



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
669C0028

PAGE
1

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

VENDOR

*709033507 540-662-3431
STUART M PERRY INC
117 LIMESTONE LANE

WINCHESTER VA 22602

SHIP TO

DIVISION OF HIGHWAYS
VARIOUS LOCALES AS INDICATED
BY ORDER

DATE PRINTED 02/26/2009	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
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BID OPENING DATE: **03/18/2009** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	TN		745-21		
<p>ASPHALTIC CONCRETE, HOT LAID</p> <p>OPEN END CONTRACT</p> <p>TO PROVIDE MATERIALS, EQUIPMENT, AND LABOR TO SUPPLY AT THE VENDORS PLANT, HOT MIX ASPHALT TO THE WEST VIRGINIA DIVISION OF HIGHWAYS PER THE ATTACHED SPECIFICATIONS.</p> <p>AND/OR</p> <p>TO FURNISH MATERIALS, EQUIPMENT, AND LABOR NECESSARY TO LAY DOWN HOT MIX ASPHALT FOR THE WEST VIRGINIA DIVISION OF HIGHWAYS PER THE ATTACHED SPECIFICATIONS.</p> <p>EXHIBIT 3</p> <p>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.</p> <p>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.</p>						

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2009 MAR 16 AM 9:37

WV PURCHASING DIVISION

SEE REVERSE SIDE FOR TERMS AND CONDITIONS			
SIGNATURE 	TELEPHONE 540-662-3431	DATE 3/13/09	
TITLE Vice President	FEIN 54-0541865	ADDRESS CHANGES TO BE NOTED ABOVE	

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

GENERAL TERMS & CONDITIONS REQUEST FOR QUOTATION (RFQ) AND REQUEST FOR PROPOSAL (RFP)

1. Awards will be made in the best interest of the State of West Virginia.
2. The State may accept or reject in part, or in whole, any bid.
3. All quotations are governed by the *West Virginia Code* and the *Legislative Rules* of the Purchasing Division.
4. Prior to any award, the apparent successful vendor must be properly registered with the Purchasing Division and have paid the required \$125 fee.
5. All services performed or goods delivered under State Purchase Order/Contracts are to be continued for the term of the Purchase Order/Contracts, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
6. Payment may only be made after the delivery and acceptance of goods or services.
7. Interest may be paid for late payment in accordance with the *West Virginia Code*.
8. Vendor preference will be granted upon written request in accordance with the *West Virginia Code*.
9. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
10. The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
11. The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern all rights and duties under the Contract, including without limitation the validity of this Purchase Order/Contract.
12. Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
13. **BANKRUPTCY:** In the event the vendor/contractor files for bankruptcy protection, this Contract may be deemed null and void, and terminated without further order.
14. **HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, and available online at the Purchasing Division's web site (<http://www.state.wv.us/admin/purchase/vrc/hipaa.htm>) is hereby made part of the agreement. Provided that, the Agency meets the definition of a Cover Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the vendor.
15. **WEST VIRGINIA ALCOHOL & DRUG-FREE WORKPLACE ACT:** If this Contract constitutes a public improvement construction contract as set forth in Article 1D, Chapter 21 of the West Virginia Code ("The West Virginia Alcohol and Drug-Free Workplace Act"), then the following language shall hereby become part of this Contract: "The contractor and its subcontractors shall implement and maintain a written drug-free workplace policy in compliance with the West Virginia Alcohol and Drug-Free Workplace Act, as set forth in Article 1D, Chapter 21 of the West Virginia Code. The contractor and its subcontractors shall provide a sworn statement in writing, under the penalties of perjury, that they maintain a valid drug-free work place policy in compliance with the West Virginia and Drug-Free Workplace Act. It is understood and agreed that this Contract shall be cancelled by the awarding authority if the Contractor: 1) Fails to implement its drug-free workplace policy; 2) Fails to provide information regarding implementation of the contractor's drug-free workplace policy at the request of the public authority; or 3) Provides to the public authority false information regarding the contractor's drug-free workplace policy."

