



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: 03-13-2023

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 1400 1400 AGR2300000005 1	Procurement Folder:	1181023
Document Name:	LYMANTRIA DISPAR (GYPSY MOTH) AERIAL SUPPRESSION	Reason for Modification:	
Document Description:	LYMANTRIA DISPAR (GYPSY MOTH) AERIAL SUPPRESSION		
Procurement Type:	Central Master Agreement		
Buyer Name:			
Telephone:			
Email:			
Shipping Method:	Best Way	Effective Start Date:	2023-04-01
Free on Board:	FOB Dest, Freight Prepaid	Effective End Date:	2024-03-31

VENDOR	DEPARTMENT CONTACT																				
Vendor Customer Code: 000000193014 HELICOPTER APPLICATORS INC 1670 YORK RD  GETTYSBURG PA 17325 US Vendor Contact Phone: 999-999-9999 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: Cynthia D Fisher Requestor Phone: (304) 558-2221 Requestor Email: cfisher@wvda.us  <b>23</b> FILE LOCATION _____
	Discount Allowed	Discount Percentage	Discount Days																		
#1	No	0.0000	0																		
#2	No																				
#3	No																				
#4	No																				

INVOICE TO	SHIP TO
PROCUREMENT OFFICER 304-558-2221 AGRICULTURE DEPARTMENT OF ADMINISTRATIVE SERVICES 1900 KANAWHA BLVD E CHARLESTON WV 25305-0173 US	AUTHORIZED RECEIVER 304-558-2212 AGRICULTURE DEPARTMENT OF PLANT INDUSTRIES DIVISION 275 GUS R DOUGLAS LN, BLDG 6 CHARLESTON WV 25312 US

Purchasing Division's File Copy

Total Order Amount:

Open End

**ENTERED**

PURCHASING DIVISION AUTHORIZATION

DATE: *Tanya R. 3/14/2023*  
ELECTRONIC SIGNATURE ON FILE

ATTORNEY GENERAL APPROVAL AS TO FORM

DATE: *3-20-2023*  
ELECTRONIC SIGNATURE ON FILE

ENCUMBRANCE CERTIFICATION

DATE: *3/20/2023*  
ELECTRONIC SIGNATURE ON FILE

**Extended Description:**

THE VENDOR, HELICOPTER APPLICATORS INC, AGREES TO ENTER WITH THE AGENCY, WEST VIRGINIA DEPARTMENT OF AGRICULTURE, INTO AN OPEN-END CONTRACT FOR LYMANTRIA DISPAR (GYPSY MOTH) AERIAL SUPPRESSION PER THE TERMS AND CONDITIONS, SPECIFICATIONS, BID REQUIREMENTS, ADDENDUM 1 ISSUED 02/24/2023, AND THE VENDOR'S BID DATED 02/28/2023, INCORPORATED HEREIN BY REFERENCE, AND MADE A PART OF HEREOF.

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
1	70151502			ACRE	23.870000
	Service From	Service To		Service Contract Amount	
					0.00

**Commodity Line Description:** Mimic 2LV or Equal

**Extended Description:**

Applied at 5fl. oz. per acre, mixed with water for final application rate of .75GPA (96OZ)

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
2	70151502			ACRE	34.820000
	Service From	Service To		Service Contract Amount	
					0.00

**Commodity Line Description:** BTK Foray 76B or Equal - 25.3 CLU

**Extended Description:**

undiluted spray volume of 1/3 of a gallon per acre

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
3	70151502			ACRE	33.840000
	Service From	Service To		Service Contract Amount	
					0.00

**Commodity Line Description:** BTK Foray 48B or Equal - 24 CLU

**Extended Description:**

undiluted spray volume of 1/2 of a gallon (64 ounces) per acre

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
4	70151502			ACRE	24.490000
	Service From	Service To		Service Contract Amount	
					0.00

**Commodity Line Description:** Gypchek/Gypchek Carrier or Equal

**Extended Description:**

(Gypchek will be provided by USDA-FS) 1/2 gallon per acre, Dose is 2X1011 OB/acre/appl for each of 2 applications. contractor is responsible for purchasing carrier. Current Carrier mix is 75% water, 25%molasses, 25% sticker (e.g., Tactic manufactured by Loveland Industries) or Equal.

## **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.

**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: \_\_\_\_\_ 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.

☒ **Items and Coverages referenced in Appendix C (Insurance Requirements)**

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**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 <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 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.

Revised 11/1/2022

**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 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 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.

(Printed Name and Title) Kirk A. Martin, Secretary/Treasurer

(Address) 1670 York Rd., Gettysburg, PA 17325

(Phone Number) / (Fax Number) 717-337-1370 / 717-337-1527

(Email address) Kmartin@helicopterapplicators.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.

Helicopter Applicators, Inc.  
(Company)

Kirk A. Martin  
(Signature of Authorized Representative)

Kirk A. Martin, Secretary/Treasurer 2/28/23  
(Printed Name and Title of Authorized Representative) (Date)

717-337-1370 / 717-337-1527  
(Phone Number) (Fax Number)

Kmartin@helicopterapplicators.com  
(Email Address)

## Lymantria dispar Aerial Suppression

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### SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of West Virginia Department of Agriculture to establish an open-end contract for *Lymantria dispar* (Gypsy Moth) Aerial Suppression.
2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.
  - 2.1 “**Contract Item**” or “**Contract Items**” means the list of items identified in Section 3.1 below and on the Pricing Pages.
  - 2.2 “**Pricing Pages**” means the schedule of prices, estimated order quantity, and totals contained in wvOASIS or attached hereto as Exhibit A, and used to evaluate the Solicitation responses.
  - 2.3 “**Solicitation**” means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

### 3. GENERAL REQUIREMENTS:

- 3.1 Contract Items and Mandatory Requirements: Vendor shall provide Agency with the Contract Items listed below on an open-end and continuing basis. Contract Items must meet or exceed the mandatory requirements as shown below.

#### 3.1.1 GYPSY MOTH AERIAL SUPPRESSION

- 3.1.1.1 **INTRODUCTION** - The West Virginia Department of Agriculture (The Department or WVDA) requires the services of a contractor for the aerial application of insecticide over certain populated and non-populated forested areas in West Virginia to prevent defoliation of high-value trees by *Lymantria dispar*, on approximately 2,681 acres.

The target insect, acres, and types and categories of aircraft required for each project are detailed in Section 3.1.3. UNLESS OTHERWISE SPECIFIED IN SECTION 3.1.3, THE CONTRACTOR IS REQUIRED TO PROVIDE THE INSECTICIDE BTK, MIMIC 2LV OR EQUAL, AND GYPCHKEK

## Lymantria dispar Aerial Suppression

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CARRIER OR EQUAL AND ITS COST MUST BE INCLUDED  
IN THE PER-ACRE BID PRICE.

### 3.1.1.2 GENERAL STIPULATIONS

**3.1.1.2.1**     BIDDER'S QUALIFICATIONS     To bid on this contract a Contractor must maintain a principal base of operations. Further, the Contractor may also, at their discretion, operate a main operations base and a main maintenance base pursuant to part 119.47 of Title 14 of the Code of Federal Regulations (CFR). The Contractor must conduct operations specified herein under the applicable section of the Federal Aviation Regulations (FAR) to include, but not limited to, 14 CFR Part 137. Contractor must possess or obtain West Virginia pesticide application license prior to treatment.

**3.1.1.2.2**     SCOPE OF CONTRACT     It is the purpose and intent of this document to provide specifications for aircraft, insecticide, equipment, application, and other operational requirements necessary for a properly prepared and executed Agreement and for securing properly certificated and approved aircraft, dispersal systems, service facilities, qualified ground personnel, and FAA certificated and qualified pilots capable of making a proper aerial application of insecticide and performing necessary related functions.

**3.1.1.2.3**     AREA TO BE TREATED     A total of approximately 2,681 ( $\pm 15\%$ ) acres of government-owned and privately-owned lands in West Virginia consisting of approximately 5 spray blocks are proposed for treatment. More specific information is found in Section 3.1.3 and maps are in the appendices. The treatment areas consist of forested residential areas, forested recreational areas, privately owned forest stewardship lands, and publicly owned forestlands. In general, the areas are high-use areas, many of which contain permanent and/or seasonal residences, where proper and careful insecticide application is essential to prevent defoliation of high-value trees. The Contractor will not be paid for any acreage treated outside the designated block boundaries.

## **Lymantria dispar Aerial Suppression**

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**3.1.1.2.4      APPLICATION PERIOD AND STARTING DATE** The application period begins on the date when the Contractor is required to report on site and continues until the final acceptable application is made. It is our objective to get all applications applied consistent with program requirements and restraints in as short a period of time as possible. Weather conditions that influence insect and tree foliage development will determine the specific starting date of the application period in the project. Estimated starting dates, based upon previous experience, are given in Section 3.1.3. Each project is to be completed within 10 to 28 days depending upon weather and leaf and insect development. It is possible that the starting date could begin 15 days earlier or later than estimated in Section 3.1.3. Five days advance notice will be given to the Contractor of the date on which to report. The reporting date may be adjusted by mutual agreement due to inclement weather or other reasons beyond the control of either party.

The West Virginia Department of Agriculture reserves the right to start all the aircraft required in a project on the same date or to separate the starting dates for particular aircraft by several days and reserves the right to suspend operations based on differences in insect development or phenology.

**3.1.1.2.5      AIRCRAFT RECALL** The Contractor is required to keep one aircraft, an approved pilot, ground-support equipment and crew on recall status for a period of ten workdays (Monday through Friday, excluding holidays) after the final spray block in the project is completed. This aircraft will be recalled on 48 hours' notice to treat any approved areas that were deleted by the Department from the project but then experienced an unexpected outbreak, or to treat any areas that were missed, or to retreat areas because of faulty application, wash-off, or inadequate insecticide effectiveness. The Contractor will not be compensated for any recall spraying or re-spraying that result from misses or faulty application.

**3.1.1.2.6      PAYMENT** Payment will be on a reimbursement basis for actual services performed, upon receipt of invoice(s) from the Contractor. Payment will be issued based on West Virginia Department of Agriculture personnel's verification of daily insecticide load sheets and approval by the Program Supervisor or his/her designee.

## **Lymantria dispar Aerial Suppression**

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Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.

**3.1.1.2.7**      **EXPERIMENTAL SPRAYING**      The Department may request a successful bidder to conduct a small amount of experimental spraying. This would be done to gain knowledge and experience with new insecticides, formulations, equipment, and/or technology to evaluate their operational potential. In such cases, equitable compensation would be negotiated if extra work or expense is involved.

**3.1.1.2.8**      **CONTRACTED ACREAGE**      If anticipated state and/or federal funds are not available at a level sufficient to fund the Contract at the level bid or if acreage must be dropped for any reason prior to the execution of the Contract, the Contract either will not be executed or the Contract acreage will be reduced in scope. In the event the Contract acreage must be reduced from that designated in Section 3.1.1.2.3 and in Section 3.1.3, the Contract will be written to reflect the reduced acreage figure and no compensation to the Contractor, as provided in Section 3.1.1.2.9, will be granted even though the reduction may be in excess of 15 percent. If the reduction is in excess of 15 percent, the Contractor may elect not to execute the Contract without penalty.

**3.1.1.2.9**      **DELETING ACREAGE**      If insect population levels, because of unforeseen biological or environmental conditions, do not warrant treatment, the West Virginia Department of Agriculture may delete acreage as stated in the Contract. If this reduction in acreage should exceed 15 percent of the acreage stated in the Contract (not the acreage stated in Section 3.1.1.2.3 and in Section 3.1.3 of these contract specifications), the Contractor will be compensated at the rate of 25 percent of the accepted bid price for the acres so deleted in excess of 15 percent and for any associated documented direct costs which are in excess of 25 percent of the accepted bid price. However, in no case will the Contractor be compensated in excess of the accepted bid price for any acreage so deleted. The Contractor may elect not to execute the Contract without penalty.

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**3.1.2 CONDITIONS TO BE MET** In order for the contract to be properly executed and awarded, certain conditions must be met by the Contractor. The following items and information must be completely and accurately supplied to the designated person by the date indicated. Failure to meet this requirement may result in forfeiture of the Contractor's bid security bond and awarding of the contract to the next lowest qualified responsible bidder.

