



Department of Administration  
 Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
 Charleston, WV 25305-0130

# State of West Virginia Purchase Order

Order Date: 02-13-2024

CORRECT ORDER NUMBER MUST APPEAR  
 ON ALL PACKAGES, INVOICES, AND  
 SHIPPING PAPERS. QUESTIONS  
 CONCERNING THIS ORDER SHOULD BE  
 DIRECTED TO THE DEPARTMENT  
 CONTACT.

Order Number:	CPO 0313 0313 DEP2400000012 1	Procurement Folder:	1371421
Document Name:	Waste Characterization Study - REAP	Reason for Modification:	
Document Description:	Waste Characterization Study - REAP		
Procurement Type:	Central Purchase Order		
Buyer Name:	Joseph E Hager III		
Telephone:	(304) 558-2306		
Email:	joseph.e.hageriii@wv.gov		
Shipping Method:	Best Way	Effective Start Date:	
Free on Board:	FOB Dest, Freight Prepaid	Effective End Date:	

VENDOR				DEPARTMENT CONTACT	
Vendor Customer Code:	000000160372			Requestor Name:	Jessica S Chambers
GAI CONSULTANTS INC				Requestor Phone:	(304) 414-1140
500 LEE ST EAST STE 700				Requestor Email:	jessica.s.chambers@wv.gov
CHARLESTON	WV	25301		<div style="font-size: 48pt; font-weight: bold;">24</div> <div style="font-weight: bold;">FILE LOCATION _____</div>	
US					
Vendor Contact Phone:	6812458866	Extension:			
Discount Details:					
	Discount Allowed	Discount Percentage	Discount Days		
#1	No	0.0000	0		
#2	Not Entered				
#3	Not Entered				
#4	Not Entered				

INVOICE TO	SHIP TO
ENVIRONMENTAL PROTECTION REAP OFFICE 601 57TH ST SE CHARLESTON WV 25304 US	ENVIRONMENTAL PROTECTION REAP OFFICE 601 57TH ST SE CHARLESTON WV 25304 US

2-14-24 6C

Total Order Amount:	\$112,500.00
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Purchasing Division's File Copy

JA 2-13-24

PURCHASING DIVISION AUTHORIZATION DATE: <i>Munk</i> - 2/13/2024 ELECTRONIC SIGNATURE ON FILE	ATTORNEY GENERAL APPROVAL AS TO FORM DATE: <i>John S. Gray</i> ELECTRONIC SIGNATURE ON FILE <i>2/22/2024</i>	ENCUMBRANCE CERTIFICATION DATE: <i>2-23-24</i> ELECTRONIC SIGNATURE ON FILE
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**Extended Description:**

Pursuant to W. Va. Code 5G-1-4(a), GAI Consultants Inc., agrees to enter into this contract with the agency, The West Virginia Department of Environmental Protection, for a Waste Characterization Study to examine the different types of materials and amounts of solid waste being discarded in West Virginia's landfills, per the terms and conditions and the vendors defined scope of work and cost proposal dated 12/22/2023, all incorporated herein by reference and made apart hereof.

Line	Commodity Code	Quantity	Unit	Unit Price	Total Price
1	77100000	0.00000		0.000000	112500.00
Service From	Service To	Manufacturer	Model No		

**Commodity Line Description:** Waste Characterization Study

**Extended Description:**

Waste Characterization Study

**STATE OF WEST VIRGINIA  
ADDENDUM TO VENDOR'S STANDARD CONTRACTUAL FORMS**

State Agency, Board, or Commission (the "State"): DEP  
Vendor: GAI Consultants, Inc.  
Contract/Lease Number ("Contract"): CPO 0313 DEP 240000012  
Commodity/Service: Waste Characterization Study- REAP

The State and the Vendor are entering into the Contract identified above. The Vendor desires to incorporate one or more forms it created into the Contract. Vendor's form(s), however, include(s) one or more contractual terms and conditions that the State cannot or will not accept. In consideration for the State's incorporating Vendor's form(s) into the Contract, the Vendor enters into this Addendum which specifically eliminates or alters the legal enforceability of certain terms and conditions contained in Vendor's form(s). Therefore, on the date shown below each signature line, the parties agree to the following contractual terms and conditions in this Addendum are dominant over any competing terms made a part of the Contract:

- 1. ORDER OF PRECEDENCE:** This Addendum modifies and supersedes anything contained on Vendor's form(s) whether or not they are submitted before or after the signing of this Addendum. **IN THE EVENT OF ANY CONFLICT BETWEEN VENDOR'S FORM(S) AND THIS ADDENDUM, THIS ADDENDUM SHALL CONTROL.**
- 2. PAYMENT** – Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software licenses, subscriptions, or maintenance may be paid annually in advance.  
Any language imposing any interest or charges due to late payment is deleted.
- 3. FISCAL YEAR FUNDING** – Performance of this Contract is contingent upon funds being appropriated by the WV Legislature or otherwise being available for this Contract. In the event funds are not appropriated or otherwise available, the Contract becomes of no effect and is null and void after June 30 of the current fiscal year. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.
- 4. RIGHT TO TERMINATE** – The State reserves the right to terminate this Contract upon thirty (30) days written notice to the Vendor. If this right is exercised, the State agrees to pay the Vendor only for all undisputed services rendered or goods received before the termination's effective date. All provisions are deleted that seek to require the State to (1) compensate Vendor, in whole or in part, for lost profit, (2) pay a termination fee, or (3) pay liquidated damages if the Contract is terminated early.  
Any language seeking to accelerate payments in the event of Contract termination, default, or non-funding is hereby deleted.
- 5. DISPUTES** – Any language binding the State to any arbitration or to the decision of any arbitration board, commission, panel or other entity is deleted; as is any requirement to waive a jury trial.  
Any language requiring or permitting disputes under this Contract to be resolved in the courts of any state other than the State of West Virginia is deleted. All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.  
Any language requiring the State to agree to, or be subject to, any form of equitable relief not authorized by the Constitution or laws of State of West Virginia is deleted.
- 6. FEES OR COSTS:** Any language obligating the State to pay costs of collection, court costs, or attorney's fees, unless ordered by a court of competent jurisdiction is deleted.
- 7. GOVERNING LAW** – Any language requiring the application of the law of any state other than the State of West Virginia in interpreting or enforcing the Contract is deleted. The Contract shall be governed by the laws of the State of West Virginia.
- 8. RISK SHIFTING** – Any provision requiring the State to bear the costs of all or a majority of business/legal risks associated with this Contract, to indemnify the Vendor, or hold the Vendor or a third party harmless for any act or omission is hereby deleted.
- 9. LIMITING LIABILITY** – Any language limiting the Vendor's liability for direct damages to person or property is deleted.
- 10. TAXES** – Any provisions requiring the State to pay Federal, State or local taxes or file tax returns or reports on behalf of Vendor are deleted. The State will, upon request, provide a tax exempt certificate to confirm its tax exempt status.
- 11. NO WAIVER** – Any provision requiring the State to waive any rights, claims or defenses is hereby deleted.

12. **STATUTE OF LIMITATIONS** – Any clauses limiting the time in which the State may bring suit against the Vendor or any other third party are deleted.
13. **ASSIGNMENT** – The Vendor agrees not to assign the Contract to any person or entity without the State's prior written consent, which will not be unreasonably delayed or denied. The State reserves the right to assign this Contract to another State agency, board or commission upon thirty (30) days written notice to the Vendor. These restrictions do not apply to the payments made by the State. Any assignment will not become effective and binding upon the State until the State is notified of the assignment, and the State and Vendor execute a change order to the Contract.
14. **RENEWAL** – Any language that seeks to automatically renew, modify, or extend the Contract beyond the initial term or automatically continue the Contract period from term to term is deleted. The Contract may be renewed or continued only upon mutual written agreement of the Parties.
15. **INSURANCE** – Any provision requiring the State to maintain any type of insurance for either its or the Vendor's benefit is deleted.
16. **RIGHT TO REPOSSESSION NOTICE** – Any provision for repossession of equipment without notice is hereby deleted. However, the State does recognize a right of repossession with notice.
17. **DELIVERY** – All deliveries under the Contract will be FOB destination unless the State expressly and knowingly agrees otherwise. Any contrary delivery terms are hereby deleted.
18. **CONFIDENTIALITY** – Any provisions regarding confidential treatment or non-disclosure of the terms and conditions of the Contract are hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act ("FOIA") (W. Va. Code §29B-1, et seq.) and public procurement laws. This Contract and other public records may be disclosed without notice to the vendor at the State's sole discretion.  
  
Any provisions regarding confidentiality or non-disclosure related to contract performance are only effective to the extent they are consistent with FOIA and incorporated into the Contract through a separately approved and signed non-disclosure agreement.
19. **THIRD-PARTY SOFTWARE** – If this Contract contemplates or requires the use of third-party software, the vendor represents that none of the mandatory click-through, unsigned, or web-linked terms and conditions presented or required before using such third-party software conflict with any term of this Addendum or that it has the authority to modify such third-party software's terms and conditions to be subordinate to this Addendum. The Vendor shall indemnify and defend the State against all claims resulting from an assertion that such third-party terms and conditions are not in accord with, or subordinate to, this Addendum.
20. **AMENDMENTS** – The parties agree that all amendments, modifications, alterations or changes to the Contract shall be by mutual agreement, in writing, and signed by both parties. Any language to the contrary is deleted.

Notwithstanding the foregoing, this Addendum can only be amended by (1) identifying the alterations to this form by using *Italics* to identify language being added and ~~track-changes~~ for language being deleted (do not use track-changes) and (2) having the Office of the West Virginia Attorney General's authorized representative expressly agree to and knowingly approve those alterations.

