

ORIGINAL

The County of Upshur
State of Texas

Bid # RB04-20
For: Refined Road Oil & Emulsified Asphalt
Bid opens date/time: February 14, 2020 @ 10:00 a.m.

The enclosed *Invitation to Bid* (ITB) and accompanying *Specifications/Bidder's Response Form* are for your convenience in bidding the referenced products or services for Upshur County.

Sealed bids shall be delivered no later than:

Date/Time: February 13, 2020 @ 5:00 p.m.
Location: Upshur County Judge, 100 W. Tyler St, 3rd Floor County Courthouse, PO Box 790, Gilmer, TX 75644
Mark Envelope: Bid-RB04-20 Refined Road Oil & Emulsified Asphalt

Bids must be signed by a person having the authority to bind the vendor in a contract. Bids that are not signed will be rejected. . Upshur County reserves the right to waive simple informalities in this Invitation to Bid.

Please note that all bids must be received at the designated location by the deadline shown. Bids received after the deadline will not be considered for award of the contract. Bids will be opened in the Upshur County Courthouse, 100 West Tyler St., 3rd Floor, Gilmer, Texas. You are invited to attend.

Bids may be withdrawn by the bidder at any time prior to the official opening, but must be withdrawn in person. Alterations may not be made to a bid once submitted, but a new bid may be submitted if the substitution occurs before the opening time. After the official opening, bids may not be amended or altered and may not be withdrawn without the approval of the Commissioners Court.

Upshur County is aware of the time and effort expended in preparing and submitting bids to the County. Please let us know of any bid requirements which are causing you difficulty in responding to our bids. We want to make the process as easy and efficient as possible so that all responsible vendors can compete for the County's business.

Awards ordinarily will be made approximately two weeks after the bid opening date. To obtain results, or if you have any questions, please contact Andy Jordan, Upshur County Road Administrator, at 903-843-7623.

Bid RB04-20
Refined Road Oil & Emulsified Asphalt

UPSHUR COUNTY, TX.
DEPUTY

2020 FEB 14 PM 1:04

FILED
TERRI ROSS
COUNTY CLERK

Implementation of House Bill 1295

Certificate of Interested Parties (Form 1295):

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency.

The law applies (with a few exceptions) only to a contract between a business entity and a governmental entity or state agency that either (1) requires an action or vote by the governing body of the entity or agency before the contract may be signed or (2) has a value of at least \$1 million. The disclosure requirement applies to a contract entered into on or after January 1, 2016.

Changed or Amended Contracts:

Form 1295 is only required for a change made to an existing contract in certain circumstances: (1) if a Form 1295 was not filed for the existing contract, then a filing is only required if the changed contract either requires an action or vote by the governing body or the value of the changed contract is at least \$1 million; or (2) if a Form 1295 was filed for the existing contract, then another filing is only required for the changed contract if there is a change to the information disclosed in the Form 1295, the changed contract requires an action or vote by the governing body, or the value of the changed contract increases by at least \$1 million.

As required by law, the Commission adopted the Certificate of Interested Parties form (Form 1295) on October 5, 2015. The Commission also adopted rules (Chapter 46) to implement the law. The Commission does not have any additional authority to enforce or interpret section 2252.908 of the Government Code.

Filing Process:

A business entity must use the Form 1295 filing application the Commission created to enter the required information on Form 1295 and print a copy of the completed form. Once entered into the filing application, the completed form will include a unique certification number, called a "certification of filing."

An authorized agent of the business entity must sign the printed copy of the form affirming under the penalty of perjury that the completed form is true and correct.

The completed, printed, and signed Form 1295 bearing the unique certification of filing number must be filed with the governmental body or state agency with which the business entity is entering into the contract.

Acknowledgement by State Agency or Governmental Entity:

The governmental entity or state agency must acknowledge receipt of the filed Form 1295 with the certification of filing, using the Commission's filing application, not later than the 30th day after the date the governing body or state agency receives the Form 1295. The Commission will post the completed Form 1295 to its website within seven business days after the governmental entity or state agency acknowledges receipt of the form.

Additional Information:

Section 2252.908, Government Code.

Certificate of Interested Parties (Form 1295)**

****This is a sample form for illustration purposes only. DO NOT FILL OUT THIS SAMPLE FORM. Form 1295 MUST BE FILED ELECTRONICALLY! Paper copies and PDF copies of this sample form are not accepted!**

Chapter 46, Ethics Commission Rules (includes new rule 46.4, regarding changes to contracts, which went into effect on January 1, 2017)

Frequently Asked Questions

Last Revision: December 21, 2017

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

OFFICE USE ONLY

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary
Must file online at			
www.ethics.state.tx.us/File			

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION

My name is _____, and my date of birth is _____.

My address is _____
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20____.
(month) (year)

Signature of authorized agent of contracting business entity
(Declarant)

ADD ADDITIONAL PAGES AS NECESSARY

Important Notice! The State of Texas has enacted a new law that concerns Vendors doing business with local governments effective January 1, 2006. All Vendors must now register with Upshur County before they submit a bid or proposal. Please take the time to read the information on Conflict of Interest Disclosure provided below.

