



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

**Solicitation**

NUMBER
RMA13010

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF:
PAUL REYNOLDS 304-558-0468

VENDOR

\*709023822 301-797-3730  
 AMTRAC RAILROAD CONTRACTORS OF  
 9436 EARLEY DR  
 HAGERSTOWN MD 21740-1737

SHIP TO

WV STATE RAIL AUTHORITY  
 (DBA) SOUTH BRANCH VALLEY  
 RAILROAD  
 120 WATER PLANT DRIVE  
 MOOREFIELD, WV  
 26836 304-538-2305

DATE PRINTED
03/28/2013

BID OPENING DATE: 04/16/2013 BID OPENING TIME 1:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
ADDENDUM #03						
THIS ADDENDUM IS CREATED TO CHANGE BID OPENING DATE.						
FROM: APRIL 02, 2013 AT 1:30 P.M.						
TO: APRIL 16, 2013 AT 1:30 P.M.						
ANSWER VENDOR QUESTIONS						
0001		EA		550-70	77,995. <sup>00</sup>	77,995. <sup>00</sup>
INSTALLATION RAILROAD				CROSSING GATES		
***** THIS IS THE END OF RFQ RMA13010 ***** TOTAL:						77,995. <sup>00</sup>

04/16/13 09:14:46 AM  
 West Virginia Purchasing Division

SIGNATURE Robert Matthews	TELEPHONE 301-797-3730	DATE April 15, 2013V
TITLE Vice President	FEIN 35-1649116	ADDRESS CHANGES TO BE NOTED ABOVE

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

## SOLICITATION NUMBER: RMA13010

### *Addendum Number: 3*

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The purpose of this addendum is to modify the solicitation identified as RMA13010 (“Solicitation”) to reflect the change(s) identified and described below.

**Applicable Addendum Category:**

- [ X ] Modify bid opening date and time
- [ X ] Modify specifications of product or service being sought
- [ ] Attachment of vendor questions and responses
- [X] Attachment of pre-bid sign-in sheet
- [X] Correction of error
- [X] Other Bid Documents Corrections

**Description of Modification to Solicitation:** To Correct and amend Bid Documents

**Additional Documentation:** Documentation related to this Addendum (if any) has been included herewith as Attachment A and is specifically incorporated herein by reference.

**Terms and Conditions:**

1. All provisions of the Solicitation and other addenda not modified herein shall remain in full force and effect.
2. Vendor should acknowledge receipt of all addenda issued for this Solicitation by completing an Addendum Acknowledgment, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

## ATTACHMENT A

1. To Answer Vendor questions
2. To change Bid Opening date.
3. The addendum acknowledgement is attached. This document should be signed and returned with your bid. Failure to sign and return may result in disqualification.

RMA 13010 – Installation of Crossing Gates at Davis Avenue, Elkins, WV  
Addendum 3

**Question 1:** What is the new bid opening date?

**Answer:** Bid opening date is now April 16, 2013 at 1:30 p.m.

**Question 2:** Are the lights currently configured to accommodate a gate?

**Answer:** No the lights are not currently configured to accommodate a gate.

**Question 3:** Does the state want to add standalone gates on both sides?

**Answer:** A standalone gate will only be used on the cantilever side of the crossing. A gate mast will be used on the other side of the crossing.

**Question 4:** Does the state want to add any type of doll arm lights to increase preview of signal for south bound vehicular traffic?

**Answer:** No doll arm lights are to be added.

**Question 5:** What is the existing warning time and is that enough for upgrading to gates?

**Answer:** The existing warning time is 32 seconds for a 10 mph train. This is enough warning time to add gates without extending the approaches.

**Question 6:** What type of train traffic will operate over the crossing?

**Answer:** Currently only passenger excursion traffic operates over the crossing on a regular basis. Freight traffic operates occasionally and may increase.

**Question 7:** Do we update the meter service on the pole or replace the pole?

**Answer:** Contractor is to replace the entire AC service on the electric pole. Also, contractor is to add a circuit breaker inside the signal house that will cut the power.

**Question 8:** Federal regulations CFR 49 part 234 requires that plans be on site, legible and correct. Typically when modifying existing equipment a design is done showing what is to be done and used during the construction process. Once construction is completed a copy of the plans is left in the signal house to reflect the current circuits and as soon as practical (usually 90 days) a number of clean sets of "As Installed" plans are provided to the host railroad. The RFQ item 4.1.12 indicates that the state would like two sets of drawings. Are there electronic versions of the plans that will allow for modifications of the existing plans?

**Answer:** No electronic version of the plans are available. A hard copy of the plans is attached.

RMA 13010 – Installation of Crossing Gates at Davis Avenue, Elkins, WV  
Page 2

**Question 9:** Does the state want two sets of drawings in both the pre-construction/construction and the post construction/As Installed phases?

**Answer:** Contractor is to furnish 2 sets of finished plans as wired only. No pre-construction plans are needed.

**Question 10:** Is the contractor responsible to provide the engineering for the modifications of the crossing and to ensure that said engineering is in accordance with AREMA specifications, FRA, CFR Part 234 and any state or local guidelines where they are more restrictive?

**Answer:** Contractor is responsible for all engineering. All engineering must meet AREMA specifications (AREMA.org). AREMA specifications meet the guidelines of all other entities named.

**Question 11:** Does the engineering need to be submitted to the state for approval prior to beginning the actual construction?

**Answer:** Yes – All engineering needs to be submitted the State Rail Authority prior to beginning the actual construction. Contractor will be given an approval notice in writing and then can begin construction.

**Question 12:** Does the state want the contractor to provide an electronic set of plans (CADD) when project is completed?

**Answer:** An electronic set of plans is not required.

**Question 13:** What standards does the state have for lightning/surge protection?

**Answer:** Standards for lightning/surge protection can be found in AREMA – Communications & Signals Manual of Recommended Practices – Volume 3 Part 11 (AREMA.org)

**Question 14:** Does the state prefer a composite cable with multiples of 6AWG and 14 AWG solid copper for all the gate control, battery, lighting and indication circuits or a 6AWG multiple cable for the lighting and gate battery and a 14AWG multiple for the control and indication circuits?

**Answer:** Two cables will be used one 6AWG multiple cable for the lighting and gate battery and one 14AWG multiple cable for the control and indication circuits.

**Question 15:** Is there a required number of spare cable conductors of each gauge required?

**Answer:** Yes two spare cable conductors of each gauge are required.

**Question 16:** What is the state's preference on the Gate Lights?

**Answer:** Use LED lights on gates as well as crossing.

RMA 13010 – Installation of Crossing Gates at Davis Avenue, Elkins, WV  
Page 3

**Question 17:** Are aluminum/fiberglass gate arms to be used?

**Answer:** Yes – this item is answered in the Request for quote, Addendum 1 item 4.1.1.5

**Question 18:** Does the state want “Gate Keepers” to hold the gate arm on?

**Answer:** Yes – Contractor is to provide Gate Keepers on each gate equal to General Signal’s Gate Keeper model # SK-1000-B

**Question 19:** What is the distance to the Right of Way boundaries from centerline of track?

**Answer:** The ROW is 40 feet from centerline of the track.

**Question 20:** Will the state require pipe to be placed under the track to accommodate cabling?

**Answer:** Yes – pipe will need to be placed under the track to accommodate cabling.

**Question 21:** Can the roadway be cut/repared to accommodate for the installation of pipe to shield the cabling to be installed, or should pipe be pushed under the roadway?

**Answer:** Pipe is already under the roadway. There will be no need to cut the roadway.

**Question 22:** Does the state require dressing of stone/gravel around signal foundations and the case as part of the project?

**Answer:** Yes – Contractor will provide the material.  $\frac{3}{4}$  gravel stone will be used.

**Question 23:** Who is responsible to perform and document daily FRA testing during the construction and commissioning?

**Answer:** The contractor will be responsible to conduct daily FRA (Federal Railroad Administration) testing and document the results. ([www.fra.dot.gov](http://www.fra.dot.gov)) These tests are described in the CFR (Code of Federal Regulations) Title 49 Part 234 – Subpart D ([www.ecfr.gov](http://www.ecfr.gov))

**Question 24:** Who will provide the test documents used on the host property?

**Answer:** Contractor will provide the test documents and supply the test documents to the SRA. Tests should comply with CFR (Code of Federal Regulations) Title 49 Part 234.249 through 234.271. ([www.ecfr.gov](http://www.ecfr.gov))

**Question 25:** Are there any liquidated damages associated with this project? If so, what is the amount?

**Answer:** As stated in Addendum 1 on page 15, *Vendor shall pay liquidated damages in the amount of \$1000 per day for any work not completed within 120 calendar days following the Notice to Proceed.*

RMA 13010 – Installation of Crossing Gates at Davis Avenue, Elkins, WV  
Page 4

**Question 26:** How soon after the project completion will the project be accepted?

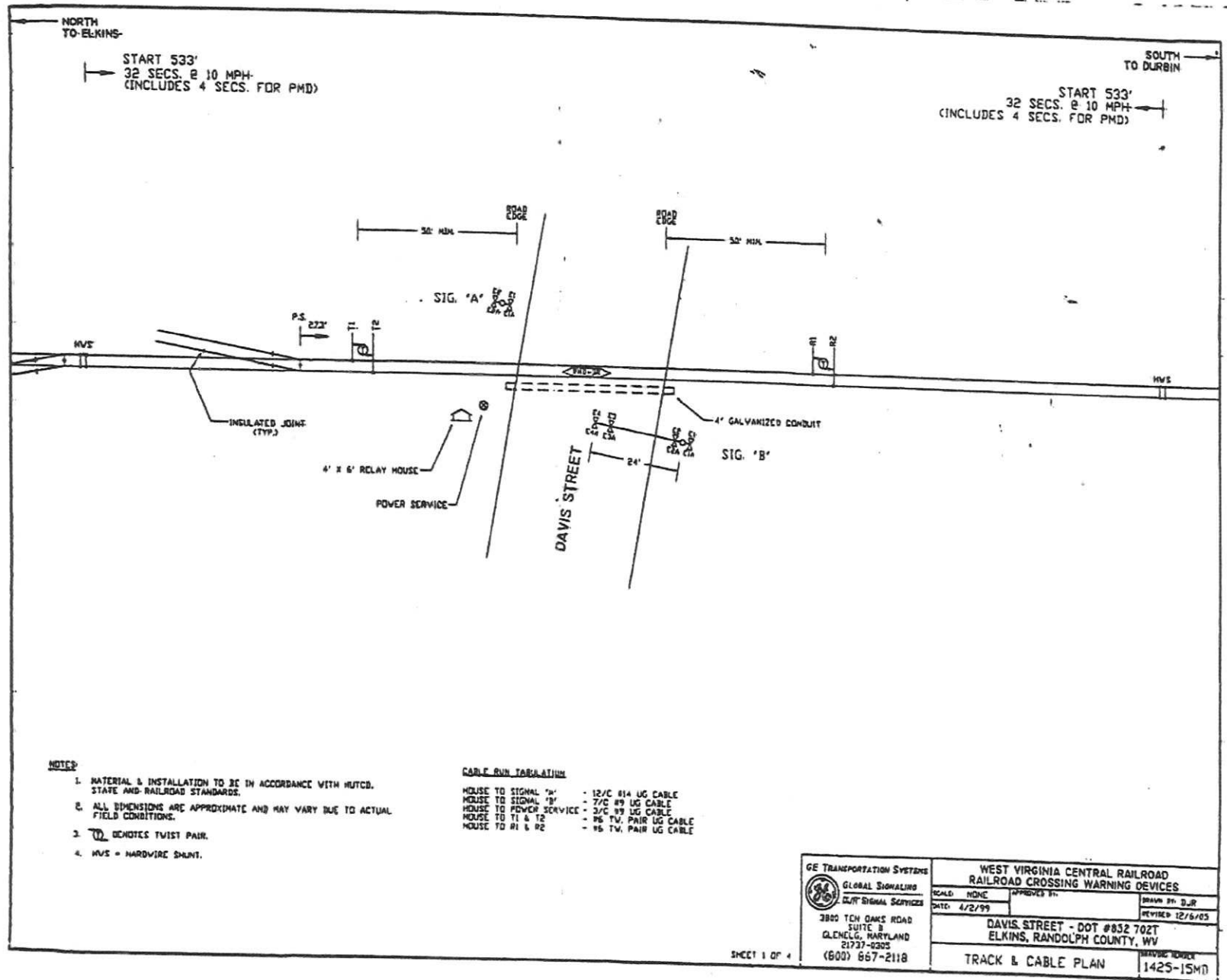
**Answer:** The project will be accepted when the SRA receives all of the test documents and the documents show the crossing is in working order per the CFR (Code of Federal Regulations) Title 49 Part 234. ([www.ecfr.gov](http://www.ecfr.gov))

**Question 27:** How long is the warranty after crossing acceptance by the customer?

**Answer:** Warranty information is found in Addendum 1 on page 17.

**Question 28:** If materials and/or workmanship do not conform to the acceptance of the customer, does the contractor have time to correct any defects?

**Answer:** Contractor agrees to provide goods and/or services that conform to the specifications of this contract. As stated in Addendum 1 page 15, payment will be made only after acceptance of goods or services so contractor will have to correct any defects found prior to acceptance.



**NOTES:**

1. MATERIAL & INSTALLATION TO BE IN ACCORDANCE WITH MUTCD, STATE AND RAILROAD STANDARDS.
2. ALL DIMENSIONS ARE APPROXIMATE AND MAY VARY DUE TO ACTUAL FIELD CONDITIONS.
3. T DENOTES TWIST PAIR.
4. HVS = HARDWIRE SHUNT.

