



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

State of West Virginia Master Agreement

Order Date: 09-12-2022

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:	CMA 0803 0066 DOT6623C003I 1	Procurement Folder:	1099669
Document Name:	STONE AGGREGATE CINDERS MAT & PICKUP BY WVDOH	Reason for Modification:	
Document Description:	ORIGINAL PROCUREMENT FOLDER: 1082134		
Procurement Type:	Central Master Agreement		
Buyer Name:			
Telephone:			
Email:			
Shipping Method:	Best Way	Effective Start Date:	2022-09-15
Free on Board:	FOB Dest, Freight Prepaid	Effective End Date:	2023-09-14

VENDOR	DEPARTMENT CONTACT																				
Vendor Customer Code: 000000199783 FAIRFAX MATERIALS INC 8490 GARRETT HWY OAKLAND MD 21550 US Vendor Contact Phone: 301-334-8101 Extension: Discount Details: <table><thead><tr><th></th><th>Discount Allowed</th><th>Discount Percentage</th><th>Discount Days</th></tr></thead><tbody><tr><td>#1</td><td>No</td><td>0.0000</td><td>0</td></tr><tr><td>#2</td><td>No</td><td></td><td></td></tr><tr><td>#3</td><td>No</td><td></td><td></td></tr><tr><td>#4</td><td>No</td><td></td><td></td></tr></tbody></table>		Discount Allowed	Discount Percentage	Discount Days	#1	No	0.0000	0	#2	No			#3	No			#4	No			Requestor Name: Sherri K Rowan Requestor Phone: (304) 558-9422 Requestor Email: sherri.k.rowan@wv.gov 22 FILE LOCATION _____
	Discount Allowed	Discount Percentage	Discount Days																		
#1	No	0.0000	0																		
#2	No																				
#3	No																				
#4	No																				

INVOICE TO	SHIP TO
VARIOUS AGENCY LOCATIONS AS INDICATED BY ORDER No City WV 99999 US	STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER No City WV 99999 US

Total Order Amount:

Open End

Purchasing Division's File Copy

ENTERED

PURCHASING DIVISION AUTHORIZATION

DATE: *9/12/22*
ELECTRONIC SIGNATURE ON FILE

ATTORNEY GENERAL APPROVAL AS TO FORM

DATE: *9/12/22*
ELECTRONIC SIGNATURE ON FILE

ENCUMBRANCE CERTIFICATION

DATE: *9/16/2022*
ELECTRONIC SIGNATURE ON FILE

Extended Description:

THE VENDOR, FAIRFAX MATERIALS INC., AGREES TO ENTER WITH THE AGENCY, WEST VIRGINIA DIVISION OF HIGHWAYS, INTO AN OPEN-END CONTRACT FOR STONE AND AGGREGATE MATERIALS PICKUP BY WV DOH FORCES PER THE SPECIFICATIONS, TERMS AND CONDITIONS, BID REQUIREMENTS, AND THE VENDOR'S BID DATED 08/17/2022 AN INCORPORATED HEREIN BY REFERENCE, AND MADE A PART OF HEREOF.

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
1	11111600			TON	0.000000
	Service From	Service To			

Commodity Line Description: ITEM A CLASS 1 AGGREGATE

Extended Description:

STONE AGGREGATE CINDERS 2022 MATERIAL & PICKUP BY WVDOH
PER ATTACHED PRICING PAGE AND INFORMATION ATTACHMENT FORM

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
2	11111600			TON	0.000000
	Service From	Service To			

Commodity Line Description: ITEM B CLASS 2 AGGREGATE

Extended Description:

STONE AGGREGATE CINDERS 2022 MATERIAL & PICKUP BY WVDOH
PER ATTACHED PRICING PAGE AND INFORMATION ATTACHMENT FORM

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
3	11111600			TON	0.000000
	Service From	Service To			

Commodity Line Description: ITEM C CLASS 10 AGGREGATE

Extended Description:

STONE AGGREGATE CINDERS 2022 MATERIAL & PICKUP BY WVDOH
PER ATTACHED PRICING PAGE AND INFORMATION ATTACHMENT FORM

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
6	11111600			TON	0.000000
	Service From	Service To			

Commodity Line Description: ITEM F AASHTO #4 AGGREGATE

Extended Description:

STONE AGGREGATE CINDERS 2022 MATERIAL & PICKUP BY WVDOH
PER ATTACHED PRICING PAGE AND INFORMATION ATTACHMENT FORM

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
7	11111600			TON	0.000000
Service From		Service To			

Commodity Line Description: ITEM G AASHTO #467 AGGREGATE

Extended Description:

STONE AGGREGATE CINDERS 2022 MATERIAL & PICKUP BY WVDOH
PER ATTACHED PRICING PAGE AND INFORMATION ATTACHMENT FORM

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
8	11111600			TON	0.000000
	Service From	Service To			

Commodity Line Description: ITEM H AASHTO #57 AGGREGATE

Extended Description:
STONE AGGREGATE CINDERS 2022 MATERIAL & PICKUP BY WVDOH
PER ATTACHED PRICING PAGE AND INFORMATION ATTACHMENT FORM

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
9	11111600			TON	0.000000
	Service From	Service To			

Commodity Line Description: ITEM I AASHTO #67 AGGREGATE

Extended Description:
STONE AGGREGATE CINDERS 2022 MATERIAL & PICKUP BY WVDOH
PER ATTACHED PRICING PAGE AND INFORMATION ATTACHMENT FORM

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
11	11111600			TON	0.000000
	Service From	Service To			

Commodity Line Description: ITEM K AASHTO #8 1 AGGREGATE

Extended Description:
STONE AGGREGATE CINDERS 2022 MATERIAL & PICKUP BY WVDOH
PER ATTACHED PRICING PAGE AND INFORMATION ATTACHMENT FORM

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
12	11111600			TON	0.000000
	Service From	Service To			

Commodity Line Description: ITEM L AASHTO #9 AGGREGATE

Extended Description:
STONE AGGREGATE CINDERS 2022 MATERIAL & PICKUP BY WVDOH
PER ATTACHED PRICING PAGE AND INFORMATION ATTACHMENT FORM

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
13	11111600			TON	0.000000
	Service From	Service To			