- To Program Supervisor, After Award by April 7, 2023:
- A completed Application for Spray Aircraft Pilot Approval form for each spray pilot and each alternate spray pilot to be used on the project. Form will be provided by Program Supervisor after Award. Along with the completed form, include photocopies of the pilot's current airman's certificate (i.e., pilot license), current medical certificate, proof of FAR Part 137 qualification (this should include the date of their last Part 137 check), and pesticide applicator certificate.
- A completed Aircraft Description Form for each spray aircraft, alternate spray aircraft, and any observation aircraft to be used on the project. Form will be provided by Program Supervisor after Award. Along with the completed form, include photocopies of the logbook entries for the last annual inspection on engine and airframe, airworthiness directives, and aircraft spec sheets.
- A report on the Contractor's designated personnel and equipment to be used on the project. For 2023 there is one project area. The report must be formatted and include all information as follows:
  - Project Number
  - Contractor:
    - Contractor West Virginia Vendor #
    - Name of Contractor
    - Name of President or Owner (specify)
    - Address
    - Telephone Number
    - Contact Person
    - Contact Telephone Number
    - Contact Cell Phone Number
  - Subcontractor(s):
    - Name of Subcontractor



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Name of President or Owner (specify)

Address

Telephone Number

Contact Person

Contact Person Telephone Number

Contact Person Cell Phone Number

- On-Site Project Supervisor:
  - Name
  - Address
  - Office Telephone Number
  - Supervisor Cell Phone Number
- Spray Pilots:
  - Completed spray pilot approval form
- Alternate Spray Pilots:
  - Completed Spray aircraft pilot approval form
- Insecticide Formulation:
  - Trade Name
- Spray Aircraft:
  - OR Completed Spray Aircraft Description Form
  - Owner
  - Make/Model
  - FAA Registration Number
  - Spray System Make
  - Tank Capacity (Gallons)
  - Operating Load Capacity (Gallons)
  - Calibration Specifics
    - Application Air Speed
    - Nozzle Type/Size
    - Number of Nozzles
  - Hours on Engine(s)
  - Hours Remaining on Engine(s)
  - Inspection Location
  - Description of Ground-Support Equipment
  - Make/Model of GPS Unit
- Alternate Spray Aircraft:
  - OR Completed Spray Aircraft Description Form
  - Owner

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Make/Model  
FAA Registration Number  
Spray System Make  
Tank Capacity (Gallons)  
Operating Load Capacity (Gallons)  
Calibration Specifics  
    Application Air Speed  
    Nozzle Type/Size  
    Number of Nozzles  
Hours on Engine(s)  
Hours Remaining on Engine(s)  
Inspection Location  
Description of Ground-Support Equipment  
Make/Model of GPS Unit

### **3.1.3 PROJECT SPECIFICATIONS**

#### **3.1.3.1 PROJECT NUMBER 2023 LDCS (Statewide)**

- (A) Counties Involved: Morgan
- (B) Type of Areas to Be Treated: Private, State Parks and State Forest
- (C) Total Acres: Approximately 2,681
- (D) Number of Spray Blocks: Approximately 5
- (E) Estimated Starting Date: May 1, 2023
- (F) Estimated Completion Time: 1 - 2 Weeks
- (G) Production Rate and/or Required Aircraft: (see Section 3.1.10.2 for aircraft classes)

One(1) Category B, One (1) Category C, or One (1) Category C+ aircraft, such as a Turbine Air Tractor, Turbine Thrush, Bell 206L, or comparable, capable of routine operation with a minimum of 350 gallon working capacity per aircraft or 350 acres per hour production capacity per aircraft to be used for this project. Aircraft in this category must be certified to operate over congested areas. All aircraft must have DGPS guidance systems as outlined in

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Section 3.1.10 and Automated Flight Following as outlined in Section 3.1.10.6 and Appendix B.

(H) Insecticides: Btk, Gypcheck, Mimic

(1) *Bacillus thuringiensis* var. *kurstaki*-Foray 48B or Equal

An aqueous suspension formulation of *Bacillus thuringiensis*, subsp. *kurstaki*, strain ABTS-351, with a potency of 48 CLU per US gallon. Fermentation solids, spores and insecticidal toxins, 12.65% active ingredient) – 2284 acres (3 blocks),

- (a) 24 CLU – undiluted spray volume of ½ gallon (64 ounces) per acre. Contractor is responsible for purchasing the Btk Foray 48B material.

(2) *Bacillus thuringiensis* var. *kurstaki*-Foray 76B or Equal

An aqueous suspension formulation of *Bacillus thuringiensis*, subsp. *kurstaki*, strain ABTS-351, with a potency of 76 CLU per US gallon. Fermentation solids, spores and insecticidal toxins, 18.44% active ingredient) – 1 acre Estimate Only

- (a) 25.3 CLU – undiluted spray volume of 1/3 of a gallon per acre. Contractor is responsible for purchasing the Btk Foray 76B material.

(3) Gypcheck or Equal

[Occlusion bodies (OB) of the gypsy moth *nucleopolyhedrovirus*, 11% active ingredient]  
– 1 acre, Estimate Only

- (a) (Gypcheck will be provided by USDA-FS) 1/2 gallon per acre, Dose is  $2 \times 10^{11}$  OB/acre/appl for each of 2 applications. Contractor is

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responsible for purchasing carrier. Carrier 038A is no longer available. Current Carrier mix is 75% water, 25% molasses, 25% sticker (e.g., Tactic manufactured by Loveland Industries) or equal.

Contact John F. Kyhl  
192 Folwell Ave.  
Saint Paul, MN 55108  
(651) 366-7706  
john.f.kyhl@usda.gov

(4) Mimic 2LV or Equal

[Tebufenozide: Benzoic acid, 3,5-dimethyl-,1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide, 24% active ingredient] – 397 acres (2 blocks)

(a) 5 fl. oz. Mimic 2LV mixed with water for a final rate volume of 0.75 gallon (96 ounces) per acre. Contractor is responsible for purchasing Mimic 2LV. No Adjuvant required.

(I) Adjuvants: None

(J) West Virginia Department of Agriculture Program Supervisor

(K) Loading Zones and/or Airfields: Work will be done from one (1) airports for fixed wing or multiple Loading Zones for Helicopters. See Section 3.1.4.5 and Section 3.1.11 for details on deadlines and equipment/personnel requirements.

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### **3.1.4 OBLIGATIONS OF THE CONTRACTOR**

**3.1.4.1 GENERAL** The Contractor is obligated to furnish spray aircraft, support equipment, and personnel necessary to produce an insecticide application in accordance with the Invitation for Bid, Contract Specifications, and the Contract. Other sections in these Contract Specifications give more specific information on the aircraft, equipment, and personnel required. The Contractor maintains responsibility for an entire project even if another company is providing part of the equipment and personnel.

**3.1.4.2 PESTICIDE APPLICATION BUSINESS LICENSE** Within ten (10) days after notification award of contract, the Contractor must provide the program supervisor with proof of a valid Pesticide Application Business License issued by West Virginia in the category appropriate for aerial spraying of forests and residential areas.

**3.1.4.3 FAA WAIVER FOR CONGESTED AREAS** The Contractor is responsible for reviewing all spray block maps and for identifying congested areas that would require an FAA waiver in order to conduct low-level flights over them. The Contractor is responsible for filing the required plan and documentation with the appropriate FAA Flight Safety District Office for congested areas so identified, for obtaining the necessary waiver(s), and for providing proof of such to the Program Supervisor (see Section 3.1.3) 2 weeks prior to the start of the project.

**3.1.4.4 SPRAY MATERIALS** The Contractor is responsible for the purchase of the insecticide and any adjuvant used in this project unless otherwise specified in Section 3.1.3. Specific details on insecticides and adjuvants are given in Section 3.1.7. The Contractor will not be compensated for any Contractor-supplied insecticide or adjuvant, which is lost, spilled, dumped, or otherwise made unavailable.

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**3.1.4.5 LOADING ZONES OR AIRFIELDS** The selection of suitable helispots or airfields for use as loading zones is the sole responsibility of the Contractor. Use of the sites must not present problems from a legal aspect, and permission to use the site must be obtained by the Contractor. The Contractor must locate and secure permission for all helispots or airfields prior to the start of the project and be prepared to provide evidence of such permission to the West Virginia Department of Agriculture. West Virginia Department of Agriculture personnel will assist in locating usable loading zones (LZ) with the Contractor during a visit to the project area no less than one month prior to the start date. The Contractor must notify the Field Operations Supervisor after award prior to April 7, 2023, of the loading zones selected for use. The Contractor(s) must provide a signed attestation that permission has been granted by the landowner or airfield manager and that the area will be suitable and accessible for use at the time spraying operations are conducted. Enough suitable loading zones must be secured after award prior to April 7, 2023, so that locating additional or alternative sites is not necessary during the spray application period. The contractor must follow-up on its contact with the landowner two weeks prior to the anticipated start of operations to ensure that the property is still available for use. The contractor must supply a GIS point shapefile for all landing zones to the Program Supervisor.

**3.1.4.6 MAINTENANCE** The Contractor must maintain a readily available on-site inventory of commonly needed spare parts and spare equipment including, but not limited to, pumps, pump seals, and rotary atomizers to maintain the spray system, the aircraft and its electronic guidance and tracking system, the pumping system, the support trucks, and the storage tanks and to provide for immediate replacement of critically needed parts and equipment. Scheduled maintenance must be conducted only at times that will not interfere with the spray operation. Non-scheduled maintenance may be conducted but not to interfere with spray operations for longer than a period of one hour. Only emergency repairs are permitted during scheduled spray hours. Care must be taken to prevent leakage of spray material at all times and a proper spill containment plan must be included in the Contractor's Safety Plan (see Section 3.1.4.10).



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**3.1.4.7 SECURITY** The Contractor must abide by any current regulations issued by the FAA with regard to aircraft and insecticide safeguarding and security, as well as any rules and/or recommendations that are issued by state agencies, the Environmental Protection Agency, the USDA Forest Service, the Department of Homeland Security or any other responsible agency. At a minimum, the Contractor must provide the following:

- Chain-of-custody documentation (and/or shipping manifest) from the point of manufacture to delivery to the Contractor for the insecticide utilized.
- All spray aircraft must be disabled when not in use so that they cannot be started by anyone other than authorized personnel.
- All insecticide holding containers, hoppers, mix tanks, pumps, hoses, and similar equipment must be flushed prior to the start of operations and must have all possible points of entry sealed and secured when not in use.
- All spray aircraft and any associated insecticide and insecticide-handling equipment must be secured at all times, unless located at a restricted access secure airfield. Access to the insecticide loading and storage areas must be restricted to authorized personnel of the Contractor and West Virginia Department of Agriculture.

**3.1.4.8 FIELD EXPENSES AND TRANSPORTATION** Costs incurred in the operation and maintenance of all contractor equipment are the responsibility of the Contractor. Expenses incurred by all Contractor personnel including arrangements for food, lodging, and transportation are the responsibility of the Contractor. The Contractor is responsible for providing a means of ground transportation for Contractor personnel.

**3.1.4.9 SPILL CLEANUP EXPENSES** The Contractor is responsible for all cleanup activity and costs resulting from any contamination caused by the accidental or intentional spilling, leakage, or dumping of insecticide, fuel, oil, or any other contaminant from Contractor-supplied equipment.

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**3.1.4.10 SAFETY PLAN** The Contractor is required to conduct all operations in a safe manner and to have a well-defined, written safety plan. The Contractor must provide essential safety equipment including, but not limited to, properly sized and coded fire extinguishers and spill-containment materials and supplies. All Contractor and West Virginia Department of Agriculture personnel must be briefed by the Contractor in their use.

Four weeks prior to the start of the project, the Contractor must supply the Program Supervisor with a copy of the Contractor's safety plan. This plan must explain how the Contractor will meet the security requirements specified in Section 3.1.4.7. The safety plan must also contain a written narrative explaining how the Contractor will deal with a major (100+ gallons) fuel or insecticide spill at the loading site and a major dump of insecticide in a residential spray block.

The Contractor is also required to abide by all provisions of the West Virginia Department of Agriculture's Aviation Management Plan, Work, Safety and Security Plans. These documents will be made available at the Pre-work Briefing.

**3.1.4.11 ATTENDING PRE-WORK BRIEFING** The Contractor and all subcontractors are required to attend a pre-spray safety briefing as described in Section 3.1.6.1.

**3.1.4.12 ATTENDING POST-SPRAY MEETING** The Contractor is required to attend a post-spray meeting to review the spray program as described in Section 3.1.6.2.

### **3.1.5 OBLIGATIONS OF THE WEST VIRGINIA DEPARTMENT OF AGRICULTURE**

#### **3.1.5.1 WEST VIRGINIA DEPARTMENT OF AGRICULTURE PERSONNEL**

The West Virginia Department of Agriculture will furnish personnel to supervise and direct the spray operation in the following capacities (note that some of these activities may be combined and become the responsibility of the same project employee)

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- (A) **CONTRACTING OFFICER/PROGRAM SUPERVISOR** – The gypsy moth program manager for the West Virginia Department of Agriculture is responsible for the overall operation of the suppression program and represents the West Virginia Department of Agriculture in settling minor contractual matters.
- (B) **MONITORING SPECIALIST** - This person is responsible for specifying and approving spray systems, troubleshooting problems with mix and spray systems, monitoring calibration and characterization procedures, analyzing quality control checks, and enforcing safety requirements.
- (C) **AVIATION PROJECT COORDINATORS** - These persons are West Virginia Department of Agriculture specialists who serve as the West Virginia Department of Agriculture's field liaison with the Contractor and are responsible for reviewing and approving/disapproving Application for Spray Aircraft Pilot Approval Forms and Aircraft Description Forms, verifying calibration of all spray aircraft, assigning aircraft, verifying acceptable spraying conditions, and conducting quality control checks on the aircraft and application during the spraying operations.
- (D) **RADIO TECHNICIAN** - This person is responsible for checking the Contractor's compliance with contract-specified radio-related equipment.
- (E) **AIRCRAFT DISPATCHER** - This person is responsible for directing the operation of one or more aircraft from a loading zone. The aircraft dispatcher briefs the pilot on the spray block manifest and on any special conditions such as objector locations, no spray and/or no fly zones, etc. The aircraft dispatcher coordinates the movement of marking/monitoring crews and acts as record keeper. He/she also provides daily reports of the operation to the program supervisor.
- (F) **MONITORING CREW** - These personnel are responsible for placing marker balloons if needed, monitoring larval and foliage development, and/or collecting weather data in the spray blocks. A crew consists of one or two persons equipped with a radio and cell phone. The number of crew members assigned to an aircraft or an area is dependent upon the number of the aircraft utilized and the scope of the project.

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(G) **INFORMATION OFFICER** - The Information Officer will handle all incoming telephone calls. The Information Officer will be the liaison with law enforcement organizations, the media, and other agencies, regarding the status of the treatment operations. Maintain records on the number of acres treated by insecticide, county, and by project.

(H) **MIXING AND LOADING OFFICER** - These persons are West Virginia Department of Agriculture specialists who serve as West Virginia Department of Agriculture field liaison with the Contractor and are responsible for monitoring the mixing and loading of the insecticides. Maintain records for the amount of insecticide mixed, aircraft loaded (kind and identification number), time of aircraft take-off, time of aircraft return, and the block number(s) treated. The mixing and loading records will be submitted at the end of each treatment day to the Project Supervisor.