INSTRUCTIONS TO BIDDERS

1. Use the quotation forms provided by the Purchasing Division.
2. **SPECIFICATIONS:** Items offered must be in compliance with the specifications. Any deviation from the specifications must be clearly indicated by the bidder. Alternates offered by the bidder as **EQUAL** to the specifications must be clearly defined. A bidder offering an alternate should attach complete specifications and literature to the bid. The Purchasing Division may waive minor deviations to specifications.
3. Complete all sections of the quotation form.
4. Unit prices shall prevail in case of discrepancy.
5. All quotations are considered F.O.B. destination unless alternate shipping terms are clearly identified in the quotation.
6. **BID SUBMISSION:** All quotations must be delivered by the bidder to the office listed below prior to the date and time of the bid opening. Failure of the bidder to deliver the quotations on time will result in bid disqualifications: Department of Administration, Purchasing Division, 2019 Washington Street East, P.O. Box 50130, Charleston, WV 25305-0130



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<p>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 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 SERVICE 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</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

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<p>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 AUTOMATICALLY 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 4</p> <p>LOCAL GOVERNMENT BODIES: UNLESS THE VENDOR INDICATES IN THE BID HIS REFUSAL TO EXTEND THE PRICES, TERMS, AND CONDITIONS OF THE BID TO COUNTY, SCHOOL, MUNICIPAL AND OTHER LOCAL GOVERNMENT BODIES, THE BID SHALL EXTEND TO POLITICAL SUBDIVISIONS OF THE STATE OF WEST VIRGINIA. IF THE VENDOR DOES NOT WISH TO EXTEND THE PRICES, TERMS, AND CONDITIONS OF THE BID TO ALL</p>						

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<p>POLITICAL SUBDIVISIONS OF THE STATE, THE VENDOR MUST CLEARLY INDICATE SUCH REFUSAL IN HIS BID. SUCH REFUSAL SHALL NOT PREJUDICE THE AWARD OF THIS CONTRACT IN ANY MANNER.</p> <p>REV. 3/88</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 MY PROPOSAL, PLANS AND/OR SPECIFICATION, ETC.</p> <p>ADDENDUM NO.'S:</p> <p>NO. 1</p> <p>NO. 2</p> <p>NO. 3</p> <p>NO. 4</p> <p>NO. 5</p> <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</p>						

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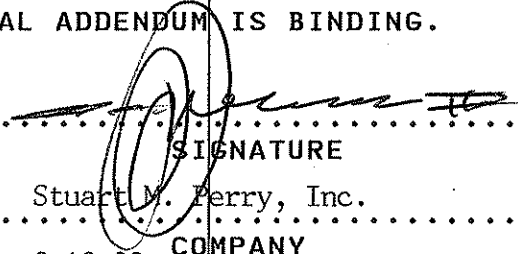
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<p>AND ANY STATE PERSONNEL IS NOT BINDING. ONLY THE INFORMATION ISSUED IN WRITING AND ADDED TO THE SPECIFICATIONS BY AN OFFICIAL ADDENDUM IS BINDING.</p> <p style="text-align: center;">  SIGNATURE Stuart M. Perry, Inc. 3-13-09 COMPANY DATE </p> <p>REV. 11/96</p> <p style="text-align: center;">NOTICE</p> <p>A SIGNED BID MUST BE SUBMITTED TO:</p> <p style="text-align: center;"> DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION BUILDING 15 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25305-0130 </p> <p>THE BID SHOULD CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPE OR THE BID MAY NOT BE CONSIDERED:</p> <p>SEALED BID</p>						

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<p>BUYER: 33</p> <p>RFQ. NO.: 669C0028</p> <p>BID OPENING DATE: -----</p> <p>BID OPENING TIME: -----</p> <p>PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID: 540-722-9884</p> <p>CONTACT PERSON (PLEASE PRINT CLEARLY): Steven C. Miller</p> <p>***** THIS IS THE END OF RFQ 669C0028 ***** TOTAL: _____</p>						

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1. SPECIFICATIONS

The following sections of the West Virginia Department of Transportation, Division of Highways' Standard Specifications Roads and Bridges, Adopted 2000, as modified by the current Supplemental Specifications shall apply to the administration of this Contract: Sections 101, 102.4, 102.5, 105.1, 105.3, 105.4, 105.10, 105.11, 105.12, 105.13, 106.3, 106.4, 106.5, 106.6, 106.7, 106.9, 107.1, 107.2, 107.3, 107.12, 107.14, 107.15, 107.16, 107.19, 107.20, 107.23, 108.3, 108.5, 108.7, 108.8, 109.1, 109.2 and 109.20.

