



01-28-09 10:27am From-APPLEWOOD SEED CO  
 Department of Administration  
 Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
 Charleston, WV 25305-0130

**Quotation**

3034677866 T-629 P.01 F-162  
 669C0022 1

ADDRESS CORRESPONDENCE TO ATTENTION OF:  
 MICHAEL AUSTIN  
 304-558-2402

\*424153422 303-431-7333  
 APPLEWOOD SEED COMPANY  
 5380 VIVIAN STREET  
 ARVADA CD 80002

S H I P T O  
 DIVISION OF HIGHWAYS  
 VARIOUS LOCALES AS INDICATED  
 BY ORDER

DATE PRINTED	TERMS OF SALE	SHIP VIA	FOB	FREIGHT TERMS
01/11/2009				
BID OPENING DATE: 01/28/2009		BID OPENING TIME 01:30PM		

LINE	QUANTITY	UOP	QAT NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0001				790-20-00-000		\$56,480.00
				WILDFLOWER SEED		
				OPEN END CONTRACT		
				TO PROVIDE WILDFLOWER SEEDS PACKAGED AS INDIVIDUAL SPECIES AND WILDFLOWER CUSTOM SEED MIX PACKAGED IN PURE LIVE SEED RATE FOR THE WEST VIRGINIA DIVISION HIGHWAYS PER THE ATTACHED SPECIFICATIONS.		
				EXHIBIT 3		
				LIFE OF CONTRACT: THIS CONTRACT BECOMES EFFECTIVE ON ..... AND EXTENDS FOR A PERIOD OF ONE (1) YEAR OR UNTIL SUCH "REASONABLE TIME" THEREAFTER AS IS NECESSARY TO OBTAIN A NEW CONTRACT OR RENEW THE ORIGINAL CONTRACT. THE "REASONABLE TIME" PERIOD SHALL NOT EXCEED TWELVE (12) MONTHS. DURING THIS "REASONABLE TIME" THE VENDOR MAY TERMINATE THIS CONTRACT FOR ANY REASON UPON GIVING THE DIRECTOR OF PURCHASING 30 DAYS WRITTEN NOTICE.		
				UNLESS SPECIFIC PROVISIONS ARE STIPULATED ELSEWHERE IN THIS CONTRACT DOCUMENT, THE TERMS, CONDITIONS AND PRICING SET HEREIN ARE FIRM FOR THE LIFE OF THE CONTRACT.		
				RENEWAL: THIS CONTRACT MAY BE RENEWED UPON THE MUTUAL WRITTEN CONSENT OF THE SPENDING UNIT AND VENDOR, SUBMITTED TO THE DIRECTOR OF PURCHASING THIRTY (30) DAYS PRIOR TO THE EXPIRATION DATE. SUCH RENEWAL SHALL		

PURCHASING DIVISION  
 STATE OF WV  
 2009 JAN 28 P 12:30  
 RECEIVED

SEE REVERSE SIDE FOR TERMS AND CONDITIONS			
SIGNATURE	TELEPHONE	DATE	
<i>[Signature]</i>	(303) 431-7333	1/27/2009	
FLE SALES	FEIN 84-0671900	ADDRESS CHANGES TO BE NOTED ABOVE	

