if any applies for this project.

Prices quoted are for shipments during normal daytime working hours unless other shipping hours are mutually agreed upon in writing by both parties.

Prices are FOB plant as stated above. Terms are Net 15 prox. Please note standard terms and conditions apply. (Subject to credit approval)

This quote is valid for 30 days from the date of this quotation after which time quotation is subject to review/revision. Please contact Sales prior to placing the order

Accepted by: W. Sha Date: 4-8-24

Sales Representative: [Signature] Date: 4/3/24

We appreciate the opportunity to provide you this quote and trust that Vulcan will have the pleasure of serving your needs for this and future projects.