**CABLE RUN TABULATION**

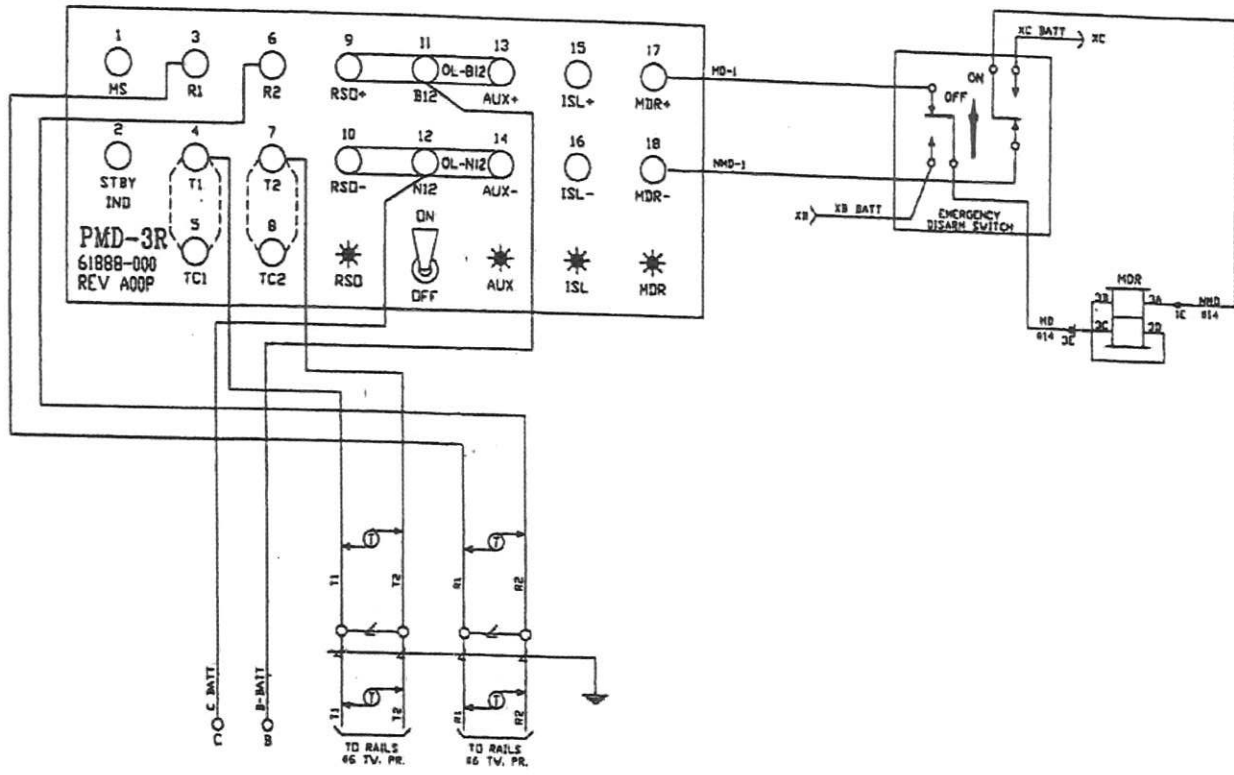
- HOUSE TO SIGNAL 'A' - 12/C #14 UG CABLE
- HOUSE TO SIGNAL 'B' - 7/C #9 UG CABLE
- HOUSE TO POWER SERVICE - 3/C #9 UG CABLE
- HOUSE TO T1 & T2 - #6 TV, PAIR UG CABLE
- HOUSE TO R1 & R2 - #6 TV, PAIR UG CABLE

GE TRANSPORTATION SYSTEMS GLOBAL SIGNALING 3800 TEN OAKS ROAD SUITE B GLENELG, MARYLAND 21737-0305 (600) 867-2118	<b>WEST VIRGINIA CENTRAL RAILROAD RAILROAD CROSSING WARNING DEVICES</b>		
	SCALE: NONE	APPROVED BY:	DRAWN BY: DJR
	DATE: 4/2/99		REVISED: 12/6/03
	DAVIS STREET - DOT #852 702T ELKINS, RANDOLPH COUNTY, WV		
TRACK & CABLE PLAN			TRAFFIC NUMBER 1425-15M1

SHEET 1 OF 4



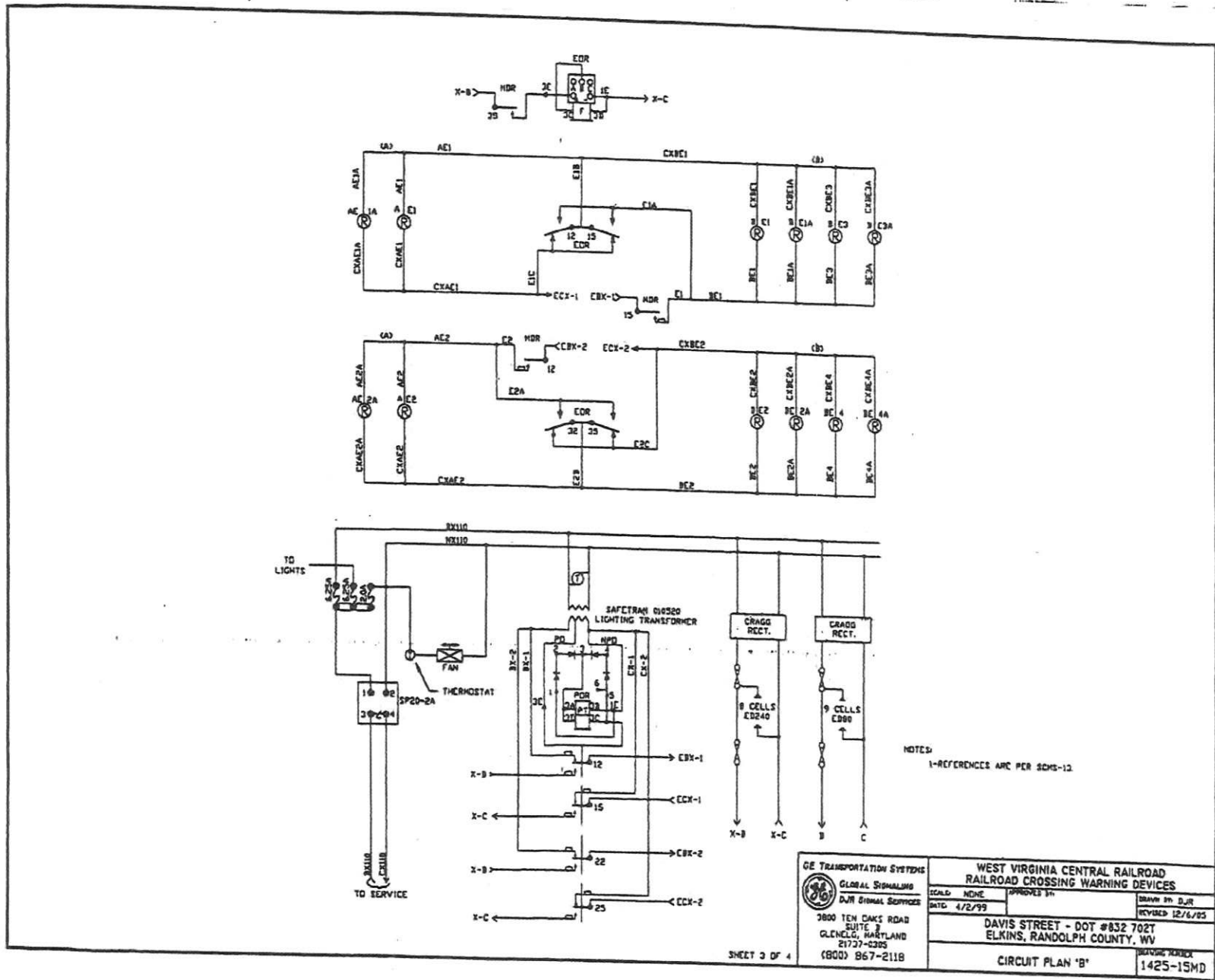
MASTER  SLAVE



NOTE:  DENOTES TWISTED PAIR.

GE TRANSPORTATION SYSTEMS GLOBAL SIGNALING DJR SIGNAL SERVICES 2808 TEN OAKS ROAD SUITE 3 GLENELL, MARYLAND 21737-8005 (800) 867-2118	WEST VIRGINIA CENTRAL RAILROAD RAILROAD CROSSING WARNING DEVICES	
	SCALE: NONE DATE: 4/2/99	APP'D BY: _____ DRAWN BY: D.J.B. REVISED: 12/6/93
	DAVIS STREET - DOT #832 702T ELKINS, RANDOLPH COUNTY, WV	
	CIRCUIT PLAN 'A' DRAWING NUMBER: 1425-15MD	

SHEET # OF 4

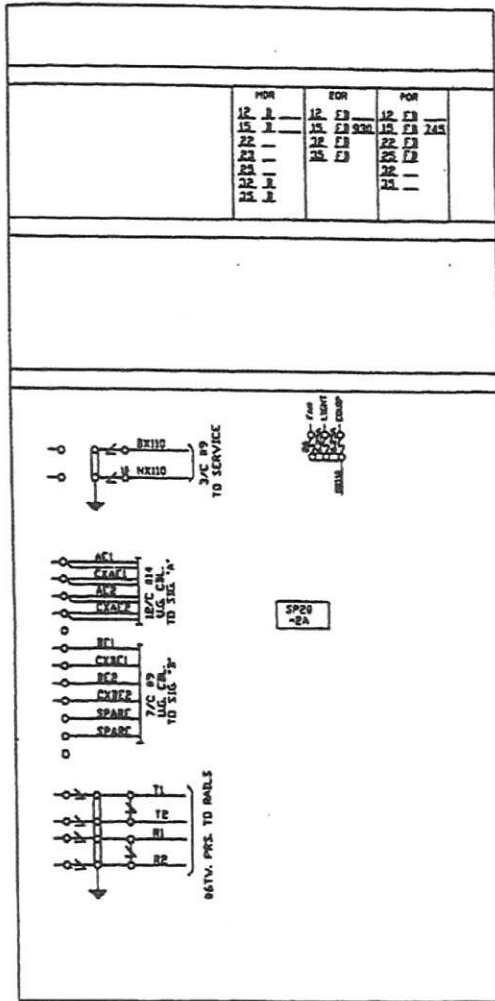


NOTES:  
1-REFERENCES ARE PER SCHE-12.

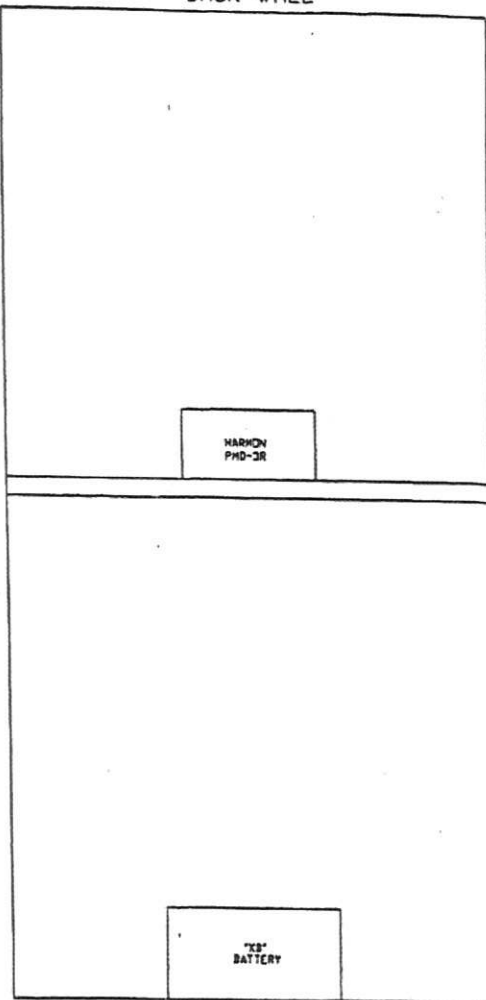
<b>GE TRANSPORTATION SYSTEMS</b>  GLOBAL SIGNALING DJM SIGNAL SERVICES 3800 TEN OAKS ROAD SUITE 3 GLENCOE, MARYLAND 21737-0385 (800) 867-2118	<b>WEST VIRGINIA CENTRAL RAILROAD RAILROAD CROSSING WARNING DEVICES</b>	
	SCALE: NONE DATE: 4/2/99	APPROVED BY: DRAWN BY: DJR REVISED 12/6/95
	DAVIS STREET - DOT #832 702T ELKINS, RANDOLPH COUNTY, WV	
	CIRCUIT PLAN "B" BEFORE MODEL 1425-15MD	

SHEET 3 OF 4

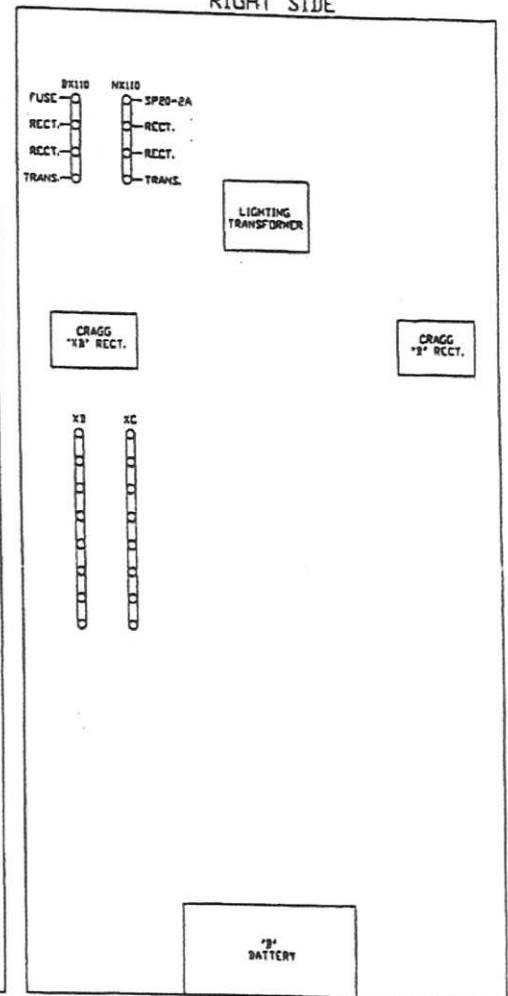
LEFT SIDE



BACK WALL



RIGHT SIDE



GE TRANSPORTATION SYSTEMS GLOBAL SIGNALING D.J.W. SIGNAL SERVICES 3800 FEN BARKS ROAD SUITE 1 GLENCLG, MARYLAND 21737-9305 (800) 867-2118	WEST VIRGINIA CENTRAL RAILROAD RAILROAD CROSSING WARNING DEVICES	
	TITLE: NONE DATE: 4/2/99	APPROVED BY: REVISED 12/6/05

PRE-BID CONFERENCE  
SIGN SHEET

Request for Quotation Number:

RMA13010

Date:

3-12-13

Project Description:

Install Gates at Davis Ave

PLEASE PRINT LEGIBLY. THIS INFORMATION IS ESSENTIAL TO CONTACT THE ATTENDEES IN A TIMELY MANNER. FAILURE TO DO SO  
MAY RESULT IN DELAYS IN YOUR COMPANY GETTING IMPORTANT BID INFORMATION.