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



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 2019 Washington Street East  
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LINE	QUANTITY	UQP	QAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>BE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND SHALL BE LIMITED TO TWO (2) ONE (1) YEAR PERIODS.</p> <p>CANCELLATION: THE DIRECTOR OF PURCHASING RESERVES THE RIGHT TO CANCEL THIS CONTRACT IMMEDIATELY UPON WRITTEN NOTICE TO THE VENDOR IF THE COMMODITIES AND/OR SERVICES SUPPLIED ARE OF AN INFERIOR QUALITY OR DO NOT CONFORM TO THE SPECIFICATIONS OF THE BID AND CONTRACT HEREIN.</p> <p>OPEN MARKET CLAUSE: THE DIRECTOR OF PURCHASING MAY AUTHORIZE A SPENDING UNIT TO PURCHASE ON THE OPEN MARKET, WITHOUT THE FILING OF A REQUISITION OR COST ESTIMATE, ITEMS SPECIFIED ON THIS CONTRACT FOR IMMEDIATE DELIVERY IN EMERGENCIES DUE TO UNFORESEEN CAUSES (INCLUDING BUT NOT LIMITED TO DELAYS IN TRANSPORTATION OR AN UNANTICIPATED INCREASE IN THE VOLUME OF WORK.)</p> <p>QUANTITIES: QUANTITIES LISTED IN THE REQUISITION ARE APPROXIMATIONS ONLY, BASED ON ESTIMATES SUPPLIED BY THE STATE SPENDING UNIT. 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.</p> <p>ORDERING PROCEDURE: SPENDING UNIT(S) SHALL ISSUE A WRITTEN STATE CONTRACT ORDER (FORM NUMBER WV-39) TO THE VENDOR FOR COMMODITIES COVERED BY THIS CONTRACT. THE ORIGINAL COPY OF THE WV-39 SHALL BE MAILED TO THE VENDOR AS AUTHORIZATION FOR SHIPMENT, A SECOND COPY MAILED TO THE PURCHASING DIVISION, AND A THIRD COPY RETAINED BY THE SPENDING UNIT.</p> <p>BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THIS CONTRACT IS AUTOMATI-</p>						

NATURE	SEE REVERSE SIDE FOR TERMS AND CONDITIONS	TELEPHONE	DATE
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E	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE
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State of West Virginia  
 Department of Administration  
 Purchasing Division  
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**Request for Quotation**

RFQ NUMBER:  
 669C0022

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 304-558-2402

VENDOR

\*424153422 303-431-7333  
 APPLEWOOD SEED COMPANY  
 5380 VIVIAN STREET  
 ARVADA CO 80002

SHIP TO

DIVISION OF HIGHWAYS  
 VARIOUS LOCALES AS INDICATED  
 BY ORDER

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
01/11/2009				
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LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>CALLY NULL AND VOID, AND IS TERMINATED WITHOUT FURTHER ORDER.</p> <p>THE TERMS AND CONDITIONS CONTAINED IN THIS CONTRACT SHALL SUPERSEDE ANY AND ALL SUBSEQUENT TERMS AND CONDITIONS WHICH MAY APPEAR ON ANY ATTACHED PRINTED DOCUMENTS SUCH AS PRICE LISTS, ORDER FORMS, SALES AGREEMENTS OR MAINTENANCE AGREEMENTS, INCLUDING ANY ELECTRONIC MEDIUM SUCH AS CD-ROM.</p> <p>REV. 04/11/2001</p> <p>PURCHASING CARD ACCEPTANCE: THE STATE OF WEST VIRGINIA CURRENTLY UTILIZES A VISA PURCHASING CARD PROGRAM WHICH IS ISSUED THROUGH A BANK. THE SUCCESSFUL VENDOR MUST ACCEPT THE STATE OF WEST VIRGINIA VISA PURCHASING CARD FOR PAYMENT OF ALL ORDERS PLACED BY ANY STATE AGENCY AS A CONDITION OF AWARD.</p> <p>EXHIBIT 10</p> <p>REQUISITION NO.: .....</p> <p>ADDENDUM ACKNOWLEDGEMENT</p> <p>I HEREBY ACKNOWLEDGE RECEIPT OF THE FOLLOWING CHECKED ADDENDUM(S) AND HAVE MADE THE NECESSARY REVISIONS TO M PROPOSAL, PLANS AND/OR SPECIFICATION, ETC.</p> <p>ADDENDUM NO.'S:                      NO. 1 .....</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

NATURE TELEPHONE DATE

FEIN ADDRESS CHANGES TO BE NOTED ABOVE

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



Department of Administration  
 Purchasing Division  
 2019 Washington Street East  
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**Quotation**

669C0022 4

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 MICHAEL AUSTIN  
 304-558-2402