Commodity Line Description: ITEM M STONE FOR GABIONS

Extended Description:
STONE AGGREGATE CINDERS 2022 MATERIAL & PICKUP BY WVDOH
PER ATTACHED PRICING PAGE AND INFORMATION ATTACHMENT FORM

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
15	11111600			TON	0.000000
	Service From	Service To			

Commodity Line Description: ITEM OA LIMESTONE STANDARD ABRASIVES

Extended Description:
STONE AGGREGATE CINDERS 2022 MATERIAL & PICKUP BY WVDOH
PER ATTACHED PRICING PAGE AND INFORMATION ATTACHMENT FORM

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
18	11111600			TON	0.000000
	Service From	Service To			

Commodity Line Description: ITEM PA LIMESTONE MODIFIED ABRASIVES

Extended Description:
STONE AGGREGATE CINDERS 2022 MATERIAL & PICKUP BY WVDOH
PER ATTACHED PRICING PAGE AND INFORMATION ATTACHMENT FORM

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
20	11111600			TON	0.000000
	Service From	Service To			

Commodity Line Description: ITEM Q RIP RAP

Extended Description:
STONE AGGREGATE CINDERS 2022 MATERIAL & PICKUP BY WVDOH
PER ATTACHED PRICING PAGE AND INFORMATION ATTACHMENT FORM

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
21	11111600			TON	0.000000
	Service From	Service To			

Commodity Line Description: ITEM R SHOT ROCK

Extended Description:
STONE AGGREGATE CINDERS 2022 MATERIAL & PICKUP BY WVDOH
PER ATTACHED PRICING PAGE AND INFORMATION ATTACHMENT FORM

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
22	11111600			TON	0.000000
	Service From	Service To			

Commodity Line Description: ITEM S AASHTO #8 MODIFIED

Extended Description:
STONE AGGREGATE CINDERS 2022 MATERIAL & PICKUP BY WVDOH
PER ATTACHED PRICING PAGE AND INFORMATION ATTACHMENT FORM

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
23	11111600			TON	0.000000
	Service From	Service To			

Commodity Line Description: ITEM T AASHTO #9 MODIFIED

Extended Description:
STONE AGGREGATE CINDERS 2022 MATERIAL & PICKUP BY WVDOH
PER ATTACHED PRICING PAGE AND INFORMATION ATTACHMENT FORM

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
26	11111600			TON	0.000000
	Service From	Service To			

Commodity Line Description: ITEM W QUARRY WASTE

Extended Description:
STONE AGGREGATE CINDERS 2022 MATERIAL & PICKUP BY WVDOH
PER ATTACHED PRICING PAGE AND INFORMATION ATTACHMENT FORM

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
27	11111600			TON	0.000000
	Service From	Service To			

Commodity Line Description: ITEM Z IMBRICATED STONE

Extended Description:
 STONE AGGREGATE CINDERS 2022 MATERIAL & PICKUP BY WVDOH
 PER ATTACHED PRICING PAGE AND INFORMATION ATTACHMENT FORM

	Document Phase	Document Description	Page 6
DOT6623C003I	Draft	ORIGINAL PROCUREMENT FOLDER: 1082134	

ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions

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 one (1) year. 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 three (3) 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 _____ 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.

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:

☐ **BID BOND (Construction Only):** 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.

☐ **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.

☐ **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.

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment 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 a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under \$100,000. Personal or business checks are not acceptable. Notwithstanding the foregoing, West Virginia Code § 5-22-1 (d) mandates that a vendor provide a performance and labor/material payment bond for construction projects. Accordingly, substitutions for the performance and labor/material payment bonds for construction projects is not permitted.

☐ **MAINTENANCE BOND:** The apparent successful Vendor shall provide a two (2) year maintenance bond covering the roofing system. The maintenance bond must be issued and delivered to the Purchasing Division prior to Contract award.

☐ **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 and must include the State as an additional insured on each policy 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: one million dollars per occurrence.

☐ **Automobile Liability Insurance** in at least an amount of: _____ per occurrence.

☐ **Professional/Malpractice/Errors and Omission Insurance** in at least an amount of: _____ 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.

☒ **State of West Virginia must be listed as additional insured on insurance certificate. Certificate holder should read as follows:**

☒ State of WV
1900 Kanawha Blvd. E., Bldg. 5
Charleston, WV 25305

☐

☐

Notwithstanding anything contained in this section to the contrary, the Director of the Purchasing Division reserves the right to waive the requirement that the State be named as an additional insured on one or more of the Vendor's insurance policies if the Director finds that doing so is in the State's best interest.

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. [Reserved]

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 <http://www.state.wv.us/admin/purchase/privacy/default.html>.

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 CERTIFICATIONS: By signing its bid or entering into this Contract, Vendor certifies (1) that its bid or offer was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid or offer for the same material, supplies, equipment or services; (2) that its bid or offer is in all respects fair and without collusion or fraud; (3) 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; and (4) that it has reviewed this Solicitation in its entirety; understands the requirements, terms and conditions, and other information contained herein.

Vendor's signature on its bid or offer also affirms that neither it nor its representatives have any interest, nor shall 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. The individual signing this bid or offer on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or offer or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

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.

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 hearth, 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

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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.

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.

(Name, Title) James W. Eber V.P. of Sales
(Printed Name and Title) James W. Eber V.P. of Sales
(Address) 8490 Garrett Hwy, Oakland, MD 21550
(Phone Number) / (Fax Number) 301-334-8101
(email address) jim@aggmgt.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 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.

FairFax Materials, Inc.

(Company)

James W. Eber V.P. of Sales

(Authorized Signature) (Representative Name, Title)

James W. Eber V.P. of Sales 8/24/22

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

301-334-8101

(Phone Number) (Fax Number)

jim@aggmgt.com

(Email Address)

REQUEST FOR QUOTATION
Stone & Aggregate Pickup by Agency

SPECIFICATIONS

- 1. PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Division of Highways to establish an open-end contract for various sizes and types of Stone, Aggregate, Cinders, and/or Slag for **PICK UP F.O.B.** from the Vendor's Storage Site **ONLY**, by WVDOH Forces.