WV STATE RAIL AUTHORITY

Firm Name:	<u>ALL Quality LLC</u>
Firm Address:	<u>PO Box 7169</u> <u>Cross Lanes WV 25336</u>
Representative Attending:	<u>Cynthia McClure</u>
Phone Number:	<u>304-776-9473</u>
Fax Number:	<u>304-776-9474</u>
Email Address:	<u>allqualityllc2@col.com</u>

Firm Name:	<u>AMTRAC RR Contractors of MD</u>
Firm Address:	<u>9436 FARLEY DRIVE</u> <u>HAGERSTOWN MD</u>
Representative Attending:	<u>BOB LASHWAY</u>
Phone Number:	<u>301 797 3750</u>
Fax Number:	<u>301 797 3740</u>
Email Address:	<u>RLASHWAY@AMTRACMD.COM</u>

Firm Name:	<u>Progress Rail Services</u>
Firm Address:	<u>11209 Electron Dr</u> <u>Louisville, KY</u> <u>40299</u>
Representative Attending:	<u>Brian Merriken</u>
Phone Number:	<u>443 493 1052</u>
Fax Number:	<u>502-367-1484</u>
Email Address:	<u>bmerriken@progressrail.com</u>

Firm Name:	<u>Master Service Mid Atlantic</u>
Firm Address:	<u>1745 Harrison Avenue</u> <u>Elkins, WV 26241</u>
Representative Attending:	<u>Bryan C. Totten</u>
Phone Number:	<u>304-636-8170</u>
Fax Number:	<u>304 636 8200</u>
Email Address:	<u>Bryan Totten@MasterServiceMA.com</u>

Firm Name:	<u>RJ Corman LLC</u>
Firm Address:	<u>PO Box 788</u> <u>101 RJ Corman Dr.</u> <u>Nicholasville KY 40340</u>
Representative Attending:	<u>Rocky Metz or Mike Wilson</u>
Phone Number:	<u>859 881 6649</u>
Fax Number:	<u>859 881-6771</u>
Email Address:	<u>Mike.Wilson@RJcorman.com</u>

Firm Name:	<u>DIAMONDBACK SIGNAL</u>
Firm Address:	<u>5965 EXCHANGE DR</u> <u>SUITE D</u> <u>SYKESVILLE MD 21784</u>
Representative Attending:	<u>KEVIN LAMB</u>
Phone Number:	<u>410 795 9601</u>
Fax Number:	<u>410 795 9607</u>
Email Address:	<u>KLAMB@DIAMONDBACKSIGNAL.COM</u>

3045387474 09:10 03/12/2013

**ADDENDUM ACKNOWLEDGEMENT FORM**  
**SOLICITATION NO.: RMA13010**

**Instructions:** Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

**Acknowledgment:** I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

**Addendum Numbers Received:**

(Check the box next to each addendum received)

- |                                                    |                                          |
|----------------------------------------------------|------------------------------------------|
| <input checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6  |
| <input checked="" type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7  |
| <input checked="" type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8  |
| <input type="checkbox"/> Addendum No. 4            | <input type="checkbox"/> Addendum No. 9  |
| <input type="checkbox"/> Addendum No. 5            | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that 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.

Amtrac Railroad Contractors of Maryland, Inc.

	Company
Robert Matthews	Authorized Signature
April 15, 2013	Date

**NOTE:** This addendum acknowledgement should be submitted with the bid to expedite document processing.



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

WV PURCHASING ACA SECT Fax 304-558-4115 Mar 15 2013 09:40am P001/012

RMA13010

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ADDRESS CORRESPONDENCE TO ATTENTION OF

PAUL REYNOLDS  
 304-558-0468

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\*709023822 301-797-3730  
 AMTRAC RAILROAD CONTRACTORS OF  
 9436 EARLEY DR  
 HAGERSTOWN MD 21740-1737

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WV STATE RAIL AUTHORITY  
 (DBA) SOUTH BRANCH VALLEY  
 RAILROAD  
 120 WATER PLANT DRIVE  
 MOOREFIELD, WV  
 26836 304-538-2305

DATE PRINTED

03/14/2013

BID OPENING DATE:

04/02/2013

BID OPENING TIME

1:30PM

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
				ADDENDUM #02		
				THIS ADDENDUM IS CREATED TO MAKE CLARIFICATIONS TO ADDENDUM NO. 1.		
				'NOTICE TO PROCEED' LANGUAGE READS 120 CALENDAR DAYS. WHILE TERMS AND CONDITIONS READ "180 DAYS"		
				TERMS AND CONDITIONS CORRECTED TO READ "120 CALENDAR DAYS".		
				TO CLARIFY BID OPENING DATE:		
				BID OPENING DATE IS APRIL 2, 2013 AT 1:30 P.M.		
				QUESTION SUBMISSION DEADLINE IS MARCH 19, 2013, AT 4:30 P.M.		
0001		EA	550-70	INSTALLATION RAILROAD CROSSING GATES	77,995. <sup>00</sup>	77,995. <sup>00</sup>
				***** THIS IS THE END OF RFQ RMA13010 ***** TOTAL:		77,995. <sup>00</sup>

NAME Robert Matthews

TELEPHONE 301-797-3730

DATE April 15, 2013

TITLE Vice President

FIRN 35-164916

ADDRESS CHANGES TO BE NOTED ABOVE

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

**SOLICITATION NUMBER: RMA13010**  
*Addendum Number: 2*

---

The purpose of this addendum is to modify the solicitation identified as RMA13010 ("Solicitation") to reflect the change(s) identified and described below.

**Applicable Addendum Category:**

- [ X ] Modify bid opening date and time
- [ X ] Modify specifications of product or service being sought
- [ ] Attachment of vendor questions and responses
- [ X ] Attachment of pre-bid sign-in sheet
- [ X ] Correction of error
- [ X ] Other Bid Documents Corrections

**Description of Modification to Solicitation:** To Correct and amend Bid Documents

**Additional Documentation:** Documentation related to this Addendum (if any) has been included herewith as Attachment A and is specifically incorporated herein by reference.

**Terms and Conditions:**

1. All provisions of the Solicitation and other addenda not modified herein shall remain in full force and effect.
2. Vendor should acknowledge receipt of all addenda issued for this Solicitation by completing an Addendum Acknowledgment, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

## ATTACHMENT A

A. Change "Notice to Proceed" language in Terms and Conditions to "120 Calendar Days".

B. Clarify Bid Opening Date:

Bid Opening date is April 2, 2013

C. Vendor Questions submission deadline is March 19, 2013,  
At 4:30 P.M.

D. Pre-bid Attendee list.

1. The addendum acknowledgement is attached: This document should be signed and returned with your bid. Failure to sign and return may result in disqualification.



**INSTRUCTIONS TO VENDORS SUBMITTING BIDS**

1. **REVIEW DOCUMENTS THOROUGHLY:** The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor's bid.
2. **MANDATORY TERMS:** The Solicitation may contain mandatory provisions identified by the use of the words "must," "will," and "shall." Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.
3. **PREBID MEETING:** The item identified below shall apply to this Solicitation.

A pre-bid meeting will not be held prior to bid opening.

A **NON-MANDATORY PRE-BID** meeting will be held at the following place and time:

--

A **MANDATORY PRE-BID** meeting will be held at the following place and time:

March 12, 2013 at 10:00 A.M.  Elkins Railroad Dept Railroad Ave Elkins, WV
----------------------------------------------------------------------------------------

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No one person attending the pre-bid meeting may represent more than one Vendor.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. The State will not accept any other form of proof or documentation to verify attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing. Additionally, the person attending the pre-bid meeting should include the Vendor's E-Mail address, phone number, and Fax number on the attendance sheet. It is the Vendor's responsibility to locate the attendance sheet and provide the required

information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

All Vendors should arrive prior to the starting time for the pre-bid. Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in, but are charged with knowing all matters discussed at the pre-bid.

Questions submitted at least five business days prior to a scheduled pre-bid will be discussed at the pre-bid meeting if possible. Any discussions or answers to questions at the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

4. **VENDOR QUESTION DEADLINE:** Vendors may submit questions relating to this Solicitation to the Purchasing Division. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the address listed below in order to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are non-binding.

Question Submission Deadline: March 19, 2013 at 4:30 P.M.

Submit Questions to:

Paul Reynolds  
2019 Washington Street, East  
P.O. Box 50130  
Charleston, WV 25305  
Fax: 304-558-4115  
Email: paul.reynolds@wv.gov

5. **VERBAL COMMUNICATION:** Any verbal communication between the Vendor and any State personnel is not binding, including that made at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Division is binding.
6. **BID SUBMISSION:** All bids must be signed and delivered by the Vendor to the Purchasing Division at the address listed below on or before the date and time of the bid opening. Any bid received by the Purchasing Division staff is considered to be in the possession of the Purchasing Division and will not be returned for any reason. The bid delivery address is:

Department of Administration, Purchasing Division  
2019 Washington Street East  
P.O. Box 50130,  
Charleston, WV 25305-0130

The bid should contain the information listed below on the face of the envelope or the bid may not be considered:

**SEALED BID**

BUYER: Paul Reynolds  
 SOLICITATION NO.: RMA 13010  
 BID OPENING DATE: April 16, 2013  
 BID OPENING TIME: 1:30 P.M.  
 FAX NUMBER: 301-797-3740

In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal plus  convenience copies of each to the Purchasing Division at the address shown above. Additionally, the Vendor should identify the bid type as either a technical or cost proposal on the face of each bid envelope submitted in response to a request for proposal as follows:

BID TYPE:  Technical  
 Cost

- 7. **BID OPENING:** Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when time stamped by the official Purchasing Division time clock.

Bid Opening Date and Time:

April 2, 2013 at 1:30 P.M.

Bid Opening Location:

Department of Administration, Purchasing Division  
 2019 Washington Street East  
 P.O. Box 50130,  
 Charleston, WV 25305-0130

- 8. **ADDENDUM ACKNOWLEDGEMENT:** Changes or revisions to this Solicitation will be made by an official written addendum issued by the Purchasing Division. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.
- 9. **BID FORMATTING:** Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

3. **CONTRACT TERM; RENEWAL; EXTENSION:** The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

**Term Contract**

**Initial Contract Term:** This Contract becomes effective on

and extends for a period of  year(s).

**Renewal Term:** This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal must be submitted to the Purchasing Division Director thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Renewal of this Contract is limited to  successive one (1) year periods. Automatic renewal of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases. Attorney General approval may be required for vendor terms and conditions.

**Reasonable Time Extension:** At the sole discretion of the Purchasing Division Director, and with approval from the Attorney General's office (Attorney General approval is as to form only), this Contract may be extended for a reasonable time after the initial Contract term or after any renewal term as may be necessary to obtain a new contract or renew this Contract. Any reasonable time extension shall not exceed twelve (12) months. Vendor may avoid a reasonable time extension by providing the Purchasing Division Director with written notice of Vendor's desire to terminate this Contract 30 days prior to the expiration of the then current term. During any reasonable time extension period, the Vendor may terminate this Contract for any reason upon giving the Purchasing Division Director 30 days written notice. Automatic extension of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases, but Attorney General approval may be required.

- Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within  120 calendar days.
- One Time Purchase:** The term of this Contract shall run from the issuance of the Purchase Order until all of the goods contracted for have been delivered, but in no event shall this Contract extend for more than one fiscal year.
- Other:** See attached.

PRE-BID CONFERENCE  
SIGN IN SHEET

PAGE 02/02

Request for Quotation Number:

BMA13010

Date:

3-12-13

Project Description:

Install Gates at Davis Ave

PLEASE PRINT LEGIBLY. THIS INFORMATION IS ESSENTIAL TO CONTACT THE ATTENDEES IN A TIMELY MANNER. FAILURE TO DO SO MAY RESULT IN DELAYS IN YOUR COMPANY GETTING IMPORTANT BID INFORMATION.

WV STATE RAIL AUTHOR

Firm Name:	<u>ALL Quality LLC</u>
Firm Address:	<u>PO BOX 7169</u> <u>Cross Lanes WV 26036</u>
Representative Attending:	<u>Cynthia McClure</u>
Phone Number:	<u>304-776-9473</u>
Fax Number:	<u>304-776-9474</u>
Email Address:	<u>allqualityllc2@aol.com</u>

Firm Name:	<u>AMTRAC RR Contractors of MD</u>
Firm Address:	<u>9436 EARLEY DRIVE</u> <u>HAGERSTOWN MD</u>
Representative Attending:	<u>BOB LASHWAY</u>
Phone Number:	<u>301 797 3730</u>
Fax Number:	<u>301 797 3740</u>
Email Address:	<u>RLASHWAY@AMTRACMD.COM</u>

Firm Name:	<u>Progress Rail Services</u>
Firm Address:	<u>11209 Electron Dr</u> <u>Louisville, KY</u> <u>40299</u>
Representative Attending:	<u>Brian Merriken</u>
Phone Number:	<u>443 493 1052</u>
Fax Number:	
Email Address:	<u>bmerriken@progressrail.com</u>

Firm Name:	<u>Master Service Mid Atlantic</u>
Firm Address:	<u>1745 Harrison Avenue</u> <u>Elkins, WV 26241</u>
Representative Attending:	<u>Bryan C. Totten</u>
Phone Number:	<u>304-636-8170</u>
Fax Number:	<u>304 636 8200</u>
Email Address:	<u>Bryan.Totten@MasterServiceMA.com</u>

Firm Name:	<u>RT Corman LLC</u>
Firm Address:	<u>PO Box 788</u> <u>101 RT Corman Dr.</u> <u>Nicholasville KY 40340</u>
Representative Attending:	<u>Rocky Metz or Mike Wilson</u>
Phone Number:	<u>859 881 6649</u>
Fax Number:	
Email Address:	<u>Mike.Wilson@RTCorman.com</u>

Firm Name:	<u>DIAMONDBACK SIGNAL</u>
Firm Address:	<u>5965 EXCHANGE DR</u> <u>SUITE D</u> <u>SYKESVILLE MD 21784</u>
Representative Attending:	<u>KEVIN LAMB</u>
Phone Number:	<u>410 795 9601</u>
Fax Number:	<u>410 795 9607</u>
Email Address:	<u>KLAMB@DIAMONDBACKSIGNAL.COM</u>

3045387474

03:15 03:15



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

**Solicitation**

NUMBER
RMA13010

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF:
PAUL REYNOLDS 304-558-0468

VENDOR

\*709023822 301-797-3730  
 AMTRAC RAILROAD CONTRACTORS OF  
 9436 EARLEY DR  
 HAGERSTOWN MD 21740-1737

SHIP TO

WV STATE RAIL AUTHORITY  
 (DBA) SOUTH BRANCH VALLEY  
 RAILROAD  
 120 WATER PLANT DRIVE  
 MOOREFIELD, WV  
 26836 304-538-2305

DATE PRINTED
03/01/2013

BID OPENING DATE: 04/02/2013 BID OPENING TIME 1:30PM

LINE	QUANTITY	UOP	CAT NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0001		EA		550-70 INSTALLATION RAILROAD CROSSING GATES	77,995. <sup>00</sup>	77,995. <sup>00</sup>
<p style="text-align: center;">AMENDMENT #01</p> <p>THIS AMENDMENT IS CREATED TO MODIFY THE TERMS AND CONDITIONS AS FOLLOWS:</p> <p>ADD PERFORMANCE BOND AMOUNT          ADD LIQUIDATED DAMAGES CLAUSE          CHANGE "NOTICE TO PROCEED" LANGUAGE TO READ:          "120 CALENDAR DAYS"          CLARIFY PURCHASING CARD ACCEPTANCE          CHANGE VENDOR QUESTION DEADLINE:          FROM: MARCH 12, 2013 AT 4:30 P.M.          TO: MARCH 19, 2013 AT 4:30 P.M.</p> <p>SPECIFICATION MODIFICATIONS          ADD PRICING PAGE          BID OPENING DATE IS CHANGED          FROM: MARCH 20, 2013 AT 1:30 P.M.          TO: APRIL 04, 2013 AT 1:30 P.M.</p> <p>ADD CONSTRUCTION CHECKLIST</p>						

SIGNATURE Robert Matthews	TELEPHONE 301-797-3730	DATE April 15, 2013
TITLE Vice President	FEIN 35-1649116	ADDRESS CHANGES TO BE NOTED ABOVE

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



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

**Solicitation**

NUMBER
RMA13010

PAGE
2

ADDRESS CORRESPONDENCE TO ATTENTION OF
PAUL REYNOLDS 304-558-0468

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\*709023822 301-797-3730  
 AMTRAC RAILROAD CONTRACTORS OF  
 9436 EARLEY DR  
 HAGERSTOWN MD 21740-1737

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T  
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WV STATE RAIL AUTHORITY  
 (DBA) SOUTH BRANCH VALLEY  
 RAILROAD  
 120 WATER PLANT DRIVE  
 MOOREFIELD, WV  
 26836 304-538-2305

DATE PRINTED
03/01/2013

BID OPENING DATE: 04/02/2013 BID OPENING TIME 1:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
THE WEST VIRGINIA STATE PURCHASING DIVISION FOR THE AGENCY THE WEST VIRGINIA RAILROAD AUTHORITY IS SOLICITING BIDS TO ESTABLISH A CONTRACT TO ADD GATES TO AN EXISTING CROSSING ON THE WEST VIRGINIA CENTRAL RAILROAD (WVCR) IN ELKINS, WV PER THE ATTACHED SPECIFICATIONS.						
***** THIS IS THE END OF RFQ RMA13010 ***** TOTAL:						<u>77,995.<sup>00</sup></u>

SIGNATURE Robert Matthews	TELEPHONE 301-797-3730	DATE April 15, 2013
TITLE Vice President	FEIN 35-1649116	ADDRESS CHANGES TO BE NOTED ABOVE

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

**SOLICITATION NUMBER: RMA13010***Addendum Number: 1*

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The purpose of this addendum is to modify the solicitation identified as RMA13010 ("Solicitation") to reflect the change(s) identified and described below.