Conflict of Interest Disclosure

Beginning January 1, 2006, a new state law (Chapter 176 of the Local Government Code) requires all persons contracting, or negotiating to contract, or making a bid to sell goods or services, with or to Upshur County, to file a completed Conflict of Interest Questionnaire with the County Clerk. Failure to comply with this law is a criminal offense.

The form can be found at <http://www.ethics.state.tx.us/forms/CIQ.pdf>.

This law does not apply to certain court appointed persons such as attorneys, physicians, interpreters and the like. It is your responsibility to determine whether it applies to you.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

01/27/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Arthur Blake Insurance Group 850 Central Parkway East Ste 108 Plano, TX 75074	CONTACT NAME: Chris Fribourg	FAX (A/C, No): (972)633-0477	
	PHONE (A/C, No, Ext): (972)335-4115	E-MAIL ADDRESS: chris@abigtexas.com	
INSURED P Squared Emulsions, LLC & EMT Properties, LLC DBA P2 Emulsions 516 S McLennan Loop Elm Mott, TX 76640	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A:	Berkley Assurance Company	
	INSURER B:	Mercury County Mutual Insurance Company	
	INSURER C:	Berkley Assurance Company	39462
	INSURER D:	Texas Mutual Insurance Company	
INSURER E:			
INSURER F:			

COVERAGES

CERTIFICATE NUMBER: 00009548-477424

REVISION NUMBER: 18

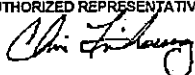
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	VUMA0191221	12/31/2019	12/31/2020	EACH OCCURRENCE	\$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000
							MED EXP (Any one person)	\$ 5,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
								\$
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	BA420000015089	12/31/2019	12/31/2020	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
C	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTIONS \$ 10000	Y	Y	VUMA0191261	12/31/2019	12/31/2020	EACH OCCURRENCE	\$ 1,000,000
							AGGREGATE	\$ 1,000,000
								\$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	Y	0002025344	01/03/2020	01/03/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER	
							E.L. EACH ACCIDENT	\$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

CANCELLATION

Upshur County 100 W. Tyler St. 3rd Floor Gilmer, TX 75644	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  (CAF)

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CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
CERTIFICATION OF FILING**

Certificate Number:
2020-580979

Date Filed:
01/25/2020

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
P Squared Emulsion Plants, LLC
Elm Mott, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
Upshur County Texas

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
RB04-20
Emulsified Asphalt

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.

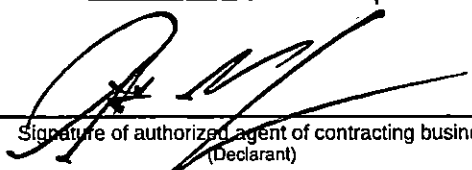
6 UNSWORN DECLARATION

My name is DANE MCGINNIS, and my date of birth is 25 JUNE 1984.

My address is 516 S. MCLENNAN LOOP, ELM MOTT, TX, 78640, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in MCLENNAN County, State of TEXAS, on the 27 day of JANUARY, 2020.
(month) (year)



Signature of authorized agent of contracting business entity
(Declarant)

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.
This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).
By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.
A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

P Squared Emulsion Plants, LLC

2 Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

N/A

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes No


B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

N/A

6 Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7 
Signature of vendor doing business with the governmental entity

27 JANUARY 2020
Date

Upshur County
Bid # RB04-20 Refined Road Oil & Emulsified Asphalt
Instructions/Terms of Contract

By order of the Commissioners Court of Upshur County, Texas, sealed bids will be accepted for:

Refined Road Oil & Emulsified Asphalt

IT IS UNDERSTOOD that the Commissioners Court of Upshur County reserves the right to reject any or all bids for the products covered in this bid request and to waive any formalities or defects in bids or to accept such bids as it shall deem to be in the best interest of Upshur County.

BIDS MUST BE SUBMITTED on the forms included for that purpose in this packet. Each bid should be signed by a person having the authority to bind the vendor in a contract, placed in a sealed envelope and marked clearly on the outside as shown below:

<p><u>Bids should be clearly marked:</u> Bid # RB04-20 Refined Road Oil & Emulsified Asphalt</p>
--

RETURN SEALED BID TO the following address
February 13, 2020 not later than 5:00 p.m.

Upshur County Judge
100 W. Tyler Street 3rd Floor
P.O. Box 790
Gilmer, Texas 75644

FACSIMILE TRANSMITTALS WILL NOT BE ACCEPTED

All Bids must be received in the County Judge's Office before the opening date and time.
The time stamp located in the County Judge's Office will be considered the official time
the bids are received.

GENERAL REQUIREMENTS FOR SEALED BIDS

READ THIS ENTIRE DOCUMENT CAREFULLY. FOLLOW ALL INSTRUCTIONS. YOU ARE RESPONSIBLE FOR FULFILLING ALL REQUIREMENTS AND SPECIFICATIONS. BE SURE YOU UNDERSTAND THEM.

General Requirements apply to all advertised requests for Sealed Bids; however, these may be superseded, whole or in part, by the INSTRUCTIONS/TERMS OF CONTRACT. Be sure your bid package is complete.