The requirements of the West Virginia Department of Transportation, Division of Highways' Standard Specifications, Roads and Bridges, Section 109.20, PRICE ADJUSTMENT FOR LOAD LIMIT VIOLATIONS, shall apply to all material supplied under this contract. This will include material loaded by the Vendor into Division of Highways owned and/or rented trucks.

The terms "Contractor" and "Vendor" used in the above specifications of this Contract are interchangeable. Contractor shall mean Vendor and Vendor shall mean Contractor.

West Virginia Department of Transportation, Division of Highways' Standard Specifications Roads and Bridges, Adopted 2000, and the current Supplemental Specifications may be obtained from:

West Virginia Division of Highways
State Capitol Complex
Engineering Division, Technical Section
Room A-650, Building Five
1900 Kanawha Blvd., East
Charleston, West Virginia 25305

All material, except Item F, shall be furnished in accordance with the requirements of the following West Virginia Department of Transportation, Division of Highways' Standard Specifications Roads and Bridges, Adopted 2000 as modified by the current Supplemental Specifications.

Item F shall meet West Virginia Division of Highways' Specifications, specifications of adjacent state highway departments or specifications acceptable to the Engineer for similar material as bid in Items A through E.

The Division of Highways may purchase Hot-Mix Asphalt F.O.B. Vendor's plant. The bid price F.O.B. Vendor's plant shall include the loading of Division of Highways', owned or rented, trucks and the furnishing of a coating solution in accordance with Paragraph 401.9.7 of the Specifications by Vendor.

2. BIDDING INSTRUCTIONS

Any qualification of bids or any modification of the specifications or conditions governing the bids may be cause to reject bids.

If a Vendor will be supplying materials from more than one plant, the bid prices that apply to each plant shall be clearly indicated in the bid, preferably on separate bid schedules.

3. DETERMINING LOW BID

The purpose of this contract is to establish unit prices for Items A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, and V which are to be used as the basis for requisitioning Hot-Mix Asphalt for use on various maintenance and repair projects throughout the District.

State Contract Purchase Orders (SCO's) for individual paving projects will be based on the lowest overall total cost of the pick-up price of material (Items A through E) plus the haul cost (Item G) plus the lay down cost (Item H), plus cleaning & sweeping (Item I), tack material (Item J), mobilization for paving (Items K or L), off season plant opening (Item M), additional heel-in joints (Item N), skip paving surcharge (Item O), mobilization for profiling (Item P), pavement profiling (Item Q), and Traffic Control (Items R, S, & T) as applicable; however, material (Items A through E) may be furnished from any approved production location. Items I, J, K, L, M, N, O, P, Q, R, S, T, U, and V shall be shown on the SCO as a separate pay item when requested by the Engineer.

State Contract Purchase Orders (SCO's) for material to be picked up at the Vendor's plant by the Division of Highways will be based on the lowest unit price of Items A through F and the Division's most economical haul cost from the Vendor's plant to individual job sites. Factors to be considered shall include but not be limited to; bid price of material, haul cost @ \$0.25 for each additional ton-mile, loading and transportation delays, and availability of material.

The distances allowed for haul costs will be over suitable routes selected by the Engineer that provides the lowest total cost to the Division of Highways and shall be measured from the Vendor's plant location to the mid-point of the project. All such chosen routes shall have acceptable load limits for both roads and bridges.

The Division of Highways reserves the right to request any one or combination of items for which bids are received at the lowest overall total as set forth above.

Acceptance of a bid for any one item shall not be dependent upon the acceptance of a bid for any other item or any combination of items. However, Item F shall not be requested except when determined by the Engineer that all other equivalent items of material are not available, then only on a pick-up basis. Also, Item G will only be requested in combination with other quoted items.