**Applicable Addendum Category:**

- [ X ] Modify bid opening date and time
- [ X ] Modify specifications of product or service being sought
- [ ] Attachment of vendor questions and responses
- [ ] Attachment of pre-bid sign-in sheet
- [ X ] Correction of error
- [ X ] Other Bid Documents Corrections

**Description of Modification to Solicitation:** To Correct and amend Terms and Conditions

**Additional Documentation:** Documentation related to this Addendum (if any) has been included herewith as Attachment A and is specifically incorporated herein by reference.

**Terms and Conditions:**

1. All provisions of the Solicitation and other addenda not modified herein shall remain in full force and effect.
2. Vendor should acknowledge receipt of all addenda issued for this Solicitation by completing an Addendum Acknowledgment, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.



## ATTACHMENT A

## 1. To amend Terms and Conditions

- a. Add Pricing Pages
- b. Change Notice to Proceed language to read 180 calendar days.
- c. Change Liquidated damages clause.
- d. Add construction checklist
- e. Add Performance Bond amount.
- f. Delete License/certifications/permits requirement.
- g. Clarify Purchasing card acceptance

## 2. Change question deadline :

From: March 12, 2013 at 4:30 P.M.

To: March 18, 2013 at 4:30 P.M.

## 3. Change bid opening date

From: March 27, 2013 at 1:30 P.M.

To: April 02, 2013 at 1:30 P.M.

4. Specifications change. **4.1.1.7**

From Grote #55223

To: Grote #55223 or equal

And

**9.3**

From: Vendor shall make tracks safe for train service at the end of each day. This means all signals at the work site will be turned on and working properly at the end of each work day.

To: Vendor shall make tracks available for train service at the end of each day. This means all signals at the work site will be turned on and working properly at the end of each work day.

5. The addendum acknowledgement is attached. This document should be signed and returned with your bid. Failure to sign and return may result in disqualification.

**ADDENDUM ACKNOWLEDGEMENT FORM**  
**SOLICITATION NO.: RMA13010**

**Instructions:** Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

**Acknowledgment:** I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

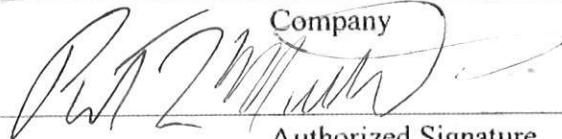
**Addendum Numbers Received:**

(Check the box next to each addendum received)

- |                                                    |                                          |
|----------------------------------------------------|------------------------------------------|
| <input checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6  |
| <input checked="" type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7  |
| <input checked="" type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8  |
| <input type="checkbox"/> Addendum No. 4            | <input type="checkbox"/> Addendum No. 9  |
| <input type="checkbox"/> Addendum No. 5            | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that 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.

Amtrac Railroad Contractors of Maryland, Inc.

  
Company

Authorized Signature  
Robert Matthews, VP

April 15, 2013

Date

NOTE: This addendum acknowledgment should be submitted with the bid to expedite document processing.

**INSTRUCTIONS TO VENDORS SUBMITTING BIDS**

- 1. **REVIEW DOCUMENTS THOROUGHLY:** The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor’s bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor’s bid.
- 2. **MANDATORY TERMS:** The Solicitation may contain mandatory provisions identified by the use of the words “must,” “will,” and “shall.” Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.
- 3. **PREBID MEETING:** The item identified below shall apply to this Solicitation.

| A pre-bid meeting will not be held prior to bid opening.

| A **NON-MANDATORY PRE-BID** meeting will be held at the following place and time:

| A **MANDATORY PRE-BID** meeting will be held at the following place and time:

March 12, 2013 at 10:00 A.M.

Elkins Railroad Dept  
 Railroad Ave  
 Elkins, WV

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor’s bid. No one person attending the pre-bid meeting may represent more than one Vendor.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. The State will not accept any other form of proof or documentation to verify attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing. Additionally, the person attending the pre-bid meeting should include the Vendor’s E-Mail address, phone number, and Fax number on the attendance sheet. It is the Vendor’s responsibility to locate the attendance sheet and provide the required

information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

All Vendors should arrive prior to the starting time for the pre-bid. Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in, but are charged with knowing all matters discussed at the pre-bid.

Questions submitted at least five business days prior to a scheduled pre-bid will be discussed at the pre-bid meeting if possible. Any discussions or answers to questions at the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

4. **VENDOR QUESTION DEADLINE:** Vendors may submit questions relating to this Solicitation to the Purchasing Division. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the address listed below in order to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are non-binding.

Question Submission Deadline:

Submit Questions to:

Fax:

Email:

5. **VERBAL COMMUNICATION:** Any verbal communication between the Vendor and any State personnel is not binding, including that made at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Division is binding.
6. **BID SUBMISSION:** All bids must be signed and delivered by the Vendor to the Purchasing Division at the address listed below on or before the date and time of the bid opening. Any bid received by the Purchasing Division staff is considered to be in the possession of the Purchasing Division and will not be returned for any reason. The bid delivery address is:

Department of Administration, Purchasing Division  
2019 Washington Street East  
P.O. Box 50130,  
Charleston, WV 25305-0130

The bid should contain the information listed below on the face of the envelope or the bid may not be considered:

SEALED BID

BUYER: Paul Reynolds

SOLICITATION NO.: RMA 1331

BID OPENING DATE: April 16, 2013

BID OPENING TIME: 1:30 P.M

FAX NUMBER: 301-797-3740

In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal plus  convenience copies of each to the Purchasing Division at the address shown above. Additionally, the Vendor should identify the bid type as either a technical or cost proposal on the face of each bid envelope submitted in response to a request for proposal as follows:

BID TYPE:   |   | Technical  
                   |   |  Cost

7. **BID OPENING:** Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when time stamped by the official Purchasing Division time clock.

**Bid Opening Date and Time:**

March 27, 2013 at 1:30 P.M.

**Bid Opening Location:**

Department of Administration, Purchasing Division  
 2019 Washington Street East  
 P.O. Box 50130,  
 Charleston, WV 25305-0130

8. **ADDENDUM ACKNOWLEDGEMENT:** Changes or revisions to this Solicitation will be made by an official written addendum issued by the Purchasing Division. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.
9. **BID FORMATTING:** Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

**GENERAL TERMS AND CONDITIONS:**

1. **CONTRACTUAL AGREEMENT:** Issuance of a Purchase Order signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.
  
2. **DEFINITIONS:** As used in this Solicitation / Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation / Contract.
  - 2.1 "Agency" or "Agencies" means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.
  
  - 2.2 "Contract" means the binding agreement that is entered into between the State and the Vendor to provide the goods and services requested in the Solicitation.
  
  - 2.3 "Director" means the Director of the West Virginia Department of Administration, Purchasing Division.
  
  - 2.4 "Purchasing Division" means the West Virginia Department of Administration, Purchasing Division.
  
  - 2.5 "Purchase Order" means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the successful bidder and Contract holder.
  
  - 2.6 "Solicitation" means the official solicitation published by the Purchasing Division and identified by number on the first page thereof.
  
  - 2.7 "State" means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.
  
  - 2.8 "Vendor" or "Vendors" means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. **CONTRACT TERM; RENEWAL; EXTENSION:** The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

| | **Term Contract**

**Initial Contract Term:** This Contract becomes effective on   
  
 and extends for a period of  year(s).

**Renewal Term:** This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal must be submitted to the Purchasing Division Director thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Renewal of this Contract is limited to  successive one (1) year periods. Automatic renewal of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases. Attorney General approval may be required for vendor terms and conditions.

**Reasonable Time Extension:** At the sole discretion of the Purchasing Division Director, and with approval from the Attorney General's office (Attorney General approval is as to form only), this Contract may be extended for a reasonable time after the initial Contract term or after any renewal term as may be necessary to obtain a new contract or renew this Contract. Any reasonable time extension shall not exceed twelve (12) months. Vendor may avoid a reasonable time extension by providing the Purchasing Division Director with written notice of Vendor's desire to terminate this Contract 30 days prior to the expiration of the then current term. During any reasonable time extension period, the Vendor may terminate this Contract for any reason upon giving the Purchasing Division Director 30 days written notice. Automatic extension of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases, but Attorney General approval may be required.

- |  | **Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within  120 Calendar  days.
- | | **One Time Purchase:** The term of this Contract shall run from the issuance of the Purchase Order until all of the goods contracted for have been delivered, but in no event shall this Contract extend for more than one fiscal year.
- | | **Other:** See attached.



4. **NOTICE TO PROCEED:** Vendor shall begin performance of this Contract immediately upon receiving notice to proceed unless otherwise instructed by the Agency. Unless otherwise specified, the fully executed Purchase Order will be considered notice to proceed
5. **QUANTITIES:** The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.
- | **Open End Contract:** Quantities listed in this Solicitation are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.
  - | **Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.
  - | **Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.
  - | **One Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.
6. **PRICING:** The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification.
7. **EMERGENCY PURCHASES:** The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute of breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.
8. **REQUIRED DOCUMENTS:** All of the items checked below must be provided to the Purchasing Division by the Vendor as specified below.
- | **BID BOND:** All Vendors shall furnish a bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

| **PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of  . The performance bond must be issued and received by the Purchasing Division prior to Contract award. On construction contracts, the performance bond must be 100% of the Contract value.

| **LABOR/MATERIAL PAYMENT BOND:** The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be issued and delivered to the Purchasing Division prior to Contract award.

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under \$100,000. Personal or business checks are not acceptable.

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

| **WORKERS' COMPENSATION INSURANCE:** The apparent successful Vendor shall have appropriate workers' compensation insurance and shall provide proof thereof upon request.

| **INSURANCE:** The apparent successful Vendor shall furnish proof of the following insurance prior to Contract award:

| | **Commercial General Liability Insurance:**  
 or more.

| | **Builders Risk Insurance:** builders risk – all risk insurance in an amount equal to 100% of the amount of the Contract.

<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	<input type="checkbox"/>	

The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed above.

**LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section entitled Licensing, of the General Terms and Conditions, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits prior to Contract award, in a form acceptable to the Purchasing Division.

{		
{		
{		
{		

The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications prior to Contract award regardless of whether or not that requirement is listed above.

**9. LITIGATION BOND:** The Director reserves the right to require any Vendor that files a protest of an award to submit a litigation bond in the amount equal to one percent of the lowest bid submitted or \$5,000, whichever is greater. The entire amount of the bond shall be forfeited if the hearing officer determines that the protest was filed for frivolous or improper purpose, including but not limited to, the purpose of harassing, causing unnecessary delay, or needless expense for the Agency. All litigation bonds shall be made payable to the Purchasing Division. In lieu of a bond, the protester may submit a cashier's check or certified check payable to the Purchasing Division. Cashier's or certified checks will be deposited with and held by the State Treasurer's office. If it is determined that the protest has not been filed for frivolous or improper purpose, the bond or deposit shall be returned in its entirety.

**10. ALTERNATES:** Any model, brand, or specification listed herein establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.

**11. EXCEPTIONS AND CLARIFICATIONS:** The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or

other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.

**12. LIQUIDATED DAMAGES:** Vendor shall pay liquidated damages in the amount

\$1,000.00 per day for any work not completed within 120 calendar days following the Notice to Proceed.

This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy.

**13. ACCEPTANCE/REJECTION:** The State may accept or reject any bid in whole, or in part. Vendor's signature on its bid signifies acceptance of the terms and conditions contained in the Solicitation and Vendor agrees to be bound by the terms of the Contract, as reflected in the Purchase Order, upon receipt.

**14. REGISTRATION:** Prior to Contract award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the \$125 fee if applicable.

**15. COMMUNICATION LIMITATIONS:** In accordance with West Virginia Code of State Rules §148-1-6.6, communication with the State of West Virginia or any of its employees regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited without prior Purchasing Division approval. Purchasing Division approval for such communication is implied for all agency delegated and exempt purchases.

**16. FUNDING:** This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available.

**17. PAYMENT:** Payment in advance is prohibited under this Contract. Payment may only be made after the delivery and acceptance of goods or services. The Vendor shall submit invoices, in arrears, to the Agency at the address on the face of the purchase order labeled "Invoice To."

**18. UNIT PRICE:** Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.

**19. DELIVERY:** All quotations are considered freight on board destination ("F.O.B. destination") unless alternate shipping terms are clearly identified in the bid. Vendor's listing of shipping terms that contradict the shipping terms expressly required by this Solicitation may result in bid disqualification.

**20. INTEREST:** Interest attributable to late payment will only be permitted if authorized by the West Virginia Code. Presently, there is no provision in the law for interest on late payments.

**21. PREFERENCE:** Vendor Preference may only be granted upon written request and only in accordance with the West Virginia Code § 5A-3-37 and the West Virginia Code of State Rules. A Resident Vendor Certification form has been attached hereto to allow Vendor to apply for the preference. Vendor's

failure to submit the Resident Vendor Certification form with its bid will result in denial of Vendor Preference. Vendor Preference does not apply to construction projects.

