



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

Request for Quotation

RFQ NUMBER
7075251

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF
JOHN JOHNSTON 304-558-2402

VENDOR

*709051513 304-472-4202
 BISERS RADIO SERVICE
 PO BOX 2
 LORENTZ WV 26229

SHIP TO

DIVISION OF HIGHWAYS
 EQUIPMENT DIVISION
 ROUTE 33
 BRUSHY FORK ROAD
 BUCKHANNON, WV
 26201 304-472-1750

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
02/06/2007	N 30	DELIVER	DESTINATION	NO CHARGE

BID OPENING DATE: 02/28/2007 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	350	EA		725-27	428,44	149,954,00
LOW BAND DASH MOUNT MOBILE RADIOS KENWOOD TK6110 TYPE 2 TO PROVIDE LOW BAND DASH MOUNT MOBILE RADIOS PER THE ATTACHED PROCUREMENT SPECIFICATIONS NO. S.E 650-002. VENDOR PREFERENCE CERTIFICATE CERTIFICATION AND APPLICATION* IS HEREBY MADE FOR PREFERENCE IN ACCORDANCE WITH WEST VIRGINIA CODE, 5A-3-37 (DOES NOT APPLY TO CONSTRUCTION CONTRACTS). A. APPLICATION IS MADE FOR 2.5% PREFERENCE FOR THE REASON CHECKED: <input checked="" type="checkbox"/> BIDDER IS AN INDIVIDUAL RESIDENT VENDOR AND HAS RESIDED CONTINUOUSLY IN WEST VIRGINIA FOR FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS CERTIFICATION; OR <input type="checkbox"/> BIDDER IS A PARTNERSHIP, ASSOCIATION OR CORPORATION RESIDENT VENDOR AND HAS MAINTAINED ITS HEAD-QUARTERS OR PRINCIPAL PLACE OF BUSINESS CONTINUOUSLY IN WEST VIRGINIA FOR FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS CERTIFICATION; OR 80% OF THE OWNERSHIP INTEREST OF BIDDER IS HELD BY ANOTHER INDIVIDUAL, PARTNERSHIP, ASSOCIATION OR CORPORATION RESIDENT VENDOR WHO HAS MAINTAINED ITS HEADQUARTERS OR PRINCIPAL PLACE OF BUSINESS CONTINUOUSLY IN WEST VIRGINIA FOR FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS CERTIFICATION; OR						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE	TELEPHONE	DATE
<i>Thomas B. Biser</i>	304-472-4202	2/20/07
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE
OWNER	55-061-8055	

WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'



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<p>() BIDDER IS A CORPORATION NONRESIDENT VENDOR WHICH HAS AN AFFILIATE OR SUBSIDIARY WHICH EMPLOYS A MINIMUM OF ONE HUNDRED STATE RESIDENTS AND WHICH HAS MAINTAINED ITS HEADQUARTERS OR PRINCIPAL PLACE OF BUSINESS WITHIN WEST VIRGINIA CONTINUOUSLY FOR THE FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS CERTIFICATION.</p> <p>B. APPLICATION IS MADE FOR 2.5% PREFERENCE FOR THE REASON CHECKED:</p> <p>() BIDDER IS A RESIDENT VENDOR WHO CERTIFIES THAT, DURING THE LIFE OF THE CONTRACT, ON AVERAGE AT LEAST 75% OF THE EMPLOYEES WORKING ON THE PROJECT BEING BID ARE RESIDENTS OF WEST VIRGINIA WHO HAVE RESIDED IN THE STATE CONTINUOUSLY FOR THE TWO YEARS IMMEDIATELY PRECEDING SUBMISSION OF THIS BID;</p> <p>OR</p> <p>() BIDDER IS A NONRESIDENT VENDOR EMPLOYING A MINIMUM OF ONE HUNDRED STATE RESIDENTS OR IS A NONRESIDENT VENDOR WITH AN AFFILIATE OR SUBSIDIARY WHICH MAINTAINS ITS HEADQUARTERS OR PRINCIPAL PLACE OF BUSINESS WITHIN WEST VIRGINIA EMPLOYING A MINIMUM OF ONE HUNDRED STATE RESIDENTS WHO CERTIFIES THAT, DURING THE LIFE OF THE CONTRACT, ON AVERAGE AT LEAST 75% OF THE EMPLOYEES OR BIDDERS' AFFILIATE'S OR SUBSIDIARY'S EMPLOYEES ARE RESIDENTS OF WEST VIRGINIA WHO HAVE RESIDED IN THE STATE CONTINUOUSLY FOR THE TWO YEARS IMMEDIATELY PRECEDING SUBMISSION OF THIS BID.</p> <p>BIDDER UNDERSTANDS IF THE SECRETARY OF TAX & REVENUE DETERMINES THAT A BIDDER RECEIVING PREFERENCE HAS FAILED TO CONTINUE TO MEET THE REQUIREMENTS FOR SUCH PREFERENCE, THE SECRETARY MAY ORDER THE DIRECTOR OF PURCHASING TO: (A) RESCIND THE CONTRACT OR PURCHASE ORDER ISSUED; OR (B) ASSESS A PENALTY AGAINST SUCH</p>						

