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

Solicitation

NUMBER	PAGE
6614C028	1

ADDRESS CORRESPONDENCE TO ATTENTION OF:
CRYSTAL RINK
304-558-2306

VENDOR
*709034233 540-992-5500
SUMMIT HELICOPTERS CMMM INC
PO BOX 39

CLOVERDALE VA 24077

RECEIVED FEB 1 8 2014

SHIP TO
DIVISION OF HIGHWAYS
VARIOUS LOCALES AS INDICATED
BY ORDER

DATE PRINTED
02/13/2014

BID OPENING DATE: 03/12/2014 BID OPENING TIME 1:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0001		EA		675-85		
		FURNISH HERBICIDE PRODUCTS				

REQUEST FOR QUOTATION
(OPEN-END CONTRACT)

THE WEST VIRGINIA STATE PURCHASING DIVISION FOR THE AGENCY, THE WEST VIRGINIA DIVISION OF HIGHWAYS, IS SOLICITING BIDS FOR AN OPEN-END CONTRACT TO PROVIDE THE AGENCY WITH VARIOUS HERBICIDE PRODUCTS, ADJUVANTS PRODUCTS, SAFETY EQUIPMENT, AND MICELLANIOUS PRODUCTS PER THE ATTACHED SPECIFICATIONS.

****** THIS IS THE END OF RFQ 6614C028 ****** TOTAL: $1561991.25

03/12/14 09:42:21AM
West Virginia Purchasing Division

SIGNATURE	TELEPHONE	DATE
DeWayne J. Peters	(540) 992-5500	3/11/2014
TITLE: Director of Chemical Sales	FEIN: 54-1156923	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:

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:	February 28, 2014 at 5:00 PM EST
Submit Questions to:	Crystal Rink 2019 Washington Street, East Charleston, WV 25305 Fax: 304-558-4115 Email: crystal.g.rink@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 Purchasing Division will not accept bids, modification of bids, or addendum acknowledgment forms via e-mail. Acceptable delivery methods include hand delivery, delivery by courier, or facsimile. The bid delivery address is:

Department of Administration, Purchasing Division
2019 Washington Street East
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: _____
SOLICITATION NO.: _____
BID OPENING DATE: _____
BID OPENING TIME: _____
FAX NUMBER: _____

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 n/a 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 12, 2014 at 1:30 PM EST

Bid Opening Location: Department of Administration, Purchasing Division
2019 Washington Street East
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 award

and extends for a period of 1 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 2 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.

Release Order Limitations: In the event that this contract permits release orders, a release order may only be issued during the time this Contract is in effect. Any release order issued within one year of the expiration of this Contract shall be effective for one year from the date the release order is issued. No release order may be extended beyond one year after this Contract has expired.

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

☐ **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 and shall list the state as a certificate holder:

☐ **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.

☐

☐

☐

☐

☐

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

n/a for n/a

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. [RESERVED]

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.

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.

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.

Summit Helicpters Inc
(Company)

DeWayne Peters
(Authorized Signature)

DeWayne J Peters Director of Chemical Sales
(Representative Name, Title)

540 - 992 - 5500 (540) 992 - 5503
(Phone Number) (Fax Number)

3/ 11/2014
(Date)

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: 6614C028

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)

- ☐ Addendum No. 1
- ☐ Addendum No. 2
- ☐ Addendum No. 3
- ☐ Addendum No. 4
- ☐ Addendum No. 5
- ☐ Addendum No. 6
- ☐ Addendum No. 7
- ☐ Addendum No. 8
- ☐ Addendum No. 9
- ☐ 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.

Summit Helicopters Inc.
Company

DeWayne J. Peters
Authorized Signature

3/11/2014
Date

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

SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Division of Highways to establish an open-end contract to provide various Herbicide Products, Adjuvants Products, Safety Equipment and Miscellaneous Products for use at locations throughout the State of WV by the WV Division of Highways.

2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.

   2.1 **"Contract Item"** or **"Contract Items" or "Products"** mean the list of items identified in Section 3 below.

   2.2 **"Pricing Pages"** means the schedule of prices, estimated order quantity, and totals attached hereto as Exhibit A used to evaluate the RFQ.

