

LICENSE AND TEMPORARY USE AGREEMENT

(SH 195 @ Ronald Reagan Boulevard Project)

Austin White Lime Company, Ltd. a Texas limited partnership (the "Owner") are the owners of the real property located in Williamson County, Texas, depicted on the attached Exhibit A as "R011082 Austin White Lime " (the "Property") and Pope Materials, Inc. ("Land Lessee") leases the Property from the Owner. **SWCA, Inc.** ("Licensee or Contractor"), have requested that the Owner grant Licensee permission to enter onto the Property for purposes of non-destructive geologic assessment environmental investigation to determine the viability of the project area (the "Temporary Use") on behalf of **Williamson County**. Owner is willing to allow Licensee to access the Property for the Temporary Use, but only in strict accordance with the terms of this Agreement.

Owner, the County and Contractor agree as follows:

1. Grant of License. Subject to the terms of this Agreement, Owner grants the County and Contractor a temporary license to enter onto and to use the Property for the limited purpose of the Temporary Use. No other uses of the Property or use of any of Owner's property other than the Property are permitted. Access to the Property will be provided only as indicated on the attached **Exhibit "A"**.
2. Conditions of Use.
 - a. All work performed by Licensee in connection with the Temporary Use must be performed in strict accordance with all rules, regulations, ordinances and requirements of any governmental entity with jurisdiction. Licensee will be solely responsible for any and all permits and approvals that may be required for the Temporary Use; and any restoration required by this Agreement, at their sole cost.
 - b. Licensee must confine their activities in connection with the Temporary Use to the Property.
 - c. Licensee agrees not to cause any damage to the Property in connection with its presence and activities and, upon termination of the temporary license granted under this Agreement, to comply with the restoration obligations contained in Paragraph 4 of this Agreement. The foregoing notwithstanding, Licensee may remove underbrush as reasonable necessary to clear lines of sight for purposes of the survey investigation, but under no circumstances may Licensee cut or remove hard-wood trees or limbs, including but not limited to oaks, without prior permission of Owner.
 - d. Licensee acknowledges that portions of the Property are currently used for quarrying and/or ranching operations and agree that all activities on the Property will be conducted in a manner in order to minimize interference with or interruption of such quarry or ranching operations. When exercising their rights under this Agreement, Licensee must not damage any fencing or livestock, or any other property of Owner, the Land Lessee, or their agents or employees. Licensee agree to close and secure and to require its employees and agents and its subcontractors and their employees to close all gates and secure all openings in the fencing to the Property at all times except when such gates and openings are in actual use as permitted under this Agreement.

- e. Licensee's obligations and agreements under this Paragraph 2 will survive the termination of the County's and Contractor's rights and privileges under this Agreement.
3. Term and Termination. The County's and Contractor's rights and privileges under this Agreement will automatically terminate upon the first to occur of (a) five days after delivery of written notice from Owner to the County and Contractor; (b) completion of the Temporary Use; or (c) April 30, 2023.
4. Restoration. Upon termination of the Licensee's rights and privileges hereunder, the Licensee agrees to restore any portion of the Property that has been negatively affected by the Licensee's activities to their condition as of the effective date of this Agreement, at the Licensee's sole cost and expense, including cleaning up and removing any debris or trash that has been placed on the Property, has been generated by the County's and Contractor's presence and activities, or has accumulated during the County's and Contractor's use. These restoration obligations of the County and Contractor will survive the termination of the County's and Contractor's rights and privileges hereunder.
5. Contact Information. Contractor and any subcontractor or consultant of Contractor or the County that enters the Property must provide Owner with the name and telephone number of its project manager before entering onto the Property.
6. Insurance. Prior to performing any work on the Property, Contractor must name Owner and the Land Lessee, Pope Materials, Inc., as additional insureds on a commercial general liability insurance policy ("CGL") providing coverage in the minimum amount of \$1,000,000 per occurrence and \$2,000,000 aggregate, including broad-form contractual liability and a comprehensive auto liability insurance policy ("Auto") covering all owned, non-owned or hired vehicles or machinery to be used on the Property providing, on an occurrence basis, not less than \$1,000,000 combined single limit bodily injury and property damage coverage (all with appropriate waivers of subrogation in favor of Owner). The CGL and Auto policies must be primary and non-contributory. Prior to Contractor performing any activity on the Property, Contractor must provide Owner a certificate of insurance evidencing the required insurance coverages, as well as workers' compensation coverage with the statutorily required limits, and each certificate must provide that such insurance may not be terminated without at least 30 days' notice to Owner, and the required waiver of subrogation.
7. Insurance and Indemnity Agreement: Special Conditions to Entry. Contractor must execute and deliver to Owner the Insurance and Indemnity Agreement attached as Exhibit "B" prior to entering upon the Property. The County and

Contractor agree to comply with and require all of its employees entering onto the Property to comply with the Special Conditions to Entry attached as Exhibit "C".