ADDENDA

When specifications are revised, the Upshur County Road Administrator will issue an addendum addressing the nature of the change. Bidders must sign it and include it in the returned bid package.

ASSIGNMENT

The successful bidder may not assign, sell or otherwise transfer this contract without written permission of Upshur County Commissioners Court.

AWARD

Upshur County reserves the right to award this contract on the basis of LOWEST AND BEST BID in accordance with the laws of the State of Texas, to waive any formality or irregularity, to make awards to more than one bidder, to reject any or all Sealed Bids. In the event the lowest dollar bidder meeting specifications is not awarded a contract, the bidder may appear before the Commissioners Court and present evidence concerning his responsibility after officially notifying the Office of the County Judge of his intent to appear.

BONDS

If this bid requires submission of bid guarantee and performance bond, there will be a separate page explaining those requirements. Bids submitted without the required bid bond or Cashier's Checks are not acceptable.

CONTRACT OBLIGATION

Upshur County Commissioners Court must award the contract before it becomes binding on Upshur County or the bidder. Department heads are NOT authorized to sign agreements for Upshur County. **This contract is bound when accepted by Commissioners Court.** Binding agreements shall remain in effect until all products and/or services covered by this purchase have been satisfactorily delivered and accepted.

CONTRACT RENEWALS

Renewals may be made ONLY by written agreement between Upshur County and the bidder. Any price escalations are limited to those stated by the bidder in the original bid.

DISQUALIFICATION OF BIDDER

Upon signing this bid document, any bidder offering to sell supplies, materials, services, or equipment to Upshur County certifies that the bidder has not violated the antitrust laws of this state codified in §15.01, *et seq.*, Business & Commerce Code, or the federal antitrust laws, and has not communicated directly or indirectly the offer made to any competitor or any other person engaged in such line of business. Any or all Sealed Bids may be rejected if the County believes that collusion exists among the Bidders. Sealed Bids in which the prices are obviously unbalanced may be rejected. If multiple Sealed Bids are submitted by a bidder and after the Sealed Bids are opened, one of the Sealed Bids is withdrawn, the result will be that all of the Sealed Bids submitted by that bidder will be withdrawn; however, nothing herein prohibits a vendor from submitting multiple Bids for different products or services.

FISCAL FUNDING

A multi-year lease or lease/purchase arrangement (if requested by the specifications), or any contract continuing as a result of an extension option, must include fiscal funding out. If, for any reason, funds are not appropriated to continue the lease or contract, said lease or contract shall become null and void on the last day of the current appropriation of funds. After expiration of the lease, leased equipment shall be removed by the contractor from the using department without penalty of any kind or form to Upshur County. All charges and physical activity related to delivery, installation, removal and redelivery shall be the responsibility of the bidder.

GOVERNING FORMS

In the event of any conflict between the terms and provisions of these requirements and the specifications, the specifications shall govern. In the event of any conflict of interpretation of any part of this overall document, Upshur County's interpretation shall govern.

GOVERNING LAW

This request for bid is governed by the competitive bidding requirements of the County Purchasing Act, Texas Local Government Code, §262.021 *et seq.*, as amended. Bidders shall comply with all applicable federal, state and local laws and regulations. Bidder is further advised that these requirements shall be fully governed by the laws of the State of Texas and that Upshur County may request and rely on advice, decisions and opinions of the Attorney General of Texas and the County Attorney concerning any portion of these requirements.

HOLD HARMLESS AGREEMENT

The successful bidder shall indemnify and hold Upshur County harmless from all claims for personal injury, death and/or property damage resulting directly or indirectly from contractor's performance. Bidder shall procure and maintain, with respect to the subject matter of this bid, appropriate insurance coverage. Certification of such coverage must be provided to the County upon request.

INSPECTIONS & TESTING

Upshur County reserves the right to inspect any item(s) or service location for compliance with specifications and requirements and needs of the using department. If a bidder cannot furnish a sample of a bid item, where applicable, for review, or fails to satisfactorily show an ability to perform, the County can reject the bid as inadequate.

INVOICES AND PAYMENTS

Bidders shall submit an original invoice on each purchase order after each delivery, indicating the purchase order number. Invoices must be itemized. Any invoice, which cannot be verified by the contract price and/or is otherwise incorrect, will be returned to the bidder for correction. Under term contracts, when multiple deliveries and/or services are required, the bidder may invoice following each delivery and the County will pay on invoice. Contracts providing for a monthly charge will be billed and paid on a monthly basis only. Prior to any and all payments made for goods and/or services provided under this contract, the bidder should provide his Taxpayer Identification Number or social security number as applicable. This information must be on file with the Upshur County Treasurer's office. Failure to provide this information may result in a delay in payment and/or back up withholding as required by the Internal Revenue Service.

MAINTENANCE

Maintenance required for equipment proposed should be available in Upshur County by a manufacturer-authorized maintenance facility. Costs for this service shall be shown on the Pricing/Delivery Information. If Upshur County opts to include maintenance, it shall be so stated in the purchase order and said cost will be included. Service will commence only upon expiration of applicable warranties and should be priced accordingly.