- 22. SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES:** For any solicitations publicly advertised for bid on or after July 1, 2012, in accordance with West Virginia Code §5A-3-37(a)(7) and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to submission of its bid to receive the preferences made available to resident vendors. Preference for a non-resident small, women-owned, or minority owned business shall be applied in accordance with W. Va. CSR § 148-22-9.
- 23. TAXES:** The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
- 24. CANCELLATION:** The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-7.16.2.
- 25. WAIVER OF MINOR IRREGULARITIES:** The Director reserves the right to waive minor irregularities in bids or specifications in accordance with West Virginia Code of State Rules § 148-1-4.6.
- 26. TIME:** Time is of the essence with regard to all matters of time and performance in this Contract.
- 27. APPLICABLE LAW:** This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.
- 28. COMPLIANCE:** Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendors acknowledge that they have reviewed, understand, and will comply with all applicable law.
- 29. PREVAILING WAGE:** On any contract for the construction of a public improvement, Vendor and any subcontractors utilized by Vendor shall pay a rate or rates of wages which shall not be less than the fair minimum rate or rates of wages (prevailing wage), as established by the West Virginia Division of Labor under West Virginia Code §§ 21-5A-1 et seq. and available at <http://www.sos.wv.gov/administrative-law/wagerates/Pages/default.aspx>. Vendor shall be responsible for ensuring compliance with prevailing wage requirements and determining when prevailing wage

requirements are applicable. The required contract provisions contained in West Virginia Code of State Rules § 42-7-3 are specifically incorporated herein by reference.

- 30. ARBITRATION:** Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.
- 31. MODIFICATIONS:** This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary, no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). **No Change shall be implemented by the Vendor until such time as the Vendor receives an approved written change order from the Purchasing Division.**
- 32. WAIVER:** The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.
- 33. SUBSEQUENT FORMS:** The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.
- 34. ASSIGNMENT:** Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments. Notwithstanding the foregoing, Purchasing Division approval may or may not be required on certain agency delegated or exempt purchases.
- 35. WARRANTY:** The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.
- 36. STATE EMPLOYEES:** State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.
- 37. BANKRUPTCY:** In the event the Vendor files for bankruptcy protection, the State of West Virginia may deem this Contract null and void, and terminate this Contract without notice.

- 38. HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, is available online at <http://www.state.wv.us/admin/purchase/vrc/hipaa.html> and is hereby made part of the agreement provided that the Agency meets the definition of a Covered entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the Vendor.
- 39. CONFIDENTIALITY:** The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/default.html>.
- 40. DISCLOSURE:** Vendor's response to the Solicitation and the resulting Contract are considered public documents and will be disclosed to the public in accordance with the laws, rules, and policies governing the West Virginia Purchasing Division. Those laws include, but are not limited to, the Freedom of Information Act found in West Virginia Code § 29B-1-1 et seq.

If a Vendor considers any part of its bid to be exempt from public disclosure, Vendor must so indicate by specifically identifying the exempt information, identifying the exemption that applies, providing a detailed justification for the exemption, segregating the exempt information from the general bid information, and submitting the exempt information as part of its bid but in a segregated and clearly identifiable format. Failure to comply with the foregoing requirements will result in public disclosure of the Vendor's bid without further notice. A Vendor's act of marking all or nearly all of its bid as exempt is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor's act of marking a bid or any part thereof as "confidential" or "proprietary" is not sufficient to avoid disclosure and WILL NOT BE HONORED. In addition, a legend or other statement indicating that all or substantially all of the bid is exempt from disclosure is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor will be required to defend any claimed exemption for nondisclosure in the event of an administrative or judicial challenge to the State's nondisclosure. Vendor must indemnify the State for any costs incurred related to any exemptions claimed by Vendor. Any questions regarding the applicability of the various public records laws should be addressed to your own legal counsel prior to bid submission.

- 41. LICENSING:** In accordance with West Virginia Code of State Rules §148-1-6.1.7, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

42. **ANTITRUST:** In submitting a bid to, signing a contract with, or accepting a Purchase Order from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.
43. **VENDOR CERTIFICATIONS:** By signing its bid or entering into this Contract, Vendor certifies (1) that its bid was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid for the same material, supplies, equipment or services; (2) that its bid is in all respects fair and without collusion or fraud; (3) that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; and (4) that it has reviewed this RFQ in its entirety; understands the requirements, terms and conditions, and other information contained herein. Vendor's signature on its bid also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency.

The individual signing this bid on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

44. **PURCHASING CARD ACCEPTANCE:** The State of West Virginia currently utilizes a Purchasing Card program, administered under contract by a banking institution, to process payment for goods and services. The Vendor must accept the State of West Virginia's Purchasing Card for payment of all orders under this Contract unless the box below is checked.

Vendor is not required to accept the State of West Virginia's Purchasing Card as payment for all goods and services.

45. **VENDOR RELATIONSHIP:** The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, *etc.* and the filing of all necessary documents, forms and returns pertinent to all of the foregoing. Vendor shall hold harmless the



State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

- 46. INDEMNIFICATION:** The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.
- 47. PURCHASING AFFIDAVIT:** In accordance with West Virginia Code § 5A-3-10a, all Vendors are required to sign, notarize, and submit the Purchasing Affidavit stating that neither the Vendor nor a related party owe a debt to the State in excess of \$1,000. The affidavit must be submitted prior to award, but should be submitted with the Vendor's bid. A copy of the Purchasing Affidavit is included herewith.
- 48. ADDITIONAL AGENCY AND LOCAL GOVERNMENT USE:** This Contract may be utilized by and extends to other agencies, spending units, and political subdivisions of the State of West Virginia; county, municipal, and other local government bodies; and school districts ("Other Government Entities"). This Contract shall be extended to the aforementioned Other Government Entities on the same prices, terms, and conditions as those offered and agreed to in this Contract. If the Vendor does not wish to extend the prices, terms, and conditions of its bid and subsequent contract to the Other Government Entities, the Vendor must clearly indicate such refusal in its bid. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner.
- 49. CONFLICT OF INTEREST:** Vendor, its officers or members or employees, shall not presently have or acquire any interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.
- 50. REPORTS:** Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:
- Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

- | | Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at [purchasing.requisitions@wv.gov](mailto:purchasing.requisitions@wv.gov).

**51. BACKGROUND CHECK:** In accordance with W. Va. Code § 15-2D-3, the Director of the Division of Protective Services shall require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol complex or who have access to sensitive or critical information to submit to a fingerprint-based state and federal background inquiry through the state repository. The service provider is responsible for any costs associated with the fingerprint-based state and federal background inquiry.

After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol complex to the Director of the Division of Protective Services for purposes of verifying compliance with this provision.

The State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check.

Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

**52. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS:** Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open heath, basic oxygen, electric furnace, Bessemer or other steel making process.

The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:

- a. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total

contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or

- b. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

**53. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL:** In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a "substantial labor surplus area", as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products.

This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

**ADDITIONAL TERMS AND CONDITIONS (Construction Contracts Only)**

1. **CONTRACTOR'S LICENSE:** West Virginia Code § 21-11-2 requires that all persons desiring to perform contracting work in this state be licensed. The West Virginia Contractors Licensing Board is empowered to issue the contractor's license. Applications for a contractor's license may be made by contacting the West Virginia Division of Labor.

West Virginia Code § 21-11-11 requires any prospective Vendor to include the contractor's license number on its bid. Failure to include a contractor's license number on the bid shall result in Vendor's bid being disqualified. Vendors should include a contractor's license number in the space provided below.

Contractor's Name:

Contractor's License No.

The apparent successful Vendor must furnish a copy of its contractor's license prior to the issuance of a purchase order/contract.

2. **DRUG-FREE WORKPLACE:** W. Va. Code § 21-1D-5 provides that any solicitation for a public improvement contract requires each Vendor that submits a bid for the work to submit at the same time an affidavit that the Vendor has a written plan for a drug-free workplace policy. To comply with this law, Vendor must either complete the enclosed drug-free workplace affidavit and submit the same with its bid or complete a similar affidavit that fulfills all of the requirements of the applicable code. Failure to submit the signed and notarized drug-free workplace affidavit, or a similar affidavit that fully complies with the requirements of the applicable code, with the bid shall result in disqualification of Vendor's bid.
3. **AIA DOCUMENTS:** All construction contracts that will be completed in conjunction with architectural services procured under Chapter 5G of the West Virginia Code will be governed by the AIA A101-2007 and A201-2007 or the A107-2007 documents, as amended by the Supplementary Conditions for the State of West Virginia, in addition to the terms and conditions contained herein.
4. **SUBCONTRACTOR LIST SUBMISSION:** In accordance with W. Va. Code § 5-22-1, The apparent low bidder on a contract for the construction, alteration, decoration, painting or improvement of a new or existing building or structure valued at more than \$500,000.00 shall submit a list of all subcontractors who will perform more than \$25,000.00 of work on the project including labor and materials. This provision shall not apply to any other construction projects, such as highway, mine reclamation, water or sewer projects.

c. **Required Information.** The subcontractor list shall contain the following information:

- i. Bidder's name
  - ii. Name of each subcontractor
  - iii. License numbers as required by W. Va. Code § 21-11-1 et. seq.
  - iv. Notation that no subcontractors will be used if the bidder will perform the work
- d. **Submission.** The completed subcontractor list shall be provided to the Purchasing Division within one business day of the opening of bids for review. Failure to submit the subcontractor list within one business day after the deadline for submitting bids shall result in disqualification of the bid.
- e. **Substitution of Subcontractor.** Written approval must be obtained from the Purchasing Division before any subcontractor substitution is permitted. Substitutions are not permitted unless:
- i. The subcontractor listed in the original bid has filed for bankruptcy;
  - ii. The subcontractor in the original bid has been debarred or suspended; or
  - iii. The contractor certifies in writing that the subcontractor listed in the original bill fails, is unable, or refuses to perform his subcontract.
5. **GREEN BUILDINGS MINIMUM ENERGY STANDARDS:** In accordance with § 22-29-4, all new building construction projects of public agencies that have not entered the schematic design phase prior to July 1, 2012, or any building construction project receiving state grant funds and appropriations, including public schools, that have not entered the schematic design phase prior to July 1, 2012, shall be designed and constructed complying with the ICC International Energy Conservation Code, adopted by the State Fire Commission, and the ANSI/ASHRAE/IESNA Standard 90.1-2007: *Provided*, That if any construction project has a commitment of federal funds to pay for a portion of such project, this provision shall only apply to the extent such standards are consistent with the federal standards.

**SPECIFICATIONS**

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the WV State Rail Authority to establish a contract to add gates to an existing crossing on the West Virginia Central Railroad (WVCR) on Davis Avenue in Elkins, WV.
2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.
  - 2.1 **“Contract Services”** means the installation of gates at an existing highway/railroad crossing on the West Virginia Central Railroad in Elkins, WV.
  - 2.2 **“Pricing Page”** means the pages upon which Vendor should list its proposed price for the Contract Services. The Pricing Page is either included on the last page of this RFQ or attached hereto as Exhibit A.
  - 2.3 **“RFQ”** means the official request for quotation published by the Purchasing Division and identified as RMA13010
  - 2.4 **“WVCR”** means West Virginia Central Railroad
  - 2.5 **“AREMA”** means American Railway Engineering and Maintenance-of-Way Association ([www.AREMA.org](http://www.AREMA.org))
  - 2.6 **“AAR”** means Association of American Railroads ([www.AAR.org](http://www.AAR.org))
  - 2.7 **“NFPA 70 -NEC”** means National Fire Protection Association - National Electrical Code  
([www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=70](http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=70))
  - 2.8 **“FHWA”** means Federal Highway Administration
3. **QUALIFICATIONS:** Vendor shall have the following minimum qualifications:
  - 3.1. Previous experience with crossing signal and gate installation is required. Vendor must provide experience and references of at least five projects for projects of similar sizes completed within the last five years.

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RMA13010 -Install Gates at a Crossing on the WVCR in Elkins, WV

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**4. MANDATORY REQUIREMENTS:**

**4.1 Mandatory Contract Services Requirements and Deliverables:** Contract Services must meet or exceed the mandatory requirements listed below.

**4.1.1 Add gates to existing crossing protection system located at Davis Avenue on the WVCR as described below:**

**4.1.1.1** Keep original equipment case and signal system inside the equipment case intact

**4.1.1.2** Replace existing 8 inch lights with 12 inch LED type light heads (Alstrom type 59649-200-04) or equivalent with backgrounds and hoods

**4.1.1.3** Erico (WEB) joint plug bond SBPAJA type or equivalent

**4.1.1.4** (2) six volt or (1) 12 volt battery for each power buss. (Power safe Brand "V" type top connection battery or equivalent) matching amp/hr rating. Install type A40R-10-10/18V-3A1 battery charger(s) or equivalent.

**4.1.1.5** Safetran type s-60 gate mechanism or equivalent. Gate arm to be fiberglass/aluminum constructions equal to safetran type 076600(xx) with led lights. Wiring for gate mechanism and lights must be #9AWG for up to 60 ft and #6 AWG if over 60ft.

**4.1.1.6** Install power off indicator light in case

**4.1.1.7** Install (side mount) one amber (Grote #55223) type light or equivalent on EMT conduit to a height 10 inches above crossing instrument case oriented to be in full view of approaching trains and configured to flash in sequence with crossing warning lights.

**4.1.1.8** Install electronic type bell to one mast – Bell to be Safetran type 8000-80301-1003 or equivalent

**4.1.1.9** Upgrade electric service on service pole (replace breaker box and breaker with new parts) Current breaker box model is a Challenger SL12(2-4) RN Mod.2

**4.1.1.10** Replace existing AC service disconnect with new 60 amp or greater weather proof lockable enclosure. Install (2) single 20 amp breakers. All work must meet NFPA 70 - NEC.  
([www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=70](http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=70))

**4.1.1.11** Bond signal case per AAR signal manual part 11.3.1  
([www.AAR.org](http://www.AAR.org))

**4.1.12** Supply two (2) sets of modified prints. This includes electrical Schematics and layout drawings of the entire system.

**4.1.13** Paint exterior of equipment case preserving any signs on case. Use silver non-fiber aluminum paint.

**4.1.14** Install new cross bucks and “number” of tracks signs. These are to be aluminum and meet the requirements as set for by the FHWA. There website is

[http://safety.fhwa.dot.gov/xings/com\\_roaduser/07010/Sec04a.htm](http://safety.fhwa.dot.gov/xings/com_roaduser/07010/Sec04a.htm)

**4.1.15** Install one 120 VAC 20-55 cfm vent blower in top side of equipment case with adjustable close on rise thermostat 90-130 degrees.

**4.1.16** all materials will be supplied by the contractor and must meet specifications in the AREMA Manual for Railway Engineering. ([www.AREMA.org](http://www.AREMA.org)) and AAR regulations ([www.AAR.org](http://www.AAR.org)).



REQUEST FOR QUOTATION  
RMA13010 -Install Gates at a Crossing on the WVCR in Elkins, WV

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4.1.17 all vendor employees working on this contract will be required to attend a ½ day class on track safety and track access given by the Durbin and Greenbrier Valley Railroad's track Supervisor.

4.1.18 Contractor will be responsible for clean-up of the work site. All debris and refuse will be removed from WVCR property and disposed of offsite.

**5. CONTRACT AWARD:**

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

**5.2 Pricing Page:** Vendor should complete the Pricing Page by listing the unit cost for the complete installation of gates as described above. Vendor should complete the Pricing Page in full as failure to complete the Pricing Page in its entirety may result in Vendor's bid being disqualified.

Notwithstanding the foregoing, the Purchasing Division may correct errors as it deems appropriate. Vendor should type or electronically enter the information into the Pricing Page to prevent errors in the evaluation.