   2.3 **"RFQ"** means the official request for quotation published by the Purchasing Division and identified as 6614C028.

   2.4 **"WVDOH"** used throughout this RFQ means the West Virginia Division of Highways.

   2.5 **"EPA"** used throughout this RFQ means Environmental Protection Agency and **"DEP"** used throughout this RFQ means the WV Department of Environmental Protection and should reference the Federal, State and Local levels of government. Please reference www.epa.gov and www.dep.wv.gov.

   2.6 **"Contractor"** or **"Vendor"** used throughout this RFQ and in any cited sections of the West Virginia Department of Transportation, Division of Highways Standard Specifications, Roads and Bridges, adopted 2010, as modified by all subsequent annual Supplemental Specifications, are interchangeable.

   2.7 **"Standard Specs"** used throughout this RFQ means the West Virginia Department of Transportation, Division of Highways Standard Specifications, Roads and Bridges, adopted 2010, as modified by all subsequent annual Supplemental Specifications.

3. GENERAL REQUIREMENTS:

3.1 Specifications: The following sections of the Standard Specs, shall apply to the administration of this contract: Sections 101, 102.4, 102.5, 105.1, 105.3, 105.4, 105.10, 105.11, 105.12, 105.13, 106.3, 106.4, 106.5, 106.6, 106.7, 106.9, 107.1, 107.2, 107.3, 107.14, 107.19, 107.20, 108.8, 109.1, 109.2 and 109.20. Copies attached.

A complete hard copy of the Standard Specs may be obtained from:

West Virginia Division of Highways
Contract Administration
Building 5, Room 722
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305
(Phone) 304-558-2885

A complete electronic copy of the Standard Specs may be obtained by sourcing:
http://www.transportation.wv.gov/highways/Contractadmin/specifications/2010StandSpec/Pages/default.aspx

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

Contract Items furnished under this contract shall conform to the physical and chemical properties set forth in the EPA registration of the product provided to the WVDOH by the Vendor.

3.2.1 Contract Item:

3.2.1.1 Herbicide Products: Contract Items DOH-1H through DOH-44H shall be Herbicide products. Product Trade Name is requested; however, the Vendor may bid an "or equal to" item.

3.2.1.2 Adjuvant Products: Contract Items DOH-1A through DOH-9A shall be Adjuvant products. Product Trade Name, where applicable, is requested; however, the Vendor may bid an "or equal to" item.

3.2.1.3 Safety Equipment: Contract Items DOH-1S through DOH-3S shall be Safety Equipment products. No Product Trade Name is requested. Vendor shall bid products which meet requirements.

3.2.1.4 Miscellaneous Products: Contract Items DOH-1M through DOH-7M shall be Miscellaneous products. Product Trade Name, where applicable, is requested; however, the Vendor may bid an "or equal to" item.

3.2.2 Product Trade Name and "Or Equal To" Items:

Vendors may bid on any or all of the products listed on the Pricing Pages. Vendors may bid Product Trade Name requested, where applicable, or bid an "or equal to" item.

If the Vendor does not provide a Product Trade Name, it will be assumed by the WVDOH that the Vendor is bidding the requested Product Trade Name; however, the Vendor shall provide the EPA Registration Number for that product.

If the Vendor is bidding an "or equal to" item, the Vendor shall list the Product Trade Name and EPA Registration Number for the Contract Item bid. The Vendor shall provide the label from the "or equal to" Contract Item bid, with their bid package, to eliminate any confusion. The WVDOH shall determine equivalency.

NOTE 1: Equivalency, chemical name or equivalent, shall mean equal and not necessarily identical. The final determination of equivalency will be made by the WVDOH.

Vendor should be available to provide any additional documentation required by the WVDOH during the evaluation and equivalency process.

3.3 Restricted and Non-Restricted Herbicides: Herbicide products which have been declared RESTRICTED in their use by the EPA must be applied under the supervision of a licensed Herbicide applicator. The WVDOH reserves the right to disallow the use of RESTRICTED Herbicides when non-restricted Herbicides are available to achieve the same objective.