MATERIAL SAFETY DATA SHEETS

Under the "Hazardous Communication Act", commonly known as the "Texas Right To Know Act", a bidder must provide to the County with each delivery, material safety data sheets, which are applicable to hazardous substances, defined in the Act. Failure of the bidder to furnish this documentation will be cause to reject any bid applying thereto.

PRICING

Prices for all goods and/or services shall be negotiated to a firm amount for the duration of this contract or as agreed to in terms of time frame. All prices must be written in ink or typewritten. Where unit pricing and extended pricing differ, unit pricing prevails.

BID COMPLETION

Fill out and return ONE (1) complete bid form in an appropriately sized envelope or box. **PACKAGE MUST SHOW THE BID NUMBER, DESCRIPTION AND BE MARKED "SEALED BID."** An authorized company representative should sign the Bid Sheet. Completion of these forms is intended to verify that the bidder has submitted the bid, is familiar with its contents and has submitted the material in accordance with all requirements.

BID RETURNS

Bidders must return all completed Sealed Bids to the office of the Upshur County Judge at the time and on the date specified. **Late Sealed Bids will not be accepted.**

PURCHASE ORDER AND DELIVERY

The successful bidder shall not deliver products or provide services without an Upshur County Purchase Order. The fastest, most reasonable delivery time shall be indicated by the bidder in the proper place on the bid document. Any special information concerning delivery should also be included, on a separate sheet, if necessary. All items shall be shipped **F.O.B. INSIDE DELIVERY** unless otherwise stated in the specifications. Every tender or delivery of goods must fully comply with all provisions of these requirements and the specifications including time, delivery and quality. Nonconformance shall constitute a breach, which must be rectified prior to expiration of the time for performance. Failure to rectify within the performance period will be considered cause to reject future deliveries and cancellation of the contract by Upshur County without prejudice to other remedies provided by law. **Where delivery times are critical, Upshur County reserves the right to award accordingly.**

SCANNED OR RE-TYPED RESPONSE

If in its response, bidder either electronically scans, re-types, or in some way reproduces the County's published bid package, then in the event of any conflict between the terms and provisions of the County's published bid package, or any portion thereof, and the terms and provisions of the response made by bidder, the County's bid package *as published* shall control. Furthermore, if an alteration of any kind to the County's published bid package is only discovered after the contract is executed and is or is not being performed; the contract is subject to immediate cancellation.

SEVERABILITY

If any section, subsection, paragraph, sentence, clause, phrase or word of these requirements or the specifications shall be held invalid, such holding shall not affect the remaining portions of these requirements and the specifications and it is hereby declared that such remaining portions would have been included in these requirements and the specifications as though the invalid portion had been omitted.

SILENCE OF SPECIFICATIONS

The apparent silence of specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of specifications shall be made on the basis of this statement. The items furnished under this contract shall be new, unused of the latest product in production to commercial trade and shall be of the highest quality as to materials used and workmanship. Manufacturer furnishing these items shall be experienced in design and construction of such items and shall be an established supplier of the item proposed.

SUPPLEMENTAL MATERIALS

Bidders are responsible for including all pertinent product data in the returned bid package. Literature, brochures, data sheets, specification information, completed forms requested as part of the bid package and any other facts which may affect the evaluation and subsequent contract award should be included. Materials such as legal documents and contractual agreements, which the bidder wishes to include as a condition of the bid, must also be in the returned bid package. Failure to include all necessary and proper supplemental materials may be cause to reject the entire bid.

TAXES

Upshur County is exempt from all federal excise, state and local taxes unless otherwise stated in this document. Upshur County claims exemption from all sales and/or use taxes under Texas Tax Code §151.309, as amended. Texas Limited Sales Tax Exemption Certificates will be furnished upon written request to the Upshur County Road & Bridge Department.

TERM CONTRACTS

If the contract is intended to cover a specific time period, the term will be given in the specifications under SCOPE.

TERMINATION

Upshur County reserves the right to terminate the contract for default if Seller breaches any of the terms therein, including warranties of bidder or if the bidder becomes insolvent or commits acts of bankruptcy. Such right of termination is in addition to and not in lieu of any other remedies, which Upshur County may have in law or equity. Default may be construed as, but not limited to, failure to deliver the proper goods and/or services within the proper amount of time, and/or to properly perform any and all services required to Upshur County's satisfaction and/or to meet all other obligations and requirements. Upshur County may terminate the contract without cause upon thirty- (30) days written notice. Upshur County reserves the right to award any canceled contract to the next lowest and best bidder as it deems to be in the best interest of the County.

TESTING

Upshur County reserves the right to test equipment, supplies, material and goods proposed for quality, compliance with specifications and ability to meet the needs of the user. Demonstration units must be available for review. Should the goods or services fail to meet requirements and/or be unavailable for evaluation, the offer is subject to rejection.



WAIVER OF SUBROGATION

Bidder and bidder's insurance carrier waive any and all rights whatsoever with regard to subrogation against Upshur County as an indirect party to any suit arising out of personal or property damages resulting from bidder's performance under this agreement.

WARRANTIES

Bidders shall furnish all data pertinent to warranties or guarantees, which may apply to items in the bid. Bidders may not limit or exclude any implied warranties. Bidder warrants that product sold to the County shall conform to the standards established by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event product does not conform to OSHA Standards, where applicable, Upshur County may return the product for correction or replacement at the bidder's expense. If bidder fails to make the appropriate correction within a reasonable time, Upshur County may correct at the bidder's expense.