State: DEP

By: Jessica Smith  
Digitally signed by Jessica Smith  
DN: cn = Jessica Smith, o = DEP  
c = WV, ou = DEP-OU - Business  
Operations  
Date: 2024.01.19 14:22:54 -0500

Printed Name: Jessica Chambers-Smith

Title: ASM II

Date: 2/07/2024

Vendor: GAI Consultants, Inc. EJH-GAI-OK

By: David J. Bevilacqua  
Digitally signed by David J. Bevilacqua  
Date: 2024.01.19 14:23:24 -0500

Printed Name: David J. Bevilacqua

Title: Vice President

Date: 01/19/2024

## GENERAL TERMS AND CONDITIONS:

**1. CONTRACTUAL AGREEMENT:** Issuance of an Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance by the State of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid, or on the Contract if the Contract is not the result of a bid solicitation, signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.

**2. DEFINITIONS:** As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.

**2.1. "Agency" or "Agencies"** means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.

**2.2. "Bid" or "Proposal"** means the vendors submitted response to this solicitation.

**2.3. "Contract"** means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.

**2.4. "Director"** means the Director of the West Virginia Department of Administration, Purchasing Division.

**2.5. "Purchasing Division"** means the West Virginia Department of Administration, Purchasing Division.

**2.6. "Award Document"** means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the contract holder.

**2.7. "Solicitation"** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

**2.8. "State"** means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.

**2.9. "Vendor" or "Vendors"** means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

**3. CONTRACT TERM; RENEWAL; EXTENSION:** The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

**Term Contract**

**Initial Contract Term:** The Initial Contract Term will be for a period of \_\_\_\_\_. The Initial Contract Term becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as \_\_\_\_\_), and the Initial Contract Term ends on the effective end date also shown on the first page of this Contract.

**Renewal Term:** This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be delivered to the Agency and then submitted to the Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Unless otherwise specified below, renewal of this Contract is limited to \_\_\_\_\_ successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

**Alternate Renewal Term** – This contract may be renewed for \_\_\_\_\_ successive \_\_\_\_\_ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

**Delivery Order Limitations:** In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery order may be extended beyond one year after this Contract has expired.

**Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within 365 days.

**Fixed Period Contract with Renewals:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within \_\_\_\_\_ days. Upon completion of the work covered by the preceding sentence, the vendor agrees that:

the contract will continue for \_\_\_\_\_ years;

the contract may be renewed for \_\_\_\_\_ successive \_\_\_\_\_ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's Office (Attorney General approval is as to form only).

**One-Time Purchase:** The term of this Contract shall run from the issuance of the Award Document until all of the goods contracted for have been delivered, but in no event will this Contract extend for more than one fiscal year.

**Construction/Project Oversight:** This Contract becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as \_\_\_\_\_), and continues until the project for which the vendor is providing oversight is complete.

**Other:** Contract Term specified in \_\_\_\_\_

**4. AUTHORITY TO PROCEED:** Vendor is authorized to begin performance of this contract on the date of encumbrance listed on the front page of the Award Document unless either the box for "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked in Section 3 above. If either "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked, Vendor must not begin work until it receives a separate notice to proceed from the State. The notice to proceed will then be incorporated into the Contract via change order to memorialize the official date that work commenced.

**5. QUANTITIES:** The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

**Open End Contract:** Quantities listed in this Solicitation/Award Document are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

**Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.

**Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

**One-Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.

**Construction:** This Contract is for construction activity more fully defined in the specifications.

**6. EMERGENCY PURCHASES:** The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute a breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One-Time Purchase contract.

**7. REQUIRED DOCUMENTS:** All of the items checked in this section must be provided to the Purchasing Division by the Vendor as specified:

**LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section of the General Terms and Conditions entitled Licensing, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits upon request and in a form acceptable to the State. The request may be prior to or after contract award at the State's sole discretion.

The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications regardless of whether or not that requirement is listed above.



**8. INSURANCE:** The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. Thirty (30) days prior to the expiration of the insurance policies, Vendor shall provide the Agency with proof that the insurance mandated herein has been continued. Vendor must also provide Agency with immediate notice of any changes in its insurance policies, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether that insurance requirement is listed in this section.

Vendor must maintain:

**Commercial General Liability Insurance** in at least an amount of: \$1,000,000.00 per occurrence.

**Automobile Liability Insurance** in at least an amount of: \$1,000,000.00 per occurrence.

**Professional/Malpractice/Errors and Omission Insurance** in at least an amount of: \$1,000,000.00 per occurrence. Notwithstanding the forgoing, Vendor's are not required to list the State as an additional insured for this type of policy.

**Commercial Crime and Third Party Fidelity Insurance** in an amount of: \_\_\_\_\_ per occurrence.

**Cyber Liability Insurance** in an amount of: \_\_\_\_\_ per occurrence.

**Builders Risk Insurance** in an amount equal to 100% of the amount of the Contract.

**Pollution Insurance** in an amount of: \_\_\_\_\_ per occurrence.

**Aircraft Liability** in an amount of: \_\_\_\_\_ per occurrence.

**9. WORKERS' COMPENSATION INSURANCE:** Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

**10. VENUE:** All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

**11. LIQUIDATED DAMAGES:** This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

\_\_\_\_\_ for \_\_\_\_\_.

Liquidated Damages Contained in the Specifications.

Liquidated Damages Are Not Included in this Contract.

**12. ACCEPTANCE:** Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the State that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the Solicitation unless otherwise indicated.

**13. PRICING:** The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.

**14. PAYMENT IN ARREARS:** Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software maintenance, licenses, or subscriptions may be paid annually in advance.

**15. PAYMENT METHODS:** Vendor must accept payment by electronic funds transfer and P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.)

**16. TAXES:** The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

**17. ADDITIONAL FEES:** Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia, included in the Contract, or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.

**18. FUNDING:** This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

**19. CANCELLATION:** The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-5.2.b.

**20. TIME:** Time is of the essence regarding all matters of time and performance in this Contract.

**21. APPLICABLE LAW:** This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code, or West Virginia Code of State Rules is void and of no effect.

**22. COMPLIANCE WITH LAWS:** Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances.

**SUBCONTRACTOR COMPLIANCE:** Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

**23. ARBITRATION:** Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

**24. MODIFICATIONS:** This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

**25. WAIVER:** The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

**26. SUBSEQUENT FORMS:** The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

**27. ASSIGNMENT:** Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments.

**28. WARRANTY:** The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

**29. STATE EMPLOYEES:** State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

**30. PRIVACY, SECURITY, AND CONFIDENTIALITY:** The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in [www.state.wv.us/admin/purchase/privacy](http://www.state.wv.us/admin/purchase/privacy).

**31. YOUR SUBMISSION IS A PUBLIC DOCUMENT:** Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

**DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.**

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

**32. LICENSING:** In accordance with West Virginia Code of State Rules § 148-1-6.1.e, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

**SUBCONTRACTOR COMPLIANCE:** Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up-to-date on all state and local obligations as described in this section. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

**33. ANTITRUST:** In submitting a bid to, signing a contract with, or accepting a Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

**34. VENDOR NON-CONFLICT:** Neither Vendor nor its representatives are permitted to have any interest, nor shall they acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency.

**35. VENDOR RELATIONSHIP:** The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

**36. INDEMNIFICATION:** The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

**37. NO DEBT CERTIFICATION:** In accordance with West Virginia Code §§ 5A-3-10a and 5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State. By submitting a bid, or entering into a contract with the State, Vendor is affirming that (1) for construction contracts, the Vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, neither the Vendor nor any related party owe a debt as defined above, and neither the Vendor nor any related party are in employer default as defined in the statute cited above unless the debt or employer default is permitted under the statute.

**38. CONFLICT OF INTEREST:** Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

**39. REPORTS:** Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:

Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at [purchasing.division@wv.gov](mailto:purchasing.division@wv.gov).

**40. BACKGROUND CHECK:** In accordance with W. Va. Code § 15-2D-3, the State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check. Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

**41. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS:** Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open heath, basic oxygen, electric furnace, Bessemer or other steel making process.
- c. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
  1. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or
  2. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

**42. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL:** In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a "substantial labor surplus area", as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products. This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

**43. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE:** W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$1 million, the Vendor must submit to the Agency a disclosure of interested parties prior to beginning work under this Contract. Additionally, the Vendor must submit a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-work interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.



**44. PROHIBITION AGAINST USED OR REFURBISHED:** Unless expressly permitted in the solicitation published by the State, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

**45. VOID CONTRACT CLAUSES:** This Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

**46. ISRAEL BOYCOTT:** Bidder understands and agrees that, pursuant to W. Va. Code § 5A-3-63, it is prohibited from engaging in a boycott of Israel during the term of this contract.

## **ADDITIONAL TERMS AND CONDITIONS (Construction Contracts Only)**

**1. CONTRACTOR'S LICENSE:** Until June 15, 2021, West Virginia Code § 21-11-2, and after that date, § 30-42-2, requires that all persons desiring to perform contracting work in this state be licensed. The West Virginia Contractors Licensing Board is empowered to issue the contractor's license. Applications for a contractor's license may be made by contacting the West Virginia Contractor Licensing Board.

The apparent successful Vendor must furnish a copy of its contractor's license prior to the issuance of a contract award document.