(I) **DGPS GUIDANCE SYSTEM OFFICER** - These persons are West Virginia Department of Agriculture specialists who serve as West Virginia Department of Agriculture field liaison with the Contractor and are responsible for downloading and organizing spray logs from the treatment aircraft, providing adjustments to flight logs, and reviewing flight logs to ensure proper coverage of the block.

(J) **SAFETY OFFICER** - The Safety Officer will assist the Contracting Officer/Program Supervisor and also make sure that the contractor and the state personnel are following all pertinent aviation and ground personnel safety guidelines. Reviewing the contractor's insurance to ensure compliance with state regulations. Investigate any misuse or misapplication of an insecticide, aircraft incidents or accidents, or any insecticide spill.

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### **3.1.6 PRE-WORK BRIEFING**

The Project Supervisor of the West Virginia Department of Agriculture will conduct a pre-work briefing for all Contractors and any subcontractors at least one month prior to the start of the project. All Contractors will be required to present their report on personnel and equipment as detailed in Section 3.1.2. The briefing will include the Program Supervisor, the Contractors' and subcontractors' representatives, the West Virginia Department of Agriculture Program Officers and staff listed in Section 3.1.5.1, and any other invited persons to discuss, among other things, contract specifications, project deadlines, and program safety. Participation at this meeting is required for all Contractors and subcontractors working on the project. The meeting may be conducted as a conference call.

**3.1.6.1 PRE-SPRAY SAFETY MEETINGS** At a time, date and location agreeable to all parties, prior to the scheduled start of the aerial application, representatives of the West Virginia Department of Agriculture, and Contractor(s) shall meet and discuss the aerial application program. Topics for discussion shall include, but not be limited to, logistics for aerial application and observation aircraft, assigning treatment blocks to application aircraft, the handling, mixing and application of the insecticides, aircraft capabilities, final selection of loading sites, safety precautions, etc. The Contractor(s) shall require all pilots that will be used on this project to attend this conference.

**3.1.6.2 POST-SPRAY MEETING** At a date, time, and location agreeable to all parties, no later than two weeks after the last day of spraying, representatives of the West Virginia Department of Agriculture and Contractor(s) shall meet and review the aerial operations and application program. The meeting may be conducted as a conference call.

**3.1.6.3 EVALUATION AND PLANNING** Pilots are required to attend evaluation and planning meetings following each treatment session to review and evaluate the previous treatments. Planning of the next treatment session will also be discussed.

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**3.1.6.4 MAPS** The West Virginia Department of Agriculture will supply hard copy maps, intended for spray pilot pre-treatment planning and reference. These maps will show treatment area boundaries and, if applicable, any associated exclusion area(s). All application pilots are responsible and required for the reconnaissance of each assigned treatment area before beginning treatment to determine the presence of aerial hazards, regardless of the presence or absence of such hazards displayed upon West Virginia Department of Agriculture supplied project maps (Section 3.1.8.5).

**3.1.6.5 GIS FILES** Treatment area information, including exclusion areas, will be provided to the contractor by The West Virginia Department of Agriculture, utilizing ArcView/ArcInfo Geographical Information System (GIS). The GIS shape files will be transferred to the Contractor in order to translate the data, if necessary, into the applicable data format required by the spray aircraft DGPS electronic tracking and guidance system.

**3.1.6.6 DAILY AIRCRAFT RECORD** The West Virginia Department of Agriculture will keep, as the basis for Contractor payment, an accurate record of the insecticide metered into the aircraft and the acreage treated. A copy of the Daily Aircraft Record, signed by the spray pilot, will be provided to the Contractor. The Contractor will not be paid for any insecticide that is applied in unauthorized areas or is jettisoned accidentally or in emergencies. The pilot's signature indicates agreement with the data on the form. Payment will be based upon agreed acreage treated.

**3.1.6.7 WAIVERS FOR SPECIAL USE AIRSPACE (RESTRICTED AND PROHIBITED AREAS)**

The West Virginia Department of Agriculture and Contractor will work together to obtain the necessary waivers from the FAA for flights into restricted and or prohibited airspace. A copy of each approved waiver must be obtained prior to the first flight into the restricted or prohibited area (P40).

**3.1.6.8 THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT**



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The West Virginia Department of Agriculture will be responsible for obtaining all necessary NPDES permits from the West Virginia Division of Environmental Protection.

### **3.1.7 INSECTICIDES AND ADJUVANTS**

#### **3.1.7.1 PURCHASING, STORAGE, AND TRANSPORTATION**

The Contractor must purchase the insecticide used on this project, pay all applicable sales and use taxes, and arrange for delivery of the product to a suitable site where it will be secure and protected from damage. The Contractor must assure that adequate supplies of insecticide are strategically located in or near the project area at least 24 hours prior to the start of spraying in order to assure an efficient operation. The Contractor must also assure that appropriate West Virginia Department of Agriculture personnel are aware of these locations.

The Contractor is also responsible for handling and transporting the insecticide from the storage site to the aircraft-loading zone and for providing security of the insecticide.

**3.1.7.2 ADDITIONAL ACREAGE** The Contract will contain figures for the maximum number of acres to be treated—no additional acreage will be included. However, if any additional spraying is required to permit the retreatment of any treated area as the result of rain wash off, skips, or other reasons, a contract amendment may be established to a maximum of 10 percent of the original contract acreage. Because of the contingent nature of utilizing the insecticide necessary for treating this additional acreage, the Contractor does not have to purchase and have on-site the insecticide necessary for treatment. However, the Contractor must make arrangements so that the insecticide required to treat additional acreage can be made available on site within 48 hours.

#### **3.1.7.3 LABELS AND SAFETY DATA SHEET (SDS)**

The Contractor must keep a copy of the labels and SDS available on site throughout the course of the project.

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**3.1.7.4 INSECTICIDES** All spraying will be conducted with *Bacillus thuringiensis* subspecies *kurstaki* (*Btk*), Tebufenozide (Mimic 2LV) or equal, and/or Gypchek or equal. Acceptable formulations for *Btk* and Mimic are identified below. Section 4 provides area and treatment details.

**3.1.7.5 ACCEPTABLE BTK AND TEBUFENOZIDE FORMULATIONS**

All *Btk* will be applied as specified and at the rates provided in Section 3.1.3. The following *Btk* and tebufenozide formulations are labeled and acceptable for forestry applications:

FORAY 48B or Equal - An aqueous suspension formulation of *Bacillus thuringiensis*, subsp. *kurstaki*, strain ABTS-351, with a potency of 48 CLU per US gallon. Fermentation solids, spores and insecticidal toxins, 12.65% active ingredient) – 2284 acres (3 blocks)

FORAY 76B or Equal - An aqueous suspension formulation of *Bacillus thuringiensis*, subsp. *kurstaki*, strain ABTS-351, with a potency of 76 CLU per US gallon. Fermentation solids, spores and insecticidal toxins, 18.44% active ingredient)

MIMIC 2LV or Equal - [Tebufenozide: Benzoic acid, 3,5-dimethyl-,1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide, 24% active ingredient] – 397 acres (2 blocks)

(A) NOTES ON BTK PRODUCTS - To avoid confusion and to simplify logistics, all *Btk* used for initial treatments in any one project must be from the same manufacturer. Subsequent retreatments or touchups can be made with any approved formulation if the Contractor does not have adequate supplies of the original formulation readily available. All *Btk* products used in West Virginia Department of Agriculture's program must be new material manufactured within six months of date of application.

(B) BTK AND MIMIC PURCHASING - For information on purchasing *Btk* or Mimic products, contact the following:

(1) FORAY and MIMIC Products

Forestry Sales Manager  
Valent BioSciences  
870 Technology Way, Suite 100

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Libertyville, IL 60048

Phone: (418)839-6645

Cell: (418)261-0823

- 3.1.7.6 GYPCHEK or Equal** GYPCHEK is produced by the USDA Forest Service and must be applied with a Carrier. Carrier 038A is no longer available. Current Carrier mix is 75% water, 25% molasses, 25% sticker (e.g., Tactic manufactured by Loveland Industries).

**GYPCHEK AND CARRIER PURCHASING** – contact the following:

USDA Forest Service  
1992 Folwell Ave.  
Saint Paul, MN 55108  
Office: (651)366-7706  
john.f.kyhl@usda.gov

- 3.1.7.7 CONTAINER DISPOSAL** The Contractor is responsible for the proper disposal of all empty insecticide and adjuvant containers according to label requirements, State laws and regulations.

- 3.1.7.8 APPLICATIONS/RATES/SPRAY VOLUME** Specifics on the number of applications and application rates are given in Section 3.1.3.

- 3.1.7.9 OPERATIONS** All operations will conform to Federal Aviation Administration (FAA) requirements, manufacturer's pesticide label instructions, Department of Transportation (DOT) policies and the appropriate state requirements for storage, transportation, loading and application of insecticides.

### **3.1.8 APPLICATION SPECIFICATIONS, CONDITIONS, AND RESTRICTIONS**

- 3.1.8.1 SAFETY** West Virginia Department of Agriculture and Contractor personnel are required to conduct themselves in a safe manner at all times. The West Virginia Department of Agriculture and Contractor will prepare detailed safety plans that will be reviewed with all involved West Virginia Department of Agriculture and Contractor personnel prior to the start of the spraying operations.

Caution must be exercised during spraying because of the frequent flight operations directly over residential areas. Some of the terrain may be

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mountainous and irregular, and elevations up to 4,863 feet above mean sea level may be encountered.

**3.1.8.2 LOGISTICS** Once on site and under contract to the West Virginia Department of Agriculture, each aircraft and its assigned pilot, ground-support equipment, and crew are under the logistical direction of the Program Supervisor. Although an effort will be made to distribute the workload equitably among all the aircraft assigned, such a distribution is not guaranteed.

**3.1.8.3 WEATHER RESTRICTIONS** Using the following guidelines, the West Virginia Department of Agriculture will determine when weather conditions are acceptable for spraying operations to be conducted. Information supplied by West Virginia Department of Agriculture field personnel located in or near the treatment area and the Contractor's pilot will be used in making this decision.

- (A) **WIND VELOCITY** - Wind velocity should be 10 mph or less when measured in or near the spray block with a hand-held wind gauge. If excessive drifting of the spray cloud occurs the current spray operations may be suspended by the Project Coordinator. Caution must also be exercised when dead calm conditions exist because of the formation of temperature-inversion layers. Under such conditions, the smaller droplets in the spray cloud will remain suspended and will not settle into the forest canopy. Spray operations must be curtailed until such conditions subside.
- (B) **PROBABILITY OF PRECIPITATION** - Probability of precipitation within six hours after the completion of spraying must be 50 percent or less. This probability of precipitation is provided by Flight Service Weather (1-800-992-7433), National Weather Service (use closest local source), or other contracted weather forecasting source. Any treatment area that incurs significant precipitation (0.25 inch or more) within four hours of spraying must be evaluated and, if necessary, resprayed at West Virginia Department of Agriculture's expense. Consult with the insecticide manufacturer regarding appropriate spray deposit drying time.

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### (C) AIR TEMPERATURE AND RELATIVE HUMIDITY

When temperatures and relative humidity conditions are such that proper application may be hindered. Generally, applications will be halted when temperature exceeds 75 degrees Fahrenheit and/or relative humidity falls below 50%. When applying Foray products, please refer to the temperature and humidity chart provided by Valent BioSciences.

### (D) WET FOLIAGE - Foliage must not be dripping wet either from precipitation or overnight dew.

**3.1.8.4 ACCURACY** The Contractor must produce a complete and accurate coverage of the designated areas within the spray block as documented by GPS tracking and guidance flight logs. If any designated area is missed or improperly treated, it must be resprayed at the Contractor's expense.

Care must be exercised in ensuring that all insecticides are deposited within the designated block boundaries and away from areas indicated as sensitive and/or where property owners object to the spraying. Within the designated block boundaries, the spray is to be applied to forested areas only and must be shut off over all open bodies of water. West Virginia Department of Agriculture will create associated exclusion areas for treatment areas that contain open water or designated non-forested areas based on department criteria. All areas within the treatment area boundary must be sprayed unless bounded by an exclusion area. Exclusion areas will be incorporated into the GIS based digital treatment file that is delivered to the contractor.

Many of the treatment areas are residential. The most densely populated areas in the residential treatment block must be treated as early as possible when most people are indoors. Congregations of people, including children waiting for school buses, must be avoided at all times.

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**3.1.8.5 RECONNAISSANCE** West Virginia Department of Agriculture requires a reconnaissance flight by the spray pilot over each spray block prior to treatment to ascertain the block layout and to identify and avoid any flight hazards or congregations of people. Pilots are responsible for communication and must conduct operations under the FARs with the appropriate air traffic control agency for the type of air space overlying treatment areas.

**3.1.8.6 FERRY FLIGHTS** Ferry flights to and from the work sites or between loading zones in the project area are to be provided by the Contractor and will not be billed to the West Virginia Department of Agriculture. This airtime must be limited to flights that are essential; ferry flights must be avoided over sensitive areas, and in or near objector locations.

**3.1.8.7 SPRAY TIME POLICY** Because of the short spray window available, it is essential that advantage be taken of any acceptable spray weather within the limits imposed by insect development, pilot work-hour limits [Section 3.1.9.3(J)], certain time-of-spray restrictions (Section 3.1.8.8), and safety considerations. Therefore, spraying may take place whenever weather conditions permit, including weekends, and holidays.

Morning spray session take-off is scheduled for 30 minutes before legal daylight, i.e. sunrise.

**3.1.8.8 TIME-OF-SPRAY RESTRICTIONS** Spraying must be curtailed at certain times in certain situations to avoid potential conflicts with land users.