Upshur County
Bid RB04-20 Refined Road Oil & Emulsified Asphalt
Instructions/Terms of Contract

Upshur County is requesting bids on Refined Road Oil & Emulsified Asphalt. Bids must be submitted on the attached forms. By returning this bid with a price quote, vendors certify and agree that:

Delivery For Refined Road Oil: Bid price must include all costs, freight, FOB destination and delivery based on delivery by tank trucks ready for applications on road or pit to any location in Upshur County in quantities ordered by the Upshur County Road & Bridge Department.

Delivery For Emulsified Asphalt: Bid price must include all costs, freight, FOB destination and delivery based on delivery by tank trucks equipped with pump, ready for applications to Upshur County Road & Bridge Department in quantities ordered by the Upshur County Road and Bridge Department. Delivery must be made on a weekday, Monday through Friday between 7 am and 2 pm.

Exceptions/Substitutions: All bids meeting the intent of this invitation to bid will be considered for award. Bidders taking exception to the specifications, or offering substitutions, shall state these exceptions in the section provided or by attachment as part of the bid. The absence of such a list shall indicate that the bidder has not taken exceptions and Upshur County shall hold the bidder responsible to perform in strict accordance with the specifications of the invitation. The Upshur County Commissioners Court reserves the right within its sole discretion to accept any and all or none of the exception(s)/substitution(s) deemed to be in the best interest of the County.

Minimum Standards for Responsible Prospective Bidders: A prospective bidder must affirmatively demonstrate their responsibility and meet the following requirements:

1. Have adequate financial resources, or the ability to obtain such resources as required;
2. Be able to comply with the required or proposed delivery schedule;
3. Have a satisfactory record of performance;
4. Have a satisfactory record of integrity and ethics, and;
5. Be otherwise qualified and eligible to receive and award.

Upshur County may request representation and other information sufficient to determine the bidder's ability to meet these minimum requirements listed on the previous page.


Upshur County
Bid RB04-20 Refined Road Oil & Emulsified Asphalt
Instructions/Terms of Contract

NOTICE OF INSURANCE SECTION

Please Read Carefully

Insurance Requirements: Bidder is required to submit with bid, an original of all insurance certificate(s) showing coverage for all requirements as stated below to be in force throughout the term of the contract. All required insurance carriers must have a B+ rating or better.

- Commercial General Liability Insurance at minimum combined single limits of \$500,000 per occurrence and \$1,000,000 general aggregate for bodily injury and property damage, which coverage shall include products/completed operations, (\$1,000,000 products/completed operations aggregate). Coverage for products/completed operations must be maintained for at least two (2) years after the products/services work is completed. Coverage must be written on occurrence form. Contractual liability must be maintained with respect to the contractor's obligations contained in the contract. The general aggregate limit must be at least two (2) times the per-occurrence limit.
- Workers Compensation Insurance at statutory limits, including employer's liability coverage at minimum limits of \$500,000 per occurrence each accident/ \$500,000 by disease per occurrence/ \$500,000 by disease aggregate.
- Commercial Automobile Liability Insurance at minimum combined single limits of \$1,000,000 per occurrence for bodily injury and property damage, including owned, non-owned, and hired vehicle coverage.

 Upshur County requires it to be named in the required certificates evidencing insurance coverage, as an additional insured by endorsement. This coverage shall include a Waiver of Subrogation in favor of Upshur County, Texas.

Upshur County also requires that should any of the insurance policies required by this contract be canceled or materially changed before the expiration date thereof, the issuing company shall give Upshur County, Texas through its Road Administrator, Andy Jordan, PO Box 730, Gilmer, Texas 75644, thirty (30) days written notice of same.

Upshur County
Bid RB04-19 Refined Road Oil & Emulsified Asphalt
Instructions/Terms of Contract

Termination for Default: Upshur County reserves the right to enforce the performance of this contract in any manner prescribed by law or deemed to be in the best interest of the County in the event of breach or default. Upshur County reserves the right to terminate the contract immediately and without prior notice in the event the successful bidder fails to:

1. Meet schedules;
2. Defaults in the payment of any fees; or
3. Otherwise fails to perform in accordance with these specifications.

Notice: Any notice provided by this bid (or required by law) to be given to the successful bidder by Upshur County shall be conclusively deemed to have been given and received on the next day after such written notice has been deposited in the U.S. mail in Gilmer, Texas, with sufficient 1st class postage affixed thereto, provided this shall not prevent the giving of actual notice in any other manner.

Purchase Order: Successful bidder shall be required by this agreement to clearly and plainly reference a valid Upshur County Purchase Order number on the face of each and every invoice tendered for payment. Failure to reference a valid Upshur County Purchase Order, as herein required, shall be considered sufficient cause for Upshur County to deny payment of said claim. Upshur County shall not be obligated for products or services delivered without prior authorization via purchase order.

Invoices: Payment will be made from original vendor invoices only. Invoices shall show all information as stated above and mailed directly to the Upshur County Auditor's Office, PO Box 730, Gilmer, Texas 75644.