**2. BONDS:** The following bonds must be submitted:

- BID BOND:** Pursuant to the requirements contained in W. Va. Code § 5-22-1(c), All Vendors submitting a bid on a construction project shall furnish a valid bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. **THE BID BOND MUST BE SUBMITTED WITH THE BID OR VENDOR'S BID WILL BE DISQUALIFIED.**
- PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of 100% of the contract. The performance bond must be received by the Purchasing Division prior to Contract award. (Attorney General requires use of the State approved bond forms found at: [www.state.wv.us/admin/purchase/forms2.html](http://www.state.wv.us/admin/purchase/forms2.html))
- LABOR/MATERIAL PAYMENT BOND:** The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be delivered to the Purchasing Division prior to Contract award. (Attorney General requires use of the State approved bond forms found at: [www.state.wv.us/admin/purchase/forms2.html](http://www.state.wv.us/admin/purchase/forms2.html))
- MAINTENANCE BOND:** The apparent successful Vendor shall provide a two (2) year maintenance bond covering the roofing system if the work impacts an existing roof. The amount of the bond must be equal to the price associated with the percentage of the project impacting the roof. The maintenance bond must be issued and delivered to the Purchasing Division prior to Contract award. (Attorney General requires use of the State approved bond forms found at: [www.state.wv.us/admin/purchase/forms2.html](http://www.state.wv.us/admin/purchase/forms2.html))

At a minimum, all construction projects require a bid bond, performance bond, and labor/material payment bond. Failure on the part of the state of West Virginia to checkmark the required bonds above does not relieve the vendor from the legal requirement of providing these bonds.

In lieu of the Bid Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of the bid bond must be of the same amount required of the Bid Bond and delivered with the bid.

**3. DRUG-FREE WORKPLACE AFFIDAVIT:** W. Va. Code § 21-1D-5 provides that any solicitation for a public improvement contract requires each Vendor that submits a bid for the work to submit an affidavit that the Vendor has a written plan for a drug-free workplace policy. If the affidavit is not submitted with the bid submission, the Purchasing Division shall promptly request by telephone and electronic mail that the low bidder and second low bidder provide the affidavit within one business day of the request. Failure to submit the affidavit within one business day of receiving the request shall result in disqualification of the bid. To comply with this law, Vendor should complete the enclosed drug-free workplace affidavit and submit the same with its bid. Failure to submit the signed and notarized drugfree workplace affidavit or a similar affidavit that fully complies with the requirements of the applicable code, within one business day of being requested to do so shall result in disqualification of Vendor's bid. Pursuant to W. Va. Code 21-1D-2(b) and (k), this provision does not apply to public improvement contracts the value of which is \$100,000 or less or temporary or emergency repairs.

**3.1. DRUG-FREE WORKPLACE POLICY:** Pursuant to W. Va. Code § 21-1D-4, Vendor and its subcontractors must implement and maintain a written drug-free workplace policy that complies with said article. The awarding public authority shall cancel this contract if: (1) Vendor fails to implement and maintain a written drug-free workplace policy described in the preceding paragraph, (2) Vendor fails to provide information regarding implementation of its drug-free workplace policy at the request of the public authority; or (3) Vendor provides to the public authority false information regarding the contractor's drug-free workplace policy.

Pursuant to W. Va. Code 21-1D-2(b) and (k), this provision does not apply to public improvement contracts the value of which is \$100,000 or less or temporary or emergency repairs.

**4. DRUG FREE WORKPLACE REPORT:** Pursuant to W. Va. Code § 21-1D-7b, no less than once per year, or upon completion of the project, every contractor shall provide a certified report to the public authority which let the contract. For contracts over \$25,000, the public authority shall be the West Virginia Purchasing Division. For contracts of \$25,000 or less, the public authority shall be the agency issuing the contract. The report shall include:

- (1) Information to show that the education and training service to the requirements of West Virginia Code § 21-1D-5 was provided;
- (2) The name of the laboratory certified by the United States Department of Health and Human Services or its successor that performs the drug tests;
- (3) The average number of employees in connection with the construction on the public improvement;
- (4) Drug test results for the following categories including the number of positive tests and the number of negative tests: (A) Pre-employment and new hires; (B) Reasonable suspicion; (C) Post-accident; and (D) Random.

Vendor should utilize the attached Certified Drug Free Workplace Report Coversheet when submitting the report required hereunder. Pursuant to W. Va. Code 21-1D-2(b) and (k), this provision does not apply to public improvement contracts the value of which is \$100,000 or less or temporary or emergency repairs.

**5. AIA DOCUMENTS:** All construction contracts that will be completed in conjunction with architectural services procured under Chapter 5G of the West Virginia Code will be governed by the attached AIA documents, as amended by the Supplementary Conditions for the State of West Virginia, in addition to the terms and conditions contained herein.

**6. PROHIBITION AGAINST GENERAL CONDITIONS:** Notwithstanding anything contained in the AIA Documents or the Supplementary Conditions, the State of West Virginia will not pay for general conditions, or winter conditions, or any other condition representing a delay in the contracts. The Vendor is expected to mitigate delay costs to the greatest extent possible and any costs associated with Delays must be specifically and concretely identified. The state will not consider an average daily rate multiplied by the number of days extended to be an acceptable charge.

**7. GREEN BUILDINGS MINIMUM ENERGY STANDARDS:** In accordance with § 22-29-4, all new building construction projects of public agencies that have not entered the schematic design phase prior to July 1, 2012, or any building construction project receiving state grant funds and appropriations, including public schools, that have not entered the schematic design phase prior to July 1, 2012, shall be designed and constructed complying with the ICC International Energy Conservation Code, adopted by the State Fire Commission, and the ANSI/ASHRAE/IESNA Standard 90.1-2007: Provided, That if any construction project has a commitment of federal funds to pay for a portion of such project, this provision shall only apply to the extent such standards are consistent with the federal standards.

**8. LOCAL LABOR MARKET HIRING REQUIREMENT:** Pursuant to West Virginia Code §21-1C-1 et seq., Employers shall hire at least seventy-five percent of employees for public improvement construction projects from the local labor market, to be rounded off, with at least two employees from outside the local labor market permissible for each employer per project.

Any employer unable to employ the minimum number of employees from the local labor market shall inform the nearest office of Workforce West Virginia of the number of qualified employees needed and provide a job description of the positions to be filled.

If, within three business days following the placing of a job order, Workforce West Virginia is unable to refer any qualified job applicants to the employer or refers less qualified job applicants than the number requested, then Workforce West Virginia shall issue a waiver to the employer stating the unavailability of applicant and shall permit the employer to fill any positions covered by the waiver from outside the local labor market. The waiver shall be in writing and shall be issued within the prescribed three days. A waiver certificate shall be sent to both the employer for its permanent project records and to the public authority.

Any employer who violates this requirement is subject to a civil penalty of \$250 per each employee less than the required threshold of seventy-five percent per day of violation after receipt of a notice of violation.

Any employer that continues to violate any provision of this article more than fourteen calendar days after receipt of a notice of violation is subject to a civil penalty of \$500 per each employee less than the required threshold of seventy-five percent per day of violation.

The following terms used in this section have the meaning shown below.

(1) The term "construction project" means any construction, reconstruction, improvement, enlargement, painting, decorating or repair of any public improvement let to contract in an amount equal to or greater than \$500,000. The term "construction project" does not include temporary or emergency repairs;

(2) The term "employee" means any person hired or permitted to perform hourly work for wages by a person, firm or corporation in the construction industry; The term "employee" does not include:(i) Bona fide employees of a public authority or individuals engaged in making temporary or emergency repairs;(ii) Bona fide independent contractors; or(iii) Salaried supervisory personnel necessary to assure efficient execution of the employee's work;

(3) The term "employer" means any person, firm or corporation employing one or more employees on any public improvement and includes all contractors and subcontractors;

(4) The term "local labor market" means every county in West Virginia and any county outside of West Virginia if any portion of that county is within fifty miles of the border of West Virginia;

(5) The term "public improvement" includes the construction of all buildings, roads, highways, bridges, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, airports and all other structures that may be let to contract by a public authority, excluding improvements funded, in whole or in part, by federal funds.

#### **9. DAVIS-BACON AND RELATED ACT WAGE RATES:**

The work performed under this contract is federally funded in whole, or in part. Pursuant to \_\_\_\_\_, Vendors are required to pay applicable Davis-Bacon wage rates.

The work performed under this contract is not subject to Davis-Bacon wage rates.

**10. SUBCONTRACTOR LIST SUBMISSION:** In accordance with W. Va. Code § 5-22-1, the apparent low bidder on a contract valued at more than \$250,000.00 for the construction, alteration, decoration, painting or improvement of a new or existing building or structure shall submit a list of all subcontractors who will perform more than \$25,000.00 of work on the project including labor and materials. (This section does not apply to any other construction projects, such as highway, mine reclamation, water or sewer projects.) The subcontractor list shall be provided to the Purchasing Division within one business day of the opening of bids for review.

If the apparent low bidder fails to submit the subcontractor list, the Purchasing Division shall promptly request by telephone and electronic mail that the low bidder and second low bidder provide the subcontractor list within one business day of the request. Failure to submit the subcontractor list within one business day of receiving the request shall result in disqualification of the bid.

If no subcontractors who will perform more than \$25,000.00 of work are to be used to complete the project, the apparent low bidder must make this clear on the subcontractor list, in the bid itself, or in response to the Purchasing Division's request for the subcontractor list.

a. **Required Information.** The subcontractor list must contain the following information:

i. Bidder's name

ii. Name of each subcontractor performing more than \$25,000 of work on the project.

iii. The license number of each subcontractor, as required by W. Va. Code § 21-11-1 et. seq.

iv. If applicable, a notation that no subcontractor will be used to perform more than \$25,000.00 of work. (This item iv. is not required if the vendor makes this clear in the bid itself or in documentation following the request for the subcontractor list.)

b. **Subcontractor List Submission Form:** The subcontractor list may be submitted in any form, including the attached form, as long as the required information noted above is included. If any information is missing from the bidder's subcontractor list submission, it may be obtained from other documents such as bids, emails, letters, etc. that accompany the subcontractor list submission.

c. **Substitution of Subcontractor.** Written approval must be obtained from the State Spending Unit before any subcontractor substitution is permitted. Substitutions are not permitted unless:

i. The subcontractor listed in the original bid has filed for bankruptcy;

ii. The subcontractor in the original bid has been debarred or suspended; or

iii. The contractor certifies in writing that the subcontractor listed in the original bid fails, is unable, or refuses to perform his subcontract.