- 6. PERFORMANCE:** Vendor and Agency shall agree upon a schedule for performance of Contract Services and Contract Services Deliverables, unless such a schedule is already included herein by Agency. In the event that this Contract is designated as an open-end contract, Vendor shall perform in accordance with the release orders that may be issued against this Contract.
- 7. PAYMENT:** Agency shall pay on a percent complete of total contract price, as shown on the Pricing Pages, for all Contract Services performed and accepted under this Contract. Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.
- 8. TRAVEL:** Vendor shall be responsible for all mileage and travel costs, including travel time, associated with performance of this Contract. Any anticipated mileage or travel costs

REQUEST FOR QUOTATION  
RMA13010 -Install Gates at a Crossing on the WVCR in Elkins, WV

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may be included in the flat fee or hourly rate listed on Vendor's bid, but such costs will not be paid by the Agency separately.

**9. FACILITIES ACCESS:** Performance of Contract Services will require access to the railroad.

9.1. Vendor must coordinate with the operator The Durbin & Greenbrier Valley Railroad for track access. Contact for track access is Mark Smith, 304-642-3050 or wvctrack@yahoo.com.

9.2. Vendor must have a radio capable of communicating with the DGVR. The radio must be a minimum of 40 watts and it must be programmed to the same frequency as the DGVR. Each work crew must be equipped with a radio stationed to road channel 160.455.

9.3. Vendor shall make tracks safe for train service at the end of each day. This means all signals at the work site will be turned on and working properly at the end of each work day.

**10. VENDOR DEFAULT:**

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

10.1.1. Failure to perform Contract Services in accordance with the requirements contained herein.

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

10.1.3. Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.

10.1.4. Failure to remedy deficient performance upon request.

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

10.2.1. Cancellation of the Contract.

10.2.2. Cancellation of one or more release orders issued under this Contract.

10.2.3. Any other remedies available in law or equity.

REQUEST FOR QUOTATION  
RMA13010 -Install Gates at a Crossing on the WVCR in Elkins, WV

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**11. MISCELLANEOUS:**

**11.1. Contract Manager:** During its performance of this Contract, Vendor must designate and maintain a primary contract manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract manager must be available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract manager and his or her contact information below.

**Contract Manager:**           Jacqueline L. Manzini            
**Telephone Number:**           301-797-3730            
**Fax Number:**           ~301-797-3740            
**Email Address:**           jmanzini@amtracmd.com

WVCR Davis Avenue Gate Installation - Cost Sheet			
Line Item	Description		Extended Cost
	Gate Installation		
1	Complete Installation of Gates on Davis Ave in Elkins (Lump Sum)	LUMP SUM	\$ 77,995. <sup>00</sup>
		<b>Total Bid:</b>	\$ 77,995. <sup>00</sup>

**ADDENDUM ACKNOWLEDGEMENT FORM**

**SOLICITATION NO.:** RMA13010

**Instructions:** Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

**Acknowledgment:** I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

**Addendum Numbers Received:**

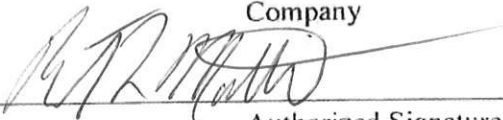
(Check the box next to each addendum received)

- |                                                    |                                          |
|----------------------------------------------------|------------------------------------------|
| <input checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6  |
| <input checked="" type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7  |
| <input checked="" type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8  |
| <input type="checkbox"/> Addendum No. 4            | <input type="checkbox"/> Addendum No. 9  |
| <input type="checkbox"/> Addendum No. 5            | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further 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.

Amtrac Railroad Contractors of Maryland, Inc.

Company



Authorized Signature

**Robert Matthews**

April 15, 2013

Date

NOTE: This addendum acknowledgement should be submitted with the bid to expedite document processing.

WV-75  
Created 07/18/12



State of West Virginia

## **PURCHASING DIVISION**

### **Construction Bid Submission Review Form**

*This list has been provided for informational purposes only and is not to be construed as a complete list of request for quotation or bidding requirements for any individual construction project. This list does not and cannot include every item, mistake or oversight that could cause a contractor's bid to be disqualified. Rather, this list is intended to draw attention to some of the most common problems that the Purchasing Division encounters in the bidding process for construction projects. All potential bidders must read the request for quotation, all additional documents, and all instructions relating thereto ("Bid Documents") in their entirety to identify the actual request for quotation and bidding requirements. Failure to read the Bid Documents in their entirety and comply with the stated requirements contained therein may result in bid disqualification.*

#### **Errors That Shall Be Reason for Immediate Bid Disqualification**

1. Failure to attend a mandatory pre-bid meeting
2. Failure to sign the bid
3. Failure to supply West Virginia contractor's license # on bid
4. Failure to supply a signed drug free workplace affidavit with the bid
5. Failure to supply a valid bid bond or other surety approved by the State of West Virginia
6. Failure to meet any mandatory requirement of the RFQ
7. Failure to acknowledge receipt of Addenda (only if stipulated as mandatory)
8. Failure to submit bid prior to the bid opening date and time
9. Federal debarment
10. State of West Virginia debarment or suspension

#### **Errors that May Be Reason for Bid Disqualification Before Contract Award**

1. Uncontested debt to the State exceeding \$1,000.00 (must be cured prior to award)
2. Workers' Compensation or Unemployment Compensation delinquency (must be cured prior to award)
3. Not registered as a vendor with the State (must be cured prior to award)
4. Failure to obtain required bonds and/or insurance
5. Failure to provide the sub-contractor listing within 1 business day of bid opening.
6. Failure to use the provided RFQ form (only if stipulated as mandatory).



State of West Virginia  
DRUG FREE WORKPLACE CONFORMANCE AFFIDAVIT  
West Virginia Code §21-1D-5

STATE OF Maryland

COUNTY OF Washington, TO-WIT:

I, Robert Matthews, after being first duly sworn, depose and state as follows:

- 1. I am an employee of Amtrac Railroad Contractors of MD. Inc.; and,  
(Company Name)
- 2. I do hereby attest that Amtrac Railroad Contractors of MD. Inc.  
(Company Name)

maintains a valid written drug free workplace policy and that such policy is in compliance with **West Virginia Code** §21-1D-5.

The above statements are sworn to under the penalty of perjury.

Amtrac Railroad Contractors of MD. Inc.

(Company Name)

By:

Robert L. Matthews

Title: Vice President

Date: April 15, 2013

Taken, subscribed and sworn to before me this 15th day of April.

By Commission expires November 22, 2015

(Seal)

Sheila Rowe (Notary Public)

**THIS AFFIDAVIT MUST BE SUBMITTED WITH THE BID IN ORDER TO COMPLY WITH WV CODE PROVISIONS. FAILURE TO INCLUDE THE AFFIDAVIT WITH THE BID SHALL RESULT IN DISQUALIFICATION OF THE BID.**

RFQ No. RMA13010

STATE OF WEST VIRGINIA  
Purchasing Division

**PURCHASING AFFIDAVIT**

**MANDATE:** Under W. Va. Code §5A-3-10a, 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: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

**EXCEPTION:** The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. 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.

**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.


**"Employer default"** means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

**"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.

**AFFIRMATION:** By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (W. Va. Code §61-5-3) that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

**WITNESS THE FOLLOWING SIGNATURE:**

Vendor's Name: Amtrac Railroad Contractors of Maryland, Inc.

Authorized Signature:  Date: April 15, 2013  
Robert L. Matthews

State of Maryland

County of Washington, to-wit:

Taken, subscribed, and sworn to before me this 15th day of April, 2013.

My Commission expires November 22, 2015, 20    .

AFFIX SEAL HERE

NOTARY PUBLIC   
Sheila Rowe  
Purchasing Affidavit (Revised 07/01/2012)





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

**Solicitation**

NUMBER
RMA13010

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF
PAUL REYNOLDS 304-558-0468

VENDOR

\*709023822 301-797-3730  
 AMTRAC RAILROAD CONTRACTORS OF  
 9436 EARLEY DR  
 HAGERSTOWN MD 21740-1737

SHIP TO

WV STATE RAIL AUTHORITY  
 (DBA) SOUTH BRANCH VALLEY  
 RAILROAD  
 120 WATER PLANT DRIVE  
 MOOREFIELD, WV  
 26836 304-538-2305

DATE PRINTED
02/22/2013

BID OPENING DATE: 03/27/2013 BID OPENING TIME 1:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0001		EA		550-70	77,995. <sup>00</sup>	77,995. <sup>00</sup>
SIGNS, RAILROAD CROSSING (ELECTRIC)						
<p>THE WEST VIRGINIA STATE PURCHASING DIVISION FOR THE AGENCY THE WEST VIRGINIA RAILROAD AUTHORITY IS SOLICITING BIDS TO ESTABLISH A CONTRACT TO ADD GATES TO AN EXISTING CROSSING ON THE WEST VIRGINIA CENTRAL RAILROAD (WVCR) IN ELKINS, WV PER THE ATTACHED SPECIFICATIONS.</p>						
***** THIS IS THE END OF RFQ RMA13010 ***** TOTAL:						77,995. <sup>00</sup>

SIGNATURE Robert Matthews	TELEPHONE 301-797-3730	DATE April 15, 2013
TITLE Vice President	FEIN 35-1649116	ADDRESS CHANGES TO BE NOTED ABOVE

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

**INSTRUCTIONS TO VENDORS SUBMITTING BIDS**

1. **REVIEW DOCUMENTS THOROUGHLY:** The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor's bid.
2. **MANDATORY TERMS:** The Solicitation may contain mandatory provisions identified by the use of the words "must," "will," and "shall." Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.
3. **PREBID MEETING:** The item identified below shall apply to this Solicitation.

| A pre-bid meeting will not be held prior to bid opening.

| A **NON-MANDATORY PRE-BID** meeting will be held at the following place and time:

| A **MANDATORY PRE-BID** meeting will be held at the following place and time:

March 12, 2013 at 10:00 A.M.

Elkins Railroad Depot  
 Railroad Avenue  
 Elkins, WV

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No one person attending the pre-bid meeting may represent more than one Vendor.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. The State will not accept any other form of proof or documentation to verify attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing. Additionally, the person attending the pre-bid meeting should include the Vendor's E-Mail address, phone number, and Fax number on the attendance sheet. It is the Vendor's responsibility to locate the attendance sheet and provide the required

information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

All Vendors should arrive prior to the starting time for the pre-bid. Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in, but are charged with knowing all matters discussed at the pre-bid.

Questions submitted at least five business days prior to a scheduled pre-bid will be discussed at the pre-bid meeting if possible. Any discussions or answers to questions at the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

- 4. **VENDOR QUESTION DEADLINE:** Vendors may submit questions relating to this Solicitation to the Purchasing Division. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the address listed below in order to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are non-binding.

Question Submission Deadline:

Submit Questions to:

Fax:

Email:

- 5. **VERBAL COMMUNICATION:** Any verbal communication between the Vendor and any State personnel is not binding, including that made at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Division is binding.
- 6. **BID SUBMISSION:** All bids must be signed and delivered by the Vendor to the Purchasing Division at the address listed below on or before the date and time of the bid opening. Any bid received by the Purchasing Division staff is considered to be in the possession of the Purchasing Division and will not be returned for any reason. The bid delivery address is:

Department of Administration, Purchasing Division  
 2019 Washington Street East  
 P.O. Box 50130,  
 Charleston, WV 25305-0130

The bid should contain the information listed below on the face of the envelope or the bid may not be considered:

SEALED BID  
 BUYER: Paul Reynolds  
 SOLICITATION NO.: RMA 13010  
 BID OPENING DATE: April 16, 2013  
 BID OPENING TIME: 1:30 P.M.  
 FAX NUMBER: 301-797-3740

In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal plus  convenience copies of each to the Purchasing Division at the address shown above. Additionally, the Vendor should identify the bid type as either a technical or cost proposal on the face of each bid envelope submitted in response to a request for proposal as follows:

BID TYPE:   |   | Technical  
                   | X | Cost

7. **BID OPENING:** Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when time stamped by the official Purchasing Division time clock.

**Bid Opening Date and Time:**

March 27, 2013 at 1:30 P.M.

**Bid Opening Location:**

Department of Administration, Purchasing Division  
 2019 Washington Street East  
 P.O. Box 50130,  
 Charleston, WV 25305-0130

8. **ADDENDUM ACKNOWLEDGEMENT:** Changes or revisions to this Solicitation will be made by an official written addendum issued by the Purchasing Division. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.
9. **BID FORMATTING:** Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

**GENERAL TERMS AND CONDITIONS:**

1. **CONTRACTUAL AGREEMENT:** Issuance of a Purchase Order signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.
  
2. **DEFINITIONS:** As used in this Solicitation / Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation / Contract.
  - 2.1 "Agency" or "Agencies" means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.
  
  - 2.2 "Contract" means the binding agreement that is entered into between the State and the Vendor to provide the goods and services requested in the Solicitation.
  
  - 2.3 "Director" means the Director of the West Virginia Department of Administration, Purchasing Division.
  
  - 2.4 "Purchasing Division" means the West Virginia Department of Administration, Purchasing Division.
  
  - 2.5 "Purchase Order" means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the successful bidder and Contract holder.
  
  - 2.6 "Solicitation" means the official solicitation published by the Purchasing Division and identified by number on the first page thereof.
  
  - 2.7 "State" means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.
  
  - 2.8 "Vendor" or "Vendors" means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. **CONTRACT TERM; RENEWAL; EXTENSION:** The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

| | **Term Contract**

**Initial Contract Term:** This Contract becomes effective on [ ]  
[ ]  
and extends for a period of [ ] year(s).

**Renewal Term:** This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal must be submitted to the Purchasing Division Director thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Renewal of this Contract is limited to [ ] successive one (1) year periods. Automatic renewal of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases. Attorney General approval may be required for vendor terms and conditions.

**Reasonable Time Extension:** At the sole discretion of the Purchasing Division Director, and with approval from the Attorney General's office (Attorney General approval is as to form only), this Contract may be extended for a reasonable time after the initial Contract term or after any renewal term as may be necessary to obtain a new contract or renew this Contract. Any reasonable time extension shall not exceed twelve (12) months. Vendor may avoid a reasonable time extension by providing the Purchasing Division Director with written notice of Vendor's desire to terminate this Contract 30 days prior to the expiration of the then current term. During any reasonable time extension period, the Vendor may terminate this Contract for any reason upon giving the Purchasing Division Director 30 days written notice. Automatic extension of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases, but Attorney General approval may be required.

| ✓ | **Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within [120] days.

| | **One Time Purchase:** The term of this Contract shall run from the issuance of the Purchase Order until all of the goods contracted for have been delivered, but in no event shall this Contract extend for more than one fiscal year.

| | **Other:** See attached.

4. **NOTICE TO PROCEED:** Vendor shall begin performance of this Contract immediately upon receiving notice to proceed unless otherwise instructed by the Agency. Unless otherwise specified, the fully executed Purchase Order will be considered notice to proceed
5. **QUANTITIES:** The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.
- | **Open End Contract:** Quantities listed in this Solicitation are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.
  - | **Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.
  - | **Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.
  - | **One Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.
6. **PRICING:** The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification.
7. **EMERGENCY PURCHASES:** The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute of breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.
8. **REQUIRED DOCUMENTS:** All of the items checked below must be provided to the Purchasing Division by the Vendor as specified below.
- | **BID BOND:** All Vendors shall furnish a bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

**PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of . The performance bond must be issued and received by the Purchasing Division prior to Contract award. On construction contracts, the performance bond must be 100% of the Contract value.