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02/06/2007				

BID OPENING DATE: **02/28/2007** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>BIDDER IN AN AMOUNT NOT TO EXCEED 5% OF THE BID AMOUNT AND THAT SUCH PENALTY WILL BE PAID TO THE CONTRACTING AGENCY OR DEDUCTED FROM ANY UNPAID BALANCE ON THE CONTRACT OR PURCHASE ORDER.</p> <p>BY SUBMISSION OF THIS CERTIFICATE, BIDDER AGREES TO DISCLOSE ANY REASONABLY REQUESTED INFORMATION TO THE PURCHASING DIVISION AND AUTHORIZES THE DEPARTMENT OF TAX AND REVENUE TO DISCLOSE TO THE DIRECTOR OF PURCHASING APPROPRIATE INFORMATION VERIFYING THAT BIDDER HAS PAID THE REQUIRED BUSINESS TAXES, PROVIDED THAT SUCH INFORMATION DOES NOT CONTAIN THE AMOUNTS OF TAXES PAID NOR ANY OTHER INFORMATION DEEMED BY THE TAX COMMISSIONER TO BE CONFIDENTIAL.</p> <p>UNDER PENALTY OF LAW FOR FALSE SWEARING (WEST VIRGINIA CODE 61-5-3), BIDDER HEREBY CERTIFIES THAT THIS CERTIFICATE IS TRUE AND ACCURATE IN ALL RESPECTS; AND THAT IF A CONTRACT IS ISSUED TO BIDDER AND IF ANYTHING CONTAINED WITHIN THIS CERTIFICATE CHANGES DURING THE TERM OF THE CONTRACT, BIDDER WILL NOTIFY THE PURCHASING DIVISION IN WRITING IMMEDIATELY.</p> <p>BIDDER: <u>BISER'S RADIO SERVICE</u></p> <p>DATE: <u>FEB 20, 2007</u></p> <p>SIGNED: <u>[Signature]</u></p> <p>TITLE: <u>OWNER</u></p> <p>* CHECK ANY COMBINATION OF PREFERENCE CONSIDERATION(S)</p>						

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02/06/2007				

BID OPENING DATE: **02/28/2007** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
				304-472-	1875	
CONTACT PERSON (PLEASE PRINT CLEARLY):						
THEODORE (TED) R. BISER						
***** THIS IS THE END OF RFQ 7075251 ***** TOTAL:						149,954.00

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE	TELEPHONE	DATE
<i>Theodore R. Biser</i>	304-472-4202	2/20/07
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE
OWNER	55-061-8055	

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WEST VIRGINIA DIVISION OF HIGHWAYS
EQUIPMENT DIVISION

PROCUREMENT SPECIFICATIONS FOR MOBILE RADIOS

NO. S E 650-002

LOW BAND DASH MOUNT MOBILE RADIOS

1 0 Purpose

It is the purpose of these specifications to describe Low Band dash mount mobile radio's (hereinafter referred to as "units) to be purchased for use by the West Virginia Division of Highways; to define the provisions to be contained in proposals for the sale of said units to the division; establish a schedule for delivery and the criteria for gauging the compliance of the bidder, his proposal and his unit to these specifications.