**ADDITIONAL TERMS AND CONDITIONS  
(Architectural and Engineering Contracts Only)**

**1. PLAN AND DRAWING DISTRIBUTION:** All plans and drawings must be completed and available for distribution at least five business days prior to a scheduled pre-bid meeting for the construction or other work related to the plans and drawings.

**2. PROJECT ADDENDA REQUIREMENTS:** The Architect/Engineer and/or Agency shall be required to abide by the following schedule in issuing construction project addenda. The Architect/Engineer shall prepare any addendum materials for which it is responsible, and a list of all vendors that have obtained drawings and specifications for the project. The Architect/Engineer shall then send a copy of the addendum materials and the list of vendors to the State Agency for which the contract is issued to allow the Agency to make any necessary modifications. The addendum and list shall then be forwarded to the Purchasing Division buyer by the Agency. The Purchasing Division buyer shall send the addendum to all interested vendors and, if necessary, extend the bid opening date. Any addendum should be received by the Purchasing Division at least fourteen (14) days prior to the bid opening date.

**3. PRE-BID MEETING RESPONSIBILITIES:** The Architect/Engineer shall be available to attend any pre-bid meeting for the construction or other work resulting from the plans, drawings, or specifications prepared by the Architect/Engineer.

**4. AIA DOCUMENTS:** All construction contracts that will be completed in conjunction with architectural services procured under Chapter 5G of the West Virginia Code will be governed by the attached AIA documents, as amended by the Supplementary Conditions for the State of West Virginia, in addition to the terms and conditions contained herein. The terms and conditions of this document shall prevail over anything contained in the AIA Documents or the Supplementary Conditions.

**5. GREEN BUILDINGS MINIMUM ENERGY STANDARDS:** In accordance with West Virginia Code § 22-29-4, all new building construction projects of public agencies that have not entered the schematic design phase prior to July 1, 2012, or any building construction project receiving state grant funds and appropriations, including public schools, that have not entered the schematic design phase prior to July 1, 2012, shall be designed and constructed complying with the ICC International Energy Conservation Code, adopted by the State Fire Commission, and the ANSI/ASHRAE/IESNA Standard 90.1-2007: Provided, That if any construction project has a commitment of federal funds to pay for a portion of such project, this provision shall only apply to the extent such standards are consistent with the federal standards.

**DESIGNATED CONTACT:** Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

(Printed Name and Title) Jason Gandee, Engineering Manager

(Address) 500 Lee Street East, Suite 700, Charleston, West Virginia 25301

(Phone Number) / (Fax Number) T. 681.245.6484 / F. 304.926.8180

(email address) j.gandee@galconsultants.com

**CERTIFICATION AND SIGNATURE:** By signing below, or submitting documentation through wvOASIS, I certify that: I have reviewed this Solicitation/Contract in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation/Contract for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that this bid or offer was made without prior understanding, agreement, or connection with any entity submitting a bid or offer for the same material, supplies, equipment or services; that this bid or offer is in all respects fair and without collusion or fraud; that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; that I am authorized by the Vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on Vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

*By signing below, I further certify that I understand this Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law; and that pursuant to W. Va. Code 5A-3-63, the entity entering into this contract is prohibited from engaging in a boycott against Israel.*

EJH—Ok

GAI Consultants, Inc.

(Company)

David J. Bevilacqua Digitally signed by David J. Bevilacqua  
Date: 2024.01.19 14:19:50 -0500

(Signature of Authorized Representative)

David Bevilacqua, MBA, EIT (PA), Vice President

(Printed Name and Title of Authorized Representative) (Date)

T. 412.399.5442 / F. 412.476.2020

(Phone Number) (Fax Number)

d.bevilacqua@galconultants.com

(Email Address)





Charleston Office  
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December 22, 2023

Project R231053.00

Mr. Travis Cooper  
Environmental Resources Specialist III  
West Virginia Department of Environmental Protection  
Office of Environmental Advocate, Rehabilitation Environmental Action Plan (REAP)  
601 57<sup>th</sup> Street, SE  
Charleston, WV 25304  
*via email: Travis.L.Cooper@wv.gov*

**Work Plan and Cost Proposal  
Waste Characterization Study  
Various Locations, West Virginia**

Dear Mr. Cooper,

GAI Consultants, Inc. (GAI) is pleased to submit this work plan and cost proposal to conduct the Waste Characterization Study (Study) to examine the different types of materials and amounts of solid waste being discarded in West Virginia's landfills. The work plan and cost proposal has been prepared in accordance with the Expression of Interest (EOI) – Waste Characterization Study letter dated September 29, 2023 and GAI Award letter dated November 6, 2023.

Per your letter of November 6, 2023, GAI Consultants, Inc. (GAI) is submitting this Work Plan and Cost Proposal to the West Virginia Department of Environmental Protection (WVDEP) for the performance of the professional services described below in the Scope of Services.

**Project Understanding**

The WVDEP, Office of Environmental Advocate, Rehabilitation Environmental Action Plan, is seeking an engineering firm to conduct a Waste Characterization Study to analyze the types of materials and quantities of solid waste being disposed of in West Virginia's landfills.

A Waste Characterization Study will be conducted using statistically representative methods to analyze the composition of solid waste disposed of in West Virginia including both the types and quantities. This Study will examine municipal solid waste (MSW) at six of West Virginia's operating landfills/transfer station and will be conducted in the year of 2024. The Study will include looking for historical trends by comparing the results to the Study completed by GAI in 1997. The State's daily and yearly per capita municipal solid waste (MSW) rate for the most recent two calendar years that data is available will also be calculated as part of a Final Report.

**Background Information**

On October 18, 1991, West Virginia passed legislation for the development and implementation of mandatory recycling programs by October 18, 1992. As part of this program, each municipality with a population of 10,000 people or more was mandated to develop a recycling program. Based on this legislation, the Solid Waste Management Board of West Virginia (SWMB) took a pro-active stand towards minimizing the quantity of municipal solid waste disposed of in landfills. The Solid Waste Management Board funded a Study to obtain waste characterization data for the State of West Virginia waste stream.

GAI provided Environmental Engineering and Construction Support Services for the Study from 1995-1997, which took place at four landfills in West Virginia. GAI then provided the finalized Waste Characterization Study in March 1997 to the SWMB, which represented the methodology, results, and findings of the study performed by GAI.

GAI's methodology for conducting this study was a source-specific approach in which the individual components of the waste stream were sampled, sorted, and weighed. GAI's approach for this study was to review existing waste stream data, collect data, and develop fundamental results on the quantity and classification of the components in the solid waste stream in the rural and urban areas of West Virginia. GAI identified potential recoverable materials, evaluated the effects of seasonal variations on the waste stream, and estimated per capita generation of municipal solid waste disposed of in landfills.

WVDEP is seeking an engineering firm to conduct an updated Waste Characterization Study during the 2024 calendar year and compare results to the 1997 Study.

## **Project Approach**

GAI's approach for this project is summarized in the scope of services below. The project will be completed by executing the following tasks:

- Task 1: Project Planning and Quality Assurance Project Plan (QAPP)
- Task 2: Field Waste Characterization and Load Screenings
- Task 3: Results and Analysis
- Task 4: Presentation of Final Report
- Task 5: Project Management and Administration

GAI's approach for this study is a source-specific approach in which the individual components of the waste stream will be sampled, sorted, and weighed. GAI will review existing waste stream data, collect data, and develop fundamental results on the quantity and classification of the components in the solid waste stream in the rural and urban areas of West Virginia. GAI will then identify potential recoverable materials, evaluate the effects of criteria such as the type of recycling program on the waste stream, and estimate per capita generation of municipal solid waste disposed of in landfills. Results of the 2024 Waste Characterization Study will be compared to the 1997 Study.

## **Scope of Services**

Based on our understanding of the project requirements/criteria provided to date by WVDEP, GAI will perform the following described Scope of Services:

### **Task 1: Project Planning and Quality Assurance Project Plan (QAPP)**

Up-front project planning will be completed prior to the field investigations. Components of the project planning process include development of a QAPP, developing procedures and methods to be used during field investigations, purchasing materials and equipment, and development of a Health and Safety Plan.

#### **Subtask 1.1. Quality Assurance Project Plan (QAPP)**

A Quality Assurance Project Plan (QAPP) will be developed and submitted to WVDEP for approval prior to commencement of the project. Because the QAPP is time sensitive, GAI will begin preparing the QAPP immediately upon contract award.

The QAPP will be developed based on the United States Environmental Protection Agency (EPA) QAPP guidance document, "Guidance for Quality Assurance Project Plans" (EPA QA/G-5).

The purpose of the QAPP is to document the results of the project's technical planning process, providing in one place a clear, concise, and complete plan for the environmental data operation and its quality objectives and identifying key project personnel.

GAI has included up to 30 hours to address one round of comments provided by WVDEP on the QAPP.

#### Subtask 1.2. Materials and Methods Preparation

Prior to conducting the Field Investigations, GAI will establish study methods, including the study area selection and location of watersheds, and screening methods to obtain information such as the origin and generator of the waste. GAI will also complete a preliminary analysis and field waste characterization in preparation for the field investigations. GAI will also prepare project-specific forms to be used during the field waste characterization, including interview forms, and sampling forms.

Based on the QAPP and study methods established, GAI will select and purchase materials and equipment needed to complete the study. Additional supplies and equipment are anticipated to include two scales, materials required to construct an approximate 4-foot by 8-foot sorting table to be used in the field, and large plastic storage bins (approximately 30 gallons) to be used for sorting waste by the defined waste categories (i.e. paper, organics, plastics, textiles, glass, metals, rubber, construction rubble, wood).