**LABOR/MATERIAL PAYMENT BOND:** The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be issued and delivered to the Purchasing Division prior to Contract award.

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under \$100,000. Personal or business checks are not acceptable.

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

**WORKERS' COMPENSATION INSURANCE:** The apparent successful Vendor shall have appropriate workers' compensation insurance and shall provide proof thereof upon request.

**INSURANCE:** The apparent successful Vendor shall furnish proof of the following insurance prior to Contract award:

**Commercial General Liability Insurance:**  
 or more.

**Builders Risk Insurance:** builders risk – all risk insurance in an amount equal to 100% of the amount of the Contract.

<input type="checkbox"/>	<input type="text"/>
<input type="checkbox"/>	<input type="text"/>
<input type="checkbox"/>	<input type="text"/>
<input type="checkbox"/>	<input type="text"/>
<input type="checkbox"/>	<input type="text"/>



The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed above.

**LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section entitled Licensing, of the General Terms and Conditions, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits prior to Contract award, in a form acceptable to the Purchasing Division.


The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications prior to Contract award regardless of whether or not that requirement is listed above.

**9. LITIGATION BOND:** The Director reserves the right to require any Vendor that files a protest of an award to submit a litigation bond in the amount equal to one percent of the lowest bid submitted or \$5,000, whichever is greater. The entire amount of the bond shall be forfeited if the hearing officer determines that the protest was filed for frivolous or improper purpose, including but not limited to, the purpose of harassing, causing unnecessary delay, or needless expense for the Agency. All litigation bonds shall be made payable to the Purchasing Division. In lieu of a bond, the protester may submit a cashier's check or certified check payable to the Purchasing Division. Cashier's or certified checks will be deposited with and held by the State Treasurer's office. If it is determined that the protest has not been filed for frivolous or improper purpose, the bond or deposit shall be returned in its entirety.

**10. ALTERNATES:** Any model, brand, or specification listed herein establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.

**11. EXCEPTIONS AND CLARIFICATIONS:** The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or

other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.

**12. LIQUIDATED DAMAGES:** Vendor shall pay liquidated damages in the amount

for .

This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy.

**13. ACCEPTANCE/REJECTION:** The State may accept or reject any bid in whole, or in part. Vendor's signature on its bid signifies acceptance of the terms and conditions contained in the Solicitation and Vendor agrees to be bound by the terms of the Contract, as reflected in the Purchase Order, upon receipt.

**14. REGISTRATION:** Prior to Contract award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the \$125 fee if applicable.

**15. COMMUNICATION LIMITATIONS:** In accordance with West Virginia Code of State Rules §148-1-6.6, communication with the State of West Virginia or any of its employees regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited without prior Purchasing Division approval. Purchasing Division approval for such communication is implied for all agency delegated and exempt purchases.

**16. FUNDING:** This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available.

**17. PAYMENT:** Payment in advance is prohibited under this Contract. Payment may only be made after the delivery and acceptance of goods or services. The Vendor shall submit invoices, in arrears, to the Agency at the address on the face of the purchase order labeled "Invoice To."

**18. UNIT PRICE:** Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.

**19. DELIVERY:** All quotations are considered freight on board destination ("F.O.B. destination") unless alternate shipping terms are clearly identified in the bid. Vendor's listing of shipping terms that contradict the shipping terms expressly required by this Solicitation may result in bid disqualification.

**20. INTEREST:** Interest attributable to late payment will only be permitted if authorized by the West Virginia Code. Presently, there is no provision in the law for interest on late payments.

**21. PREFERENCE:** Vendor Preference may only be granted upon written request and only in accordance with the West Virginia Code § 5A-3-37 and the West Virginia Code of State Rules. A Resident Vendor Certification form has been attached hereto to allow Vendor to apply for the preference. Vendor's

failure to submit the Resident Vendor Certification form with its bid will result in denial of Vendor Preference. Vendor Preference does not apply to construction projects.

- 22. SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES:** For any solicitations publicly advertised for bid on or after July 1, 2012, in accordance with West Virginia Code §5A-3-37(a)(7) and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to submission of its bid to receive the preferences made available to resident vendors. Preference for a non-resident small, women-owned, or minority owned business shall be applied in accordance with W. Va. CSR § 148-22-9.
- 23. TAXES:** The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
- 24. CANCELLATION:** The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-7.16.2.
- 25. WAIVER OF MINOR IRREGULARITIES:** The Director reserves the right to waive minor irregularities in bids or specifications in accordance with West Virginia Code of State Rules § 148-1-4.6.
- 26. TIME:** Time is of the essence with regard to all matters of time and performance in this Contract.
- 27. APPLICABLE LAW:** This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.
- 28. COMPLIANCE:** Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendors acknowledge that they have reviewed, understand, and will comply with all applicable law.
- 29. PREVAILING WAGE:** On any contract for the construction of a public improvement, Vendor and any subcontractors utilized by Vendor shall pay a rate or rates of wages which shall not be less than the fair minimum rate or rates of wages (prevailing wage), as established by the West Virginia Division of Labor under West Virginia Code §§ 21-5A-1 et seq. and available at <http://www.sos.wv.gov/administrative-law/wagerates/Pages/default.aspx>. Vendor shall be responsible for ensuring compliance with prevailing wage requirements and determining when prevailing wage

requirements are applicable. The required contract provisions contained in West Virginia Code of State Rules § 42-7-3 are specifically incorporated herein by reference.

- 30. ARBITRATION:** Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.
- 31. MODIFICATIONS:** This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary, no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). **No Change shall be implemented by the Vendor until such time as the Vendor receives an approved written change order from the Purchasing Division.**
- 32. WAIVER:** The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.
- 33. SUBSEQUENT FORMS:** The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.
- 34. ASSIGNMENT:** Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments. Notwithstanding the foregoing, Purchasing Division approval may or may not be required on certain agency delegated or exempt purchases.
- 35. WARRANTY:** The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.
- 36. STATE EMPLOYEES:** State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.
- 37. BANKRUPTCY:** In the event the Vendor files for bankruptcy protection, the State of West Virginia may deem this Contract null and void, and terminate this Contract without notice.

- 38. HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, is available online at <http://www.state.wv.us/admin/purchase/vrc/hipaa.html> and is hereby made part of the agreement provided that the Agency meets the definition of a Covered entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the Vendor.
- 39. CONFIDENTIALITY:** The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/default.html>.
- 40. DISCLOSURE:** Vendor's response to the Solicitation and the resulting Contract are considered public documents and will be disclosed to the public in accordance with the laws, rules, and policies governing the West Virginia Purchasing Division. Those laws include, but are not limited to, the Freedom of Information Act found in West Virginia Code § 29B-1-1 et seq.

If a Vendor considers any part of its bid to be exempt from public disclosure, Vendor must so indicate by specifically identifying the exempt information, identifying the exemption that applies, providing a detailed justification for the exemption, segregating the exempt information from the general bid information, and submitting the exempt information as part of its bid but in a segregated and clearly identifiable format. Failure to comply with the foregoing requirements will result in public disclosure of the Vendor's bid without further notice. A Vendor's act of marking all or nearly all of its bid as exempt is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor's act of marking a bid or any part thereof as "confidential" or "proprietary" is not sufficient to avoid disclosure and WILL NOT BE HONORED. In addition, a legend or other statement indicating that all or substantially all of the bid is exempt from disclosure is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor will be required to defend any claimed exemption for nondisclosure in the event of an administrative or judicial challenge to the State's nondisclosure. Vendor must indemnify the State for any costs incurred related to any exemptions claimed by Vendor. Any questions regarding the applicability of the various public records laws should be addressed to your own legal counsel prior to bid submission.

- 41. LICENSING:** In accordance with West Virginia Code of State Rules §148-1-6.1.7, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

**42. ANTITRUST:** In submitting a bid to, signing a contract with, or accepting a Purchase Order from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

**43. VENDOR CERTIFICATIONS:** By signing its bid or entering into this Contract, Vendor certifies (1) that its bid was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid for the same material, supplies, equipment or services; (2) that its bid is in all respects fair and without collusion or fraud; (3) that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; and (4) that it has reviewed this RFQ in its entirety; understands the requirements, terms and conditions, and other information contained herein. Vendor's signature on its bid also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency.

The individual signing this bid on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

**44. PURCHASING CARD ACCEPTANCE:** The State of West Virginia currently utilizes a Purchasing Card program, administered under contract by a banking institution, to process payment for goods and services. The Vendor must accept the State of West Virginia's Purchasing Card for payment of all orders under this Contract unless the box below is checked.

Vendor is not required to accept the State of West Virginia's Purchasing Card as payment for all goods and services.

**45. VENDOR RELATIONSHIP:** The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, *etc.* and the filing of all necessary documents, forms and returns pertinent to all of the foregoing. Vendor shall hold harmless the

State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

- 46. INDEMNIFICATION:** The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.
- 47. PURCHASING AFFIDAVIT:** In accordance with West Virginia Code § 5A-3-10a, all Vendors are required to sign, notarize, and submit the Purchasing Affidavit stating that neither the Vendor nor a related party owe a debt to the State in excess of \$1,000. The affidavit must be submitted prior to award, but should be submitted with the Vendor's bid. A copy of the Purchasing Affidavit is included herewith.
- 48. ADDITIONAL AGENCY AND LOCAL GOVERNMENT USE:** This Contract may be utilized by and extends to other agencies, spending units, and political subdivisions of the State of West Virginia; county, municipal, and other local government bodies; and school districts ("Other Government Entities"). This Contract shall be extended to the aforementioned Other Government Entities on the same prices, terms, and conditions as those offered and agreed to in this Contract. If the Vendor does not wish to extend the prices, terms, and conditions of its bid and subsequent contract to the Other Government Entities, the Vendor must clearly indicate such refusal in its bid. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner.
- 49. CONFLICT OF INTEREST:** Vendor, its officers or members or employees, shall not presently have or acquire any interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.
- 50. REPORTS:** Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:
- Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

- | | Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at [purchasing.requisitions@wv.gov](mailto:purchasing.requisitions@wv.gov).

**51. BACKGROUND CHECK:** In accordance with W. Va. Code § 15-2D-3, the Director of the Division of Protective Services shall require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol complex or who have access to sensitive or critical information to submit to a fingerprint-based state and federal background inquiry through the state repository. The service provider is responsible for any costs associated with the fingerprint-based state and federal background inquiry.

After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol complex to the Director of the Division of Protective Services for purposes of verifying compliance with this provision.

The State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check.

Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

**52. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS:** Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open heath, basic oxygen, electric furnace, Bessemer or other steel making process.

The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:

- a. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total



contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or

- b. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

**53. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL:** In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a "substantial labor surplus area", as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products.

This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

**ADDITIONAL TERMS AND CONDITIONS (Construction Contracts Only)**

1. **CONTRACTOR'S LICENSE:** West Virginia Code § 21-11-2 requires that all persons desiring to perform contracting work in this state be licensed. The West Virginia Contractors Licensing Board is empowered to issue the contractor's license. Applications for a contractor's license may be made by contacting the West Virginia Division of Labor.

West Virginia Code § 21-11-11 requires any prospective Vendor to include the contractor's license number on its bid. Failure to include a contractor's license number on the bid shall result in Vendor's bid being disqualified. Vendors should include a contractor's license number in the space provided below.

Contractor's Name:

Contractor's License No.

The apparent successful Vendor must furnish a copy of its contractor's license prior to the issuance of a purchase order/contract.

2. **DRUG-FREE WORKPLACE:** W. Va. Code § 21-1D-5 provides that any solicitation for a public improvement contract requires each Vendor that submits a bid for the work to submit at the same time an affidavit that the Vendor has a written plan for a drug-free workplace policy. To comply with this law, Vendor must either complete the enclosed drug-free workplace affidavit and submit the same with its bid or complete a similar affidavit that fulfills all of the requirements of the applicable code. Failure to submit the signed and notarized drug-free workplace affidavit, or a similar affidavit that fully complies with the requirements of the applicable code, with the bid shall result in disqualification of Vendor's bid.
3. **AIA DOCUMENTS:** All construction contracts that will be completed in conjunction with architectural services procured under Chapter 5G of the West Virginia Code will be governed by the AIA A101-2007 and A201-2007 or the A107-2007 documents, as amended by the Supplementary Conditions for the State of West Virginia, in addition to the terms and conditions contained herein.
4. **SUBCONTRACTOR LIST SUBMISSION:** In accordance with W. Va. Code § 5-22-1, The apparent low bidder on a contract for the construction, alteration, decoration, painting or improvement of a new or existing building or structure valued at more than \$500,000.00 shall submit a list of all subcontractors who will perform more than \$25,000.00 of work on the project including labor and materials. This provision shall not apply to any other construction projects, such as highway, mine reclamation, water or sewer projects.

c. **Required Information.** The subcontractor list shall contain the following information:


- i. Bidder's name
  - ii. Name of each subcontractor
  - iii. License numbers as required by W. Va. Code § 21-11-1 et. seq.
  - iv. Notation that no subcontractors will be used if the bidder will perform the work
- d. **Submission.** The completed subcontractor list shall be provided to the Purchasing Division within one business day of the opening of bids for review. Failure to submit the subcontractor list within one business day after the deadline for submitting bids shall result in disqualification of the bid.
- e. **Substitution of Subcontractor.** Written approval must be obtained from the Purchasing Division before any subcontractor substitution is permitted. Substitutions are not permitted unless:
- i. The subcontractor listed in the original bid has filed for bankruptcy;
  - ii. The subcontractor in the original bid has been debarred or suspended; or
  - iii. The contractor certifies in writing that the subcontractor listed in the original bill fails, is unable, or refuses to perform his subcontract.
5. **GREEN BUILDINGS MINIMUM ENERGY STANDARDS:** In accordance with § 22-29-4, all new building construction projects of public agencies that have not entered the schematic design phase prior to July 1, 2012, or any building construction project receiving state grant funds and appropriations, including public schools, that have not entered the schematic design phase prior to July 1, 2012, shall be designed and constructed complying with the ICC International Energy Conservation Code, adopted by the State Fire Commission, and the ANSI/ASHRAE/IESNA Standard 90.1-2007: *Provided*, That if any construction project has a commitment of federal funds to pay for a portion of such project, this provision shall only apply to the extent such standards are consistent with the federal standards.

**CERTIFICATION AND SIGNATURE PAGE**

By signing below, I certify that I have reviewed this Solicitation in its entirety; understand the requirements, terms and conditions, and other information contained herein; that I am submitting this bid or proposal for review and consideration; that I am authorized by the bidder to execute this bid or any documents related thereto on bidder's behalf; that I am authorized to bind the bidder in a contractual relationship; and that to the best of my knowledge, the bidder has properly registered with any State agency that may require registration.

Amtrac Railroad Contractors of Maryland, Inc.