Upon receipt of a State Contract Purchase Order (SCO) for lay down of Hot Mix Asphalt or pavement profiling, the Vendor shall advise the Division of Highways, in writing, within five (5) calendar days of their acceptance of the SCO. Failure to acknowledge may result in cancellation of the SCO and re-award to the next lowest bidder.

4. CONTRACT CONDITIONS

Vendors may bid any or all items on the bid schedule. However, the amount bid on any one item may not be conditioned on the acceptance of the bid on any other item or items.

All qualified Vendors who submit a valid bid "F.O.B. Vendor's Plant" will be awarded a Contract for those items bid (see Section 12).

In the event a Contractor fails to conform to the requirements set out in this contract document, the State Contract Purchase Order or the governing specifications, the State Contract Purchase Order may be canceled and reawarded to the next lowest bidder.

The State of West Virginia reserves the right to make multiple awards on this Contract when it is in the best interest of the State to do so.

All labor rates paid by Vendor under Items H, I, J, N, O, Q, R, and T of this contract must be in compliance with the West Virginia Department of Labor Prevailing Rates, Chapter 21-5A, Series 15, 2006.

The Vendor is not authorized to ship, nor is the Division authorized to receive materials prior to the issuance of an "SCO".

Stuart M. Perry, Inc.
117 Limestone Lane
Winchester, VA 22602

5. CONTRACT COMPLETION

All State Contract Purchase Order's (SCO's) for lay down work shall be started within fifteen (15) calendar days of receipt of the "SCO", unless otherwise specified by the Engineer, and be completed within thirty (30) calendar days of the starting date. Liquidated damages will be assessed in accordance with Section 108.7 of the Standard Specifications Roads and Bridges.

6. GENERAL PROVISIONS

6.1 Lay down

Lay down as noted in Item H shall be provided by the Vendor as requested by the Division of Highways at projects designated by the Engineer.

6.2 Skip Paving

The Vendor may be required to perform Skip Paving projects at a paving location, provided the distance between the end of one skip and the beginning of the next does not exceed two thousand five hundred (2500) feet. When Skip Paving is requested the Vendor shall be paid the Skip Paving Surcharge, Item O for each ton of final surface course material completed in place on the project. Patching and leveling in preparation for resurfacing of a project shall not be considered Skip Paving.

6.3 Heel-In

Heel-in of joints at the beginning and the end of each paving location, will be performed by the Vendor in accordance with the Resurfacing Heel-In Detail (Figure 1).

Payment for beginning and ending heel-in joints shall be included in the unit price bid for Item H, K or L as appropriate.

Additional Heel-In Joints, Item N, constructed in accordance with the Resurfacing Heel-In Detail (Figure 1) may be required as directed by the Engineer at intersecting roadways, at the beginning and end of each paving skip, and other designated locations. Payment of additional Heel-In Joints shall be paid per lineal foot as measured along the joint, which shall be full payment for complete construction of the joint.

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6.4 Cleaning and Sweeping

Cleaning and Sweeping will normally be performed by the Division. However, Cleaning and Sweeping, if provided by the Vendor, shall be performed in accordance with Subsection 401.10.1 of the Standard Specifications. Payment shall be calculated as the paving length times the width swept in accordance with subsection 401.10.1.

6.5 Off Season Plant Opening

If the Vendor is required to open his plant in the off-season to service the needs of the Division, an additional payment will be made under Item M, off-season plant opening. Vendor will be paid additional day charge for each additional consecutive day that the plant is open after the first day to serve the needs of the Division.

If the plant produces no material for any user on any calendar day, either during the week or on the weekend, the Division will pay the first day rate for off-season plant opening on the next day of Division usage. Payment for this item is subject to the following conditions:

6.5.1 Payment for Item M can only be authorized and made during the winter months, i.e., between December 15 and March 15, and then only if the plant would not have otherwise been open.

These dates may be revised by the State Highway Engineer, if necessary, to meet specific needs in the field. Any such revision of dates will be in writing and shall be attached to the Vendor's invoice at the time payment is requested.