#### Subtask 1.3. Health and Safety Plan Implementation

Health and Safety Plans are required to be developed and implemented whenever project staff are expected to conduct fieldwork, as well as whenever site reconnaissance activities expose employees to hazards that must be controlled. The purpose of the Health and Safety Plan is to identify, investigate, and mitigate potential hazards and unsafe conditions en route to/from and at the project site. The Health & Safety Plan defines the specific project tasks and appropriate control measures for safe completion of project tasks through the use of a Job Hazard Safety Analysis process. It also contains information about project personnel; required personal protective equipment; mandatory project staff training; and emergency response information and procedures. This procedure applies to GAI staff as well as GAI subcontractors.

GAI will prepare a Health and Safety Plan (HASP) specific to the Study. Prior to field investigations commencing, GAI will select and purchase or rent required personal protective equipment (PPE) and complete project-specific trainings.

GAI understands additional online safety training provided by the solid waste facility operators must be completed prior to any field work commencing, and that GAI must agree to following their safety policies and protocols.

### **Task 2: Field Waste Characterization and Load Screenings**

GAI will conduct field waste characterization and load screenings at six facilities:

- 1) Greenbrier County Landfill - 480 Landfill Road, Lewisburg, WV 24901
- 2) Nicholas County Transfer Station – 120 Baughman Road, Calvin, WV 26660
- 3) Charleston Landfill – 741 S. Park Rd., Charleston, WV 25304
- 4) Disposal Services, Inc. – 1100 State Route 34 S., Hurricane, WV 25526
- 5) Tucker County Landfill – WV 32, Thomas, WV 26292
- 6) Northwestern Landfill – 510 E. Dry Run Rd., Parkersburg, WV 26104

Field waste characterization and load screenings will be conducted at each of the six proposed facilities during the 2024 calendar year. Each facility will be visited one time during the year, as the 1997 study found that any seasonal variation was non-discernable. Field investigations will be attended by up to 4 personnel and are anticipated to take one day for each characterization event.

#### Subtask 2.1. Field Waste Characterization

GAI will conduct hand sorting of MSW to produce statistically representative data. Characterization will be based upon the material categories as specified in Attachment A of the EOI. GAI will conduct hand sorting activities during dates agreed up on by GAI and WVDEP.

Based on Study methods determined during Task 1, GAI will sort waste into paper, organics, plastics, glass, metals, electronics, batteries, hazardous waste, textiles, and other/special waste categories using a field-constructed sorting table and large storage bins. Waste will then be sorted into subcategories to further characterize the types of MSW. The total sample and each component will be weighed.

#### Subtask 2.2. Load Screenings

GAI will conduct screening methods to obtain information such as the origin and generator of the waste (single family, multi-family, commercial, etc.) to ensure that only MSW originating in WV is being calculated. This task will occur in conjunction with the hand sorting activities listed under Subtask 2.1.

### Task 3: Results and Analysis

Results and analysis of the Field Waste Characterization and Load Screenings tasks will be included in draft and final report to be submitted to WVDEP as described below.

#### Subtask 3.1. Draft Report

Following completion of the sampling activities, GAI will submit a draft report to the agency summarizing the results of the study in terminology that is meaningful to individuals in the subject area. The draft report will include, at a minimum, the following:

- Detailed description of all aspects of the project and detailed methods with data sources for all calculations,
- Results of the types and quantities of materials in the waste stream, and a statistical evaluation of data for various categories, as approved by WVDEP, including recyclables and food residuals,
- Historical trends discovered by comparing results with the 1997 study,
- Results from the calculation of the state's MSW and methodology used,
- A summary of findings and conclusions for the project,
- All supporting documentation (e.g., charts, tables, forms, questionnaires, etc.). Supporting documents are anticipated to include, at a minimum, the following:
  - Figures: Wasteshed Location Summary; Average Percentage Total Weight of Characterization Categories; Waste stream composition for six locations; Variation of Characterization Categories based on area recycling programs; Customer sources for each wasteshed.
  - Tables: Waste stream characterization sampling forms for each wasteshed; Average Percent total weight of characterization categories by wasteshed; Materials generated in the municipal solid waste stream, 1997 to 2024; Residential and commercial MSW generation using calculated per capita generation rates
  - Forms and questionnaires, including the interview form and field sampling form
- Waste category definitions, as used in the report, and
- Access to the raw data.

#### Subtask 3.2. Final Report

After submission of the draft report, GAI will participate in an in-person meeting with WVDEP staff. GAI assumes WVDEP will provide any comments regarding the draft report in writing. Within 30 days, GAI will

incorporate the comments into a final report and submit one (1) bound copy and an electronic copy to WVDEP after receiving approval regarding the contents of the final report. GAI has assumed up to 40 hours will be needed to review and incorporate WVDEP's comments into the Final Report.

#### **Task 4: Presentation of Final Report**

GAI will prepare and deliver a presentation of key findings to WVDEP staff and other interested parties. GAI will provide the materials used in the presentation to the WVDEP for use in additional presentations.

The presentation will be conducted at a time, place, and in a format agreed upon between WVDEP and GAI. For scoping purposes, GAI assumes the presentation will be held in-person in the vicinity of WVDEP's and GAI's Charleston offices and will be attended by the project manager and one engineer.

#### **Task 5: Project Management and Administration**

GAI will provide project management and project administration throughout the preparation, investigation, and reporting process. The Project Manager will maintain and monitor the schedule and costs associated with the project and will notify WVDEP prior to making any changes that will alter the project schedule or costs.

The administration of the project includes:

- Conducting a Project Initiation meeting with WVDEP personnel and appropriate Project stakeholders to review the field safety and property access protocols, schedule, points of contact, and coordination and communication systems.
- Maintaining meeting minutes for meetings and telephone conversations where decisions or directions are made for the project.
- Maintaining an estimated project cost and providing updates as required by WVDEP.
- Preparing and maintaining a baseline schedule for the project.
- Preparing periodic project briefings throughout the duration of the project.
- Conducting periodic meetings with the agency as necessary, but no less than quarterly, to discuss progress and/or confirm objectives.

The GAI project team will follow our Quality Management System (QMS) procedures which provide standards for document control and thorough checking of calculations prior to submission of the calculation to WVDEP. These QMS procedures provide identification of designer/engineer responsible for producing the calculations as well as individuals who have reviewed and checked the calculations.

#### **Schedule**

GAI will begin work upon receipt of a copy of this Proposal executed and authorized below. GAI will endeavor to complete its Scope of Services and deliver the project deliverable within a mutually agreed upon timeframe, subject to excused delay occasioned by factors beyond GAI's reasonable control.

#### **Compensation**

Compensation for services rendered by GAI will be in accordance with the rates, terms and conditions attached hereto as Exhibit A. GAI proposes to complete this work on a time and materials basis not to exceed the estimated costs provided in Table 1 (Estimated Cost Summary) without prior WVDEP approval. The total estimated cost of GAI's services under this Proposal is \$112,500.

#### **Assumptions and Understandings**

GAI's Scope of Services, Schedule, and Compensation as set forth above have been prepared on the basis of the following assumptions and understandings:

1. Access to the project site(s) or other land upon which GAI is to conduct any field work will be available to GAI personnel in a timely manner.
2. GAI will complete any online safety training provided by the solid waste facility operators prior to any field work commencing and must agree to follow their safety policies and protocols.
3. Client has provided all its requirements for GAI's scope of services and all criteria and/or specifications that GAI should utilize at the time this Proposal is authorized. This includes any requirement for any statement of professional opinion or certification.
4. Client has provided all available information pertinent to GAI's scope of services, including previous reports/drawings; utility information; topo information, etc. at the time this Proposal is authorized. Unless otherwise noted, GAI may rely upon such information.
5. Client will give GAI prompt notice whenever it observes or otherwise becomes aware of any development that affects the scope or timing of GAI's performance.
6. Client will examine and provide comments and/or decisions with respect to any GAI interim or final deliverables within a period mutually agreed upon.
7. Any of Client's other consultant(s)/contractor(s) will cooperate and coordinate with GAI in a timely and efficient manner.
8. GAI's proposed compensation and schedule are based on receipt of authorization to proceed within thirty (30) calendar days of the date of this Proposal. GAI reserves the right to adjust its compensation if authorization to proceed is not received within thirty (30) calendar days.

Please do not hesitate to contact me at 681-245-6484 if you have any questions or wish to discuss this Proposal. If this Proposal is acceptable, please sign where indicated below and return one copy for our file. This also will serve as authorization for GAI to proceed. GAI's performance of the Scope of Services will be governed by the GAI Standard Terms and Conditions for Professional Services, attached hereto as Exhibit A and incorporated herein by reference.

REQUESTED AND AUTHORIZED BY:

West Virginia Department of Environmental Protection

Sincerely,  
GAI Consultants, Inc.