8. Indemnity.

- a. **The County, to the extent permitted by law, and Contractor, each agree that it will be solely liable for all damage or injury to persons or property resulting from its activities or those of its agents, employees, contractors, subcontractors, or other parties in coming upon or about the Property in connection herewith, and to indemnify and hold Owner and Land Lessee, and Pope Materials, Inc., harmless from any liability, damages, cost or expense resulting therefrom, including attorneys' fees for the defense thereof, to the extent such liability, damages, costs or expenses are caused in whole or in part by the negligence, fault or strict liability of the County or Contractor or their agents and employees.**
- b. The County's and Contractor's obligations under this Paragraph 8 will survive the termination of the County's and Contractor's rights and privileges under this Agreement.

9. Miscellaneous.

- a. Time is of the essence in all matters relating to or arising under this Agreement, and in the County's and Contractor's performance of all obligations under this Agreement.
- b. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, the legality, validity and enforceability of the remaining provisions will not be affected and, in lieu of the illegal, invalid or unenforceable provision, a provision that is legal, valid and enforceable and is as similar in terms to such illegal, invalid or unenforceable provision as is possible will be added to this Agreement.
- c. The County and Contractor agree that no subcontractors are authorized under this Agreement and that any designed subcontractors will be required to obtain a separate License and Temporary Use Agreement prior to entering onto the Property.
- d. The parties each acknowledge that they and their respective counsel have reviewed and revised this Agreement and that the normal rule of construction that any ambiguities are to be resolved and construed against the drafting party will not be employed in the interpretation of this Agreement.
- e. This Agreement may be executed in any number of counterparts, each of which, whenso executed and delivered, will be deemed an original instrument, but all of which counterparts together will constitute one and the same instrument. A facsimile or electronic signature will be deemed to constitute an original signature, and will have the same force or effect.

- f. The following exhibits are attached to this Agreement and are incorporated herein by reference:

Exhibit "A": The Property

Exhibit "B": Insurance and Indemnity Agreement

Exhibit "C": Special Conditions to Entry

EXECUTED on the date or dates indicated on the attached signature pages, to be effective as of the ____ day of _____, 2022 (the "*Effective Date*").

OWNER:

Austin White Lime Company. Ltd., a Texas limited partnership

By: **Robinson Family Management.** its General Partner

E-SIGNED by Brad Robinson

By: _____ on 2022-07-07 10:17:47 CDT

Name: Scott Bradley Robinson

Title: President and Chief Executive Officer

COUNTY:

WILLIAMSON COUNTY, TEXAS

By: _____

Bill Gravell, Jr.

County Judge

Date: _____

EXHIBIT "A"
[The Property]



EXHIBIT "B"
INDEMNITY AND INSURANCE AGREEMENT

It is the express intent of _____ ("*Contractor*"), and Austin White Lime Company, Ltd., a Texas limited partnership (the "*Land Owner*") of the land to be accessed or used by the Contractor (the "*Land*") under the License and Temporary Use Agreement dated _____, 2020 (the "*Agreement*"), and Pope Materials, Inc. (hereafter referred to as the "*Land Lessee*") that the indemnity provided for in this Agreement is to protect and indemnify the Land Owners and Land Lessee from liability,

In consideration of Contractor's being provided with the right of access to and use of the land described in the Agreement, Contractor agrees to the following terms:

Contractor agrees to fully defend, protect, indemnify and hold harmless the Land Owners and Land Lessee, their employees, invitees, agents, and representatives and their respective successors and assigns (individually, an "*Indemnified Party*" and collectively, the "*Indemnified Parties*") from and against any and all claims, demands, actions or causes of action, and any and all liabilities, costs, and expenses (including but not limited to attorneys' fees and expenses, incurred in connection with the defense of any Indemnified Party), damage or loss in connection therewith, which may be made or asserted by Contractor, its officers, employees, agents, representatives, successors or assigns or any other third party on account of, or sustained by, or arising out of or growing out of bodily injury, including death, or loss of use, damage to or destruction of property, including pollution, caused by, arising out of, sustained by, or in any way incidental to or in connection with the Contractor's use of the Land.