6.5.2 Payment will always be made in the full contract bid price amount for first day of plant opening. However, the amount paid from each additional day of plant opening will be reduced as follows:

a. Payment for additional day charge will not be made if the plant has produced over 500 tons on that particular day. If between 300 and 500 tons have been produced, payment for additional day charge will be made equal to one-half of the amount bid for additional day charge. The quantity produced to make this determination shall include all material produced that day, which includes tonnage bought by the State, the various local governments, and all private work.

b. The State will only pay its share of the amount determined to be due for additional day charge in paragraph 6.5.2a above. For example, if the plant produces 375 tons and the Division takes 150 tons of the total, in this illustration 40% of the plant's daily production, payment for additional day charge would be calculated as follows: Since the total daily production is between 300 and 500 tons, the Vendor is due one-half (50%) of the additional day charge in accordance with paragraph 6.5.2a. Because the Division's share of this daily production is 40%, the Division would pay 40% of one-half of the additional day charge, or in this case, 20% of the additional day charge.

6.5.3 In order to be paid for additional day charge, a certified statement shall accompany the invoice stating the total quantity produced on that day. If payment for additional day of plant opening is not made due to tonnage produced, the next consecutive day of plant operation, if any, will only qualify for payment at the additional day rate, not the first day rate for plant opening.

6.6 Pavement Profiling (Milling)

6.6.1 Description of Work:

This work shall consist of profiling the existing pavement to the specified grade and cross slope by grinding, planing or milling. The profiling equipment shall be capable of accurately establishing profile grades (1/4 inch plus or minus) along each edge of the machine by reference from the existing pavement by use of ski or matching shoe or by reference to independent grade control. The equipment shall have an automatic system for controlling grade and cross slope. The Vendor shall provide adequate manpower and auxiliary equipment to control dust and remove cutting from the project site. Stockpiling of cuttings on the project site will not be permitted. All cuttings shall become the property of the Vendor. The Vendor shall be responsible for damage to drainage facilities, manholes or other appurtenances within the pavement area.

Stuart M. Perry, Inc.

117 Limestone Lane

6.6.2 Method of Measurement: Winchester, VA 22602

6.6.2.1 Mobilization for Profiling: The work shall consist of preparatory operations including movement of necessary personnel and equipment onto the project site to begin the profiling work. Only one Mobilization for Profiling per State Contract Order (SCO) shall be paid when Pavement Profiling (Milling) is required.

6.6.2.2 Pavement Profiling (Milling): "Pavement Profiling (Milling)" shall be measured as the total number of square yards planed or ground to a depth not exceeding two (2) inches. Should the required removal depth exceed two (2) inches additional quantities shall be measured for each additional two (2) inch increment.

6.6.2.3 Haul of Profiled Cuttings: Hauling of cuttings from project site to the Vendor's nearest production facility shall be paid under Item G "Haul by Vendor", and weighted on truck scales in accordance with Section 401.9.3 of the West Virginia Department of Transportation, Division of Highways' Standard Specifications Roads and Bridges, Adopted 2000 as modified by the current Supplemental Specifications.

6.7 Maintenance of Traffic

Maintenance of Traffic: Traffic Control and Temporary Pavement Marking Paint may be furnished by DOH. When Items R, S, T, U, and V are requested, traffic shall be maintained by the Vendor in accordance with Section 636 of the West Virginia Division of Highways Standard Specifications Roads and Bridges, Adopted 2000 as modified by the current Supplemental Specifications.

The project, while undergoing improvement, shall be kept open to traffic in such condition that both local and through traffic will be adequately and safely accommodated. All construction operations shall be scheduled by the Contractor to keep traffic delay to a minimum.

6.8 PRICE ADJUSTMENT OF ASPHALT CEMENT

Due to the uncertainty in estimating the costs of petroleum products that will be used during the life of this Contract, adjustment in compensation for contract Items A, B, C, D, E and F is provided for as follows:

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The contract price for the items listed above will be adjusted in accordance with the Division of Highways index for asphalt cement. This index will be the average of the posted prices of asphalt cement per ton as reported from the following sources:

Marathon Ashland Petroleum, LLC, Catlettsburg, Kentucky
Asphalt Materials, Marietta, Ohio
Marathon Ashland Petroleum, LLC, Floreffe, Pennsylvania
Citgo Asphalt Refining Co., Baltimore, Maryland
Citgo, Incorporated, Bristol, Virginia
Koch, Baltimore Maryland.