Jason G. Gandee

Digitally signed by Jason G. Gandee  
DN:  
E=J.Gandee@gaiconsultants.com,  
CN=Jason G. Gandee  
Date: 2023.12.22 01:00:23-05'00'

Jason Gandee  
Project Manager  
Engineering Manager

Charles F. Straley

Digitally signed by Charles F. Straley  
DN:  
E=c.straley@gaiconsultants.com,  
CN=Charles F. Straley  
Date: 2023.12.21 17:59:12-05'00'

Charles F. Straley, PE, PLS, MS  
Engineering Director / Associate  
Director of Geotechnical Engineering

BY: **Jessica Smith**  
Digitally signed by Jessica Smith  
DN: CN = Jessica Smith email = Jessica.ChambersSmith@wv.gov C = AD O = DEP OU = Business Operations  
Date: 2024.02.13 11:56:50 -05'00'

PRINTED NAME: Jessica Chambers-Smith

TITLE: ASM II

DATE: 2/13/2024

Attachment: Table 1 – Estimated Cost Summary and Exhibit A - GAI Standard Terms and Conditions for Professional Services

**Table 1**  
**Estimated Cost Summary**  
**Proposal**  
**West Virginia Waste Characterization Study**  
**Various Locations, West Virginia**  
West Virginia Department of Environmental Protection

Task	Labor	Expenses	Total
1: Project Planning and QAPP	\$29,900	\$4,000	\$33,900
2: Field Waste Characterization and Load Screenings	\$28,900	\$3,500	\$32,400
3. Results and Analysis	\$26,800	\$200	\$27,000
4. Presentation of Final Report	\$6,100	\$200	\$6,300
5. Project Management and Administration	\$12,900	\$0	\$12,900
<b>Totals</b>	<b>\$104,600</b>	<b>\$7,900</b>	<b>\$112,500</b>

December 22, 2023  
Project R231053.00

**EXHIBIT A**  
**GAI Standard Terms and Conditions for Professional Services**



**EXHIBIT A**  
**GAI Consultants, Inc.**  
**Standard Terms and Conditions**  
**For Professional Services**

1. Scope of Services and Extent of Agreement - GAI shall perform the Services as described in GAI's Proposal to which these Terms and Conditions are attached for the specified Project, incorporated herein by reference.

No modification or changes to these Terms and Conditions may be made except by written instrument signed by the parties. CLIENT acknowledges that he/she/it has read these Terms and Conditions, understands them, agrees to be bound by them, and further agrees that they are the complete and exclusive statement of the AGREEMENT between the parties, superseding all proposals, oral or written understandings, or other prior agreements other than those above referred to and all other communications between the parties relating to the subject matter thereof.

2. Compensation - GAI hereby agrees to accept and CLIENT agrees to pay the compensation on either a time (hourly) and expense basis in accordance with GAI's rates in effect at the time of performance, or lump sum basis as set forth in GAI's Proposal to perform the Services.

If GAI's services are performed on an HOURLY BASIS, GAI will be paid for all time rendered to the project, including project scoping by professional, technical, and clerical personnel in accordance with the attached Hourly Rate Schedule. Time required for personnel of GAI to travel between GAI's office and the Site (or any other destination applicable to the project) is charged in accordance with the rates shown in the attached Hourly Rate Schedule. If overtime for non-exempt personnel (as defined by statute) is required, the overtime rate charged will be 1.50 times the Invoice rate shown on the attached Hourly Rate Schedule.

3. Invoicing/Payment

- A. GAI will submit invoices periodically, but not more frequently than every two weeks, for Project services performed during the period or upon completion of the Project, whichever is earlier.
- B. Invoices are due and payable in U.S. dollars within 30 days from date of invoice. All charges not paid within 30 days are subject to a service charge of 1-1/2 percent per month or a fraction thereof, plus all costs and expenses of collection, including without limitation, attorneys' fees. In addition to the foregoing, should CLIENT fail to pay any invoice within 45 days of the invoice date, GAI may, in its sole discretion, upon 3 days written notice to CLIENT, stop work and recover from CLIENT payment for all services performed prior to the work stoppage, plus all amounts for interest, penalties and attorney's fees that may be recoverable under applicable law, including without limitation, prompt payment and/or lien laws. GAI will resume performance once CLIENT pays all outstanding amounts due plus any advance payment(s) or other security in GAI's sole discretion deemed necessary by GAI.
- C. CLIENT will be invoiced for external expenses, such as travel, lodging, sub-contracted services, etc., at direct cost plus a 10% handling and administrative fee.
- D. Payments shall include the GAI invoice number and be mailed to 385 East Waterfront Drive, Homestead, PA, 15120, to the attention of Accounts Receivable.

4. Changes - CLIENT and GAI may make additions to the scope of work by written Change Order. CLIENT may omit work previously ordered by written instructions to GAI. The provisions of these Terms and Conditions, with appropriate changes in GAI's Compensation and Project Schedule, shall apply to all additions and omissions.

5. CLIENT Responsibilities - CLIENT represents, with the intent that GAI rely thereon, that it has sufficient financial resources to pay GAI as agreed to in these Terms and Conditions and, as applicable and necessary for GAI to perform its services, CLIENT will:

- A. Provide all criteria and full information as to its requirements for GAI's services, including design or study objectives, constraints,

third party certification requirement(s), standards or budget limitation(s).

- B. Assist GAI by placing at its disposal all available information pertinent to the Project and/or GAI's services including the actual or suspected presence of hazardous waste, materials or conditions at or beneath the Project site, record ("As-Built") drawings, surveys, previous reports, exploration logs of adjacent structures and any other data relative to the Project. Unless otherwise noted, GAI may rely upon such information.
- C. Upon identification by GAI and approval by CLIENT of the necessity and scope of information required, furnish GAI with data, reports, surveys, and other materials and information required for this Project, all of which GAI may rely upon in performing its services, except those included in GAI's scope of services.
- D. Guarantee access to the property and make all provisions for GAI to enter upon public and private lands and clear all exploration location(s) for buried utilities/piping/structures as required for GAI to perform its services under these Terms and Conditions.
- E. Examine all studies, reports, sketches, opinions of the construction costs, specifications, drawings, proposals and other documents presented by GAI to CLIENT and promptly render in writing the decisions pertaining thereto within a period mutually agreed upon.
- F. Designate in writing a person to act as CLIENT'S representative with respect to the services to be rendered under these Terms and Conditions. Such person shall have complete authority to transmit instructions, receive information, interpret and define CLIENT'S policies and decisions with respect to materials, equipment, elements and systems pertinent to GAI's services.
- G. Give prompt written notice to GAI whenever CLIENT observes or otherwise becomes aware of any development that affects the scope or timing of GAI'S services, or any defect in the Project or work of Contractor(s).
- H. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.
- I. Furnish such legal and insurance counseling services as CLIENT may require for the Project.
6. Schedule/Delays - GAI shall commence performance upon receipt of the CLIENT's written authorization to proceed and shall perform its professional services in accordance with the schedule set forth in its Proposal, provided however, the performance of these Terms and Conditions, except for the CLIENT's payment of money for services already rendered, shall be excused in the event performance of these Terms and Conditions is prevented or delays are occasioned by factors beyond GAI's control, or by factors which could not reasonably have been foreseen at the time this Exhibit A was prepared and executed. The delayed party's performance shall be extended by the period of delay plus a reasonable period to restart operations.
7. Document Ownership, and Reuse
- A. All reports, drawings, specifications, manuals, learning and audio/visual materials, boring logs, field data, laboratory test data, calculations, estimates, and other documents (collectively "Work Product") prepared by GAI are instruments of service shall remain the property of GAI. Unless otherwise notified by CLIENT, GAI will retain all pertinent records relating to the Services performed for a period of two (2) years following submission of the report, design documents or other project deliverables, during which period the records will be made available at GAI's office to the CLIENT at reasonable times.