2 0 Bidders Compliance Report

Each proposal submitted should be accompanied by a Bidders Compliance report completed in detail and signed by bidder. Failure to submit this report, completed entirely, may subject the bidder to automatic disqualification.

3 0 Representative unit for test

3.1 The successful bidder shall furnish the West Virginia Department of Transportation, Division of Highways one (1) representative unit, to be tested and evaluated by the Department. Unit must be set up on 47.28 MHZ. as the test frequency with a subtone of 71.9 Hz. The radio must be pre-tested and operational on delivery. Time period for testing and evaluation to be seven (7) calendar days following delivery of the unit. The Department shall incur no obligation for deterioration of surface, finishes, seals and mechanical or electrical parts on the unit resulting from operation and testing within the limits of these specifications; nor shall it incur obligation for damage to the unit resulting from failure to meet specifications when due care and attention are given by the Department and testing is done within the limits of these specifications.

3.2 After testing of the representative unit, the Department may place an order for the units bid or may decline to order any units if determination has been made by the Department that the representative unit does not meet the functional, operational or any other needs of the Department.

- 4.0 Specifications and guidelines - General -The bidder shall identify the units by manufacturer model, series, and year of manufacture in his proposal so as to enable identification by the West Virginia Department of Highways in the manufacture's sales literature on the proposed units. The bidder should submit complete descriptive literature fully describing the proposed unit to establish that he is bidding on the manufacture's most current model.

All specifications including the word "shall" are considered mandatory and any bid failing to include the mandatory item will be cause for rejection.

- 5.0 Unspecified Accessories and Features

All parts and service manuals, equipment, accessories, material, design and performance characteristics not specified herein, but which are necessary to provide a complete unit, shall be furnished with each unit and shall conform in strength, quality of material, and quality of workmanship to those which are advertised and provided to the market in general by the unit industry.

All parts and accessories advertised and regularly supplied as standard are to be included, except those which would represent duplication of these specified, and except those which, by specification are not to be furnished. All standard safety features required by federal and state law shall be included

- 6.0 Manufacturer's Warranty and Service Policy

The manufacture's standard warranty or service policy is to apply to the unit. Such warranty or service policy is to be recognized at any authorized unit dealer representing manufacturer of proposed unit throughout the State of West Virginia. It shall be the responsibility of the bidder to provide labor to repair or replace any defective replacement parts, components and materials found to be defective and to have available those replacement parts, components, and/or materials found to be defective during the terms of the warranty period. The Units shall be accompanied upon delivery by the manufacture's properly execute warranty or service policy.

- 7.0 Delivery

- 7.1 Delivery point of the completely assembled units shall be the West Virginia Division of Highways, Equipment Division, at Buckhannon, WV located on U S. Route # 33 at Brushy Fork Road.

- 7.2 Delivery 90 days after order.

8 0 General Specifications

8.1 Number of Channels : 32 Minimum

8 2 Frequency Spread: 36 0 to 50 0 MHz

8 3 Controls: Shall have front microphone/program jack.

Shall have a minimum of 8 character alphanumeric display. Must have controls for scan, monitor, channel delete/add and channel select. Shall have capability for user addition of a talk-around button with programmable offset. Unit shall provide a means of memory backup to allow operation on the ignition switch without loss of selected channel.

8 4 Programming:

Shall be programmable by PC, under Windows NT, 2000, XP, software must be provided. Twelve (12) interface cables for PC shall be supplied. Successful bidder shall deliver units programmed to channels, frequencies and other programmable options as designated upon order or award of purchase order.