Payment will be made upon receipt and acceptance, by the County, of the items ordered in accordance with the Texas Government Code, Section 2251.021. Each Successful bidder is required to pay all its subcontractors within ten (10) days.

Items supplied under this contract will be subject to the County's approval. Items found defective or not meeting specifications shall be picked up and replaced by the successful bidder at no expense to the County. If an item is not picked up within one (1) week after notification, the item will become a donation to the County for disposition without cost or liability.

Warranty: Successful bidder shall warrant that all items/services shall conform to the proposed specifications and all written warranties as well as all implied warranties as shown in the Uniform Commercial Code, and shall be free from all latent and patent defects in material, workmanship and title.

Venue: This agreement and any dispute related hereto will be governed and construed according to the laws of the State of Texas and venue shall be fixed in Upshur County, Texas.

Any questions concerning this Invitation to Bid and Specifications should be directed to Andy Jordan, Upshur County Road Administrator, at 903-843-7623.

Upshur County
Bid # RB04-20 Refined Road Oil & Emulsified Asphalt
Specifications

Scope:

It is the intent of Upshur County, Texas to purchase, through the competitive bidding process, Refined Road Oil and Emulsified Asphalt, for use in Road and Bridge applications. The bid will be effective starting March 1, 2020 and expiring February 28, 2021 with the option to renew for two (2) additional years contingent upon both parties, but can be canceled by either party upon giving thirty (30) days written notice to the other party.

Award Of Contract:

The "TOTAL BASE BID" shall be used to determine the low bidder. Upshur County reserves the right to reject any or all bids. Upshur County reserves the right to award this bid to multiple vendors.

Whenever an article or material is defined by describing a proprietary product or by using the name of the manufacturer the term "OR EQUAL" if not inserted shall be implied unless otherwise indicated by "NO SUBSTITUTIONS". The specified article or material shall be understood as descriptive, not restrictive.

Specifications/Minimum Requirements for Refined Road Oil:
--

Asphalt content of 100 penetration @ 77 F.

- Minimum 65% Maximum 80%

Paraffin content

- 0.0 %

Flash Point, C.O.C

- Minimum 250 F.

Kinematic Viscosity

- Maximum 550 sct. @ 140 F.

Loss at 212 F.; 20 g., 5 hours

- Maximum 3.0%

Water and sediments

- Maximum 2.0%

Recommended Application & Mix. Delivery Temperature

- Minimum 180° Maximum 220°

Unrefined road oil, partially refined oil, tank bottom oils or residues, sludge pit oils, emulsions or any unrefined road oil by-products not in compliance with the above specifications are unacceptable.

Refined Road Oil is subject to testing the County in a competent testing laboratory. Three (3) random tests will be performed on the road oil and invoice will be forwarded on to the successful bidder. Should tests indicate road oil is not meeting specifications, Upshur County reserves the right to cancel the contract in the event the successful bidder fails to correct the noncompliance.

The successful bidder will furnish Upshur County with a certified copy of the strapping papers on each transport used to transport road oil to Upshur County job sites.

Delivery tickets must accompany all shipments and material.

Failure of successful bidder to comply with these specifications and conditions, either in services performed or quality of materials furnished will be just cause for Upshur County to cancel any contract of Purchase Order based on these specifications.

Specifications/Minimum Requirements for Emulsified Asphalt:
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All Emulsified Asphalt shall be in compliance with the 2004 TxDOT Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges, Item 300.

Delivery tickets must accompany all shipments and material.

Failure of successful bidder to comply with these specifications and conditions, either in services performed or quality of materials furnished will be just cause for Upshur County to cancel any contract of Purchase Order based on these specifications.

* Emulsified Asphalt is subject to testing by the County in a competent testing laboratory. Three (3) random tests may be performed on the Emulsified Asphalt and the invoice will be forwarded on to the successful bidder. Should tests indicate the Emulsion is not meeting specifications, Upshur County reserves the right to cancel the contract in the event the successful bidder fails to correct the noncompliance.

Bidding and Award of Contract

Quantities shown are approximate. Upshur County reserves the right to increase or decrease the quantities, to reject material not meeting specifications, to award separate contracts on each of the base bids, and to award contracts to more than one bidder. Upshur County will procure the road material(s) covered by this bid package on any particular instance from the vendor whose price is most economical to Upshur County.

Escalation and De-escalation Policy

It is agreed the unit price bid is based, in part, on prices charged or quoted at the time of this bid by a product supplier to the vendor. The unit price bid may be increased or decreased when a product supplier increases or decreases their price to the vendor; however, the increase or decrease in the unit price shall be limited to the amount of the increase or decrease in price a product supplier charges the vendor. Any change in the unit price bid shall be accompanied by supporting documents from the vendor's product supplier. **The vendor shall provide notice to the County at least two (2) days in advance of any increase in the unit price bid. The two-(2) day period shall begin upon receipt of the notice by the County Road Administrator.** Upshur County reserves the right to cease purchase of the product, purchase from the secondary bidder, re-bid or continue purchasing from the primary vendor if the unit price bid increases.