**EXHIBIT A**  
**GAI Consultants, Inc.**  
**Standard Terms and Conditions**  
**For Professional Services**

- B. Any reuse of the Work Product described above without written verification or adaptation by GAI, as appropriate, for the specific purpose intended, will be at CLIENT's sole risk and without liability or legal exposure to GAI. CLIENT shall indemnify and hold harmless GAI from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom. Any future verification or adaptation of such Work Product will entitle GAI to further compensation at rates to be agreed upon by CLIENT and GAI.
- C. Unless specified otherwise in GAI's Proposal, GAI will dispose of all materials and samples obtained in the investigation portion of the project 90 days after completion of the report. Further storage or transfer of samples will be made at CLIENT's expense.
- D. CLIENT recognizes that site conditions where samples and data are gathered do vary with time and that particularly subsurface conditions may differ from those encountered at the time and location where explorations or investigations are made and, therefore, the data, interpretations, and recommendations of GAI are based solely on the information available at the time of the investigation. GAI shall not be responsible for the interpretation by others of the information it develops.
8. Standard of Performance – GAI will perform its Services with that level of care and skill ordinarily exercised by other professionals practicing in the same discipline(s), under similar circumstances and at the time and place where the Services are performed, and makes no warranty, express or implied, including the implied by law warranties of MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
9. Insurance
- A. GAI shall procure and maintain such Insurance as is required by law as of the date first written above and during the performance of the Agreement, and subject to the terms and conditions of the policies, keep in force the following insurance:
- Worker's Compensation Insurance with other State's endorsement, including Employer's Liability Insurance for its employees in the amount of \$500,000; Comprehensive General Liability Insurance, including Protective and Completed Operations, covering bodily injuries with limits of \$1,000,000 per occurrence, and property damage with limits of \$1,000,000 per occurrence; Comprehensive Automobile Liability Insurance, including operation of owned, non-owned and hired automobiles, with combined single limits for bodily injury and property damage of \$1,000,000 per occurrence; Excess Umbrella Liability Insurance with limits of \$1,000,000 in the aggregate.
- B. If CLIENT requires additional types or amounts of Insurance coverage, GAI, if specifically directed by CLIENT, will purchase additional insurance (if procurable) at CLIENT's expense; but GAI shall not be responsible for property damage from any cause, including fire and explosion, beyond the amounts and coverage of GAI's insurance specified above.
- C. CLIENT will require that any Contractor(s) performing work in connection with GAI's Services will name GAI as an additional insured on their insurance policies. In addition, in any hold-harmless agreements between CLIENT or Owner and any contractor who may perform work in connection with any professional services rendered by GAI, CLIENT will require such contractor(s) to defend and indemnify GAI against third party suits.
- D. It is agreed that GAI shall have no responsibility: 1) To supervise, manage, direct, or control CLIENT or its Contractors', subcontractors' or their employees; 2) For any of CLIENT's or its contractors, subcontractors or agents or any of their employees' safety practices, policies, or compliance with applicable Federal, State and/or local safety and health laws, rules or regulations; 3) For the adequacy of their means, methods, techniques, sequencing or procedures of performing their services or work; or 4) For defects in their work.
10. Indemnity – Subject to the Limitation(s) of Liability provision(s) below in Articles 11 and 12, GAI agrees to indemnify and hold harmless CLIENT, and its officers, directors, and employees from and against any and all claims, suits, liability, damages, injunctive or equitable relief, expenses including reasonable attorneys' fees, or other loss (collectively "Losses") to the extent caused by GAI's negligent performance of Services under these Terms and Conditions.
11. Limitation of Liability – In the event of any loss, damage, claim or expense to CLIENT resulting from GAI's performance or non-performance of the professional services authorized under these Terms and Conditions, GAI's liability whether based on any legal theory of contract, tort including negligence, strict liability or otherwise under these Terms and Conditions for professional acts, errors, or omissions shall be limited to the extent any such claims, damages, losses or expenses result from the negligent act, errors or omissions of GAI or its employees occurring during performance under these Terms and Conditions. The total cumulative liability of GAI arising out of professional acts, errors, or omissions shall not exceed the greater of \$50,000 or two times the total compensation GAI receives from CLIENT under these Terms and Conditions. GAI's aggregate liability for all other acts, errors, or omissions shall be limited to the coverage and amounts of insurance specified in Article 9, above. The limitations stated above shall not apply to the extent any damages are proximately caused by the willful misconduct of GAI and its employees.
12. Disclaimer of Consequential Damages – Notwithstanding anything to the contrary in these Terms and Conditions, neither party shall have any liability to the other party for indirect, consequential or special damages including, but not limited to, liability or damages for delays of any nature, loss of anticipated revenues or profits, increased cost of operations or costs of shutdown or startup whether such damages are based on contract, tort including negligence, strict liability or otherwise.
13. Probable Construction Cost Estimates – Where applicable, statements concerning probable construction cost and detailed cost estimates prepared by GAI represent its judgment as a professional familiar with the construction industry. It is recognized, however, that neither GAI nor CLIENT has any control over the cost of labor, materials or equipment, over the contractors' methods of determining bid prices, or over competitive bidding or market conditions. Accordingly, GAI cannot and does not guarantee that bids, proposals, or actual costs will not vary from any statement of probable construction cost or other cost estimate prepared by it.
14. Confidentiality/Non-Disclosure – GAI shall not disclose, or permit disclosure of any information developed in connection with its performance under these Terms and Conditions or received from CLIENT or the PROJECT OWNER, or their affiliates, subcontractors, or agents designated by CLIENT as confidential, except to GAI's employees and subcontractors who need such information in order to properly execute the services of these Terms and Conditions, and shall require any such of its employees and subcontractors and their employees not to disclose or permit disclosure of any of such information, without the prior written consent of CLIENT. The foregoing shall not prohibit GAI from disclosing information in response to any Federal, State or local government directive or judicial order, but in the event GAI receives or is threatened with such an order or has actual knowledge that such an order may be sought or be forthcoming, GAI shall immediately notify CLIENT and assist CLIENT in CLIENT's undertaking such lawful measures as it may desire to resist the issuance, enforcement and effect of such an order. GAI's obligation to resist such an order and assist CLIENT and the PROJECT OWNER is contingent upon GAI receiving further compensation for such assistance plus all costs and expenses, including without limitation reasonable attorney's fees, incurred by GAI.

**EXHIBIT A**  
**GAI Consultants, Inc.**  
**Standard Terms and Conditions**  
**For Professional Services**

15. Certifications – GAI shall not be required to execute any certification with regard to work performed, tested, and/or observed under these Terms and Conditions unless:

- A. GAI concludes that it has performed, tested and/or observed sufficient work to provide a sufficient basis for it to issue the certification; and
- B. GAI believes that the work performed, tested or observed meets the certification criteria; and
- C. GAI gave its written approval of the certification's exact form before executing these Terms and Conditions.

Any certification by GAI shall be interpreted and construed as an expression of professional opinion based upon the Services performed by GAI, and does not constitute a warranty or guaranty, either expressed or implied.

16. Miscellaneous Terms of Agreement

- A. These Terms and Conditions shall be subject to, interpreted, and enforced according to the laws of the Commonwealth of Pennsylvania without giving effect to its conflict of law principles. If any part of these Terms and Conditions shall be held illegal, unenforceable, void, or voidable by any court of competent jurisdiction, each of the remainder of the provisions shall nevertheless remain in full force and effect and shall in no way be affected, impaired, or invalidated.
- B. Neither the CLIENT nor GAI may delegate, assign, sublet, or transfer their duties or interest as described in these Terms and Conditions and GAI's Proposal without the written consent of the other party. Both parties relinquish the power to assign and any attempted assignment by either party or by operation of law shall be null and void.
- C. These Terms and Conditions shall be binding upon the parties hereto, their heirs, executors, administrators, successors, and assignees. In the event that a dispute should arise relating to the performance of the Services to be provided under these Terms and Conditions and GAI's Proposal, and should that dispute result in litigation, it is agreed that each party shall bear its own litigation expenses, including staff time, court costs, attorneys' fees, and other claim-related expenses.
- D. CLIENT shall not assert any claim or suit against GAI after expiration of a Limitation Period, defined as the shorter of (a) three (3) years from substantial completion of the particular GAI service(s) out of which the claim, damage or suit arose, or (b) the time period of any statute of limitation or repose provided by law.

In the event of any claim, suit or dispute between CLIENT and GAI, CLIENT agrees to only pursue recovery from GAI and will not to seek recovery from, pursue or file any claim or suit, whether based on contract, tort including negligence, strict liability or otherwise against any director, officer, or employee of GAI.

- E. No modification or changes in the terms of this Agreement may be made except by written instrument signed by the parties. CLIENT acknowledges that they have read this AGREEMENT, understands it, agrees to be bound by its terms, and further agrees that it is the complete and exclusive statement of the AGREEMENT between the parties superseding all work orders, oral or written understandings, or other prior agreements other than those above referred to and all other communications between the parties relating to the subject matter thereof.
- F. Either the CLIENT or GAI may terminate or suspend performance of these Terms and Conditions without cause upon thirty (30) days written notice delivered or mailed to the other party.
  - (1) In the event of material breach of these Terms and Conditions, the party not breaching the AGREEMENT may terminate it upon ten (10) days written notice delivered or

mailed to the other party, which termination notice shall state the basis for the termination. The AGREEMENT shall not be terminated for cause if the breaching party cures or commences to cure the breach within the ten day period.

- (2) In the event of the termination, other than caused by a material breach of these Terms and Conditions by GAI, CLIENT shall pay GAI for the Services performed prior to the termination notice date, and for any necessary services and expenses incurred in connection with termination of the project, including but not limited to, the costs of completing analysis, records and reports necessary to document job status at the time of termination and costs associated with termination or subcontractor and/or subconsultant contracts. Such compensation shall be based upon the schedule of fees used by GAI.
- (3) In the event CLIENT delays providing written authorization to proceed within 45 days of the date of GAI's Proposal or suspends GAI's performance for 45 days or more after authorization has been given, GAI reserves the right, in its sole discretion, to revise its cost, compensation and/or hourly rates to its then current rates prior to resuming performance under these Terms and Conditions.
- G. All notices required to be sent hereunder shall be either hand delivered, with signed receipt of such hand delivery, or sent by certified mail, return receipt requested.
- H. The paragraph headings in these Terms and Conditions are for convenience of reference only and shall not be deemed to alter or affect the provisions hereof.
- I. Unless expressly stated to the contrary, the professional services to be provided by GAI do not include meetings and consultations in anticipation of litigation or arbitration or attendance as an expert witness in any deposition, hearing, or arbitration. If requested, these services will be provided by an amendment to these Terms and Conditions, setting forth the terms and rates of compensation to be received by GAI.
- J. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than CLIENT, the PROJECT OWNER if different than CLIENT and GAI.
- K. GAI is an Equal Opportunity Employer. GAI complies with the Office of Federal Contract Compliance Programs Affirmative Action Programs as outlined in 41 CFR 60-1.4(a)(b), 41 CFR 60-250.5(a)(b), and 41 CFR 60-741.5(a)(b).

END OF TERMS AND CONDITIONS

# 2024 Corporate Hourly Rate Schedule-CV

## Category Contracts

The use of "Engineer" in the titles in the Hourly Rate Schedule applies to professional engineers, geologists, and surveyors. For rate purposes only, the Category also includes other staff members educated and/or trained as engineers, geologists, surveyors, environmental specialists, archaeologists, economists, planners, and others. Any changes in hourly rates to reflect increases in cost of living, taxes, benefits, etc. will take effect on January 1, 2025.