- Spraying may not be permitted in state, federal, or other parks and/or campgrounds from noon on Friday through Sunday or from noon the day preceding a holiday through the holiday unless special arrangements have been made with the park manager. These special arrangements must include a written waiver signed by the park manager attesting that persons utilizing that area are not being exposed to insecticide treatment against their will or without their knowledge.

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- Evening spraying (1 p.m. until dusk) on Saturday, Sunday, or a holiday must be restricted to State Forest land or other land ownerships where potential land user conflicts would be minimal.
- No spraying may be conducted over school buses while they are actively picking up or discharging students or over any group of schoolchildren or other persons congregated within the spray block.

**3.1.8.9 EVENING SPRAYING** The primary productive spray time is in the early morning. However, evening spraying is available and permitted when the weather report is favorable, pilot fatigue is not a factor and where a few hours would be helpful in keeping on schedule.

**3.1.8.10 AIRSPEED** An exact application airspeed will be designated by the pilot at the time of calibration verification.

**3.1.8.11 APPLICATION ALTITUDE** Spray application shall be released 50 feet above the canopy of the target, except where obstruction in or adjacent to the target would endanger the safety of the pilot while applying pesticides at that altitude. Spray pilots must spray between 50-100 feet above tree canopy.

**3.1.8.12 TURNS** The aircraft spray boom must be shut off at the end of spray runs and during turns. Turns must be avoided over sensitive areas, including properties where the owners have objected to spraying.

### **3.1.9 CONTRACTOR PERSONNEL**

**3.1.9.1 PROJECT SUPERVISOR** The Contractor must designate one of its personnel to serve as the on-site project supervisor and to represent the company in all contractual matters that require prompt attention. This person must be familiar with all equipment being used and, as necessary, must be certified or registered as required by the West Virginia Pesticide Control Act rules and regulations of the West Virginia Department of Agriculture.



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If the project involves the use of no more than one loading zone at any given time, a spray pilot, or ground-support person may serve as the project supervisor. If the project involves the simultaneous use of two or more loading zones, the project supervisor must not be assigned to regularly fly an aircraft or serve as ground support for any aircraft. The project supervisor may, if qualified, be used as an alternate spray pilot if the regular pilot is debilitated or otherwise unavailable.

### **3.1.10 CONTRACTOR PERSONNEL**

**3.1.10.1**      PROJECT SUPERVISOR      The Contractor must designate one of its personnel to serve as the on-site project supervisor and to represent the company in all contractual matters that require prompt attention. This person must be familiar with all equipment being used and, as necessary, must be certified or registered as required by the West Virginia Pesticide Control Act rules and regulations of the West Virginia Department of Agriculture. If the project involves the use of no more than one loading zone at any given time, a spray pilot, or ground-support person may serve as the project supervisor. If the project involves the simultaneous use of two or more loading zones, the project supervisor must not be assigned to regularly fly an aircraft or serve as ground support for any aircraft. The project supervisor may, if qualified, be used as an alternate spray pilot if the regular pilot is debilitated or otherwise unavailable.

**3.1.10.2**      GROUND-SUPPORT PERSONNEL      The Contractor must supply sufficient numbers of properly trained and qualified ground-support personnel to drive all necessary support vehicles, handle insecticides, operate and maintain the equipment used to transfer insecticides, and properly fuel, service, and maintain each aircraft. All ground-support personnel must be familiar with the aircraft's spray system and knowledgeable of calibration techniques. All personnel provided by the Contractor must be experienced and fully trained in their duties and understand and be fluent in English. All ground personnel involved with the handling of insecticide must be supervised, certified, or registered as required by the West Virginia Department of Agriculture.

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All ground-support personnel must be equipped and trained to take proper action in an emergency. These people must observe all safety precautions in handling the insecticides and in refueling the aircraft. The Contractor is required to replace any ground-support person who, in the opinion of the West Virginia Department of Agriculture, does not demonstrate the knowledge and capability to perform his/her duties.

### 3.1.10.3 PILOTS

- (A) **FAA QUALIFICATIONS** - The Contractor must provide pilots that are FAA qualified to operate the aircraft specified in the bid. Each spray pilot, whether in a primary or backup role, must be qualified under FAR Part 137 and must provide written evidence to the Program Supervisor.
- (B) **PILOT LIST** - The Contractor must provide the West Virginia Department of Agriculture with a list of all pilots including alternate spray pilots slated for use on the project as designated in Section 3.1.2. Each spray pilot slated for use on the project, whether in a primary or backup role, must complete an Application for Spray Aircraft Pilot Approval form supplied to the Contractor by the West Virginia Department of Agriculture and return it for review after award by April 7<sup>th</sup> as designated in Section 3.1.2. The form will be reviewed and approved/disapproved by the Program Supervisor.
- (C) **PESTICIDE APPLICATOR CERTIFICATION** - Each spray pilot must be certified in the appropriate category by the West Virginia Department of Agriculture for the type of spraying being done. In the event any pilot does not hold a current applicator license, it must be obtained within 10 days after notification of award of contract.
- (D) **DGPS** - Each pilot must demonstrate proficiency in the operation of the aircraft's DGPS guidance system (See Section 3.1.10.5.1 d).
- (E) **EXPERIENCE** - Each spray pilot must meet or exceed the following experience minimums as pilot in command:

All aircraft     2,000 hours

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- Aerial Application/Agriculture flight time .....1,000 hours
- Night flying.....100 hours
- Cross Country .....500 hours
- Type (rotary/fixed) to be flown in project .....200 hours
- Category and Class to be flown on project .....200 hours
- Make, model, and series to be flown on project .....50 hours
- Forest pesticide application in terrain typical of project area  
100 hours

(F) **CONTROLLED SUBSTANCE USE** - Any pilot observed by the West Virginia Department of Agriculture using or in possession of any nonprescription, controlled substance such as, but not limited to, marijuana, hashish, cocaine, heroin, and/or amphetamines shall be immediately dismissed from the project. Such findings will be reported to the appropriate law enforcement agency and the FAA for action.

(G) **ALCOHOL CONSUMPTION** - A pilot may not consume alcohol or a nonprescription medication containing alcohol within 8 hours of scheduled flight time. Any pilot observed by the West Virginia Department of Agriculture consuming alcohol or exhibiting symptoms of alcohol intoxication or impairment or any other intoxication or impairment will not be authorized for flight for 24 hours. A second occurrence will result in dismissal from the project.

(H) **WEST VIRGINIA DEPARTMENT OF AGRICULTURE'S RIGHT TO REJECT** - The West Virginia Department of Agriculture reserves the right to reject the Contractor's use of any pilot who, in the West Virginia Department of Agriculture's opinion, has performed unsatisfactory in previous operations whether in West Virginia or elsewhere. The West Virginia Department of Agriculture reserves the right to permanently reject any pilot who, in the West Virginia Department of Agriculture's

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opinion, violates these Contract Specifications, is unsafe, or otherwise performs unsatisfactorily.

- (I) **PILOT RESPONSIBILITY** - The spray pilot is responsible for the accurate and proper application of the insecticide spray to the designated site using good application delivery procedures as generally recognized as correct by professionals in the aerial application industry.

The pilot is responsible for being able to proficiently operate all of the aircraft's electronic equipment including, but not limited to, radios, GPS guidance system.

The pilot is responsible at all times for the safe operation of the aircraft. The West Virginia Department of Agriculture will not require flying in fog, dense smoke, or under any other adverse conditions which a prudent pilot would avoid nor is the pilot required to operate from any site which the pilot considers unsafe.

The pilot is responsible for the identification and avoidance of all flight hazards in route to, from, and within the operation area. The pilot must make a reconnaissance flight over each spray block to identify and locate any such hazards or congregations of people prior to treating the block. The pilot must avoid spraying any congregation of people, including children waiting for school buses. The pilot is responsible for communicating with all appropriate air traffic control facilities within the area of operation.

The spray pilots are responsible for maintaining radio communications with the Project Supervisor who will advise the WVDA Mixing and Loading Officer of spray progress and safety checks. The pilot should report, via radio to the Project Supervisor when he begins spraying a block, when a block is finished, and when a spray load is finished. Failure to maintain proper radio communications may result in the removal of the pilot from spray operations. In situations when the distance of a treatment area from the loading zone inhibits the ability for the pilot to communicate with the program supervisor, the pilot may communicate via radio with assigned block monitors, if applicable.

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### **(J) DUTY LIMITATIONS**

Assigned duty of any kind must not exceed 14 hours in any 24-hour period. "Duty" includes flight time, ground duty of any kind, and standby. Local travel up to a maximum of 30 minutes each way between the worksite and place of lodging will not be considered duty time. Pilots will be subject to the following duty hour limitations:

- A maximum of 14 consecutive duty hours during any assigned duty period
- The pilot must be given 2 calendar days of rest (off duty) within any 14 consecutive calendar days.
- The pilot must be given a minimum of 10 consecutive hours of rest (off duty) prior to any assigned duty period.
- The above limits notwithstanding, pilots are expected to notify the program supervisor if they become fatigued prior to reaching the duty day limit.

### **(K) FLIGHT LIMITATIONS**

Each pilot must report all flight time, regardless of how or where performed, except personal pleasure flying. All pilots reporting for duty may be required a record of all duty and/or flight time during the previous 14 days. This record will be used to administer flight and duty time limitations.

Flight time to and from a duty station as a pilot (commuting) will be reported and counted toward limitations. Flight time includes but is not limited to military flight time, charter, flight instruction, 14 CFR Part 61.56 flight review, flight examination by FAA designees, any flight time for which a pilot is compensated, or any other flight time of a commercial nature whether compensated or not.

Pilots will be limited to the following flight hour limitations, which must fall within their duty hour limitations:

- A maximum of 8 hours flight time during any assigned duty period. Pilot flight hour computations shall begin at lift off and end at touchdown.

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- A maximum of 42 hours flight time during any consecutive 6 day period. When a pilot acquires 36 or more flight hours in a consecutive 6 day period, the pilot will be given the following 1 calendar day off duty for rest, after which a new 6 day cycle will begin.

Flights point-to-point (airport to airport, etc.) with a pilot and co-pilot shall be limited to 10-flight hours per day. (An aircraft that departs from "Airport A", and flies reconnaissance on a treatment block and then flies to "Airport B", is not point-to-point).

The Contractor must monitor and remove any personnel for fatigue or other causes before they reach their daily duty or flight limitations

When pilots act as a mechanic, mechanical duties in excess of 2-hours will apply as flight hours on a one-to-one basis toward flight hour limitations.

Relief, additional, or substitute pilots reporting for duty under this Contract shall furnish a record of all duty and all flight hours during the previous 14-days.

- (L) SPRAY PILOT PROTECTIVE GEAR - All spray pilots must wear the following Contractor-provided protective gear:

- Nomex flight suit
- Nomex gloves
- FAA-approved helmet with headset and microphone assembly
- Eight-inch high leather boots

### 3.1.11 AIRCRAFT

#### 3.1.11.1 GENERAL SPECIFICATIONS AND OPERATIONAL LIMITATIONS

- (A) AIRCRAFT DESCRIPTION - The Contractor must complete and submit to the Program Supervisor an Aircraft Description Form for each spray aircraft, alternate spray aircraft, and auxiliary aircraft



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slated for use on the contract after award by April 7th of the current project year as specified in Section 3.1.2.

- (B) **AIRCRAFT SUBSTITUTION** - The Contractor is permitted to substitute designated aircraft with aircraft in the same or larger category 1 week prior to the start of a project with the West Virginia Department of Agriculture's approval provided all applicable specifications and insurance requirements for the substituted aircraft are met at the time of substitution.
- (C) **LICENSES** - Every aircraft furnished for this contract must be properly licensed and airworthy under regulations of the Federal Aviation Regulations for commercial operations. Aircraft must be maintained in accordance with 14 CFR Part 137.31.
- (D) **CONDITION** - Each aircraft must be clean inside and outside and must fully comply with FAA directives and specifications and to any pertinent laws and regulations of the State of West Virginia.
- (E) **SAFETY** - Safety regulations prescribed by the FAA, the manufacturer of the aircraft, the Contractor, and the West Virginia Department of Agriculture must be observed at all times. All Contractor-supplied aircraft must contain FAA-approved shoulder harnesses and lap belts for the pilot and front crew/passenger and lap belts for all rear seats.
- (F) **EQUIPMENT** - All equipment specified in these Contract Specifications for use in or upon any aircraft must be FAA approved or the Contractor must have an FAA field approval (FAA Form 337) from the FAA Flight Safety District Office serving the Contractor's home base of operations.
- (G) **ADDITIONAL EQUIPMENT REQUIREMENTS**
  - Fire Extinguisher(s). As required by 14 CFR 137, fire extinguisher supplied shall be a hand-held bottle with a minimum 2-B:C rating, mounted and accessible to the flight crew. The Contractor is responsible for ensuring all company personnel are trained in the correct use of these fire extinguishers.
  - A flight meter or recording tachometer displaying actual flight time in hours and tenths.
  - A variety of avionics (See Section 3.1.10.4)
  - First aid kit

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- DGPS navigation system (See Section 3.1.10.5)
  - Automated flight following equipment (See Section 3.1.10.6) (See Appendix B)
  - Aircraft Spray System (See Section 3.1.10.3)
- (H) MAINTENANCE – Aircraft shall be operated and maintained in accordance with 14 CFR requirements and manufacturers' recommendations. Compliance with mandatory manufacturers' bulletins, FAA ADs, and the correction of maintenance deficiencies shall be accomplished prior to the start and during the period of Contract performance.
- (I) INSPECTION – West Virginia Department of Agriculture personnel or West Virginia Department of Agriculture contracted personnel will inspect the Contractor's aircraft to determine if they meet the Contract Specifications. Performance tests, as necessary, will be conducted at a location mutually agreed upon by The West Virginia Department of Agriculture personnel and the Contractor. The Contractor must assume all expenses incident to operation of the aircraft and the pilot's time during these tests. The West Virginia Department of Agriculture may request this inspection be held as many as sixty (60) days prior to the scheduled start of spraying. On-site inspection on the reporting date may be acceptable if approved in advance by the West Virginia Department of Agriculture.
- (J) EXCLUSIVE ASSIGNMENT TO WEST VIRGINIA DEPARTMENT OF AGRICULTURE - Once an aircraft and its assigned pilot, ground-support equipment, and support crew report on site and are under contract to the West Virginia Department of Agriculture, no substitutions may be made unless the aircraft, equipment, or person becomes incapacitated.