3.4 Training and Technical Assistance: In order for a Vendor to be awarded a contract for any Contract Item requested, the Vendor shall have a representative, holding a valid Category 7 certification in West Virginia who is to provide training and technical assistance as required or upon the request of the WVDOH. Each Vendor shall provide the name and telephone number of at least one representative in the space provided below, with their bid. A copy of the representative's current Category 7 certification in West Virginia shall be submitted with the Vendor's bid package. The Vendor's failure to submit a copy

of the representative's certification, with their bid package, shall result in the total disqualification of the Vendor's bid.
Vendors are encouraged to visit the WV Department of Agriculture's site www.kellysolutions.com/WV/Applicators to confirm your representative's current registration.

Name of Representative	Phone Number
Paul B. Thomas	(540) 314 - 4903

The Vendor should have a valid Category 12 certification in West Virginia.

4. CONTRACT AWARD:

4.1 Contract Award: The Contract is intended to provide Agencies with a purchase price on all Contract Items listed on the Pricing Pages. A Contract shall be awarded to the Vendor that provides the Contract Items meeting the required specifications for which their bid is low, provided that the Vendor has provided the Product Trade Name, if bidding an "or equal to" item and the EPA Registration Number for each product bid. Failure to list this information will result in the disqualification of the Vendor's bid on that Contract Item.

4.1.1 The successful Vendor shall furnish two product labels, for each product awarded, whether Product Name requested or "or equal to", to the WVDOH. The labels shall provide pertinent information regarding product storage and handling.

The successful Vendor shall supply the proper testing procedures to determine the presence and concentration of the Herbicide in flowing water. This shall be provided to:

WVDOH
Materials Control, Soil and Testing Division
190 Dry Branch Road
Charleston, WV 25306

4.2 Pricing Pages: Vendor should complete the Pricing Pages by providing a Unit Cost per each Contract Item bid. Vendors may bid any or all Contract Items. Vendor shall complete the Pricing Pages according to Section 3.2.2 of these specifications. Failure to provide the required information may result in Vendor's bid being disqualified for any Contract Item bid.

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

Notwithstanding the foregoing, the Purchasing Division may correct errors at its discretion. Vendor should type or electronically enter the information into the Pricing Pages to prevent errors in the evaluation. The Pricing Pages were created as a Microsoft Excel document and Vendor can request an electronic copy for bid purposes by sending an email request to the following address: crystal.g.rink@wv.gov.

5. ORDERING AND PAYMENT:

5.1 Ordering: Vendor shall accept orders by regular mail, facsimile, e-mail, or any other written forms of communication. Vendor may, but is not required to, accept on-line orders through a secure internet ordering portal/website. If Vendor has the ability to accept on-line orders, it should include in its response a brief description of how Agencies may utilize the on-line ordering system. Any on-line ordering system must have the capability to restrict prices and available items to conform to the Catalog originally submitted with this RFQ. Vendor shall ensure that its on-line ordering system is properly secured prior to processing Agency orders on-line.

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

6. DELIVERY AND RETURN:

6.1 Delivery Time: Vendor shall deliver standard orders within twenty (20) working days after orders are received to the delivery location indicated on the Agency Release. All shipments are F.O.B delivery to the WVDOH location. Vendor shall deliver emergency orders within an agreed upon alternative time frame by the WVDOH and the Vendor after orders are received. Vendor shall ship all orders in accordance with the above schedule and shall not hold orders until a minimum delivery quantity is met.

6.1.1 Acceptance: With each delivery to the WVDOH, the Vendor shall

certify that the products delivered conform to the properties described in that product's EPA registration. Material failing to comply with the quality requirement will not be accepted.

6.2 **Late Delivery:** The Agency placing the order under this Contract must be notified in writing if orders will be delayed for any reason. Any delay in delivery that could cause harm to an Agency will be grounds for cancellation of the delayed order, and/or obtaining the items ordered from a third party.

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

6.3 **Delivery Payment/Risk of Loss:** Standard order delivery shall be F.O.B. destination to the Agency's location. Vendor shall include the cost of standard order delivery charges in its bid pricing/discount and is not permitted to charge the Agency separately for such delivery. The Agency will pay delivery charges on all emergency orders provided that Vendor invoices those delivery costs as a separate charge with the original freight bill attached to the invoice.