Category	Labor Classification	2024 Invoice Rate
E18	Business Unit Director, Senior Staff Consultant	\$350.00
E17	Senior Director Engineering	\$310.00
E16	Assistant Geological Director, Business Sector Leader, Interim Business Sector Leader, Operations Consultant, Operations Director, Senior Director Economics	\$305.00
E15	Assistant Environmental Director, Business Development Director, Director, Director of Community Infrastructure, Director/Senior Consultant, Economics Director, Engineering Director, Environmental and Energy Services Director, Senior Director Environmental Engineering, Senior Director Landscape Architecture, Senior Director Planning, Special Project Technician	\$265.00
E14	Assistant Engineering Director, Assistant Land Specialist Director, Landscape Architecture Director, Senior Engineering Manager, Senior Environmental Manager, Senior Technical Manager	\$210.00
E13	Assistant Cultural Resources Director, GIS Technical Leader, Landscape Architecture Director, Planning Director, Risk Manager Senior Project Advisor, Senior CMS Manager, Senior Electrical Technical Leader, Senior Landscape Architecture Manager, Senior Project Manager	\$200.00
E12	Business Support Services Director, Civil Technical Leader, Engineering Manager, Environmental and Management Consulting Manager, Mechanical Technical Leader, Project Systems Leader, Senior Geological Manager, Senior Hydrogeology Manager, Senior Project Manager 2, Senior Transportation Technical Leader, Survey Manager, Technical Manager	\$190.00
E11	Assistant Civil Technical Leader, Assistant Technical Leader, Construction Manager, Electrical Technical Leader, Environmental Manager, Geological Manager, Landscape Architecture Manager, Project Manager, Senior CEI Project Administrator, Senior Financial Analyst Manager, Senior Planning Manager, Senior Project Manager 1, Transportation Technical Leader	\$170.00
E10	Assistant Geological Technical Leader, Assistant Mechanical Technical Leader, Assistant Planning Manager, Assistant Traffic Technical Leader, CEI Project Administrator, Cultural Resources Manager, Design Technical Leader, Financial Analyst Manager, Hydrogeology Technical Leader, Planning Manager, Project Manager 2, Senior Project Planner, Soil Science Technical Leader, Transmission Line Manager	\$160.00
E09	Assistant Engineering Manager, Assistant Environmental Manager, Assistant Financial Analyst Manager, Assistant GIS Technical Leader, Assistant Survey Manager, Project Manager 1, Senior Advisor, Senior Construction Support Specialist, Senior Project Design Technical Specialist, Senior Project GIS Specialist, Senior Project Utility Coordinator, Technical Leader	\$150.00
E08	Assistant CEI Project Administrator, Project Design Technical Specialist, Project Planner, Senior HRIS Specialist, Senior Landscape Architect, Senior Project Engineer, Senior Project Technical Specialist, Sr Utility Coordinator	\$140.00

## 2024 Corporate Hourly Rate Schedule-CV

E07	Project Engineer, Senior Engineer, Senior Landscape Designer, Senior Planner, Senior Project Archaeologist, Senior Project EI, Senior Project EIT, Senior Project Environmental Specialist, Senior Project Geological Specialist, Senior Project Geologist, Senior Technical Specialist, Utility Coordinator 2	\$120.00
E06	Project Archaeologist, Project EI, Project EIT, Project Environmental Specialist, Project Field Wetland Specialist, Project GIS Specialist, Project Land Specialist, Project Technical Specialist, Senior Project Analyst, Sr Electrical Technical Specialist, Utility Coordinator 1	\$110.00
E05	Administrative Manager, Assistant Project Environmental Specialist, Landscape Designer, Project Environmental Specialist 1, Project Geological Specialist, Project Geologist, Senior EI, Senior EIT, Senior Geological Specialist, Special Project Technician	\$105.00
E04	Civil Technical Specialist, EI, EIT, Electrical Technical Specialist, Project Analyst, Senior Archaeologist, Senior Environmental Specialist, Senior GIS Specialist	\$90.00
E03	Archaeologist, Cultural Resources Lab Supervisor, Senior Architectural Historian, Technical Specialist	\$80.00
E02	Architectural Historian, Environmental Specialist, GIS Specialist	\$65.00
E01	Assistant Architectural Historian	\$60.00

### Business Categories

Document Support	Business Support Analysts	\$80.00
IT Support	Application, Data Analysts	\$140.00
Operations Support	Operations Support Analysts	\$115.00

**The non-exempt personnel categories shown below are subject to overtime rate.**

N13	Senior Lead Project Designer	\$170.00
N12	Senior Management Consultant	\$140.00
N11	Senior Lead Designer	\$130.00
N10	Lead Designer, Senior Lead Construction Coordinator	\$115.00
N09	Lead Construction Coordinator, Senior Designer, Senior Lead CAD Operator	\$100.00
N08	Administrative Specialist, Designer, Senior CEI - CSS (CEI), Senior Inspector (CEI), Senior Lead Technician, TCIS-1 (CMS)	\$100.00
N07	CEI - CSS, Inspector (CEI), Lead CAD Operator, Senior Administrative Coordinator, Senior Civil Technical Specialist, Senior Lead Construction Technician, Senior Lead Survey Technician, Senior Survey Crew Chief	\$90.00
N06	Lead Construction Technician, Lead Survey Technician, Senior CAD Operator, Senior Electrical Coordinator, Senior Lead CMT, Survey Crew Chief, Turbine-Generator Lead Service Technician	\$80.00
N05	Administrative Coordinator, Associate CEI - CSS, Lead Technician, Senior Survey Technician, Survey Coordinator, Technical Specialist	\$70.00
N04	CAD Operator, Construction Technician, Inspector Aide (CEI), Lead CMT, Senior Construction Technician, Senior Technician, Survey Technician	\$65.00
N03	Administrative Assistant	\$60.00
N02	Special Project Technician, Technician	\$60.00

## 2024 Corporate Hourly Rate Schedule-CV

N01	Co-Op, Intern	\$55.00
N/A	Survey Crew - 4 Person	\$255.00
N/A	Survey Crew - 3 Person	\$205.00
N/A	Survey Crew - 2 Person	\$155.00

## 2024 Corporate Expense Rate Schedule

### Vehicle Rental Rates <sup>(1)</sup>

Item Description	Daily	Weekly	Monthly
Survey Vehicle	\$180.00	\$720.00	\$2,772.00
Full-Size Pickup Truck	\$178.00	\$712.00	\$2,741.00
Mid-Size Pickup Truck	\$132.00	\$528.00	\$2,032.00
SUV	\$125.00	\$500.00	\$1,925.00

### Travel

Per Diem	\$50.00 / day
Personal Vehicle Mileage	\$0.670 / mile

### Mail Charges

Postage and Extraordinary Communication Charges	At cost
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### Print and Copy Rates

Service	Unit	Price
Small Format BW Printing	Sheet	\$0.07
Small Format Color Printing	Sheet	\$0.17
Large Format BW Plotting	Sq. Ft.	\$0.15
Large Format Color Plotting	Sq. Ft.	\$0.32

Large Format BW Reference (GAI Sizes)	Height	Width	Cost per Sheet
C2	17	22	\$0.39
C1	18	24	\$0.45
D2	22	34	\$0.78
D1	24	36	\$0.90
E1	30	42	\$1.31
M1	30	46	\$1.44
E3	36	48	\$1.80

Large Format Color Reference (GAI Sizes)	Height	Width	Cost per Sheet
C2	17	22	\$0.83
C1	18	24	\$0.96
D2	22	34	\$1.66
D1	24	36	\$1.92
E1	30	42	\$2.80
M1	30	46	\$3.07
E3	36	48	\$3.84

For additional information or special pricing (binders, mounting, photographs, etc.), contact [MediaServices@gaiconsultants.com](mailto:MediaServices@gaiconsultants.com).

#### Notes:

- (1) Vehicles can be charged at a half-day rental rate when only needed for a portion of a day. The rental rate includes gasoline, insurance coverage, maintenance, and repairs.

Rates are subject to change on January 1, 2025.

## 2024 Equipment Rental Rate Schedule

Item Description	Rental Rates			Item Description	Rental Rates	
	Daily	Weekly	Monthly		per day	per week <sup>(1)</sup>
<b>Vehicles: <sup>(2)</sup></b>				<b>Survey Equipment:</b>		
Survey Vehicle	\$180.00	\$720.00	\$2,772.00	Total Station	\$100.00	N/A
Full-Size Pickup Truck	\$178.00	\$712.00	\$2,741.00	Robotic Total Station	\$250.00	N/A
Mid-Size Pickup Truck	\$132.00	\$528.00	\$2,032.00	Rover GPS	\$100.00	N/A
SUV	\$125.00	\$500.00	\$1,925.00	Base/Rover GPS	\$200.00	N/A
<b>Field Equipment:</b>				Base/Rover/Radio GPS	\$250.00	N/A
Core Drill		\$100.00	N/A	Submeter GPS Unit	\$100.00	N/A
DC Air Compressor		\$40.00	\$75.00	Electronic Pipe Locator	\$100.00	N/A
Dynamic Cone Penetrometer <sup>(3)</sup>		\$35.00	N/A	Bathymetric Equipment	\$200.00	N/A
Generator		\$75.00	\$225.00	Boat and Motor	\$800.00	N/A
Magnetic & Cable Locator		\$50.00	\$150.00	Boat/Motor and Bathymetric Equipment	\$1,000.00	N/A
Measuring Wheel		\$10.00	\$30.00	<b>Environmental Monitoring Equipment:</b>		
Nuclear Density Gauge		\$50.00	\$150.00	Sound Level Meter	\$140.00	\$425.00
Point Load Tester		\$50.00	\$200.00	Water Level Indicator	\$35.00	\$70.00
Portable Radio		N/A	\$15.00*	Interface Probe	\$70.00	\$170.00
Slope Inclinometer		\$100.00	\$300.00	Multi-Parameter Water Quality Meter	\$65.00	\$175.00
<b>Bat Survey Equipment:</b>				YSI Water Quality Meter and Flow thru Cell	\$110.00	\$400.00
Acoustic Detector		\$25.00	N/A	Peristaltic Pump	\$45.00	\$105.00
Mist Netting Equipment		\$50.00	N/A			
Radio Telemetry Equipment		\$25.00	N/A			

\*Rate per calendar week or portion of calendar week.

**Notes:**

- <sup>(1)</sup> Weekly rental rates refer to a calendar week.
- <sup>(2)</sup> Vehicles can be charged at a half-day rental rate when only needed for a portion of a day. The rental rate includes gasoline, insurance coverage, maintenance and repairs.
- <sup>(3)</sup> Disposable penetrometer tips at \$10.00 each.

Rates are subject to change on January 1, 2025.