- 2. DEFINITIONS:** The terms used throughout this solicitation shall have the assigned meanings as indicated below. Additional definitions can be found in Section 2 of the General Terms and Conditions.
 - 2.1 "AASHTO"** - American Association of State Highway and Transportation Officials. Reference: www.transportation.org.
 - 2.2 "Agency"** – for the purpose of this contract refers to the WV Division of Highways.
 - 2.3 "Agency Delivery Order", and "ADO"** - interchangeable terms for the document generated by the ordering Agency to be entered into wvOASIS in order to facilitate payment of invoiced Contract Items as ordered by the Agency's official "WV-39 Contract Release Order" sent to the Vendor.
 - 2.4 "Attachment A", "Pricing Pages", and "ATT A"** – interchangeable terms for the MANDATORY FORM and pages, contained in wvOASIS and attached hereto, upon which Vendor shall list its proposed bid price and all details as requested by this solicitation for this Contract's goods and service Items, and used to evaluate the solicitation responses. The official pricing shall be taken from this Contract's ATT A Pricing Pages.
 - 2.5 "Blanket Release Order", "WV-39 Form", and "Release Order"** – interchangeable terms for the document issued by the ordering Agency as the actual order to release contract goods and/or service items issued against a blanket purchase agreement, and the details from which the Vendor uses to create its invoice.
 - 2.6 "Contract Item", "Items", and "Pay Items"** – interchangeable terms for the goods and/or services for which bids are sought and identified in Section 3, the Pricing Pages, and referred to in any and all of the other Attachments and Exhibits that the Agency has made part of this Solicitation.
 - 2.7 "Contractor" and "Vendor"** - interchangeable terms referring to any person or entity that submits a bid in response to the solicitation, the 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 a contract, as context requires.

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- 2.8 “Default Remedy Costs”** - monetary compensation due from Vendor to cover the actual and direct cost of any substituted goods and/or service required for project completion if Vendor breaches the contract by failing to complete the project/Delivery Order.
- 2.9 “Emergency Work” and “Emergency Requests”** – interchangeable terms for the delivery of goods and/or services (as designated by Agency Engineer or his or her designee at a minimum), which must be done by the Vendor without delay, based on Agency need and instruction, due to circumstances the Agency could not have reasonably expected.
- 2.10 “Engineer” and “Division”** – interchangeable terms used in these specifications, or the Standard Specs, referring to the Agency’s/WV Division of Highways Engineer or his/her designee, having authority and final acceptance determination of Contract Items, work, methods, and project completion, as per Standard Specs Section 105.
- 2.11 “F.O.B. Destination”, and “Free-on-Board Destination”** – interchangeable terms meaning Vendor or its designee bears the freight charges, owns the goods while in transit, and will deliver goods to the location specified on the Delivery Order via truck/other conveyance without any expense to the purchaser. The bid price for materials shall include Delivery at the Vendor’s expense.
- 2.12 “Liquidated Damages”** - monetary compensation due from the Vendor in the event Vendor’s performance falls short of contractual stipulation or breaches the contract. Delays in the delivery of goods and/or services or quality failures or corrections by Vendor may result in the Agency assessing charges for such deficiencies per these contract Specifications, the Standard Specs Section 108.7, as amended, and calculated from the latest table made available by the WVDOH Contract Administration Division, as amended.
<http://transportation.wv.gov/highways/contractadmin/specifications/Pages/default.aspx>
- 2.13 “Materials Procedures” and “MP documents”** – interchangeable terms referring to the Materials Control Soils and Testing articles, as amended, available at: <https://transportation.wv.gov/highways/mcst/Pages/WVDOH-Materials-Procedures.aspx>
- 2.14 “MCS&T”** - Materials Control, Soils and Testing Division of the WV Division of Highways, <https://transportation.wv.gov/highways/mcst/Pages/default.aspx>
- 2.15 “Standard Specs”**- the “WV Department of Transportation, Division of Highways Standard Specifications, Roads and Bridges”, most recent edition, as modified/amended by subsequent Supplemental Specifications, and providing details, directions, and provisions of the contract’s commodity items and related work. It shall be understood and agreed that the Standard Specs shall remain subject to future changes and the latest

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amendments and addendums thereto shall prevail and be adopted “as amended”, meaning on an ongoing basis, any time the words “Standard Specs” are used.

<https://transportation.wv.gov/highways/contractadmin/specifications/Pages/default.aspx>

2.16 “Unit of Measure and UOM” – interchangeable terms, for the physical unit of measurement assigned by the WVDOH to goods and service items, per contract.

2.17 “WV Straight Line Diagrams”- WVDOH’s source for the WV Primary Routes and WV Secondary Routes that the Vendor shall take as instructed for providing contract goods and/or services. The diagrams are available in each WVDOH District Office and the WVDOH Central Office.

3. GENERAL REQUIREMENTS:

Contract Items and Mandatory Requirements: Vendor shall provide Agency with the Contract Items listed herein on an open-end and continuing basis. The Agency shall deem a bid non-responsive, either in part or whole, for failure to submit any required documents as notated herein. Per the Standard Specs, Terms and Conditions, and these contract specifications, the Contract Items ordered will be paid per the Agency’s defined units of measure and at the Vendor’s price bid on the ATT A Pricing Pages, adherent to the Agency Delivery Order details. Vendor shall accept such as full compensation for furnishing all the materials and doing all work prescribed in a workmanlike and acceptable manner, including all labor, tools, equipment, supplies and incidentals necessary to complete the work.

3.1 Documentation to be Included with the Bid: Vendor should carefully read this entire solicitation invitation. The Vendor should include, as part of its bid response:

- Certification and Signature Page
- Addendum Acknowledgement Form
- Valid WV Contractor’s License, if applicable.
- Contract Manager Page
- Valid Certificate of Insurance; and,
- Any other required forms or supporting information as described herein.

Omitting any required forms, attachments, or documentation as described throughout this contract may deem a bid non-responsive and may result in the disqualification of Vendor’s bid response.

3.2 Specifications: The following Sections of the Standard Specs shall apply, at a minimum, to the administration of this contract: 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, and 401, as amended.