The bidding index (I_b) as determined above is the index price for the first working day of the month in which the bids are opened. The price adjustment for the specified material at the time of purchase will be based on an index price determined by averaging the posted prices reported by the sources listed above for the first working day of the month in which the material is purchased. If one of the sources listed above changes ownership and/or name the posted price from that terminal will continue in use as though the ownership and/or name change had not occurred.

If one of the sources used for determining the index goes out of business the index in the proposal I_b and the index at the time of purchase I_p will be based on the average of the remaining sources. Thus, I_b could be based on an average of 5 sources and the I_p on the average of 4 sources or vice versa. If a source that goes out of business reopens at a later date the index determined will once again be based on 5 sources as per the previous paragraph.

The posted price for each source will be compared to the average of all sources. If the difference between the average and the individual price is greater than 25% of the average, that individual source will be excluded from the calculation of the average price I_b or I_p and a new average will be calculated using the remaining sources.

When the ratio of the price index at purchase (I_p) divided by the price index at bidding (I_b) is less than 0.90 or greater than 1.10, the portion of the contract unit price which reflects the cost of the specified material will be adjusted for the change in accordance with the following formula:

$$AUP = CAP + [(I_p \div I_b) - 1.0] \times C$$

where

AUP = Adjusted Unit Price
CAP = Contract Award Price
 I_b = Price Index at Time of Bid Opening
 I_p = Price Index at time of Purchase
C = Adjustment Factor for Contract Item

The Adjustment Factor (C) for Contract Items A, B, C, D, E and F shall be calculated as follows:

$$C = AC \times I_b$$

where

AC = Statewide Average Asphalt Cement Content for
The Materials Listed Under Items A, B, C, D, E
and F.

The average asphalt cement content for use in the above formula is as follows:

<u>Item</u>	<u>Asphalt Content (AC)</u>
A	3.9%
B	4.8%
C	5.9%
D	7.5%
E	5.9%
F	See Below

The asphalt cement content used for Item F shall be that specified above for the similar materials in Item A through D.

6.9 PRICE ADJUSTMENT OF FUEL OIL NO. 2 (DIESEL FUEL)

Because of the uncertainty in estimating the cost of diesel fuel that will be used during the life of this contract, adjustment in compensation for contract Items A, B, C, D, E, and F is provided for as follows:

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Product price quotations for Fuel Oil No. 2 (diesel fuel) as published by the Oil Price Information Service (OPIS) will be utilized to establish the contract base price as well as the monthly base price thereafter. These prices will be the average of the individual prices for the following locations:

Charleston, West Virginia
 Ashland, Kentucky
 Pittsburgh, Pennsylvania
 Roanoke, Virginia
 Marietta, Ohio

The initial contract base price will be based on the Fuel Index as published on the WVDOT Internet, Contractor Resources Center for the month immediately preceding the bid of this contract. The initial contract base price will be used for the first quarter (3 months) period of this contract. Thereafter, the OPIS Fuel Oil No. 2 prices as published monthly on the WV DOT Internet, Contractor Resource Center for the prior three months will be averaged and used for the quarterly base price each quarter.

The contract base price (Cbp) and the quarterly base price (Qbp) may be found posted at the Division's Internet website www.wvdot.com by selecting the 'Contractors' link under 'Doing Business' and then by choosing the 'Fuel and Asphalt Prices' option from the 'Contractors Resource Center' drop down menu.

The portion of the contract unit price which reflects the cost of the specified material will be adjusted for the change in accordance with the following formulae:

$$Pa = [(Qbp + Cbp) - 1.00] \times Cbp \times C \times Q$$

Where:

Pa = Price Adjustment
 Qbp = Quarterly Base Price at time of placement
 Cbp = Contract Base Price at time of bidding
 C = Cost Adjustment Factors per Unit of Contract Item
 Bid as outlined in chart below
 Q = Quantity

Adjustments in bid price for any period may be either plus or minus. If (Qbp) is greater than (Cbp), the adjustment will be plus. If (Cbp) is greater than (Qbp), the adjustment will be minus.