Bid for Refined Road Oil & Emulsified Asphalt

Upshur County is requesting bids for Refined Road Oil & Emulsified Asphalt as described in the foregoing specifications. Without change in the unit price, it is expressly understood that the total quantity indicated on this bid form is only an estimate.

Having read and understood the attached instructions, specifications, terms and conditions, we submit the following bid:

**Refined Road Oil
Base Bid RB04-20A**


<u>Quantity</u>	<u>Description of Item</u>	<u>Unit of Measure</u>	<u>Price Per Unit</u>	<u>Total of Items</u>
720	Refined Road Oil	TON	\$ <u>NO BID</u>	.\$ <u>NO BID</u>
TOTAL BASE				.\$ <u>NO BID</u>
BID :				

Guaranteed delivery to the Upshur County Job-Site as requested by the Road & Bridge Department, no later than 2 days after receiving order.

**Emulsified Asphalt
Base Bid RB04-20B**

<u>Quantity</u>	<u>Description of Item</u>	<u>Unit of Measure</u>	<u>Price Per Unit</u>	<u>Total of Items</u>
29,000	CRS-2 or CRS-2P *CWE-2	GAL	<u>\$2.99</u>	<u>\$86,710</u>
4,500	MC-30 or AEP *Lucky 7	GAL	<u>\$1.45</u>	<u>\$6,525</u>
5,000	CSS-1 *P2S1	GAL	<u>\$2.69</u>	<u>\$13,450</u>
5,000	CSS-1H *P2S1	GAL	<u>\$2.69</u>	<u>\$13,450</u>
TOTAL BASE BID:				<u>\$120,135</u>

Guaranteed delivery to the Upshur County Road & Bridge Department as requested by the Road & Bridge Department, no later than 2 days after receiving order.

Signature acknowledging addendum: 

***Please see attached equivalent or superior product information and sole source letter.**

****P Squared is proudly recognized and accepted by Tarrant Count Co-Op.**

Additional Comments

- 1. Demurrage fee \$ \$80/hr (after first two free hours)
 - 2. Restocking fee \$ \$1,500
 - 3. Pumping & Hose fee \$ \$80
 - 4. Unloading & Spreading fee \$ N/A
 - 5. Charge for rainouts & mechanical breakdowns \$ \$.25/gal not used upon delivery
 - 6. Delivery Time: Minimum 12 hrs Maximum 48 hrs
 - 7. Delivery Amount: Minimum 5,000 gal Maximum 6,000 gal
 - 8. Tank furnished for storage of emulsion? NO
 - 9. Tank furnished for storage of refined road oil? N/A
 - 10. This road oil will be refined and supplied by
N/A
-

Name and Address of Bidder

P Squared Emulsion Plants, LLC

516 S. McLennan Loop

Elm Mott, Texas

76640

Signature/Title



President/CEO

P Squared Emulsion Plants, LLC

27-0114986

Firm Submitting Bid

Federal ID Number

516 S. McLennan Loop

Address

Elm Mott, Texas 76640

City, State, Zip

George Tomek / Sales Rep

george@p2emulsions.com

Name and Title of Individual Submitting Bid

E-Mail Address

254-829-0330 / 254-230-3030

254-829-0337

Telephone Number

Fax Number

George Tomek

Signature of Authorized Representative

References:

List three (3) companies or governmental agencies where these commodities have been provided:

1. Name: Fort Bend County, Texas
Address: 301 Jackson St, Richmond, Texas 77469 Phone No. 832-473-2884
Contact person: Gregg Zook Title R&B Administrator
2. Name: Kaufman County, Texas
Address: 100 W Mulberry, Kaufman, TX 75142 Phone No. 972-877-4088
Contact person: Barry Carter Title R&B Administrator
3. Name: Brazoria County, Texas
Address: 2508 N Gordon St, Alvin, Texas 77512 Phone No. 281-682-3529
Contact person: Mike Blissett Title R&B Administrator



P2 Emulsions

Service. Performance. Commitment.

P Squared Emulsion Plants - January 1, 2020

Prices subject to change with written notice

P2 Salesman -

Contact Phone -

Product	Tanker FOB Plant	Tanker FOB County	Drum/Tote Plant
P2 Stabilizer	\$2.44	\$2.69	\$2.64
P2S1	\$2.44	\$2.69	\$2.64
P2 CWE-2 (Chip Seal)	\$2.74	\$2.99	\$2.94
P2 CWP (Cold Weather Patch)	\$2.74	\$2.99	\$2.94
P2 ROC (Road Over Coat)	\$2.57	\$2.82	\$2.77
P2 Rejuvenator	\$2.47	\$2.72	\$2.67
P2 Prime (Lucky 7)	\$1.20	\$1.45	\$1.40

**All listed prices are per U.S. gallon

**Minimum Tanker Delivery: 5,000 Gallons

**Delivery over 250 miles subject to additional charges

**Demurrage (trucking charge): First 2 hours free, \$80.00 per hour thereafter

**Pump Charge (trucking charge): \$80.00

**Push Charge (trucking charge): \$80.00 per hour

**Return Loads (trucking charge): Subject to charge from delivering freight line

**Smaller Quantities Available, Subject to Freight Differential of \$0.25/gal less than 5,000 gal

Containers available for smaller product amounts

"Tote" Containers (275 gallons size each) cost \$100.00 per container

"Drum" Containers (55 gallons size each) cost \$35.00 per drum

Containers are re-usable and can be rinsed out, brought back and re-filled at customer discretion

Containers priced individually and sold only with orders for material

Thank you and we look forward to serving all your emulsion needs!