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A hard copy of the current Standard Specs may be purchased at a cost of \$20.00 (\$15.00 for the current book edition, plus \$5.00 for the latest Supplemental) by completing the "Standard Specifications Order Form"

<https://transportation.wv.gov/highways/contractadmin/specifications/Documents/SpecBookOrderForm20220202.pdf> and emailing it to DOHSpecifications@wv.gov or mailing it to:

WV Division of Highways
Technical Support Division
1334 Smith Street
Charleston, WV 25301

A free electronic copy of the Standard Specs may be obtained by sourcing:
<https://transportation.wv.gov/highways/contractadmin/specifications/Pages/default.aspx>

3.3 Materials: All materials bid and provided under this contract must meet or exceed mandatory requirements as shown below and adhere to the Standard Specs, as amended:

<u>MATERIAL</u>	<u>STANDARD SPECS SECTION</u>
Fine Aggregate (NOTE 1)	702
Coarse Aggregate (NOTE 1 & 4)	703
Crushed Stone	703.1
Rip Rap	704.2
Stone for Gabions	704.3
Shot Rock	704.8
Abrasives (NOTES 2, 3, 5 & 8)	
Aggregate for Base and Sub-base see also 704.6.2	704.6
# 8 Modified and # 9 Modified (NOTE 3 & 4)	703.3
# 11 Limestone for SRIC (NOTE 6)	703.1
Quarry Waste (NOTE 7)	
Steel Slag for SRIC (NOTE 8)	703.3
Imbricated Stone (NOTE 9)	704.5

NOTE 1: Fine Aggregate on the Pricing Page shall be for Portland cement concrete or mortar sand. The particular type shall be specified by the Agency on the Delivery Order. Coarse aggregate on the Pricing Pages (ATT A) is identified by an AASHTO standard size: AASHTO Size # 1, AASHTO Size #467, etc. Aggregate for base and sub-base on the Pricing Pages is identified by Class 1, Class 2, and Class 9, etc.

NOTE 2: Abrasives:

A. Quality

1. Liquid limit shall not exceed 25 and plasticity index shall not exceed six (6).

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2. Total deleterious substances including, but not limited to metal, glass, clay, shale, and thin or elongated pieces shall not exceed 3% of the dry weight of the total sample. Deleterious content shall be determined on that fraction of material retained on the U.S. Standard # 4 (4.75 mm) sieve.
 3. When gravel is used as an abrasive, the material retained on the AASHTO #8, the sieve shall have a majority of crushed particles.
- B. Gradation: Material shall adhere to AASHTO T-27:

<u>SIEVE SIZE</u>	<u>% PASSING BY WEIGHT</u>	
	<u>Standard</u>	<u>Modified</u>
1/2 inch	100	100
3/8 inch	85-100	85-100
# 100	0-10	0-4

NOTE 3: In addition to meeting the gradation requirements of AASHTO #8 and # 9 aggregate in table 703.4, Modified AASHTO # 8 and Modified AASHTO #9 aggregate shall have a maximum of 2% passing the # 200 sieve, when sampled at the source (the Vendor's last point of possession), prior to shipment, as determined by AASHTO T-11 and T-27. The aggregates shall be crushed with a minimum of 80% two face fracture. Modified AASHTO #8 and Modified AASHTO #9 aggregate shall meet all other requirements for AASHTO #8 and AASHTO #9 aggregate.

NOTE 4: With the exception of the following Contract Items, grading on all specified sieve sized for material and grading shall adhere to AASHTO T-27 (Dry Test Only) or by AASHTO T-27 with AASHTO T-11:

Item J, AASHTO # 7
Item K, AASHTO # 8
Item L, AASHTO # 9
Item S, AASHTO # 8 Modified
Item T, AASHTO # 9 Modified

NOTE 5: Cinders:

- A. Cinders consists of Wet Bottom Boiler Slag (shiny, black, glassy material) formed when molten ash from the burning of coal drops into water and shatters at the bottom of the boiler, and/or Bottom Ash formed when ash particles from the burning of pulverized coal is allowed to air cool at the bottom of the furnace.
- B. Quality
Total deleterious substances, including but not limited to metal, glass, clay, shale, and thin or elongated pieces, shall not exceed 3% of the dry weight of the total sample. Deleterious content shall be determined on that fraction of material retained on the US Standard # 4 (4.75 mm) sieve.
- C. Gradation: Material shall adhere to AASHTO T-27.

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<u>SIEVE SIZE</u>	<u>% PASSING BY WEIGHT</u>
1/2 inch	100
3/8 inch	85-100
# 100	0-20

NOTE 6: # 11 Limestone for SRIC:

A. Quality

1. The liquid limit shall not exceed 25 and plasticity index shall not exceed six (6).
2. Total deleterious substances including, but not limited to metal, glass, clay, shale, and thin or elongated pieces shall not exceed 1% of the dry weight of the total sample. Deleterious content shall be determined on that fraction of material retained on the U.S. Standard # 8 (2.36 mm) sieve.

B. Gradation – Material shall adhere to AASHTO T-27:

<u>SIEVE SIZE</u>	<u>% PASSING BY WEIGHT</u>
3/8 inch	100
# 4	40-90
# 8	10-40
# 100	0-5

NOTE 7: Quarry Waste shall adhere to Standard Specs 716.1.1 Random Material, as amended.

NOTE 8: Steel Slag for SRIC:

A. Quality

1. The liquid limit shall not exceed 25 and the plasticity index shall not exceed six (6).
2. Total deleterious substances including, but not limited to metal, glass, clay, shale, and thin or elongated pieces shall not exceed 3% of the dry weight of the total sample. Deleterious content shall be determined on that fraction of material retained on the U.S. Standard # 4 (4.75 mm) sieve.

B. Gradation – materials shall adhere to AASHTO T-27:

<u>SIEVE SIZE</u>	<u>% PASSING BY WEIGHT</u>
1/2 inch	100
3/8 inch	85-100
# 100	0-20

NOTE 9: Imbricated Stone/Rock shall meet Standard Specs 704.5 Special Rock Fill, as amended. Size shall be a minimum of 36 inches with a maximum of 72 inches. Imbricated Stone/Rock shall have two flat surfaces that may be used in a stackable manner. Imbricated Stone/Rock may be used in conjunction with Standard Specs 218.3 and 218.4, as amended.