VIVIAN STREET

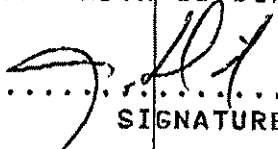
\*424153422 303-431-7333  
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BID OPENING DATE: 01/28/2009 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
	NO. 2					
	NO. 3					
	NO. 4					
	NO. 5					
<p>I UNDERSTAND THAT FAILURE TO CONFIRM THE RECEIPT OF THE ADDENDUM(S) MAY BE CAUSE FOR REJECTION OF BIDS.</p> <p>VENDOR MUST CLEARLY UNDERSTAND THAT ANY VERBAL REPRESENTATION MADE OR ASSUMED TO BE MADE DURING ANY ORAL DISCUSSION HELD BETWEEN VENDOR'S REPRESENTATIVES AND ANY STATE PERSONNEL IS NOT BINDING. ONLY THE INFORMATION ISSUED IN WRITING AND ADDED TO THE SPECIFICATIONS BY AN OFFICIAL ADDENDUM IS BINDING.</p> <p style="text-align: center;">               .....              SIGNATURE              Applewood Seed Company              .....              COMPANY              01/27/09              .....              DATE         </p> <p>REV. 11/96</p> <p style="text-align: center;">NOTICE</p> <p>A SIGNED BID MUST BE SUBMITTED TO:</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS		
SIGNATURE	TELEPHONE	DATE
FILE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE

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**Request for Quotation**

RFQ NUMBER  
**669C0022**

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ADDRESS CORRESPONDENCE TO ATTENTION OF  
**MICHAEL AUSTIN**  
**304-558-2402**

V. LEGGOT  
FOOT

\*424153422      303-431-7333  
 APPLEWOOD SEED COMPANY  
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LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION BUILDING 15 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25305-0130						
THE BID SHOULD CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPE OR THE BID MAY NOT BE CONSIDERED:  SEALED BID						
BUYER:				33		
RFQ. NO.:				669C0022		
BID OPENING DATE:				-----		
BID OPENING TIME:				-----		
PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID:  ----- 303/467-7886 -----						
CONTACT PERSON (PLEASE PRINT CLEARLY):				-----		
				Justin Dilges -----		

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

NATURE \_\_\_\_\_ TELEPHONE \_\_\_\_\_ DATE \_\_\_\_\_

E FEIN \_\_\_\_\_ ADDRESS CHANGES TO BE NOTED ABOVE

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BID OPENING DATE: 01/28/2009 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
***** THIS IS THE END OF RFQ 669C0022 ***** TOTAL:						\$56,480.00

NATURE OF BUSINESS: SALES  
 SEE REVERSE SIDE FOR TERMS AND CONDITIONS  
 TELEPHONE: (303) 431-7333  
 DATE: 1/27/09  
 FEIN: 84-0671900  
 ADDRESS CHANGES TO BE NOTED ABOVE

**SPECIFICATIONS**

Seed must be United States origin

Successful vendor must provide proof of origin.

Quantities are for pure live seed.

No substitutions of species will be accepted.

Minimum 80% germination

Minimum 98% purity

Proof of germination and purity must be attached to each bag of seed.

All seed shipped must meet West Virginia Chapter 19, Article 16, Section 2, labeling requirements. All seed shall be tested by a certified seed laboratory with certified results submitted to the purchaser in writing at the time of delivery.

The state of West Virginia will randomly test seed for purity and germination.

Shipping must be FOB

**CONTRACT AWARD**

Qualified Vendors who submit a valid low bid may be awarded a contract for those items for which their bid is low.

Low bid will be determined for each individual bid.

The State of West Virginia reserves the right to make awards on this contract that are in the best interest of the State.

**ACCEPTANCE PLAN**

With each delivery of wildflowers to the Division, the vendor will certify that the products so delivered do conform to the materials specifications.

Material failing to comply with the quality requirement will not be accepted.

**BID QUANTITIES**

Vendor should base quotation on estimated pure live seed (PLS) quantities as follows:

Item-1	300 pounds (PLS)
Item-2	400 pounds (PLS)
Item-3	400 pounds (PLS)
Item-4	200 pounds (PLS)
Item-5	700 pounds (PLS)
Item-6	4000 pounds (PLS)

Vendors are cautioned that the above quantities are estimates only. Actual orders will be for the required needs of the Division of Highways.