8 5 Receiver Specifications :

Sensitivity @ 12db EIA SINAD : 25uv or better
Selectivity : -75db or better
Intermodulation : -70db or better
Spurious Rejection : -70db or better
Frequency Spread : 12 0 MHz or better
Audio Output : 10 watts at 5% distortion

8 6 Transmitter Specification :

Output power : 65 watts or greater
Frequency Stability : +/- 0.0005%
Spurious & Harmonics -62db or better
FM Noise : -45db or better
Audio Distortion : less than 3%
Frequency Separation : 12 0MHZ or better

NOTE: Vendor should type Bidder's Compliance Report

DIVISION OF HIGHWAYS
WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
EQUIPMENT DIVISION

BIDDERS COMPLIANCE REPORT

PROCUREMENT SPECIFICATIONS FOR MOBILE RADIOS

NO. S. E. 650-002

LOW BAND DASH MOUNT MOBILE RADIOS

NOTE TO BIDDER: Procurement Specifications No S E 650-002, Paragraph 2.0 recommends the completion and submittal of this report with your proposal. Purpose of this report is to enable the West Virginia Division of Highways Equipment Division Communications Review to make full and fair evaluation of the bid proposal. FAILURE TO SUBMIT THIS REPORT, COMPLETE IN ITS ENTIRETY, MAY SUBJECT THE BIDDER TO DISQUALIFICATION.

SPECIFICATIONS - GENERAL

Reference Requisition No 7075251

Bidder's Name: BISER'S RADIO SERVICE

Address: P.O. BOX 2 HORENTZ WV 26229

Telephone Number: 304-472-4202

Years Company has been registered to do business with the State of West Virginia: 30 YEARS

Manufacturer, model, series, and date of manufacture of proposed unit:
KENWOOD TK 6110 TYPE 2 CURRENT MANUFACTURE

Is descriptive literature, fully describing proposed unit, attached to your proposal? YES

If not, why? _____

Bid price per unit:
\$ 428.44 X 350.00 = 149,954.00 TOTAL BID

INCLUDES 350 RADIOS, ONE SERVICE MANUAL, 12 KPG-46AM PROGRAMMING CABLES, ONE KPG-59DK SOFTWARE CD, ADDITIONAL MANUALS AVAILABLE AT \$ 20.00 EACH

When will required number of operating and service manuals and complete parts lists be delivered to Equipment Division at Buckhannon, W.V. _____ prior to delivery of unit, or WITH UNITS

6.0 WARRANTY

Define the terms of manufacturer's standard warranty. If not offered, so state. Attach copy if available.

TWO YEAR ON RADIO UNIT, ONE YEAR ON
ACCESSORIES (SUCH AS MICROPHONE)

6.1 Define warranty service to be performed at manufacturer's representative facility. List names and locations of manufacturer's representative.

BISER'S RADIO SERVICE, LORENTZ, WV
SERVICE DOWN TO COMPONENT LEVEL

6.2 List locations for parts inventories that are within the State of West Virginia. Also list availability of levels if known.

BISER'S RADIO SERVICE, LORENTZ, WV

8.0 SPECIFICATIONS OF THE QUOTED UNIT: the bidder should complete the following schedule in order for the Division to compare the actual bid unit to the specifications. Should the bidder take exception to any of the specifications, then such exception may be only on the basis that such feature is not offered by the manufacturer. The Division will have the sole discretion as to whether the bidder's substitution meets the requirements of the specifications.

Manufacturer: KENWOOD

Model: TK 6110 TYPE 2

- Year model: CURRENT MANUFACTURE
- 8.1 Does unit have a minimum of 32 channels? YES NO
- 8.2 Does unit have 36.0 to 50.0 MHz of frequency spread and includes 47 MHz range? YES NO
- 8.3 Does unit have Front Microphone/Program Jack with a minimum of 8 character alpha numeric scan? YES NO
- 8.3.1 Does unit have capability for user addition of talk around button with programmable transmit offset? YES NO
- 8.3.2 Is convertible accessories available to purchase? ^{TRUNK MOUNT} YES NO
NOT FROM KENWOOD AND HAVE NOT SEEN AFTERMARKET
- 8.3.3 Does unit have long term memory backup to allow operation on the ignition switch without loss of selected channel? YES NO
- 8.4 Is the unit programmable by PC for Windows NT, 2000, XP and is the necessary software provided? *KPG-5901K WINDOWS SOFTWARE* YES NO
KNOWN TO WORK WITH XP AND SHOULD WORK WITH NT, 2000
- 8.5.1 Is Sensitivity @ 12db EIA SINAD : 25uv or better? YES NO
- 8.5.2 Is Selectivity : -75db or better? YES NO
- 8.5.3 Is Intermodulation : -70db or better? YES NO
- 8.5.4 Is Spurious Rejection : -70db or better? YES NO
- 8.5.5 Is Frequency Spread : 12.0 MHz or better? YES NO
- 8.5.6 Is Audio Output : 10 watts external at 5% distortion? YES NO
- 8.6.1 Is output power : 65 watts or greater? YES NO