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- 3.4 Sampling and Testing** for quality of all items furnished in this contract will be the responsibility of WVDOH. Minimum frequency of sampling and testing for quality on all materials (other than those sources already covered by the WVDOH's "commercial source" approval) will be at least one sample every six (6) days of shipment (or if tested during production, at least one sample every six days of production). All samples taken by Vendor shall be by a Certified Aggregate Sampler or Certified Aggregate Inspector. Tests shall be performed by a Certified Aggregate Inspector. Other minimum frequencies shall be:

<u>Property</u>	<u>Frequency</u>
Gradation Delivered Material	One sample per each day of shipment or if tested during production, one sample per each day of production. See NOTE 1 below.
Gradation	(A-1 Source) One sample per each week of shipment per MP 700.00.52; or if tested during production, one sample per each day of production. See Note 1 below. (A-2 Source) One sample per 250 tons shipped and a minimum of one per week shipment.
Moisture Content	See NOTE 2 below.

NOTE 1: Vendor will be responsible for providing test results attesting to the gradation of materials delivered. Gradation results from the production source will be acceptable.

NOTE 2: In the event visual inspection of the aggregate indicates excess or unusual moisture beyond what is normally expected in the aggregate, the WVDOH reserves the right to determine moisture content by standard methods per established Division procedures. If this becomes necessary, the net weight of portion represented will be adjusted utilizing test results obtained by WVDOH per MP 700.00.22. Abrasives and Steel Slag Items will be considered fine aggregate as outlined in MP 700.00.22.

- 3.5 Acceptance Plan:** Per Standard Specs 703, crushed stone shall consist of particles of clean, hard, tough, durable rock, free from adherent and foreign material. Acceptance for gradation shall be based on test results, provided and certified by Vendor to be true test results and representative of the material supplied to WVDOH, on consecutive random samples from a lot. A lot shall consist of a quantity of material represented by an average value (not to exceed 5 sub-lots). A sub-lot shall consist of the quantity of material represented by a single gradation test. When only one sample is taken to represent the total quantity, the sub-lot and lot will be considered the same. Frequency of sampling and testing shall be per Vendor's quality control plan outlined in MP

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700.00.51. Vendor shall provide gradation test results to the Agency within seventy two (72) hours.

- 3.5.1 Sampling Testing & Evaluation:** As per Standard Specs 704, the Agency reserves the right to have materials sampled, tested, and evaluated material deliveries. If material fails to comply with WVDOH quality requirements, the Agency, at its own discretion, shall notify Vendor that the nonconforming material will not be accepted and shall be removed and replaced at Vendor's expense, or at the option of the ordering Agency, may be left in place with reduced payment.

At the discretion of the Agency, material failing to comply with the quality requirements will not be accepted. Acceptance for gradation shall be based on test results, provided and certified by Vendor to be true test results and representative of the material supplied to WVDOH, on consecutive random samples from a lot. A lot shall consist of a quantity of material represented by an average value (not to exceed 5 sub-lots). A sub-lot shall consist of the quantity of material represented by a single gradation test. In the case where only one sample is taken to represent the total quantity, the sub-lot and lot will be considered the same. Frequency of sampling and testing shall be per the Vendor's quality control plan outlined in MP 700.00.51. Vendor shall provide the gradation test results to the WVDOH within 72 hours.

Gradation test results shall be averaged per MP 300.00.51, as amended. When the average falls outside the applicable limits, the entire lot of material represented thereby will be considered non-conforming to the extent that the last of its sub-lots is non-conforming. When a lot of material is nonconforming, then the last sub-lot contained therein shall have its degree of non-conformance determined as set forth below.

- 3.5.2 When a sub-lot of material is to have its price adjusted,** the percentage point difference between the non-conforming test value and the specification limit shall be determined for each sieve size determined to be non-conforming, and this value shall be multiplied by its appropriate multiplication factor as set forth in Table 1. The total measure of non-conformance of an individual sub-lot is the sum of all non-conformances on the various sieve sizes of that sub-lot. In no case, however, shall a sub-lot of material have its price adjusted more than once, and the first adjustment determined shall apply. When the total degree of non-conformance has been established and it is 12 or less, the material will be paid for at an adjusted contract price as specified in Table 2.

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TABLE 1

<u>NONCONFORMING SIEVE SIZE</u>	<u>MULTIPLICATION FACTOR</u>
Plus # 40	1
# 40	1.5
# 50	1.5
# 100	2.0
	(1.3 for Abrasives and Cinders)
# 20	2.5
1/2"	1
3/8"	1

TABLE 2

<u>DEGREE OF NON-CONFORMANCE</u>	<u>PERCENT OF CONTRACT PRICE TO BE REDUCED</u>
1.0 TO 3.0	2
3.1 TO 5.0	4
5.1 TO 8.0	7
8.1 TO 12.0	11
Greater than 12	*

*WVDOH will make a special evaluation of the material and determine action.

- 3.5.3** In the event the WVDOH picks up a specific quantity of material from a stockpile, and said quantity is less than the total quantity contained in the stockpile and it has been determined from this certified test data that a non-conforming sub-lot(s) is contained in said stockpile, the price reduction shall be calculated for the specific quantity as follows:

The percent price reduction shall be determined as set forth above for the non-conforming sub-lot. The quantity represented by the non-conforming sub-lot shall then be calculated as a percent of the total (total material contained in the stockpile). To determine the price reduction on the specific quantity picked up, multiply the percent of non-conforming material contained in the stockpile by the quantity picked up, and reduce this quantity by the percent price reduction as determined.

Example: If it has been determined that a stockpile of 100 tons contains 10 percent failing material, and said material is to have its price reduced by 4 percent, then the actual quantity picked up, say 15 tons, will be multiplied by 0.10 (10 percent failing material) which equals 1.5 tons. These 1.5 tons will thus have its price reduced by 4 percent. The remaining 13.5 tons will be paid for at full contract price.

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If two sub-lots are non-conforming within the stockpile, calculate each separately for the adjusted payment on the quantity picked up (as above). Add these two adjusted payments together and subtract from the total the price to be paid before adjustment for tonnage picked up (TD). If three sub-lots are non-conforming, calculate each separately and subtract twice the price to be paid before adjustment for tonnage picked up, and so on. Example:

$$(AP1 + AP2) - TD = \text{Final price to be paid after adjustments}$$

OR

$$(AP1 + AP2 + AP3) - 2 TD = \text{Final price to be paid after adjustments}$$

WHERE: AP = price to be paid after initial adjustment for one nonconforming sublot determined by the above equation.