While an aircraft is under contract to the West Virginia Department of Agriculture the aircraft and its assigned pilot, ground-support equipment, and crew are not permitted to do any other spraying for any other agency or individual. If a delay caused by a lack of insect and/or foliage development of two or more days in the spraying operation is anticipated as determined by the West Virginia Department of Agriculture, the Contractor may be issued a written

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temporary release by the Program Supervisor for any or all aircraft, personnel, or support equipment provided that the Contractor will return on site at the time and date specified with all aircraft, personnel, and support equipment and with the aircraft configured and calibrated according to original specifications and with all spray systems and support equipment properly cleaned. Upon completion of their work on this contract, aircraft will be released by written consent of the Program Supervisor with verbal confirmation by the program supervisor.

- (K) AIRCRAFT REPAIRS - In the event that any aircraft under contract becomes non-airworthy, it must be repaired within 24 hours of the original breakdown. If the aircraft cannot be repaired and returned safely to full operation, it must be replaced with an aircraft of similar capabilities subject to all of the provisions of these Contract Specifications within 48 hours.
- (L) ENGINES - Each aircraft engine must meet manufacturer's specifications for airworthiness. Engine and airframe logs must be present at time of inspection.
- (M) AIRCRAFT REFUELING – Any refueling of the aircraft done while the engine is running and/or the rotor spinning must be done by hose line and nozzle only. Fueling from containers will be permitted only during complete engine shutdown. Proper aircraft/fuel truck bonding procedures as approved by the National Fire Protection Association must be followed while refueling.
- (N) RESERVE FUEL - A minimum 30-minute reserve fuel supply over the amount needed for the planned round trip is required for each flight.
- (O) LOADING - The pilot is responsible for the proper loading of the aircraft. Loading is under the pilot's direction and must be inspected by the pilot before takeoff. The weight must not exceed the maximum gross weight specified by the aircraft manufacturer. The pilot must compensate for altitude, temperature, landing zone conditions, and any adverse flying conditions.

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- (P) **VISIBILITY** - The aircraft windshield or bubble must be kept clean prior to and during spray operations.

### 3.1.11.2 AIRCRAFT CATEGORIES

The specific numbers of aircraft needed for each project are given in Section 3.1.3 using the spray aircraft category designations A through D. Aircraft in a larger-size category as listed in Section 3.1.10.2(A) and Section 3.1.10.2(B) may be substituted with the written approval of the West Virginia Department of Agriculture. Specifics on the aircraft slated for the contract must be provided to the West Virginia Department of Agriculture as indicated in Section 3.1.2. Because of logistical planning by the West Virginia Department of Agriculture, the Contractor is not permitted to substitute aircraft less than 1 week prior to the start of the project [see Section 3.1.10.1(B)].

The following tables list examples of acceptable aircraft for each category along with maximum allowable lane separations for the required nozzle systems (smaller lane separations may be used to increase deposition). The actual lane separation for the specific aircraft to be used on the project will be assigned at the time of calibration verification based upon the best available information [Section 3.1.10.3(C)]. Aircraft not listed may be considered if they are of similar capability to those listed in that category and if the request to use them is approved by the West Virginia Department of Agriculture prior to bid opening.

#### (A) **HELICOPTERS**

<b>CATEGORY</b>	<b>EXAMPLES OF ACCEPTABLE AIRCRAFT</b>	<b>MAXIMUM LANE SEPARATION (FEET) ROTARY ATOMIZERS</b>
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A	Bell 204	150
	Bell 205	150
	Bell 212	150
	Bell 214	150
C+	Bell OH58	125
	Bell 206L	125
C	Bell 206B	100
	Bell/Soloy 47G-3B	125
	Hughes 500D	75
	Hiller UH-12	125
D+	Hiller/Soloy 12E	100
D	Bell 47G	100
	Hiller 12E	100

(B) FIXED WING

CATEGORY	HORSE-POWER	HOPPER CAPACITY (Gallons)	EXAMPLES OF ACCEPTABLE AIRCRAFT	MAXIMUM LANE SEPARATION (FEET)	
				HYDRAULIC NOZZLES	ROTARY ATOMIZERS
A	Turbine >1100	>750	Air Tractor 802	200	200
B	Turbine 750 – 1100	500 - 750	Air Tractor 502	125	150
			Air Tractor 602	125	150
			Dromader M18	125	175
			Thrush T-34	125	150
			Thrush T-41	125	150
			Thrush T-45	125	150
			Thrush 660	125	150
			Thrush G-10	125	150
C	Turbine 600 - 750	300 - 500	Air Tractor 400	125	150
			Air Tractor 500	125	150
			AgCat King C	100	125
			AgCat Turbo	100	125
			Thrush R1820	100	125
			Thrush T-15	100	125
D	Piston 600 – 750	300 - 500	Air Tractor 301	100	125
			Air Tractor 301A	100	125
			Air Tractor 302	100	125
			Air Tractor 401	100	125
			AgCat Super B	100	125
			Thrush 600	100	125
			Thrush T-11	100	125

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### 3.1.11.3 AIRCRAFT SPRAY SYSTEM

#### (A) GENERAL SPECIFICATIONS

- (1) TANKS – Leak-proof, corrosion-resistant tanks with exterior filler openings must be used. The location and size of tanks must be so as to not impair airworthiness by overloading or displacing the center of gravity beyond acceptable limits. Filler openings or necks must be large enough to prevent surging during filling. Tanks must be vented to the outside of the fuselage.
- (2) EMERGENCY DUMP SYSTEM - Each aircraft must be equipped with an emergency jettisonable load-dumping system or emergency non-leaking dump valves of adequate capacity and adequately vented to dump the load and installed so as to prevent blowback into the fuselage. In no case must the ratio between gallons carried and the surface area of the dump-valve opening as measured in square inches be greater than 7.65 to 1. Exposed valve-control linkage must be protected to prevent unintentional opening of the valve in any manner. The control lever must be substantially mounted in the cockpit within easy reach of the pilot when properly wearing the shoulder harness.
- (3) PUMPING SYSTEM - The pumping system must be securely attached insecticide. All plumbing and pumps must be large enough to handle the required flow. All parts, including pump seals, must be chemically and abrasively resistant to the spray material being used.
- (4) PRESSURE GAUGE - An accurate liquid-filled spray pressure gauge must be located so that the pilot can easily read it.
- (5) SHUTOFF - To avoid contamination of areas not scheduled for treatment, the entire spray system must be leak-proof and have a positive shutoff mechanism capable of eliminating dripping from the nozzles when shut off.



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- (6) **SYSTEM CLEANING** - The aircraft spray system, including tanks, must be cleaned of all foreign material and flushed with water prior to the start of the spray operation. The spray system must be flushed following spraying on a daily basis to prevent drying of spray material from becoming a problem. The Contractor must daily clean all screens, check for leaks and clogs, verify pump pressure, and monitor flow rate.

During the spray project the spray system must be flushed with water if a switch from diflubenzuron or tebufenozide to *Btk* is made.

- (7) **STRAINER** - Each aircraft must be equipped with an in-line strainer (no finer than 30 mesh) to filter all material before it enters the spray boom.
- (8) **SPRAY TIMER** - Each aircraft must be equipped with an electronic flow-metering system, such as a CropHawk®, that is activated automatically when the spray switch is operated.

The system must be capable of providing an accurate measurement of the cumulative spray time in minutes and tenths or minutes and seconds as well as an accurate measurement of the volume of spray material dispensed.

- (9) **BOOM SYSTEM** - Each aircraft must be equipped with an FAA-approved boom system of the type most commonly employed for the delivery system being used. This system must have:
- (a) Nozzles located so as to minimize the spraying of insecticide onto any part of the ship's structure.
  - (b) All nozzles rigidly attached to the boom without flexible dropper hoses.

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- (c) Bleeder lines installed at the ends of the boom feeding back to the outboard nozzle if that nozzle is installed more than five inches from the boom end.
  - (10) PUMP PRESSURE - The pump must have an effective operating pressure range of 20-50 PSI.
  - (11) AUTOMATIC ON/OFF OF SPRAY BOOM – The aircraft spray system must be equipped with an automatic on/off of spray boom that is controlled by the aircraft's GPS guidance system. The ability to manually over-ride the automatic on/off system must be available.
  - (12) AUTOMATIC FLOW CONTROL– The aircraft spray system must be equipped with automatic flow control that is controlled by the aircraft's GPS guidance system.
- (B) NOZZLES – Approved rotary atomizers (4-8 units per aircraft) are required for spray aircraft flying at an application airspeed of 140 mph or less. Either rotary atomizers or hydraulic nozzles are permitted on spray aircraft flying at an application airspeed of 141 mph or more. The nozzle systems must meet the following specifications.
- (1) HYDRAULIC
    - (a) TYPE - Nozzles must be of either the flat-fan or hollow-cone type. All nozzles on any aircraft must be of the same type.
    - (b) SIZE - Tips of the proper sizes to produce an acceptable flow rate and a droplet volume median diameter (VMD) of 125-145 microns for Foray 48B and 80-100 microns for Foray 76B applications, a VMD of 200 microns for diflubenzuron, a VMD of 200 microns for Gypchek, and a VMD of 100-125 microns for Mimic application must be provided. A check with the manufacturer for the latest recommendations should be conducted annually. All nozzle tips being utilized on an aircraft at any given

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time must be the same size. Tip size must be approved by the West Virginia Department of Agriculture's monitoring specialist prior to reporting on site for calibration verification.

- (c) MATERIAL - Only new nozzle tips are permitted.
- (d) ANGLE - Nozzles must be properly positioned relative to the line of flight in order to take advantage of wind speed to assist in breakup and dispersion of droplets.
- (e) NOZZLE SCREENS - Each nozzle must be equipped with a 30-mesh wire screen or slotted strainer. It is possible that the screen or strainer will be removed during the spray operation, but it must be available in case needed.

### **(2) ROTARY ATOMIZERS**

- (a) TYPE - Micronair®, Beecomist®, or similar West Virginia Department of Agriculture -approved rotary atomizers are acceptable provided that the units have the capability of adjusting the screen rotation speed in order to change the droplet size. All rotary atomizers on an aircraft must be of the same type.
- (b) NUMBER AND SIZE - Sufficient numbers of the proper size and type rotary atomizer must be provided for the particular aircraft being utilized in order to produce a uniformly dispersed spray cloud with a droplet volume median diameter (VMD) of 80-100 microns for Foray 76B and 125-145 microns for Foray 48B applications; a VMD of 100-125 microns for Mimic; and a droplet VMD of 200 microns for diflubenzuron and Gypchek applications.
- (c) INSTALLATION/ADJUSTMENT/CALIBRATION - The installation, adjustment, and calibration of the

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rotary atomizers, must be made in strict accordance with the manufacturer's recommendations to permit the application of the specified spray volume per acre. The flow rate for each individual rotary atomizer installed on a boom must not deviate  $\pm 10$  percent from the average flow rate for all rotary atomizers installed on the boom. Any rotary atomizer that deviates by more than  $\pm 10$  percent must be replaced. All units must be properly cleaned and serviced and be in good working condition when reporting on-site for calibration verification.

- (C) CALIBRATION/CHARACTERIZATION - The Contractor's spray aircraft must arrive on site properly calibrated for the insecticide and rate of application specified. The West Virginia Department of Agriculture will verify the calibration by checking the flow rate of each aircraft prior to the start of the operation. If the calibration is incorrect, the Contractor must correct it immediately without causing any delay in the start of operations.

Dependent upon the delivery system and the application rate of the insecticide being used, calibration verification will be made using either water or the insecticide slated for application. The flow rate from the spray system will be monitored periodically during the spray operation and must be maintained within  $\pm 5$  percent of the desired flow rate.

Flights over card lines to characterize spray swath and droplet size may be required prior to the start of spray operations for certain aircraft as determined by the West Virginia Department of Agriculture. Standardized characterization techniques, including the use of a nonpermanent dye in the spray material, will be utilized. There will be no separate additional charge to the West Virginia Department of Agriculture for flights or for the insecticide used in making calibration or characterization checks.

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### 3.1.11.4 ELECTRONIC RADIO, DGPS, AND TELEPHONE EQUIPMENT

(A) EQUIPMENT - Prior to being approved by the West Virginia Department of Agriculture, all spray and observation aircraft must be equipped with electronic communications and guidance equipment as described herein. The Contractor's project supervisor must also be supplied by the Contractor with a programmable portable or vehicle installed radio which meets the same specifications as given in Section 3.1.10.4(A)(2). All Contractor-furnished communications and guidance equipment for use in aircraft must be of types currently approved by the FCC and the FAA. The aircraft must be bonded and shielded so as to allow optimum radio communications. The following are required for all spray and auxiliary aircraft.

- (1) VHF COMMUNICATIONS – The Contractor must equip each spray and auxiliary aircraft with panel mounted VHF-Am (VHF-1) aeronautical transceivers with a minimum of 760 channels covering 118.000 to 136.975 MHz. Each transceiver must have channels selectable in no greater than 25 kHz increments and a minimum of 5 watts carrier output power. The transceiver's operational controls must be mounted so they are readily visible and accessible to the pilot.

The receiver for the VHF communications system must not be part of a navigational system.

Each ground-support crew must be equipped with a mobile or portable VHF transmitter/receiver that will permit communication with the spray and/or auxiliary aircraft.