P2 Emulsions
Service. Performance. Commitment.

SOLE-SOURCE PURCHASE AFFIDAVIT

KNOW ALL MEN BY THESE PRESENT THAT:

Before me, the undersigned authority duly authorized to take acknowledgements and administer oaths on this day personally appeared Seth McGinnis, on sworn oath stated the following:

My name is Seth McGinnis. My title is Chief Executive Officer of P Squared Emulsions Plants, LLC. I am aware that Upshur County is required to comply with the competitive bidding requirements under Chapter 262 of the Texas Local Government Code. However, the **statutory competitive bidding provisions do not apply to the purchase of an item that can be obtained from only one source.** Authority to purchase P Squared Emulsion Plants, LLC's proprietary products as Sole-Source may be found under Texas Local Government Code section 262.024(7)(A):

"Items for which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies, films, manuscripts, or books, electric power, gas, water, and other utility services, and captive replacement parts or components for equipment."

I represent and assert to the Purchasing Department of the Upshur County and hereby warrant that P Squared Emulsion Plants, LLC is the sole-source manufacturer and supplier of the following item(s): **P2 Stabilizer, Rejuvenator, ROC, CWE-2, CWP & all P2 Road Primes.** P Squared Emulsion Plants, LLC qualifies as the sole-source supplier because: Each of our asphalt emulsion products is manufactured on site to my **proprietary formulas solely owned and manufactured by P Squared Emulsion Plants, LLC.** I further agree that if P Squared Emulsion Plants, LLC ever ceases being the sole-source supplier of these proprietary products, I shall immediately make a full disclosure in writing of all relevant facts and circumstances.

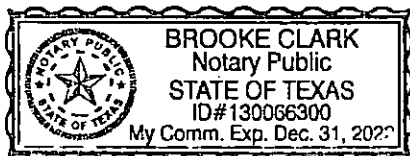
IN WITNESS WHEREOF, the undersigned has executed this Affidavit on the 20th day of January 2020.



 (Signature)

Seth McGinnis, C.E.O.
 (Printed Name) (Title)

SWORN TO AND SUBSCRIBED before me on January 20, 2020 by Seth McGinnis.



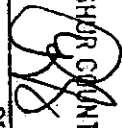


 Notary Public, State of Texas

My Commission expires on 12-31-2022



P2 Emulsions
Service. Performance. Commitment.

FILED
TERRI ROSS
COUNTY CLERK
2020 FEB 14 PM 1:04
UPSHUR COUNTY, TX.
BY 
DEPUTY

Date: 20 January 2020

To Upshur County, Texas, please accept this written certification that all products listed below are in accordance with the State of Texas Sole Source requirements and are made to the exact specifications and proprietary formulas of P Squared Emulsion Plants LLC. Our proprietary products fulfill the TGA formal definition of “a confidential formulation usually containing two or more ingredients and about which information is not in the public domain” and of such products P Squared Emulsion Plants LLC is the only manufacturer and distributor.

“P2 Road Stabilizer”

Our road base stabilizing asphalt emulsion is easy and safe to use, incorporates with your existing soil or base and eliminates the need for additional, costly aggregate, lime, cement or other base additives. P2 Stabilizer increases base density and hardness while maintaining the asphalt’s characteristics of flexibility and waterproofing.

“P2 Rejuvenator”

Our P2 Rejuvenator is the perfect product to rejuvenate old asphalt roads, RAP and other millings. A one-time application provides a completely rehabilitated and rejuvenated road base.

“P2 ROC”

The perfect product to seal, protect and give your existing road surfaces a fresh, black look. Our “Road Over Coat” has proven over and over to lock down single course chip seals as well as provide customers a uniform, quick drying, affordable road surfacing solution.

“CWE-2-No Bleed Chip Seal”

Our unique chip seal formula exhibits superior performance when compared with CRS-2 and can be applied in a broader range of temperatures (10-20 degrees below other products). Coupled with it’s no bleed properties in extreme summer temperatures, our CWE-2 is truly a one-of-a-kind product.

“CWP – Pothole Patch”

This asphalt emulsion formula was specifically designed to work in ALL patch machines, ALL year round with the exact same results. Smooth consistency, no bleed finish and extremely low clog rates make our CWP a customer favorite.

“P2 Prime Concentrate”

Here at P2 we have several proprietary “ready-to-use” formulas that include prime, tack and dust control applications. Based on customer needs and dilution rates, we have something for literally every road across the state of Texas.

** All P Squared Emulsion Plants LLC proprietary products fulfill the formal requirements found in Texas Local Government Codes regarding county purchasing, Section 262.024.7.A. (Available upon request)
** All P Squared Emulsion Plants LLC proprietary products are fully TCEQ and EPA compliant

All of us at P Squared thank you for the opportunity and we look forward to serving all your emulsion needs!