- 3.6 In the event material is picked up from a continuous stockpile, that is, a stockpile which is continuously being replenished while also having material removed for these applications, certification shall be based on the shipment samples.
- 3.7 **Emergency Work** as ordered by the Engineer, shall be initiated as instructed on the Delivery Order within twenty-four (24) hours from when the Delivery Order is received by the Vendor therefore a rushed response with goods or service delivery is required, (see the definitions of these Contract Specifications). Emergency work shall be prominently noted on the Delivery Order. The Agency's designated emergency work shall be paid at 1.50 times the Vendor's contract price. To facilitate payment, the Agency should include the word "Emergency" order on its Delivery Order (and the ADO entered into wvOASIS) to denote its calculation of pricing at the emergency rate.

4. SAFETY:

Pandemic-Response Safety Protocols: In addition to Vendor's established safety protocols and the WVDOH's established safety protocols outline in the Standard Specs, as amended, the Vendor and the Vendor's staff or designee shall adhere to all WVDOH's pandemic-response protocols while at the WVDOH location/jobsite. Vendor may obtain the WVDOH's pandemic-response protocols by contacting the Agency.

5. CONTRACT AWARD & BID INSTRUCTIONS:

- 5.1 This Contract is intended to provide Agencies with a purchase price on all Contract Items. A contract shall be awarded to all responsible, qualified Vendors meeting the requirements of these specifications. By completing the Attachment A (ATT A) spreadsheet as requested, Vendor shall supply its pricing with corresponding plant source and storage site information for all Items bid. Vendor shall provide its pricing

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for materials plus delivery (F.O.B. destination/to Agency's established storage locations), from Vendor's sourced/storage sites. The low bid Vendor will be determined at the time of need, as per Section 6 of these Specifications.

Download Spreadsheets, Enter Bid Electronically, & Upload to wvOASIS: To avoid errors and expedite the evaluation Vendor should *electronically* enter its bid information in the ATT A spreadsheet provided with this solicitation and upload them, with its remaining bid documents, into wvOASIS. Vendor can request the electronic copy of the spreadsheets by sending an email request to the buyer: John.W.Estep@wv.gov

Changing Units of Measure or other information on the ATT A or submitting delivery terms and conditions contrary to those provided by the Agency shall result in the disqualification of the altered ATT A line Item. Submitting bid information on forms other than those Attachments provided with this solicitation shall result in the disqualification of all Contract Items bid on the erroneous pages.

5.1.1 Attachment A "ATT A" (Pricing Pages): The Pricing Pages contain a list of Contract Items including, but not limited to, Limestone, Sandstone, Gravel, Sand, Cinders, Blast Furnace Slag, Steel Slag, SRIC Aggregate, for pick up by WVDOH forces, F.O.B. from Vendor's listed Storage Site location. Vendors may bid any or all Items and locations, and shall use the Agency's specified unit of measure, type, and size, per Item. Vendor shall provide on the ATT A all details as requested for each plant sourced with plant name and storage location, as paired with pricing. The Vendor shall exclude no locations pertinent to its Items bid.

Vendor's bid price for Items on the Pick Up contract shall include **loading** of WVDOH trucks by the Vendor. Vendor shall provide pricing using the Agency's specified unit of measure, type, and size, per Item. The Agency reserves the right to request any one or combination of awarded Items at the lowest overall total.

- **Pricing Shall Be Honored:** All bids or pricing submitted shall be held and honored by the Vendor for no less than 90 days after the bid opening date.
- **No Guaranteed Purchase:** When available, the Agency supplies estimated quantities on the Pricing Pages *as an approximation only*, intended strictly for bid evaluation and award determination purposes. There shall be no guarantee that any Item will be purchased throughout the life of this contract. Bidding on any one Contract Item may not imply acceptance of any other Contract Item(s). Submitting Pricing Pages from a prior years' contract, in lieu of the current Pricing Pages included for this solicitation, shall result in the disqualification of the Vendor's bid.

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- When providing its pricing on the ATT A, Vendor should take into consideration any applicable merchant credit card fees in the event that the Agency's payment to Vendor is via credit card.
- **OASIS BID SUBMISSION NOTES:** The pricing provided on the ATT A shall be used as Vendor's final price by the Agency when performing bid evaluation and award determination, (regardless of any price or details the Vendor may enter into the commodity lines within OASIS). Bid prices and comments made in the OASIS system on the Commodity lines/Description lines etc. will not be considered for bid evaluation or award. **BIDS THAT DO NOT INCLUDE ATT A WILL BE DISQUALIFIED.**

5.3 Contract Award Transition:

Upon the award of this contract, notwithstanding the effective date, completed and encumbered date, or any other suggested or established date by the Agency, the WVDOH Operations Division will announce the effective "date of use" of this contract to the Districts and Vendors. Upon announcing the date of use, any "open" Delivery Order issued during the previously effective contract(s) where Item pick up has started, shall remain in effect and not be cancelled until that Delivery Order is completely fulfilled. Any issued Delivery Order that is "inactive," meaning Item pick up has not been started, shall be cancelled and reissued off the new contract. No inactive Delivery Order from the previously effective contracts should be held open by the District or the Vendor longer than ten (10) working days after notice of the effective date of use of the new contracts. This directive is issued to assist the Districts and the Vendors when fulfilling open Delivery Orders only. It is NOT issued to cause harm or to take contracts from one Vendor to give to another Vendor, but to establish a transition process from one contract into another contract.

- 5.4 Price Adjustment of Fuel Oil # 2 (Diesel Fuel):** Due to the uncertainty in estimating the cost of diesel fuel that will be used during the life of this contract, adjustment in compensation for applicable items shall be per Standard Specs 109.9, as amended, with the exception that Factor "C" in the Price Adjustment for Fuel formula is to be broken down by component, as shown in Figure 5.5.A below.

The Price Adjustment for Fuel formula to be utilized for this contract is:

$$Pa = [(Mbp \div Cbp) - 1.00] \times Cbp \times C \times Q$$

Where: Pa = Price Adjustment

Mbp = Monthly base price at time of placement

Cbp = Contract Base Price at time of bidding*

C = Cost Adjustment Factors per Unit, as per Figure 5.5.A

Q = 'As Constructed' Quantity

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FIGURE 5.5.A

Description	Factor	Applicable Item
Aggregate Production	0.49	Contract Item A thru Z and AA

Fuel Adjustments will be based on the August 2022 Fuel Prices on the Contract Administration website for Fuel, Asphalt and Cement Prices:

<https://transportation.wv.gov/highways/contractadmin/Lettings/Pages/FuelandAsphaltPrices.aspx#FuelPrices>

5.5 Cooperative Contracting: Purchase prices on all Contract Items under this contract, available to the WVDOH, shall be adoptable for other public agencies upon their request. Agencies under the authority of the WV Purchasing Division must receive prior approval by the Purchasing Director.