**WILDFLOWER CONTRACT  
INDIVIDUAL SPECIES**

Item-1      **Drummond Phlox**  
 Phlox Drummondii

Provided in 8lb. bags

Purity 99.00 %      Germination 82 %      \*Only non-domestic available

Bid Price \$ 26.24 per pound (PLS)

Item-2      **Scarlet Flax**  
 Linum Vubrum

Provided in 8lb. bags

Purity 99.00 %      Germination 88 %      \*Only non-domestic available

Bid Price \$ 12.60 per pound (PLS)

Item-3      **Zinnia/luminosa pink**  
 Zinnia elegans

Provided in 10lb. bags

Purity \_\_\_\_\_ %      Germination \_\_\_\_\_ %

Bid Price \$ No Bid per pound (PLS)

Item-4      **Golden Lupine**  
 Lupinus densiflorus

Provided in 10lb. bags

Purity \_\_\_\_\_ %      Germination \_\_\_\_\_ %

Bid Price \$ No Bid per pound (PLS)

Item-5      **Rocket Lockspur**  
 Delphiniums Ajacis

Provided in 10lb. bags

Purity 99.00%      Germination 90 %

Bid Price \$ 12.24 per pound (PLS)

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**WILDFLOWER CONTRACT  
CUSTOM MIX**

**PACKAGED IN 6.5 POUND BAGS**

Item-6	% by Weight	% by Seed	Genus & Species
	30.00	3.4%	Centaurea cyanus/Dwarf Cornflower
	Purity <u>99.00</u> %	Germination <u>92</u> %	
	20.00	27.7%	Tinctoria Coreopsis/Plains Coreopsis
	Purity <u>95.90</u> %	Germination <u>90</u> %	
	35.00	2.3%	Sulphureaus Cosmos/Sulphur Cosmos
	Purity <u>99.00</u> %	Germination <u>90</u> %	
	15.00	66.6%	Silene armeria/Catchfly
	Purity <u>99.00</u> %	Germination <u>95</u> %	
	Bid Price \$ <u>8.75</u> per pound (PLS)		

State of West Virginia

RFQ NO. 669C0022

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). West Virginia Code, §5A-3-37, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the West Virginia Code. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Resident Vendor Preference, if applicable.

- 1. Application is made for 2.5% resident vendor preference for the reason checked: 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, Bidder is a partnership, association or corporation resident vendor and 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 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, Bidder is a 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; or,
2. Application is made for 2.5% resident vendor preference for the reason checked: 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; or,
3. Application is made for 2.5% resident vendor preference for the reason checked: 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 Bidder's 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; or,
4. Application is made for 5% resident vendor preference for the reason checked: Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; or,
5. Application is made for 3.5% resident vendor preference who is a veteran for the reason checked: Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; or,
6. Application is made for 3.5% resident vendor preference who is a veteran for the reason checked: Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.

Bidder understands if the Secretary of 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) reject the bid; or (b) assess a penalty against such 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.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of 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.

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.

Bidder: Applewood Seed Company

Signed: [Signature]

Date: 01/27/09

Title: Sales

\*Check any combination of preference consideration(s) indicated above, which you are entitled to receive.

STATE OF WEST VIRGINIA  
Purchasing Division

**PURCHASING AFFIDAVIT**

**VENDOR OWING A DEBT TO THE STATE:**

*West Virginia Code* §5A-3-10a provides that: 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 owed is an amount greater than one thousand dollars in the aggregate.

**PUBLIC IMPROVEMENT CONTRACTS & DRUG-FREE WORKPLACE ACT:**

If this is a solicitation for a public improvement construction contract, the vendor, by its signature below, affirms that it has a written plan for a drug-free workplace policy in compliance with Article 1D, Chapter 21 of the *West Virginia Code*. The vendor must make said affirmation with its bid submission. Further, public improvement construction contract may not be awarded to a vendor who does not have a written plan for a drug-free workplace policy in compliance with Article 1D, Chapter 21 of the *West Virginia Code* and who has not submitted that plan to the appropriate contracting authority in timely fashion. For a vendor who is a subcontractor, compliance with Section 5, Article 1D, Chapter 21 of the *West Virginia Code* may take place before their work on the public improvement is begun.

**ANTITRUST:**

In submitting a bid to any agency for the state of West Virginia, the bidder offers and agrees that if the bid is accepted the bidder will 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 the bidder.

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership or person or entity submitting a bid for the same materials, supplies, equipment or services and is in all respects fair and without collusion or fraud. I further certify that I am authorized to sign the certification on behalf of the bidder or this bid.

**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. 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/noticeConfidentiality.pdf>.

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

Vendor's Name: Applewood Seed Company

Authorized Signature:  Date: 01/27/09