8.6.2 Is Frequency Stability : +/- 0.0005%?

YES NO

8.6.3 Is Spurious & Harmonics -62db or better ?

YES NO

8.6.4 Is FM Noise : -45db or better ?

YES NO

8.6.5 Is audio Distortion : less than 3% ?

YES NO

8.6.6 Is frequency Separation : 12.0MHZ or better ?

YES NO

WARRANTY ON LAND MOBILE RADIOS AND ACCESSORIES

Kenwood Communications Corporation ("KENWOOD") warrants its Land Mobile Radios and accessories purchased from an authorized KENWOOD dealer in the United States (the "Products") as follows:

WHAT IS COVERED AND WHAT IS EXCLUDED

Except as specified below, Products will be free from defects in material and workmanship under normal use and service for the time specified below. The following are not covered by this Warranty:

1. Damage, defects, deterioration or failure resulting from:
 - A. Accident, misuse, negligence, abuse, neglect, improper handling, product modification or failure to follow instructions contained in your Owners Manual.
 - B. Improper or unauthorized testing, operation, alteration, disassembly, modification, adjustment or repairs.
 - C. Environmental conditions which adversely effect product performance such as; exposure to fire, water, excessive moisture, dampness, extreme changes in climate or temperature or other environmental conditions or other acts including power surges, lightning, electro-static discharge, acts of God or other casualties which are not the fault of KENWOOD and which the Product is not specified to tolerate.
 - D. Repair or attempted repair by anyone not authorized by KENWOOD.
 - E. Installation of parts or accessories that do not conform to the quality or specifications of the original parts or accessories
 - F. Installation of the Product in, or removal of the Product from, the vehicle or other site of its use.
 - G. Use of a Product in conjunction with hardware or software electrically or mechanically incompatible with such Product.
 - H. Use of a Product in conjunction with accessories or ancillary equipment not supplied by KENWOOD.
 - I. Normal and customary wear and tear.
2. Damage, defects, deterioration, failure or loss occurring during shipment (claims must be presented to the carrier)
3. Any unit that is not new when sold to the first end user or upon which the serial number has been defaced, modified or removed.
4. Damage, defects, deterioration or failure of radios caused by poorly tuned and/or installed antennas.
5. Damage, defects, deterioration or failure of rechargeable batteries if any of the seals on the battery enclosure of cells are broken or show evidence of tampering or if caused by use of the batteries in equipment or service other than in conjunction with the Product for which it is specified.

USE OF THE PRODUCT WITH ACCESSORIES OR OTHER EQUIPMENT NOT SUPPLIED BY KENWOOD OR OTHERWISE NOT EXPRESSLY AUTHORIZED BY KENWOOD MAY BE DANGEROUS AND WILL VOID THE PRODUCT WARRANTY. ALL SUCH ACCESSORIES AND ANCILLARY EQUIPMENT ARE EXPRESSLY EXCLUDED FROM THIS WARRANTY. BECAUSE EACH SYSTEM THAT MAY INCORPORATE A PRODUCT IS UNIQUE, KENWOOD DISCLAIMS ANY LIABILITY OR WARRANTY COVERAGE FOR OR WITH RESPECT TO RANGE, COVERAGE OR OPERATION OF THE SYSTEM AS A WHOLE.

HOW LONG IS THE WARRANTY

This Warranty will remain in effect for two (2) years for radios (except the TK-2140 and TK-3140 models that are three (3) years), and one (1) year for accessories (including rechargeable batteries) measured from the date of purchase by the first end user.