(Company)



(Authorized Signature)

Robert Matthews, Vice President

(Representative Name, Title)

301-797-3730

(Phone Number)

301-797-3740

(Fax Number)

April 15, 2013

(Date)

**ADDENDUM ACKNOWLEDGEMENT FORM**

**SOLICITATION NO.:** RMA13010

**Instructions:** Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

**Acknowledgment:** I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

**Addendum Numbers Received:**

(Check the box next to each addendum received)

- |                                                    |                                          |
|----------------------------------------------------|------------------------------------------|
| <input checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6  |
| <input checked="" type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7  |
| <input checked="" type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8  |
| <input type="checkbox"/> Addendum No. 4            | <input type="checkbox"/> Addendum No. 9  |
| <input type="checkbox"/> Addendum No. 5            | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further 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.

Amtrac Railroad Contractors of Maryland, Inc.

  
 \_\_\_\_\_  
 Robert Matthews Authorized Signature

April 15, 2013

Date

NOTE: This addendum acknowledgment should be submitted with the bid to expedite document processing.

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SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the WV State Rail Authority to establish a contract to add gates to an existing crossing on the West Virginia Central Railroad (WVCR) on Davis Avenue in Elkins, WV.
2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.
  - 2.1 **“Contract Services”** means the installation of gates at an existing highway/railroad crossing on the West Virginia Central Railroad in Elkins, WV.
  - 2.2 **“Pricing Page”** means the pages upon which Vendor should list its proposed price for the Contract Services. The Pricing Page is either included on the last page of this RFQ or attached hereto as Exhibit A.
  - 2.3 **“RFQ”** means the official request for quotation published by the Purchasing Division and identified as RMA13010
  - 2.4 **“WVCR”** means West Virginia Central Railroad
  - 2.5 **“AREMA”** means American Railway Engineering and Maintenance-of-Way Association ([www.AREMA.org](http://www.AREMA.org))
  - 2.6 **“AAR”** means Association of American Railroads ([www.AAR.org](http://www.AAR.org))
  - 2.7 **“NFPA 70 -NEC”** means National Fire Protection Association - National Electrical Code  
([www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=70](http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=70))
  - 2.8 **“FHWA”** means Federal Highway Administration
3. **QUALIFICATIONS:** Vendor shall have the following minimum qualifications:
  - 3.1. Previous experience with crossing signal and gate installation is required. Vendor must provide experience and references of at least five projects for projects of similar sizes completed within the last five years.

REQUEST FOR QUOTATION  
RMA13010 -Install Gates at a Crossing on the WVCR in Elkins, WV

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**4. MANDATORY REQUIREMENTS:**

**4.1 Mandatory Contract Services Requirements and Deliverables:** Contract Services must meet or exceed the mandatory requirements listed below.

**4.1.1 Add gates to existing crossing protection system located at Davis Avenue on the WVCR as described below:**

4.1.1.1 Keep original equipment case and signal system inside the equipment case intact

4.1.1.2 Replace existing 8 inch lights with 12 inch LED type light heads (Alstrom type 59649-200-04) or equivalent with backgrounds and hoods

4.1.1.3 Erico (WEB) joint plug bond SBPAJA type or equivalent

4.1.1.4 (2) six volt or (1) 12 volt battery for each power buss. (Power safe Brand "V" type top connection battery or equivalent) matching amp/hr rating. Install type A40R-10-10/18V-3A1 battery charger(s) or equivalent.

4.1.1.5 Safetran type s-60 gate mechanism or equivalent. Gate arm to be fiberglass/aluminum constructions equal to safetran type 076600(xx) with led lights. Wiring for gate mechanism and lights must be #9AWG for up to 60 ft and #6 AWG if over 60ft.

4.1.1.6 Install power off indicator light in case

4.1.1.7 Install (side mount) one amber (Grote #55223) type light on EMT conduit to a height 10 inches above crossing instrument case oriented to be in full view of approaching trains and configured to flash in sequence with crossing warning lights.

4.1.1.8 Install electronic type bell to one mast – Bell to be Safetran type 8000-80301-1003 or equivalent

4.1.1.9 Upgrade electric service on service pole (replace breaker box and breaker with new parts) Current breaker box model is a Challenger SL12(2-4) RN Mod.2

4.1.1.10 Replace existing AC service disconnect with new 60 amp or greater weather proof lockable enclosure. Install (2) single 20 amp breakers. All work must meet NFPA 70 - NEC.  
([www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=70](http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=70))

4.1.1.11 Bond signal case per AAR signal manual part 11.3.1  
([www.AAR.org](http://www.AAR.org))

4.1.12 Supply two (2) sets of modified prints. This includes electrical Schematics and layout drawings of the entire system.

4.1.13 Paint exterior of equipment case preserving any signs on case. Use silver non-fiber aluminum paint.

4.1.14 Install new cross bucks and “number” of tracks signs. These are to be aluminum and meet the requirements as set for by the FHWA. There website is

[http://safety.fhwa.dot.gov/xings/com\\_roaduser/07010/Sec04a.htm](http://safety.fhwa.dot.gov/xings/com_roaduser/07010/Sec04a.htm)

4.1.15 Install one 120 VAC 20-55 cfm vent blower in top side of equipment case with adjustable close on rise thermostat 90-130 degrees.

4.1.16 all materials will be supplied by the contractor and must meet specifications in the AREMA Manual for Railway Engineering. ([www.AREMA.org](http://www.AREMA.org)) and AAR regulations ([www.AAR.org](http://www.AAR.org)).



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4.1.17 all vendor employees working on this contract will be required to attend a ½ day class on track safety and track access given by the Durbin and Greenbrier Valley Railroad's track Supervisor.

4.1.18 Contractor will be responsible for clean-up of the work site. All debris and refuse will be removed from WVCR property and disposed of offsite.

**5. CONTRACT AWARD:**

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

**5.2 Pricing Page:** Vendor should complete the Pricing Page by listing the unit cost for the complete installation of gates as described above. Vendor should complete the Pricing Page in full as failure to complete the Pricing Page in its entirety may result in Vendor's bid being disqualified.

Notwithstanding the foregoing, the Purchasing Division may correct errors as it deems appropriate. Vendor should type or electronically enter the information into the Pricing Page to prevent errors in the evaluation.

- 6. PERFORMANCE:** Vendor and Agency shall agree upon a schedule for performance of Contract Services and Contract Services Deliverables, unless such a schedule is already included herein by Agency. In the event that this Contract is designated as an open-end contract, Vendor shall perform in accordance with the release orders that may be issued against this Contract.
- 7. PAYMENT:** Agency shall pay on a percent complete of total contract price, as shown on the Pricing Pages, for all Contract Services performed and accepted under this Contract. Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.
- 8. TRAVEL:** Vendor shall be responsible for all mileage and travel costs, including travel time, associated with performance of this Contract. Any anticipated mileage or travel costs

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may be included in the flat fee or hourly rate listed on Vendor's bid, but such costs will not be paid by the Agency separately.

**9. FACILITIES ACCESS:** Performance of Contract Services will require access to the railroad.

9.1. Vendor must coordinate with the operator The Durbin & Greenbrier Valley Railroad for track access. Contact for track access is Mark Smith, 304-642-3050 or wvctrack@yahoo.com.

9.2. Vendor must have a radio capable of communicating with the DGVR. The radio must be a minimum of 40 watts and it must be programmed to the same frequency as the DGVR. Each work crew must be equipped with a radio stationed to road channel 160.455.

9.3. Vendor shall make tracks safe for train service at the end of each day. This means all signals at the work site will be turned on and working properly at the end of each work day.

**10. VENDOR DEFAULT:**

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

10.1.1. Failure to perform Contract Services in accordance with the requirements contained herein.

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

10.1.3. Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.

10.1.4. Failure to remedy deficient performance upon request.

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

10.2.1. Cancellation of the Contract.

10.2.2. Cancellation of one or more release orders issued under this Contract.

10.2.3. Any other remedies available in law or equity.

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**11. MISCELLANEOUS:**

**11.1. Contract Manager:** During its performance of this Contract, Vendor must designate and maintain a primary contract manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract manager must be available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract manager and his or her contact information below.

**Contract Manager:** Jacqueline L. Manzini  
**Telephone Number:** 301-797-3730  
**Fax Number:** 301-797-3740  
**Email Address:** jmanzini@amtracmd.com



State of West Virginia  
DRUG FREE WORKPLACE CONFORMANCE AFFIDAVIT  
West Virginia Code §21-1D-5

STATE OF Maryland

COUNTY OF Washington, TO-WIT:

I, Robert Matthews, after being first duly sworn, depose and state as follows:

- 1. I am an employee of Amtrac Railroad Contractors of MD. Inc.; and,  
(Company Name)
- 2. I do hereby attest that Amtrac Railroad Contractors of MD. Inc.  
(Company Name)

maintains a valid written drug free workplace policy and that such policy is in compliance with **West Virginia Code** §21-1D-5.

The above statements are sworn to under the penalty of perjury.

Amtrac Railroad Contractors of MD. Inc.

(Company Name)

By:

Robert L. Matthews

Title: Vice President

Date: April 15, 2013

Taken, subscribed and sworn to before me this 15th day of April.

By Commission expires November 22, 2015

(Seal)

Sheila Rowe (Notary Public)

**THIS AFFIDAVIT MUST BE SUBMITTED WITH THE BID IN ORDER TO COMPLY WITH WV CODE PROVISIONS. FAILURE TO INCLUDE THE AFFIDAVIT WITH THE BID SHALL RESULT IN DISQUALIFICATION OF THE BID.**

RFQ No. RMA13010

STATE OF WEST VIRGINIA  
Purchasing Division

**PURCHASING AFFIDAVIT**

**MANDATE:** Under W. Va. Code §5A-3-10a, 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: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

**EXCEPTION:** The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. 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.

**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.


**"Employer default"** means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

**"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 exceeds five percent of the total contract amount.

**AFFIRMATION:** By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (W. Va. Code §61-5-3) that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

**WITNESS THE FOLLOWING SIGNATURE:**

Vendor's Name: Amtrac Railroad Contractors of Maryland, Inc.

Authorized Signature:  Date: April 15, 2013  
Robert L. Matthews

State of Maryland

County of Washington, to-wit:

Taken, subscribed, and sworn to before me this 15th day of April, 2013.

My Commission expires November 22, 2015, 20    .

AFFIX SEAL HERE

NOTARY PUBLIC

  
Sheila Rowe  
*Purchasing Affidavit (Revised 07/01/2012)*

Agency WV State Purchasing  
REQ.P.O# RMA 13010

**BID BOND**

KNOW ALL MEN BY THESE PRESENTS, That we, the undersigned, Amtrac Railroad Contractors of Maryland, Inc.  
of Hagerstown, Maryland, as Principal, and Ohio Farmers Insurance Company  
of Westfield Center, OHIO, a corporation organized and existing under the laws of the State of OHIO  
with its principal office in the City of Westfield Center, as Surety, are held and firmly bound unto the State  
of West Virginia, as Obligee, in the penal sum of FIVE Percent of Total Bid (\$ 5%) for the payment of which,  
well and truly to be made, we jointly and severally bind ourselves, our heirs, administrators, executors, successors and assigns

The Condition of the above obligation is such that whereas the Principal has submitted to the Purchasing Section of the  
Department of Administration a certain bid or proposal, attached hereto and made a part hereof, to enter into a contract in writing for

Contract: RMA 13010  
Installation of Railroad Crossing Gates

NOW THEREFORE,

- (a) If said bid shall be rejected, or
- (b) If said bid shall be accepted and the Principal shall enter into a contract in accordance with the bid or proposal attached hereto and shall furnish any other bonds and insurance required by the bid or proposal, and shall in all other respects perform the agreement created by the acceptance of said bid, then this obligation shall be null and void, otherwise this obligation shall remain in full force and effect. It is expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for the value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extension of the time within which the Obligee may accept such bid, and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, Principal and Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be affixed hereunto and these presents to be signed by their proper officers, this  
4th day of APRIL, 2013.

Principal Corporate Seal

Amtrac Railroad Contractors of Maryland, Inc.  
(Name of Principal)

By Jacqueline L. Manzini  
(Must be President or Vice President)

Jacqueline L. Manzini, President  
(Title)

Surety Corporate Seal

Ohio Farmers Insurance Company  
(Name of Surety)

S. Annette Mullet  
Attorney-in-Fact

S. Annette Mullet, Attorney-in-Fact

**IMPORTANT** – Surety executing bonds must be licensed in West Virginia to transact surety insurance. Raised corporate seal's must be affixed, a power of attorney must be attached.

General Power of Attorney

Westfield Insurance Co. Westfield National Insurance Co. Ohio Farmers Insurance Co. Westfield Center, Ohio

CERTIFIED COPY

Know All Men by These Presents, That WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, corporations, hereinafter referred to individually as a "Company" and collectively as "Companies," duly organized and existing under the laws of the State of Ohio, and having its principal office in Westfield Center, Medina County, Ohio, do by these presents make, constitute and appoint S. ANNETTE MULLET, STEVEN M. GARRETT, JOINTLY OR SEVERALLY

of INDIANAPOLIS and State of IN its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings, or other instruments or contracts of suretyship-

LIMITATION: THIS POWER OF ATTORNEY CANNOT BE USED TO EXECUTE NOTE GUARANTEE, MORTGAGE DEFICIENCY, MORTGAGE GUARANTEE, OR BANK DEPOSITORY BONDS.

and to bind any of the Companies thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the corporate seal of the applicable Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. Said appointment is made under and by authority of the following resolution adopted by the Board of Directors of each of the WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY:

"Be It Resolved, that the President, any Senior Executive, any Secretary or any Fidelity & Surety Operations Executive or other Executive shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

The Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements of indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed by the President and sealed and attested by the Corporate Secretary."

"Be it Further Resolved, that the signature of any such designated person and the seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signatures or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached." (Each adopted at a meeting held on February 8, 2000).

In Witness Whereof, WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY have caused these presents to be signed by their Senior Executive and their corporate seals to be hereto affixed this 13th day of AUGUST A.D., 2007.

Corporate Seals Affixed



WESTFIELD INSURANCE COMPANY WESTFIELD NATIONAL INSURANCE COMPANY OHIO FARMERS INSURANCE COMPANY

Signature of Richard L. Kinnaird, Jr.

By: Richard L. Kinnaird, Jr., Senior Executive

State of Ohio County of Medina ss.:

On this 13th day of AUGUST A.D., 2007, before me personally came Richard L. Kinnaird, Jr. to me known, who, being by me duly sworn, did depose and say, that he resides in Medina, Ohio; that he is Senior Executive of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, the companies described in and which executed the above instrument; that he knows the seals of said Companies; that the seals affixed to said instrument are such corporate seals; that they were so affixed by order of the Boards of Directors of said Companies; and that he signed his name thereto by like order.

Notarial Seal Affixed



Signature of William J. Kahelin

William J. Kahelin, Attorney at Law, Notary Public My Commission Does Not Expire (Sec. 147.03 Ohio Revised Code)

State of Ohio County of Medina ss.:

I, Frank A. Carrino, Secretary of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; and furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Westfield Center, Ohio, this 4th day of APRIL A.D., 2013



Signature of Frank A. Carrino Secretary