- (2) FM RADIO - Each spray and auxiliary aircraft must be equipped by the Contractor with a field-programmable, rack-installed or portable FM radio transmitter-receiver (10 watts output with a range of 150.0 MHz to 174.0 MHz), compatible externally mounted antenna designed for aircraft use, and a compatible crash helmet microphone/headset assembly for the pilot and each operating crewmember

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(microphone/headset assembly required for auxiliary aircraft pilot and crewmembers--helmet optional).

- (3) **SELECTOR SWITCH** - Each spray and auxiliary aircraft must be equipped with a three-position selector switch that permits the pilot to simultaneously monitor both the VHF and FM systems in one position, monitor and transmit on the VHF system in another position, and monitor and transmit on the FM system in a third position.
- (4) **GPS** - Each spray aircraft must have a permanently installed, panel mounted GPS utilizing an approved fixed external aircraft antenna and powered by the aircraft electrical system or an aviation portable GPS unit provided the portable unit is securely mounted, is equipped with a remote antenna, and presents information from an overhead orientation (not a drive-along-the-road-type) and is powered by the aircraft electrical system. The GPS must utilize the WGS-84 datum and reference latitude and longitude coordinates in the degrees/minutes/decimal minutes (DM) mode for aircraft positioning.
- (5) **TRANSPONDER** - Each spray and auxiliary aircraft must have one air traffic control (ATC) transponder and altitude reporting system meeting the requirements of 14 CFR Part 91.215 (a) and (b).
- (6) **EMERGENCY LOCATOR TRANSMITTERS (ELT)** - One automatic-portable/automatic-fixed or automatic-fixed ELT, certified to either Technical Standard Order (TSO)-C91a or TSO-C126, utilizing an external antenna and meeting the same requirements as those detailed for airplanes in 14 CFR Part 91.207 (excluding section f.). The ELT must be installed in conspicuous or marked location, with the required battery expiration date marking located in such a manner that is easily legible without de-mounting the ELT.



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- (B) **INSPECTION** - The West Virginia Department of Agriculture will inspect all radio and guidance system installations before the spray aircraft is approved. Installations and facilities that are substandard electrically or mechanically will not be approved. All radio systems must undergo an air-to-ground check to assure that clear and understandable communications exist. Any radio system that does not perform adequately in the opinion of the West Virginia Department of Agriculture must be repaired or replaced by the Contractor before spray operations will be permitted to start.
- (C) **RADIO PROGRAMMING** - The Contractor's pilots must be trained in programming the radio provided and must be capable of programming it in the field.
- (D) **MAINTENANCE** - The Contractor must provide evidence that the communication and guidance equipment furnished has been serviced, as required, by a qualified electronics maintenance shop. It is the responsibility of the Contractor to maintain in good working order all communications and guidance equipment it is required to furnish.

### **3.1.11.5 NAVIGATIONAL AIDS**

All aircraft will be equipped with a working navigation/tracking, differentially corrected, global positioning system (DGPS). The pilot must have a working knowledge of the DGPS system installed in the aircraft that he will be operating. West Virginia Department of Agriculture is responsible for determining and, if necessary, editing the treatment area boundaries of all scheduled treatment areas and their associated exclusions, by utilizing GIS. The contractor is responsible for transferring the GIS data created by West Virginia Department of Agriculture personnel into the digital file format required by use of the contractor's installed DGPS. In addition, the contractor is responsible for uploading the data into the application aircraft's DGPS. Each day after spraying is completed, the recorded flight files will be downloaded for analysis for the West Virginia Department of Agriculture.

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**3.1.11.5.1 Aircraft DGPS Specifications:** The make of the DGPS will be specified in the contract offer. Certain electronic guidance systems may not meet program requirements. Guidance systems that meet the following criteria are acceptable:

**3.1.11.5.1.a** Contractor will provide DGPS system with software designed for parallel offset in increments equal to the assigned swath width of the application aircraft. A course deviation indicator (CDI) or a course deviation light bar must be installed on the aircraft and must be located in a position that will allow the pilot to view the indicator with direct or peripheral vision. Differential correction shall be provided by satellite using L-band frequencies.

**3.1.11.5.1.b** The guidance system being used will allow the flight log to be downloaded to an on-site computer for post-flight analysis and review. The flight log must show the entire flight of the aircraft from takeoff to landing and differentiate between spray on and spray off when viewed on the computer monitor. The software must have the capability to zoom to any portion of the flight for viewing in greater detail and a method to determine distance between each flight lane. The system must be able to calculate and show total acres treated during the flight. The software must be compatible with color printers and differentiate between spray on and spray off on the printed copy.

**3.1.11.5.1.c** The DGPS (*make and model, e.g Satloc or AgNav*) proposed must have been operated successfully in a similar type aerial application program, and demonstrated success prior to the last 12 months. Provide name and phone number of previous clients or other users of the system who can validate the DGPS capabilities.

**3.1.11.5.1.d** Pilot proficiency or evidence of prior experience with the proposed DGPS system must be demonstrated to the soliciting agency prior to award. To demonstrate proficiency the contractor must provide a copy of data

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(printed map and original electronic format) downloaded from DGPS proposed for use which was 1) conducted in the same type aircraft proposed for the use on this project, 2) flown in similar topography and aircraft altitude (generally below 200 feet AGL), and 3) collected within the last 12 months. The printed map must display the spray block boundary, the flight path of the aircraft and clearly differentiate between spray on and spray off.

**3.1.11.5.1.e** If at any time the DGPS is not working properly the pilot must report this to the Program Supervisor. If the DGPS is not working properly during application, the pilot must return immediately to the airport.

### **3.1.11.5.2** Electronic Guidance and Support Furnished by the Contractor

**3.1.11.5.2.a.** All guidance equipment, materials, computers, printers, personnel, and services required for the system. The guidance equipment shall be capable of accurately guiding the aircraft, while flying at application altitude, along parallel flight lines equal to the assigned swath width of the application aircraft, in blocks designated by West Virginia Department of Agriculture. The system shall be sufficiently sensitive to provide immediate deviation indications and sufficiently accurate to keep the aircraft on the desired flight path. The guidance system shall be capable of updating current position at a minimum rate of five (5) times per second.

**3.1.11.5.2.b** During operation, differentially corrected signal must be accurately recorded at least 95% of the operational time.

**3.1.11.5.2.c** Post-flight processing computer and software capable of displaying track, altitude and groundspeed of aircraft during flight, with differentiation between standard flight and flight when the application system is on. Export file format must be compatible with Arc View/ArcInfo GIS systems or translatable to ArcView/ArcInfo systems and

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must be on a West Virginia Department of Agriculture approved data storage media device.

**3.1.11.5.3** Salient characteristics required for the DGPS system. The equipment offered must possess the following features:

- 3.1.11.5.3.a** Precision DGPS guidance with pilot-selected cross-track error readout adjustable to one (1) foot.
- 3.1.11.5.3.b** Easy to operate, user-friendly pilot's control keypad, with swath advance and decrement function.
- 3.1.11.5.3.c** Visual display monitor: 1) capable of displaying swath width over flight path; 2) mounted in the aircraft in a location that will allow the pilot to view the screen with direct or peripheral vision without looking down; 3) shall display in real time or be available for in-flight access immediately after application has ceased.
- 3.1.11.5.3.d** Shall have variable swath width entry.
- 3.1.11.5.3.e** Record logging of application at a minimum rate of one-second intervals. Full record includes position, time, altitude, speed, cross-track error, track, application system on/off, aircraft tail number, pilot, job name or number, and differential correction status.
- 3.1.11.5.3.f** System memory capable of storing up to 8 hours of continuous flight log data.
- 3.1.11.5.3.g** Capability to accept pre-loaded reference waypoints (A-B Line). Must be able to store and retrieve, in-cockpit, at least 50 individual treatment blocks, each containing up to 50 points. Capability to link blocks together for combined treatment.
- 3.1.11.5.3.h** Feature which alerts pilot when he/she is about to enter or exit a specific treatment block or an exclusion area within

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a block. A method to display nested polygons to indicated sensitive, or no-spray areas within treatment blocks.

- 3.1.11.5.3.i. A course deviation indicator (CDI) or light bar which displays both cross-track error and intercept angle to desired heading must be installed on the aircraft in a location that will allow the pilot to view the indicator with direct or peripheral vision (heads up display).
- 3.1.11.5.3.j. HOME navigational feature that provides instant range and bearing to home base airport or helibase.
- 3.1.11.5.3.k. MARK feature which allows return to point in any swath before or after equipment shutdown.
- 3.1.11.5.3.l. Warning method to indicate DGPS or Differential Correction failures.
- 3.1.11.5.3.m. Pilot-adjustable intensity lighting for light bar, keypad, and moving map display.
- 3.1.11.5.3.n. Capability to end log files, rename, and start new logs in flight.

3.1.11.6 AUTOMATED FLIGHT FOLLOWING All spray aircraft must be equipped with an automated flight following (AFF) system, see Appendix B for specifications.

### 3.1.12 GROUND-SUPPORT EQUIPMENT

- 3.1.12.1 INSPECTION In order to execute the Contract, the Contractor must supply the West Virginia Department of Agriculture with specifics on the ground-support equipment the Contractor will provide as specified in Section 3.1.2. The Contractor is not permitted to substitute ground-support equipment 1 week prior to the start of the project. Any substitutions before that date must be with ground-support equipment of similar or greater capability. West Virginia Department

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of Agriculture personnel may inspect this equipment and, at the Contractor's expense, conduct performance tests, as necessary, at a mutually agreed-upon site 60 days or less prior to the start of spraying operations.

**3.1.12.2 ACCESSORY EQUIPMENT** All accessory equipment, including any vehicles necessary for transporting the insecticide from storage or from one operational site to another, is the responsibility of the Contractor. Accessory equipment supplied by the Contractor includes, but is not limited to, trucks, insecticide storage and/or mixing tanks (equipped for agitation and recirculation), pumps, hoses, metering devices, spill containment materials, and similar equipment necessary for handling the insecticide and loading the spray aircraft. The Contractor must also supply readily accessible and properly sized and coded fire extinguishers at each loading zone.

If required by contract logistics, the Contractor must supply sufficient accessory equipment so that each aircraft can work independently of each other [see Section 3.1.3 and Section 3.1.11.4(B)]. For large contracts using rotary aircraft, it is common for individual spray aircraft to work simultaneously from multiple loading zones locations.

**3.1.12.3 EQUIPMENT CLEANING** All equipment which comes in direct contact with the insecticide must be kept thoroughly clean and free of residues and foreign particulate matter.

**3.1.12.4 FIELD TRUCKS**

- (A) **LIGHT-DUTY TRUCK** - The Contractor must supply a vehicle for each ground crew to use for transporting personnel, moving insecticides, running for parts, and similar duties. If the Contractor-provided nurse truck is unsuitable for conducting these errands in an expeditious manner, the Contractor must provide a pickup truck or other acceptable vehicle. West Virginia Department of Agriculture -owned vehicles may not be used for these purposes.

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- (B) NURSE TRUCKS - A truck or trucks equipped for transporting insecticide are required for each independently working spray aircraft or a group of spray aircraft working from a single loading zone. Truck and trailer combinations are acceptable if they meet all requirements of the State of West Virginia Dept. of Transportation, do not exceed local road and bridge weight limits, and do not present maneuverability problems at the designated field worksites. Each independently working spray aircraft or group of spray aircraft working from a single loading zone must have sufficient ground-support equipment and personnel to adequately service it/them without causing any production delays.

The field truck or trucks supplying each aircraft must be designed to separately carry the insecticide concentrate, water, additives, and aircraft fuel to the worksite. The quantities transported to the worksite must be sufficient to supply aircraft working from that site for five hours of spraying without exceeding the truck or road legal weight limits.

All trucks transporting aircraft fuel or other hazardous materials must be placarded and supplied with shipping papers as required under the U S Department of Transportation's Hazardous Materials Regulations (HAZMAT).

Each mix truck must be supplied with drum wrenches if barrels are being used.

- 3.1.12.5 TANK FARM** If working from a limited number of loading zones, the Contractor may, in lieu of the nurse trucks specified, set up a tank farm, subject to all of the equipment specifications contained in Section 3.1.11, at each loading zone selected for the project area. This tank farm must be of sufficient capacity to supply and service all spray aircraft working from the loading zone. Sufficient equipment must be supplied so that each loading zone will be set up and operational far enough in advance of need so that no operational spraying time will be lost by any spray aircraft. If required by contract logistics, sufficient equipment must be provided so that each aircraft can be stationed and/or worked independently of each other.



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**3.1.12.6 FUEL TRUCKS** The Contractor must supply all fuel and lubricating oils required to operate all equipment during the contract period. All fuels must be commercial (or military) grade aviation fuel approved for use by the airframe and engine manufacturer. Only fuels meeting American Society of Testing and Material (ASTM) or Military specifications are authorized for use. Smoking is prohibited within 50 feet of the aircraft and fuel servicing vehicles. All fuel operations are to be conducted in a secure area without presenting undue hazards to other aircraft or personnel.

- (A) The Contractor must ensure that they are in compliance with 40 CFR Par 112: Oil Pollution Prevention: Spill Prevention, Control, and Counter measure Plan Requirements (SPCC). An SPCC plan is required for each mobile fueler used on this contract regardless of tank size.
- (B) Each aircraft fuel servicing vehicle shall have two fire extinguishers, each having a rating of at least 20-B:C.
- (C) Fuel trucks shall be properly maintained, clean and reliable. Tanks, pumping, filters, and other required equipment shall be free of rust, dirt, and other contaminants.
- (D) The Fuel Truck(s) shall be capable of transporting sufficient fuel to operate the application aircraft for a minimum of 8 hours.
- (E) The Fuel Truck(s) manufacturer's gross vehicle weights (GVW) shall not be exceeded. Barrels are not acceptable fuel containers.
- (F) The filtering system shall be equipped with a differential pressure monitoring system or fueling systems with which the pump produces more than 25 psi. Spare filters, fuses, seals, and other components on the fuel truck filtering system shall be stored in a clean, dry area. A minimum of one set is required.
- (G) All tanks shall be securely fastened to the truck bed and shall have a sump or sediment settling area of adequate capacity to provide uncontaminated fuel to the filter.