WHO IS PROTECTED

This Warranty is enforceable only by the first end user. Transfer or resale of a Product will automatically terminate warranty coverage with respect to that Product. This Warranty is not transferable to any third party, including but not limited to any subsequent purchaser or owner of the Product

WHAT WE WILL DO AND HOW TO OBTAIN WARRANTY SERVICE

KENWOOD will, at its sole absolute discretion, either repair or replace a Product with a new or a rebuilt unit (which unit may include new and/or reconditioned parts) if found by KENWOOD to be defective in material and workmanship. If KENWOOD determines that it is unable to repair or replace such Product, KENWOOD shall refund the purchase price for such Product. The foregoing is subject to your returning the defective Product to a KENWOOD Land Mobile dealer or authorized service center within the Warranty period, accompanied by a sales receipt or other evidence of the date of purchase. If it is necessary to ship the Product for Warranty service, you are responsible for the initial shipping charges, but KENWOOD will pay the return shipping charges if the Product is repaired or replaced under Warranty. You are responsible for any charges incurred in removing the product from the vehicle or other site of use and for reinstallation of the repaired or replaced Product. All replaced Products or parts and Products or parts for which a refund has been given will become the property of KENWOOD.

EXCLUSION OF OTHER WARRANTIES AND DAMAGES

Unless considered unlawful or unenforceable under applicable law:

- A. THIS IS THE COMPLETE WARRANTY GIVEN BY KENWOOD AND IT IS GIVEN IN LIEU OF ALL OTHER EXPRESS WARRANTIES. KENWOOD ASSUMES NO OBLIGATIONS OR LIABILITY FOR ADDITIONS OR MODIFICATIONS TO THIS WARRANTY. ALL IMPLIED WARRANTIES WITH RESPECT TO PRODUCTS, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXCLUDED.
- B. KENWOOD'S LIABILITY UNDER THIS WARRANTY IS LIMITED TO THE REPAIR OR REPLACEMENT, AT KENWOOD'S OPTION, OF ANY DEFECTIVE PRODUCT, AND SHALL NOT INCLUDE DAMAGES OF ANY KIND, WHETHER DIRECT, INDIRECT, SPECIAL, GENERAL, INCIDENTAL, CONSEQUENTIAL OR OTHERWISE, INCLUDING BUT NOT LIMITED TO LOSS OF USE, LOSS OF TIME, INCONVENIENCE, COMMERCIAL LOSS, OR LOSS OF PROFITS OR SAVINGS OR ANTICIPATED PROFITS OR SAVINGS.

This Warranty is enforceable only in the United States of America and governed by the laws of the State of California.

If a problem develops during or after the Warranty Period, or if you have any questions regarding the operation of the product, you should contact your KENWOOD Authorized Dealer or Authorized Service Center. If the problem or your question is not handled to your satisfaction, please contact our Customer Relations Department at the address listed below.

KENWOOD SERVICE CORPORATION
P.O. BOX 22745
2201 East Dominguez Street Long Beach, CA 90801-5745 U.S.A. Phone (310) 761-8275

AGREEMENT ADDENDUM

In the event of conflict between this addendum and the agreement, this addendum shall control:

- 1 ARBITRATION - Any references to arbitration contained in the agreement are hereby deleted. Disputes arising out of the agreement shall be presented to the West Virginia Court of Claims
- 2 HOLD HARMLESS - Any clause requiring the Agency to indemnify or hold harmless any party is hereby deleted in its entirety
- 3 GOVERNING LAW - The agreement shall be governed by the laws of the State of West Virginia. This provision replaces any references to any other State's governing law
- 4 TAXES - Provisions in the agreement requiring the Agency to pay taxes are deleted. As a State entity, the Agency is exempt from Federal, State, and local taxes and will not pay taxes for any Vendor including individuals, nor will the Agency file any tax returns or reports on behalf of Vendor or any other party
- 5 PAYMENT - Any references to prepayment are deleted. Payment will be in arrears
- 6 INTEREST - Should the agreement include a provision for interest on late payments, the Agency agrees to pay the maximum legal rate under West Virginia law. All other references to interest or late charges are deleted
- 7 RECOURPMENT - Any language in the agreement waiving the Agency's right to set-off, counterclaim, recoupment, or other defense is hereby deleted
- 8 FISCAL YEAR FUNDING - Service performed under the agreement may be continued in succeeding fiscal years for the term of the agreement contingent upon funds being appropriated by the Legislature or otherwise being available for this service. In the event funds are not appropriated or otherwise available for this service, the agreement shall terminate without penalty on June 30. After that date, the agreement becomes of no effect and is null and void. However, the Agency agrees to use its best efforts to have the amounts contemplated under the agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default
- 9 STATUTE OF LIMITATION - Any clauses limiting the time in which the Agency may bring suit against the Vendor, lessor, individual, or any other party are deleted
- 10 SIMILAR SERVICES - Any provisions limiting the Agency's right to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are hereby deleted
- 11 ATTORNEY FEES - The Agency recognizes an obligation to pay attorney's fees or costs only when assessed by a court of competent jurisdiction. Any other provision is invalid and considered null and void
- 12 ASSIGNMENT - Notwithstanding any clause to the contrary, the Agency reserves the right to assign the agreement to another State of West Virginia agency board or commission upon thirty (30) days written notice to the Vendor and Vendor shall obtain the written consent of Agency prior to assigning the agreement
- 13 LIMITATION OF LIABILITY - The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor's liability for direct damages or limiting the Vendor's liability under a warranty to a certain dollar amount or to the amount of the agreement is hereby deleted. In addition, any limitation is null and void to the extent that it precludes any action for injury to persons or for damages to personal property
- 14 RIGHT TO TERMINATE - Agency shall have the right to terminate the agreement upon thirty (30) days written notice to Vendor
- 15 TERMINATION CHARGES - Any provision requiring the Agency to pay a fixed amount or liquidated damages upon termination of the agreement is hereby deleted. The Agency may only agree to reimburse a Vendor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by the Agency prior to the end of any current agreement term
- 16 RENEWAL - Any reference to automatic renewal is hereby deleted. The agreement may be renewed only upon mutual written agreement of the parties
- 17 INSURANCE - Any provision requiring the Agency to insure equipment or property of any kind and name the Vendor as beneficiary or as an additional insured is hereby deleted
- 18 RIGHT TO NOTICE - Any provision for repossession of equipment without notice is hereby deleted. However, the Agency does recognize a right of repossession with notice
- 19 ACCELERATION - Any reference to acceleration of payments in the event of default or non-funding is hereby deleted
- 20 AMENDMENTS - All amendments, modifications, alterations or changes to the agreement shall be in writing and signed by both parties. No amendment, modification, alteration or change may be made to this addendum without the express written approval of the Purchasing Division and the Attorney General

ACCEPTED BY:
STATE OF WEST VIRGINIA

Spending Unit: _____

Signed: _____

Title: _____

Date: _____

VENDOR

Company Name: BISER'S RADIO SERVICE

Signed: Theodor A. Biser

Title: OWNER

Date: 2/20/07

AFFIDAVIT

West Virginia Code §5A-3-10a states:

No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and the debt owned is an amount greater than one thousand dollars in the aggregate

DEFINITIONS:

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon

"Debtor" means any individual, corporation, partnership, association, limited liability company or any other form or business association owing a debt to the state or any of its political subdivisions. "Political subdivision" means any county commission; municipality; county board of education; any instrumentality established by a county or municipality; any separate corporation or instrumentality established by one or more counties or municipalities, as permitted by law; or any public body charged by law with the performance of a government function or whose jurisdiction is coextensive with one or more counties or municipalities. "Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceed five percent of the total contract amount

EXCEPTION:

The prohibition of this section does not apply where a vendor has contested any tax administered pursuant to chapter eleven of this code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement

LICENSING:

Vendors 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 agencies or political subdivision. Furthermore, the vendor must provide all necessary releases to obtain information to enable the Director or spending unit to verify that the vendor is licensed and in good standing with the above entities.

CONFIDENTIALITY:

The vendor agrees that he or she 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. Vendors should visit www.state.wv.us/admin/purchase/privacy for the Notice of Agency Confidentiality Policies.

Under penalty of law for false swearing (West Virginia Code, §61-5-3), it is hereby certified that the vendor acknowledges the information in this said affidavit and are in compliance with the requirements as stated

Vendor's Name: DISER'S RADIO SERVICE

Authorized Signature: *Quodon R. Blair* Date: 2/20/07