- 6. DETERMINING LOW BID FOR PICKUP:** At the time of need, the Agency will evaluate the bid pages from each contract, determine the Engineer will calculate the lowest overall total cost of the price of material, Item A through W and Item AA plus a haul cost at \$1.50 for the first ton-mile and \$0.25 for each additional ton-mile.

F.O.B. from Vendor's Storage site(s). For those Vendors who wish to bid, there is no anticipated purchase/pickup volume. Pick up from a Vendor's Storage Site is typically only used when delivery is not feasible for an Agency project.

7. ORDERING AND PAYMENT:

- 7.1 Ordering:** Any verbal communications to initiate or make modifications to a project from this contract are not acceptable as a Delivery Order. At the time of need, the Agency may choose one or more of the Contract Items to complete an individual project as shown by Agency's written instruction on each Delivery Order. Vendor shall accept orders through email, wvOASIS, regular mail, facsimile, or any other written forms of communication. Vendor shall maintain and keep current its phone numbers, fax number, email address, locations and ordering/billing/payment addresses with WVDOH and in wvOASIS. Vendor may, but is not required to, accept online orders through a secure internet ordering portal/website. If Vendor has the ability to accept online orders, it must include in its response a brief description of how Agencies may utilize the online ordering system. Vendor shall ensure that its online ordering system is properly secured prior to processing Agency orders online. The Agency reserves the

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right to request any one or a combination of awarded Items at the lowest overall total cost to the Agency.

- 7.2 Delivery Order:** The ordering Agency will generate a blanket Release Order WV-39 to officially release the ATT A goods/services Items from this purchase order Contract. Once complete, the Delivery Order shall be sent to Vendor via email, fax, postal mail, or delivery. and the Agency should enter an ADO into wvOASIS at this time. Agency should thoroughly and carefully convey expectations, which may require Agency to call Vendor and discuss details prior to creating the official *written* Release Order, detailing ATT A Contract Items, pricing, quantities, project location, materials source location, start and completion timeline, and any special instruction regarding goods/service delivery required.

Entry of ADO in OASIS: To facilitate Vendor with creation of its invoice, meet Agency accounting requirements, and enable processing of payment (in any form), the Agency should take all necessary steps to generate the ADO and enter it into wvOASIS at the same time it issues the WV-39 Release Order to the Vendor, to avoid payment processing issues due to date conflicts.

- 7.2.1 Revisions:** As the Agency's work-needs dictate, the Agency reserves the right to make revisions and change orders to previously issued Delivery Order(s), to be done in the form of subsequent Delivery Order(s) and sent to the Vendor.

- 7.2.2 Vendor Acceptance & Written Verification of Receipt is Required:** Vendor must provide the ordering Agency with *written* acknowledgement of all Agency Delivery Orders and/or any modifications thereto. Vendor shall respond to the Agency in writing no later than three (3) calendar days of the date on the issued Delivery Order. Failure to comply with this requirement shall be considered refusal of the Delivery Order, see Delivery Order Failure and Contract Default Sections below. In such an event, the Agency shall proceed at its own discretion, to cancel the Delivery Order, seek to obtain the goods or services from another low bid Vendor, (without the same Tax Identification Number as the failing Vendor), or, if unavailable, proceed with an open market Emergency Purchase.

- 7.3 Payment:** Upon completion of the Delivery Order, Vendor shall accept payment, at this awarded Contract's ATT A rates, per the payment procedures of the State of WV. The State of WV currently utilizes a Purchasing Card program, administered under contract by a banking institution, as well as Electronic Funds Transfer as methods to process payment for goods and services. Vendor shall accept the State of WV's Purchasing Card and Electronic Funds Transfer for payment of orders under this Contract. Electronic Funds Transfer for payment is available through the WV State Auditor's Office. Vendor may visit the WV State Auditor's website (wvsao.gov) for all

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necessary forms and instructions. Payment method may be dictated at the Agency's discretion.

8. DELIVERY, AND RETURN: The Vendor shall deliver and deposit all contract materials as directed by the Agency on its Delivery Order.

8.1 Delivery Time: Vendor shall promptly commence and complete standard orders within five (5) business days from receipt of Delivery Order unless otherwise specified by the Agency on the Delivery Order. If for any reason the Vendor anticipates delay or failure for any reason to commence its delivery/provision of 100% of the ordered Contract Items, Vendor shall provide, *in writing*, to the ordering Agency the reason for its failure no later than three (3) business of the Agency Delivery Order/Release Order date, and no later than 4:00pm.

8.2 Vendor shall fill the Agency's Emergency Orders within 72 hours of the Delivery Order date and per the agreed upon manner timeframe established by the Agency and the Vendor.

8.3 VENDOR SHALL NOT HOLD ORDERS until any minimum delivery quantity is met.

8.4 Late Delivery & Vendor Performance Failures: Any failed delivery/Item provision, including Items not compliant with the quality requirements of this contract, if deemed "harmful" by the Agency and at its own discretion, shall be grounds for Delivery Order's cancellation by the Agency, making it necessary for the Agency to obtain the items ordered from an alternate party. Contractual failures shall be subject to Liquidated Damages, and/or Default Remedy Costs. The Agency reserves the right to hold the failing Vendor responsible for the failure/damage-costs incurred by the Agency for remedying the contractual default. Vendor shall hereby understand and agree that any amount due from Default Remedy Costs and/or Liquidated Damages shall be applied by the Agency in the form of an off-set reduction to the total amount of Vendor's final invoice.

8.4.1 Default Remedy Costs and/or Liquidated Damages when applied by the Agency at its sole discretion, shall result in Vendor being responsible for the costs incurred by the Agency for acquiring replacement or substitute goods or services, minus payment for any compliantly completed work or delivered services or goods. The failed Delivery Order may also be subject to liquidated damages. At the discretion of the WVDOT, when applied, to any portion of failed Delivery Order, liquidated damages will be calculated beginning on day one after the Agency's specified Delivery Order due date, per the terms of this contract and Standard Specs schedule in Section 108.7.1, as amended.