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- (H) All hoses shall be properly secured and safeguarded when not in use. Only hoses designated for dispensing of fuel will be used. Hoses must be at least 50 feet in length. Fuel nozzle shall include a 100 mesh or finer screen, a dust protective device and a bonding clip or plug.
- (I) Fuel Truck(s) shall have adequate bonding cables and shall be utilized in accordance with National Fire Protection Association (NFPA) Manual 407.
- (J) Markings: "NO SMOKING" signs with three-inch minimum letters visible for both sides and rear of the truck. Each fuel-servicing vehicle shall be conspicuously and legibly marked to indicate the nature of the fuel. Fuel truck(s) must be placarded in accordance with 49 CFR 172.

### 3.1.12.7 TANKS

- (A) GENERAL - All tanks used to transport insecticides must be leak-proof and corrosion resistant. Filler openings and air vents must be adequate to prevent surging during filling. All tanks must be equipped with properly fitting covers or hatch plates that must be kept closed except when filling or circulating to reduce the change of contamination with foreign materials. All covers and hatches should be secured during off-duty hours.
- (B) CLEANING - All tanks must be thoroughly cleaned and free of rust, residues, and particulate matter, such as grit and sand. The West Virginia Department of Agriculture must inspect all tanks before they are filled with insecticide or water.

### 3.1.12.8 PUMPS

- (A) WATER PUMP - Each truck used to transport water must be equipped with a pump capable of drafting water a vertical distance of at least ten (10) feet. The truck must be equipped with a non-collapsing suction hose, an anti-siphon device or check valve, a coarse screen, and a bucket. The configuration must be such that water being taken into the truck can be metered if needed, and it must pass through a strainer no coarser than 50 mesh.

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- (B) CIRCULATION PUMP - The pump used for circulation and loading must produce a sufficient flow rate to fill the aircraft in a maximum of three minutes without producing high pressures.
- (C) INSECTICIDE PUMP - The pump used for drafting the undiluted insecticide from a 55-gallon drum must be capable of repeatedly emptying a drum in less than three minutes.
- (D) NUMBER OF PUMPS - The same pump may be used for all purposes if a single truck is used for mixing and for transporting water and insecticide, provided all requirements are met. If a separate truck is used for any of these purposes, it must have its own pump.
- (E) PUMP SEALS - All pump seals must be chemically and abrasively resistant to the spray material being used (tungsten carbide or silicon carbide components are suggested).
- (F) PROHIBITED PUMPS - No high-pressure piston pumps or hand pumps are permitted.

### **3.1.12.9 METERS**

- (A) GENERAL - The insecticide-handling system must be designed to accurately meter water and insecticide concentrate. If the system or insecticide storage system is designed such that air could be sucked into the lines and cause erroneous meter readings, the meter must be equipped with an air eliminator.

A strainer no finer than 30 mesh must be installed in line to screen the solution prior to entering the meter.

The meter must be capable of safely handling the flow rate necessary for loading the aircraft.

Meters with lighted digital displays must be shaded so that they are not difficult to see in direct full sunlight.

- (B) CALIBRATION - The Contractor must provide evidence that all metering devices employed have been inspected and calibrated by a licensed inspector within two months prior to the start of the

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spraying operation. At or before the time the Contractor's aircraft are calibrated, the Contractor must supply the West Virginia Department of Agriculture with a copy of the inspector's calibration report for each meter used in the project.

All meters used to measure the volume of insecticide at any time during the operation must be calibrated and certified using the insecticide formulation to be used on the project or the meter must be calibrated and certified as capable of accurately measuring various materials, each with a different viscosity without being recalibrated for each material.

### **3.1.13 AGREED DAMAGES FOR FAILURE TO PERFORM**

#### **3.1.13.1 INTRODUCTION**

Due to the behavior of *Lymantria dispar* and other forest insect pests, the amount of time during which successful treatment can be made is limited. For this reason, delays caused by the Contractor during periods of acceptable spray conditions are potentially damaging to the outcome of the program. In addition, such delays are costly to the West Virginia Department of Agriculture and therefore subject to the assessment of agreed damages for failure to perform. Repeated occurrences of failure to perform actions are sufficient grounds for contract termination and removing the Contractor's name from the list of acceptable bidders for future projects.

The Contractor is not liable for agreed damages if the failure to meet the terms of the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the State of West Virginia in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

Any incident in which a Contractor is assessed damages as described in this section must be documented in writing by the field project coordinator

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and submitted to the program supervisor for approval. A copy of this report will be given to the Contractor. All approved reports will be subject to the appropriate provisions and assessed costs will be deducted from the final payment made to the Contractor. The burden of proof to dispute these assessments is upon the Contractor.

The following items are considered failure-to-perform acts subject to the specified monetary assessment.

**3.1.13.2 LATE ARRIVAL** Notice will be given to the Contractor of a time and location to have its equipment assembled for the program start (Section 3.1.1.2.4). This is usually a day or two before actual spraying, and is needed for calibration checks, characterization flights, final inspection, pilot briefing, and pre-work conference. At that time, the aircraft, its equipment, and ground-support equipment must be ready and operating according to Contract Specifications. Also, pilots and ground-support personnel must be on site and ready to perform as required by the Contract Specifications. Failure to arrive within two hours of the agreed time on the specified day may be assessed against the Contractor at the rate of \$1,000 per aircraft per day. Arrival on time but failing to have all the equipment and personnel on site and/or operational and which causes a delay in calibration checks of two hours or more may be assessed against the Contractor at the rate of \$1,000 per aircraft. Failure to arrive on the specified day or a delay that makes it impossible to properly calibrate on the scheduled day may be assessed at the rate of \$5,000 per aircraft per day.

**3.1.13.3 TARDINESS** The first trip takeoff for morning sessions may start as early as 30 minutes before sunrise or any time after this that may be mutually agreeable to the West Virginia Department of Agriculture and the Contractor on a daily basis (Section 3.1.8.7). The Contractor's personnel must be at the worksite far enough in advance of the first trip takeoff time to have the aircraft checked, engines warmed up, and insecticide properly loaded, agitated and ready for takeoff when conditions are acceptable. If it becomes necessary to move the aircraft from the operational worksite to another overnight location for security or other reasons, care must be exercised to avoid selecting a fog or "frost pocket" location that could postpone takeoff and thereby delay or cancel

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the operation for the following day. A delay in the first trip takeoff due to tardiness when conditions are acceptable for spraying may be assessed against the Contractor at a rate of \$1,000 per hour or portion thereof per aircraft per session.

**3.1.13.4 DELAYS** The number of personnel (Section 3.1.9) and the quantity and quality of insecticide, water, and aircraft fuel at the loading site must be sufficient to keep each aircraft in full production for a minimum period of five consecutive hours [Section 3.1.11.4(B)]. A shutdown or delay caused by a shortage of qualified personnel and/or a lack of acceptable insecticide, water, or fuel when spraying conditions are acceptable during this five-hour period may be assessed against the Contractor at the rate of \$1,000 per hour or portion thereof of acceptable spray time lost per aircraft per occurrence.

Any other Contractor-caused delay including, but not limited to, failure to supply the required aircraft, equipment failures, aircraft problems, failure to have an approved FAA waiver for the treatment of congested areas, or spray pilot difficulties with navigation, spray block reconnaissance, spray block orientation, and/or electronic equipment operation may be assessed against the Contractor at the rate of \$1,000 per hour or portion thereof of acceptable spray time lost per aircraft per occurrence.

Only one delay of up to 15 minutes that results in the loss of acceptable spray time, for any reason, is permitted per aircraft per day.

**3.1.13.5 LOADING ZONES** Failure to have an adequate number of loading zones designated 6 weeks prior to the start of the project as specified (Section 3.1.4.5) may be assessed against the Contractor at the amount of \$5,000. Additional or alternative worksites used during the operation that were not designated by the due date may be assessed at the rate of \$500 per site.

If locating additional sites results in a loss of acceptable application time, damages will accrue as specified in Section 3.1.12.4 and may be assessed as specified.

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**3.1.13.6 IMPROPER APPLICATION** A uniform application at the proper droplet size and rate per acre within the designated area is essential for a successful program (Section 3.1.10.3). Where faulty application makes it necessary to respray areas not satisfactorily covered by the Contractor, the Contractor must respray such areas at the Contractor's expense (Section 3.1.8.4). The Contractor will not be paid for any acreage treated outside the designated block boundaries.

Spraying insecticide at concentrations other than those prescribed in these Contract Specifications (Section 3.1.3) may be assessed against the Contractor at the rate of \$5,000 per incident.

**3.1.13.7 OTHER SPRAYING** The equipment and personnel under contract to the West Virginia Department of Agriculture are not permitted to do any other spraying for individuals, companies, or agencies while the contract is in effect without a written release [Section 3.1.10.1(J)]. Violation of this restriction may be assessed at the rate of \$5,000 per incident.

**3.1.13.8 INSECTICIDE LOSSES, SPILLS, AND DUMPS**

The Contractor will not be compensated for any Contractor-supplied insecticide which is lost, spilled, dumped, or otherwise made unavailable (Section 3.1.4.4).

If any insecticide loss, spill, or dump results in a loss of acceptable spray time, damages will accrue as specified in Section 3.1.12.4 and may be assessed as specified.

**3.1.13.9 POOR PILOT PERFORMANCE** The West Virginia Department of Agriculture reserves the right to permanently reject any pilot, who, in its opinion, violates these Contract Specifications, is unsafe, or otherwise performs unsatisfactorily [Section 3.1.9.3 (I)]. In such an event, the Contractor must furnish a replacement pilot within 24 hours who is capable and qualified to safely fly and properly perform the application. Failure to furnish a replacement pilot within the specified time may be assessed against the Contractor at the rate of \$5,000 per day. In addition, damages as specified in Section 3.1.12.4 will accrue from the time of grounding and may be assessed as specified.



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**3.1.13.10 AIRCRAFT MALFUNCTION** It is understood that aircraft will occasionally malfunction even with proper maintenance [Section 3.1.10.1.(I)]. No assessment will be charged to the Contractor for the first such malfunction if the aircraft can be made operational within 24 hours. After the 24-hour period, damages may be assessed at the rate of \$1,000 for each hour or portion thereof of acceptable spray time lost. Only one 24-hour, no-assessment period will be granted for each aircraft during the course of the spraying operation. If an aircraft suffers from frequent mechanical problems, the West Virginia Department of Agriculture will notify the Contractor that the aircraft must be replaced with an aircraft of similar capability within 24 hours. The replacement aircraft must be covered by the Contractor's insurance policies. Failure to provide an acceptable replacement within the allotted time may be assessed against the Contractor at the rate of \$5,000 per day. In addition, damages as specified in Section 3.1.12.4 will accrue from the end of the allotted time and may be assessed as specified.

**3.1.13.11 DGPS DATA** Failure to provide the data collected daily by the spray aircraft's DGPS (Section 3.1.10.5) may be assessed at the rate of \$500 per incident.

### **4. CONTRACT AWARD:**

**4.1 Contract Award:** The Contract is intended to provide Agencies with a purchase price on all Contract Items. The Contract shall be awarded to the Vendor that provides the Contract Items meeting the required specifications for the lowest overall total cost as shown on the Pricing Pages.

**4.2 Pricing Pages:** Vendor should complete the Pricing Pages by submitting the unit price per acre and the extended amount for the estimated acres of each item. The vendor is required to provide the application and purchase of insecticides, adjuvant, or Carriers as described in the pricing page. Vendor should complete the Pricing Pages in their entirety as failure to do so may result in Vendor's bids being disqualified.

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The Pricing Pages contain a list of the Contract Items and estimated purchase volume. The estimated purchase volume for each item represents the approximate volume of anticipated purchases only. No future use of the Contract or any individual item is guaranteed or implied.

Vendor should electronically enter the information into the Pricing Pages through wvOASIS, if available, or as an electronic document. In most cases, the Vendor can request an electronic copy of the Pricing Pages for bid purposes by sending an email request to the following address: Crystal.G.Hustead@wv.gov

### 5. ORDERING AND PAYMENT:

- 5.1 Ordering:** Vendor shall accept orders through wvOASIS, regular mail, facsimile, e-mail, or any other written form of communication. Vendor may, but is not required to, accept on-line orders through a secure internet ordering portal/website. If Vendor has the ability to accept on-line orders, it should include in its response a brief description of how Agencies may utilize the on-line ordering system. Vendor shall ensure that its on-line ordering system is properly secured prior to processing Agency orders on-line.
- 5.2 Payment:** Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.

### 6. DELIVERY AND RETURN:

- 6.1 Delivery Time:** Vendor shall deliver standard orders within Five (5) working days after orders are received. Vendor shall deliver emergency orders within Five (5) working day(s) after orders are received. Vendor shall ship all orders in accordance with the above schedule and shall not hold orders until a minimum delivery quantity is met.
- 6.2 Late Delivery:** The Agency placing the order under this Contract must be notified in writing if orders will be delayed for any reason. Any delay in delivery that could cause harm to an Agency will be grounds for cancellation of the delayed order, and/or obtaining the items ordered from a third party.

Any Agency seeking to obtain items from a third party under this provision must first obtain approval of the Purchasing Division.