The adjustment in compensation for diesel fuel used for the listed items will be made on the separate items on the basis of the average diesel fuel requirements for processing a unit of the item as shown in the table below.

The gallons (liters) of diesel fuel for price adjustment will be determined by multiplying the usage factors listed in the table below by the amount of acceptable work performed.

All adjustments will be made based on the gallons (liters) of diesel fuel indicated in the table below and no changes will be made for variations between these usage factors and the actual factors.

COST ADJUSTMENT FACTORS FOR DIESEL FUEL USAGE

	UNITS	FACTOR
Items A, B, C, D, E, and F	Gallons per ton (Liters per megagram)	1.06 (4.43)

7. MOBILIZATION FOR PAVING LIMITS

Mobilization for Paving, Items K and L will be paid when Vendor is required to place lay down quantities (Item H) under 500 tons. In addition, nighttime mobilization for paving, Item L, will only be paid when Vendor is directed by the Engineer to perform lay down at night.

Only one mobilization for paving per day of operation will be paid, unless moves of over five miles between individual paving locations are required. In cases where a Vendor is required to move from one roadway to the adjacent roadway of a divided highway, additional mobilization for paving will only be paid if the nearest interchange or crossing point that will accommodate the Vendor's equipment is over five miles from the paving locations. (This provision may require roundtrip moves of up to 10 miles with no additional mobilization for paving payment).

At an individual paving location where the Vendor is required to place quantities of less than 500 tons on successive days and/or nights, mobilization for paving will only be paid for the initial day's and/or night's operation.

An individual paving location shall be defined as a paving job where no skips exceeding two thousand five hundred (2500) feet are involved, except between the approach slabs of a bridge or parallel pair of bridges.

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8. WEIGHING MATERIALS DELIVERED BY TRUCK

Material delivered by truck shall be weighed in accordance with Section 401.9.3 of the West Virginia Department of Transportation, Division of Highways' Standard Specifications Roads and Bridges, Adopted 2000 as modified by the current Supplemental Specifications.

9. ACCEPTANCE PLAN

Quality control shall be the responsibility of the Vendor and meet the requirements of MP 401.03.50.

Acceptance testing shall be the responsibility of the Division.

Quality assurance of the material shall be as set forth in MP 401.02.23.

Sampling frequencies shall be in accordance with Section 6.2 of MP 401.02.23 or Section 4.1 and 4.2 of MP 700.00.52.

10. SUPPLYING OTHER ORGANIZATION ENTITIES

County Courts, Municipalities, School Boards, and other political subdivision and governmental entities, etc., may have a need for these materials, and Vendors may wish to supply that need.

Accordingly, bidders may wish to extend their contract prices to these other entities. If the bidder wishes to supply these other entities, but with prices different from quoted for the Division of Highways, the bidder shall include a set of bid schedules clearly and unambiguously marked for the express use of entities other than the Division of Highways. Failure by the bidder to include a set of bid schedules for other entities will be taken to mean that the bid schedules extended to the Division of Highways will also be extended to these other entities.

In the event any Vendor does not wish to extend the prices, terms and conditions of his bid and subsequent contract to other entities of the State, he must so indicate in a clear and unambiguous manner in his bid. This indication does not prejudice the award of the contract. If a Vendor does not indicate his refusal to extend the prices, terms and conditions of his bid to other entities of the State, he is bound to extend them upon issuance of a purchase order by these other entities.

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Other organizational entities using this provision of the contract shall do so without any involvement of the Division of Highways. That is, the entity shall make its own purchase arrangements with the Vendor and shall make its own arrangement for payment.

11. VENDOR'S INVOICES

Separate invoices must be submitted for Items "A" through "F" and for Items "G" through "V".