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Table 108.7.1
SCHEDULE OF LIQUIDATED DAMAGES

Original Contract Amount		Daily Charge
From More Than	To And Including	Per Calendar Day
\$0	\$500,000	\$300
\$500,000	\$2,000,000	\$600
\$2,000,000	\$10,000,000	\$1,500
\$10,000,000	\$25,000,000	\$3,000
\$25,000,000		\$4,000

Agency should provide supporting documentation of Vendor's performance failure to WVDOH's Procurement unit. Any Agency seeking to obtain Items from the open market under the open market provision must first obtain approval of the Purchasing Division.

8.5 Return of Unacceptable Items: At its own discretion, if the Agency deems the Contract Items to be unacceptable or not compliant with the contract terms, the Contract Items shall be returned to Vendor at Vendor's expense with no restocking charge. At the Agency's direction, Vendor shall either 1) arrange for the return as specified by the Agency, or 2) permit the Agency to arrange for the Item's return at Agency's convenience and reimburse Agency for delivery expenses. At the Agency's discretion, the returned product shall either be replaced on the returned date or as directed by the Agency, or the Agency shall receive a full credit or refund of the purchase price within three business days of the return.

8.6 Return Due to Agency Error: Items ordered in error by the Agency will be returned for credit within 30 days of receipt. Vendor shall not charge a restocking fee if returned products are in a resalable condition, unused, and in original packaging, if applicable. Any restocking fee for items not in a resalable condition shall be the lower of the Vendor's customary restocking fee or 5% of the total invoiced value of the returned items, whichever is less.

9. VENDOR DEFAULT:

9.1 The following shall be considered a Vendor default under this contract:

9.1.1 Failure to provide Contract Items per the requirements contained herein.

9.1.2 Failure to comply with other specifications and requirements contained herein.

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- 9.1.3 Failure to comply with any laws, rules, and ordinances applicable to the Services provided under this contract.
- 9.1.4 Failure to remedy deficient performance upon request.
- 9.2 The following remedies shall be available to Agency upon default.
- 9.2.1 Immediate cancellation of the contract.
- 9.2.2 Immediate cancellation of one or more delivery orders issued under this contract.
- 9.2.3 Any other remedies available in law or equity.

10. MISCELLANEOUS:

- 10.1 **No Substitutions:** Vendor shall supply only Contract Items submitted unless a contract modification is approved per the provisions contained in this contract.
- 10.2 **Vendor Supply:** Vendor must carry sufficient inventory of the Contract Items being offered to fulfill its obligations under this contract. By signing its bid, Vendor certifies that it can supply the Contract Items contained in its bid response.
- 10.3 **Reports:** For Items purchased during the term of this contract, the Vendor shall provide the Agency with reports, in electronic spreadsheet format, with purchased Contract Items, total dollar value, quantities, shipments, and delivery information, quarterly, or annual summaries, or upon request. Failure to supply such reports may be grounds for cancellation of this contract.
- 10.4 **Contract Manager:** During its performance of this contract, Vendor must designate and maintain a primary Contract Manager responsible for overseeing Vendor's responsibilities under this contract. The Contract Manager must be available during normal business hours to address any customer service or other issues related to this contract. Vendor shall provide the Agency with its current email addresses, billing/payment addresses, phone numbers, fax numbers, and any changes to the latter or its Contract Manager during the life of the contract. Vendor should list its Contract Manager and his or her contact information below.

Contract Manager: James W. Eber
Telephone Number: 301-334-8101 (301) 268-7302
Fax Number: _____
Email Address: jimeaggmt.com

Vendor shall inform the Agency in writing of any changes to the information provided above and/or changes to support personnel supplied by the Vendor within ten (10) calendar days of such changes. Failure to comply may be grounds for cancellation of this contract.

Stone & Aggregate PICK UP by WVDOH from Vendor's Storage Site
Attachment A "ATT A" - Pricing Page with Source and Storage Information

Enter your VENDOR NAME: **FAIRFAX MATERIALS, INC.**

		Vendor shall Enter its Pick Up by Agency Bid Price per Ton		
Contract Item Comm Line	Description of Material	Limestone, Sandstone, Gravel, Sand	Steel Slag	Cinders
1	Item A Class 1 Aggregate	13.95		
2	Item B Class 2 Aggregate	13.95		
3	Item C Class 10 Aggregate	13.95		
4	Item D AASHTO #1 Aggregate			
5	Item E AASHTO #3 Aggregate	18.00		
6	Item F AASHTO #4 Aggregate	18.00		
7	Item G AASHTO #467 Aggregate	18.00		
8	Item H AASHTO #57 Aggregate	18.00		
9	Item I AASHTO #67 Aggregate			
10	Item J AASHTO #7 Aggregate	18.00		
11	Item K AASHTO #8 Aggregate	20.50		
12	Item L AASHTO #9 Aggregate	20.50		
13	Item M Stone for Gabions			
14	Item N Fine Aggregate	13.95		
15	Item OA Limestone Standard Abrasives			
16	Item OB Sandstone Standard Abrasives			
17	Item OC Steel Slag for SRIC	18.00		
18	Item PA Limestone Modified Abrasives			
19	Item PB Sandstone Modified Abrasives	23.00		
20	Item Q Rip Rap	14.25		
21	Item R Shot Rock	18.00		
22	Item S AASHTO #8 Modified	19.75		
23	Item T AASHTO #9 Modified			
24	Item U Pea Gravel			
25	Item V #11 Limestone Abrasives	11.00		
26	Item W Quarry Waste	45.00		
27	Item Z Imbricated Stone			
28	Item AA Cinders			
Vendors Sources/Plants Source Locations information: Enter the plant Name, Physical Address, and Phone #		Scherr Plant, 704 Old Scherr Road, New Creek, WV 26743 Ours Plant, 1996 Morgantown Rd, Petersburg, WV 26847		
Vendors Storage information: Enter Location (physical address), Phone #		301-334-8101		
Vendors Phone #, Email Address to contact for placing Orders:		301-334-8101		
Vendors Phone #, Email Address to contact for Invoices:		301-334-8101		
Vendors Phone #, Email Address to contact for Payment:		301-334-8101		