1. Contractor agrees to provide a certificate of insurance issued to **Austin White Lime Company**, a Texas limited partnership confirms each of the following coverages:

- | | | |
|----|-------------------------------------|--|
| a. | Comprehensive General Liability: | \$1,000,000 Combined Single Limit
\$2,000,000 General Aggregate |
| b. | Comprehensive Automobile Liability: | \$1,000,000 Combined Single Limit |
| c. | Worker's Compensation: | Statutory coverage under Texas law |

2. Landowners and Land Lessee **must be named as Additional Insureds** on the liability policies referenced above, and noted as such on the required certificate of insurance.

3. A Waiver of Subrogation must be included in favor of all Landowners and Land

Lessee and noted as such on the certificate of insurance.

4. 30 days' notice to Land Owners prior to cancellation of such insurance is required and must be noted on the certificate of insurance.

5. Contractor also agrees to execute, comply with, require its employees, contractors and its subcontractors to comply with, and to post at its job site the attached Special Conditions to Entry.

CONTRACTOR:

By: _____

Printed Name of Agent for Contractor

Contractor Address (Print)

Contractor Phone Number (Print)

Date: _____

Exhibit "C"

SPECIAL CONDITIONS TO ENTRY

ANY PROPERTY THAT IS DISTURBED MUST BE RETURNED TO ITS ORIGINAL CONDITION OR TO A CONDITION APPROVED BY OWNER IN WRITING UPON COMPLETION OF PROJECT.

ANY DISTURBED PROPERTY MUST BE RESTORED TO THE CONDITION EXISTING PRIOR TO ENTRY, INCLUDING SIX (6) INCHES OF NEW TOPSOIL, WHICH MAY NOT INCLUDE ANY ROCK OR CLAY MATERIAL. GRASS MUST BE RESEEDDED USING A COOL/WARM SEED MIX APPROVED BY OWNER.

Any necessary temporary fencing must be constructed and in place before any permanent fencing is removed. Upon completion of the project, any permanent fencing that was removed will be replaced or reconstructed by Owner's fence builder, at contractor's expense.

Any temporary fencing or silt fencing installed for the project may not block ranch roads or current access by Owner or its tenants, guests or employees, unless an alternate access approved by Owner in writing is provided by contractor.

A list of contractor's representatives and its sub-contractor's representatives, with contact information, must be provided to Owner prior to entry.

All posted safety rules must be obeyed.

All applicable MSHA and OSHA standards and all other legal requirements must be complied with.

Any damage to existing fencing or gates will be repaired by Owner's fence builder at contractor's expense.

No leaks of fuels or pollutants are acceptable. Contractor is responsible for any environmental cleanup necessary due to its use of or presence on the property.

Contractor is responsible for repair of any damage to roads and for dust control in staging area or on roads being used by contractor unless otherwise agreed in writing by Owner. All use of roads, gates, and crossings must be approved by Owner in advance.

All stakes, tape, or other markers placed on the property must be removed upon completion of work or studies.

NO HUNTING OR FISHING IS ALLOWED. Firearms are not permitted to be brought on the property at any time. Owner reserves the right to search any vehicle on property for firearms.

No paper cups, plates, ice bags, trash, etc. may be left on the property. All debris must be collected and removed from the site DAILY.

Entry and activities will be restricted to Monday through Friday, between 6 a.m. and 4 p.m.

Vehicles must be parked in areas off of the roadways.

If access to the property is for studies, surveying or other reporting purposes, Owner must be provided a written report of findings.

Access will be limited strictly to the approved area of use; anyone found outside those boundaries will be considered to be trespassing.

For gate combinations required for access, contact the Austin White Lime Real Estate Administrator at (512) 244-5893 two days prior to entry to the property so residents and ranchers can be contacted.

Gates must be kept locked, and left as found. Interior gates that are closed must be left closed; and open gates must be left open.

A signed Indemnity and Insurance Agreement and Certificate of Insurance are required before entry onto the property.

This constitutes notification that deer hunting does occur on the property during deer season, and dove hunting during dove season. Any person entering the property must take all necessary safety precautions.

Contractor agrees that these conditions will be posted at the job site and made known to all persons entering the property.

CONTRACTOR:

By: _____

Printed Name of Agent for Contractor

Contractor Address (Print)

Contractor Phone Number (Print)

Date: _____