Vendor's invoices must be submitted in original and one copy and contain the following:

- a. All weigh ticket numbers for material delivered and cuttings hauled during the invoicing period.
- b. Division of Highways' State Contract Purchase Order (SCO) number, and this contract number.
- c. Total quantity and unit price with the total cost of each type of material furnished.
- d. Vendors shall show all weigh ticket numbers on their individual invoices.
- e. No payment will be made to a Contractor for Item K or L unless he performs the lay down operation and the quantity involved is less than 201 tons.

Under no circumstance will the West Virginia Division of Highways accept, or pay for, quantities of material in excess of the quantity stated on the State Contract Purchase Order.

DISTRICT FIVE

12. BID SCHEDULE (Continued)

Item A - Hot-Mix Asphalt
Base I
F.O.B. Vendor Plant @ _____
per ton

Item B - Hot-Mix Asphalt
Base II (Patch & Level),
or Wearing IV
F.O.B. Vendor Plant @ _____
per ton

Item C - Hot-Mix Asphalt
Wearing I (Scratch)
F.O.B. Vendor Plant @ _____
per ton

Item D - Hot-Mix Asphalt
Wearing III
F.O.B. Vendor Plant @ _____
per ton

All of the above items shall be in accordance with The West Virginia Department of Transportation, Division of Highways, Standard Specifications Roads and Bridges, Adopted 2000 as modified by the current Supplemental Specifications, Section 401 as specified in the SCO.

Item E - Hot-Mix Asphalt
Skid Resistant Pavement
F.O.B. Vendor Plant @ 67.87
per ton

The above item shall be in accordance with The West Virginia Department of Transportation, Division of Highways, Standard Specifications Roads and Bridges, Adopted 2000 as modified by the current Supplemental Specifications, Section 402.

Item F - Hot-Mix Asphalt
Plant Run
F.O.B. Vendor Plant @ 58.46
per ton

Item G - Haul by Vendor
@ _____ for first ton mile and
@ _____ for each additional mile

Item H - Lay down of Materials
Items A thru E, Each Site
0 to 100 tons @ _____ per ton
101 to 200 tons @ _____ per ton
201 to 500 tons @ _____ per ton
501 and up @ _____ per ton

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DISTRICT FIVE

12. BID SCHEDULE (Continued)

Material placed under Item H shall be constructed in accordance with the Requirements of The West Virginia Department of Transportation, Division of Highways, Standard Specifications Roads and Bridges, Adopted 2000 as modified by the current Supplemental Specifications, Section 401 or 402 as specified in the SCO.

Item I - Cleaning & Sweeping
@ _____ per sq. yd.

Item J - Bituminous Material for Tack Coat
or Prime

All Types @ _____ per gallon

Material furnished and applied under Item J to be in accordance with Section 408 of the referenced specifications, as directed by the District Engineer/Manager.

Item K - Daytime Paving Mobilization - A Mobilization for Paving Charge of \$ _____ may be made when the purchase order quantity per paving location is less than 500 tons of Hot-Mix Asphalt and nighttime paving is not specified.

Item L - Nighttime Paving Mobilization - A Mobilization for Paving Charge of \$ _____ may be made when the purchase order quantity per paving location is less than 500 tons of Hot-Mix Asphalt and nighttime paving is specified.

Item M - Off Season Plant Opening
@ _____ for first day
@ _____ for each additional day

Item N - Additional Heel-In Joints
@ _____ per lineal foot

Item O - Skip Paving Surcharge
@ _____ per ton

Item P - Mobilization for Profiling
@ _____ per SCO

Item Q - Pavement Profiling (Milling), square yards per SCO

Less than 250	@ _____	per Sq. Yd.
250 less than 500	@ _____	per Sq. Yd.
500 less than 1000	@ _____	per Sq. Yd.
1000 less than 2500	@ _____	per Sq. Yd.
2500 less than 5000	@ _____	per Sq. Yd.
5000 and greater	@ _____	per Sq. Yd.

Item R - Pilot Truck and Driver
@ _____ per day

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: _____ Signed: _____

Date: _____ Title: _____

*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: Stuart M. Perry, Inc.Authorized Signature:  Date: 3-13-09