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- 6.3 Delivery Payment/Risk of Loss:** Standard order delivery shall be F.O.B. destination to the Agency's location. Vendor shall include the cost of standard order delivery charges in its bid pricing/discount and is not permitted to charge the Agency separately for such delivery. The Agency will pay delivery charges on all emergency orders provided that Vendor invoices those delivery costs as a separate charge with the original freight bill attached to the invoice.
- 6.4 Return of Unacceptable Items:** If the Agency deems the Contract Items to be unacceptable, the Contract Items shall be returned to Vendor at Vendor's expense and with no restocking charge. Vendor shall either make arrangements for the return within five (5) days of being notified that items are unacceptable or permit the Agency to arrange for the return and reimburse Agency for delivery expenses. If the original packaging cannot be utilized for the return, Vendor will supply the Agency with appropriate return packaging upon request. All returns of unacceptable items shall be F.O.B. the Agency's location. The returned product shall either be replaced, or the Agency shall receive a full credit or refund for the purchase price, at the Agency's discretion.
- 6.5 Return Due to Agency Error:** Items ordered in error by the Agency will be returned for credit within 30 days of receipt, F.O.B. Vendor's location. Vendor shall not charge a restocking fee if returned products are in a resalable condition. Items shall be deemed to be in a resalable condition if they are unused and in the original packaging. 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.

## 7. VENDOR DEFAULT:

**7.1** The following shall be considered a vendor default under this Contract.

- 7.1.1** Failure to provide Contract Items in accordance with the requirements contained herein.
- 7.1.2** Failure to comply with other specifications and requirements contained herein.
- 7.1.3** Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.
- 7.1.4** Failure to remedy deficient performance upon request.

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7.2 The following remedies shall be available to Agency upon default.

7.2.1 Immediate cancellation of the Contract.

7.2.2 Immediate cancellation of one or more release orders issued under this Contract.

7.2.3 Any other remedies available in law or equity.

### **8. MISCELLANEOUS:**

8.1 **No Substitutions:** Vendor shall supply only Contract Items submitted in response to the Solicitation unless a contract modification is approved in accordance with the provisions contained in this Contract.

8.2 **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.

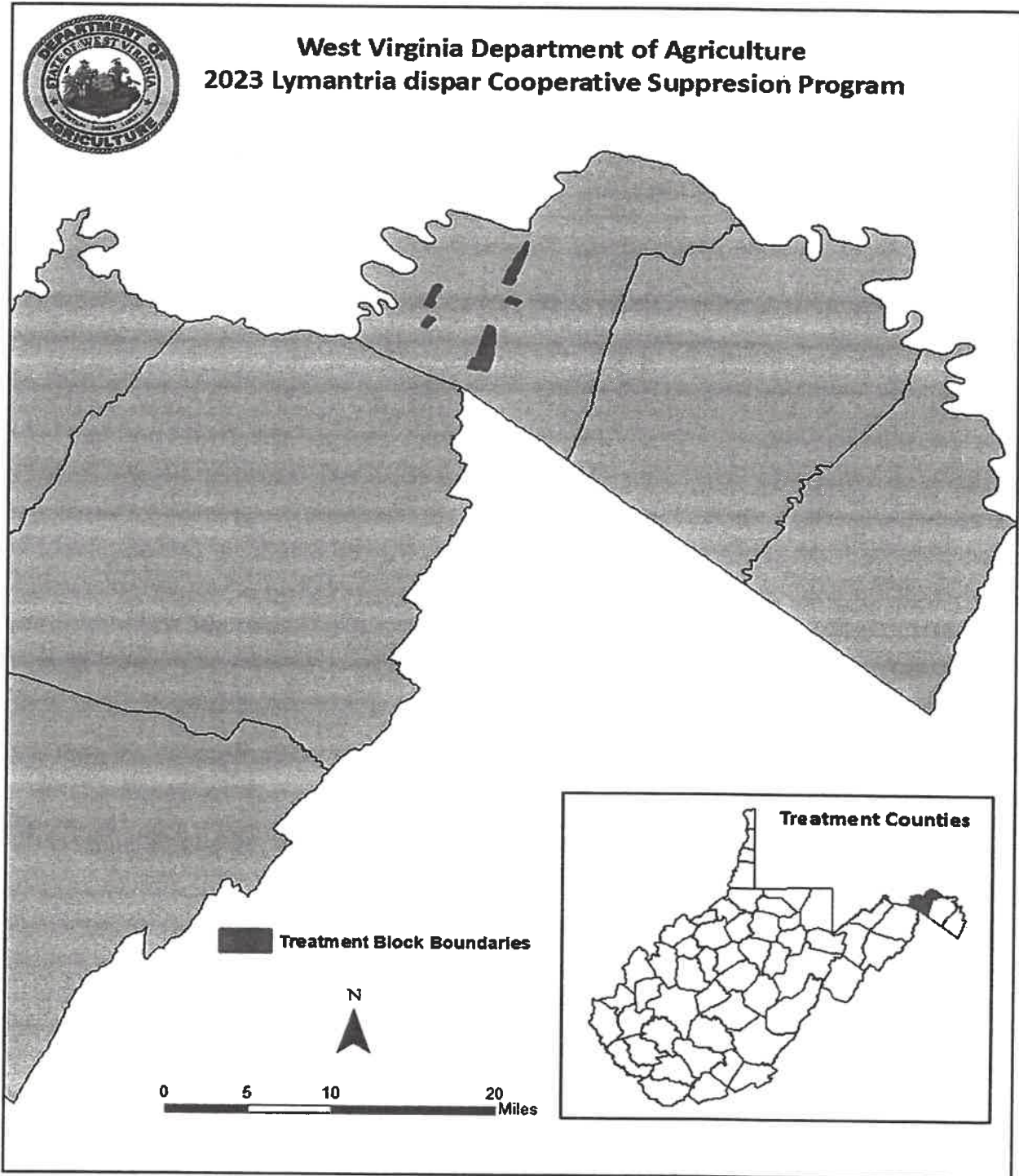
8.3 **Reports:** Vendor shall provide quarterly reports and annual summaries to the Agency showing the Agency's items purchased, quantities of items purchased, and total dollar value of the items purchased. Vendor shall also provide reports, upon request, showing the items purchased during the term of this Contract, the quantity purchased for each of those items, and the total value of purchases for each of those items. Failure to supply such reports may be grounds for cancellation of this Contract.

8.4 **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 should list its Contract manager and his or her contact information below.

Contract Manager: Kirk A. Martin  
Telephone Number: 717-337-1370  
Fax Number: 717-337-1527  
Email Address: Kmartin@helicopterapplicators.com

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### APPENDIX A. MAP OF PROJECT AREA



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### APPENDIX B. AUTOMATED FLIGHT FOLLOWING

#### General

Satellite based aircraft tracking hardware is required in all aircraft. The aircraft tracking hardware shall be powered by the aircraft's electrical system, installed per the manufacturer's installation manual, and operational in all phases of flight. The satellite based aircraft tracking hardware shall utilize as a minimum:

1. Satellite communications,
2. An externally or internally mounted antenna.
3. Aircraft power via a dedicated circuit breaker for power protection, and
4. Secure mounting so as to not endanger any occupant from aircraft hardware during periods of turbulence.

Antennas should be placed to maximize the view of the overhead sky. Externally mounted antennas are recommended to improve system performance.

Any manufacturer required pilot display(s) or control(s) shall be visible or selectable by the pilot(s). Remote equipment having visual indicators should be mounted in such a manner as to allow visual indicators to be easily visible.

Satellite based aircraft tracking communications shall be fully operational in **West Virginia**.

The contractor shall maintain a subscription service through the satellite based aircraft tracking hardware provider allowing position reporting for satellite tracking via the provider's website. The provider's website must be secure and access to the website must require a username and password. The position-reporting interval shall be a minimum of every two minutes while the aircraft is in flight. Although not required, the ability to import and display shapefiles of the treatment block boundaries on the provider's mapping service and website display is an advantage.

Prior to the aircraft's contract inspection, the Contractor shall perform an operational check of the system. As a minimum, the operational check at inspection shall consist of confirming the aircraft being tested is displayed on the provider's website (indicating it is currently transmitting data) and that all information displayed on the website is correct.

If the satellite base aircraft tracking hardware becomes inoperable/unreliable the aircraft may, at the discretion of the Government, remain available for service utilizing radio/voice system for flight following. The contractor will return the system to full operational capability within 72 hours after the inoperative/unreliable unit is first discovered as defective.

#### Single Access Viewing

The government does not specify particular satellite aircraft tracking hardware providers but single access viewing of the aircraft data is required. That is, all of the Contractor's aircraft must be visible on a single screen at one secure website. The Contractor can accomplish this in two ways:

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1. All of the aircraft have satellite based aircraft tracking equipment from the same provider and all aircraft are viewable at one secure website

OR

2. Multiple providers are used to equip the aircraft with satellite based tracking hardware which cannot be accessed at a single secure website; thus
  - a. All satellite based aircraft tracking hardware must be compatible with the government's Automated Flight Following (AFF) program <https://www.aff.gov/> which allows position reporting from multiple providers to be viewed via single access using the government's AFF viewing software or
  - b. Some other arrangement must be negotiated that is acceptable to the government for single access viewing.

If the Contractor plans to use more than one satellite based aircraft tracking provider, the Specification Section Supplement available at:

[https://www.aff.gov/support/Specification\\_Section\\_Supplement.pdf](https://www.aff.gov/support/Specification_Section_Supplement.pdf) is herein incorporated with the same force and affect as if they were presented as full text. Not all available satellite based tracking systems are compatible with the Government's AFF Program, nor meets AFF's requirements. If the Contractor plans to use the Government's AFF Program, the Contractor shall ensure that the aircraft hardware offered is compatible with AFF. For questions about current compatibility requirements contact the AFF Program Manager listed under contacts at <https://www.aff.gov>. Additionally:

1. The contractor shall maintain a subscription service through the AFF aircraft hardware provider allowing AFF position reporting for satellite tracking via the Government AFF viewing software. The contractor shall register their AFF aircraft hardware with the Government through <https://www.aff.gov> providing: complete tail number; manufacturer and serial number of the AFF transceiver; aircraft make and model; and contractor contact information.
2. If the contractor relocates previously registered AFF aircraft hardware into another aircraft, then the contractor shall contact the government's AFF Program making the appropriate changes prior to aircraft use. In all cases, the contractor shall ensure that the correct aircraft information is indicated within AFF. The contractor shall contact the Government of system changes, scheduled maintenance, and planned service outages.
3. Registration contact information, a web accessible feedback form, and additional information is available at: <https://www.aff.gov>.
4. Prior to the aircraft's contract inspection, the Contractor shall ensure compliance with all AFF systems requirements. The Contractor shall additionally perform an operational check of the system. As a minimum, the operational check shall consist of confirming the aircraft being tested is displayed in AFF (indicating it is currently transmitting data to AFF) and that all information displayed in AFF is current.
5. A username and password are required to access AFF. Log on to the AFF website at <https://www.aff.gov> to request a username and password



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### **APPENDIX C. INSURANCE REQUIREMENTS -**

**COVERAGES AND LIMITS** - The required insurance must include the following coverages and minimum limits:

- (1) **AIRCRAFT LIABILITY** - \$10,000,000 single limit for each occurrence for bodily injury and property damage combined.
- (2) **AIRCRAFT PASSENGER LIABILITY** - \$1,000,000 single limit for each occurrence. Required for observation aircraft only.
- (3) **CHEMICAL LIABILITY** – Restricted chemical category coverage at limits not less than:  
  
\$100,000 bodily injury per person  
\$300,000 bodily injury per occurrence  
\$100,000 property damage per occurrence  
  
Must include coverage for treating urban and residential areas.
- (4) **AUTOMOTIVE LIABILITY** - \$1,000,000 single limit for each occurrence for bodily injury and property damage combined. Covers Contractor support equipment (e.g. fuel truck, personal vehicle, etc.)
- (5) **AIRPORT/PREMISES LIABILITY** - \$1,000,000 single limit for each occurrence for bodily injury and property damage combined.
- (6) **LIABILITY FOR LOSS OR DAMAGE TO PROPERTY** – Coverage limit of at least \$300,000 for each occurrence.
- (7) **LIABILITY FOR BODILY INJURY TO OR DEATH OF PERSONS** – A limit of at least \$100,000 for each person in any one occurrence, and a limit of at least \$300,000 for each occurrence.
- (8) **WORKER'S COMPENSATION INSURANCE** - Limits sufficient to cover all of the employees of the Contractor working to fulfill this contract.

**SUBCONTRACTORS'/LEASED EQUIPMENT** - If any work under this contract is subcontracted or otherwise performed by anyone other than the Contractor or performed with equipment subcontracted or leased by the Contractor, the Contractor must provide evidence that the specified liability insurance for any persons and/or equipment so subcontracted or leased is provided for under a policy(s) maintained by the subcontractor.

Exhibit A Pricing Page

Item No.	Description	Unit Price Per Acre
1	Mimic 2LV or Equal, applied at 5 fl. oz. per acre, Mixed with water for Final Application rate of .75 GPA (96 Oz)	\$23.87
2	BTK Foray 76B or equal - 25.3 CLU - undiluted spray volume of 1/3 of a gallon per acre.	\$34.82
3	BTK Foray 48B or equal 24 CLU - undiluted spray volume of 1/2 of a gallon (64 ounces) per acre.	\$33.84
4	Gypchek/ Gypchek Carrier or equal (Gypchek will be provided by USDA-FS) 1/2 gallon per acre, Dose is 2 x 1011 OB/acre/appl for each of 2 applications. Contractor is responsible for purchasing carrier. Current Carrier mix is 75% water, 25% molasses, 25% sticker (e.g., Tactic manufactured by Loveland Industries) or Equal.	\$24.49
*Acreage figures are estimates for evaluation purposes only. Agency may have more or less acreage based upon need over the life of the contract.		

Bidder / Vendor Information	
Name:	Helicopter Applicators, Inc.
Address:	1670 York Rd.
	Gettysburg, PA 17325
Phone:	717-337-1370
Email:	Kmartin@helicopteraapplicators.com
Signature:	