6.4 **Return of Unacceptable Items:** If the Agency deems the Contract Items to be unacceptable, the Contract Items shall be returned to Vendor at Vendor's expense and with no restocking charge. Vendor shall either make arrangements for the return within five (5) days of being notified that items are unacceptable, or permit the Agency to arrange for the return and reimburse Agency for delivery expenses. If the original packaging cannot be utilized for the return, Vendor will supply the Agency with appropriate return packaging upon request. All returns of unacceptable items shall be F.O.B. the Agency's location. The returned product shall either be replaced, or the Agency shall receive a full credit or refund for the purchase price, at the Agency's discretion.

6.5 **Return Due to Agency Error**: Items ordered in error by the Agency will be returned for credit within 30 days of receipt, F.O.B. Vendor's location. Vendor shall not charge a restocking fee if returned products are in a resalable condition. Items shall be deemed to be in a resalable condition if they are unused and in the original packaging. Any restocking fee for items not in a resalable condition shall be the lower of the Vendor's customary restocking fee or 5% of the total invoiced value of the returned items.

7. MISCELLANEOUS:

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

7.2 **Vendor Supply:** Vendor must carry sufficient inventory of the Contract Items being offered to fulfill its obligations under this Contract. By signing its bid, Vendor certifies that it can supply the Contract Items contained in its bid response.

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

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

Contract Manager: DeWayne J. Peters
Telephone Numbers: (540) 992-5500
Fax Number: (540) 992-5503
Email Address: c3m@summithelicopters.com
dj.peters@summithelicopters.com

540-314-4903

00116

PUNCH OUT LICENSE CARD HERE

3,7,11,12,14

FOR USE ONLY IN CATEGORIES ABOVE

WEST VIRGINIA CERTIFICATION

Expires: 12/31/2014 [redacted]

Commercial Pesticide Applicator

Paul B. Thomas

Summit Helicopters, Inc.

P O Box 39

State Road 605

Cloverdale VA 24077

NOT TRANSFERABLE

AUTHORIZED REPRESENTATIVE

C04464

Paul B. Thomas

Continuing Education Credit Information	Credits Acquired	Credits Required	Credits Needed	
3-Forest Pest Control	0	20	20	Due 12/31/2016
7-Right-of-Way/Industrial Weed	57	20	0	Due 12/31/2014
11-Demonstration & Research	31	20	0	Due 12/31/2014
12-Pesticide Storage & Distribution	0	20	20	Due 12/31/2016
14-Aerial	0	20	20	Due 12/31/2014

Exhibit A Pricing Page RFQ#6614C028

Vendors may bid any or all Contract Items. If the Vendor does not provide a Product Trade Name, it will be assumed by the WVDOH, that the Vendor is bidding the requested Product Trade Name. If the Vendor is bidding an "Or Equal To" Product Trade Name, the Vendor SHALL list the Product Trade Name. For all Contract Items bid, the Vendor shall provide the EPA Registration number. The WVDOH shall determine all equivalency.

HERBICIDES						
Item #	Description	% Concentration/ Pounds per Gallon of Active Ingredients	Estimated Quantity	Unit of Measure	Cost Per Unit of Measure	Extended Cost
DOH-1H	Water Soluble Emulsifiable Concentrate Containing: Ammonium Salt of Fosamine with Surfactant	4 lbs/gallon				
	Product Trade Name: Krenite S or equal _____					
	EPA Registration Number: 42750 - 247					
	A) Supplied in 2.5 gallon containers in lots of 5 gallons		3000	gallon	$66.95	$200850.00
	B) Supplied in 15 gallon returnable/refillable containers		3000	gallon	$58.75	$176250.00
DOH-2H	Water Soluble Emulsifiable Concentrate Containing: Isopropylamine Salt of Glyphosate Phosphate Ester Surfactant	50.20%				
	Product Trade Name: Roundup Pro Concentrate or equal _____					
	EPA Registration Number: 524 - 529					
	A) Supplied in 30 gallon plastic returnable drums.		6000	gallon	$23.75	$142500.00
	B) Supplied in 2.5 gallon containers in lots of 5 gallons		6000	gallon	$24.60	$147600.00
	C) Supplied in 15 gallon returnable/refillable containers		6000	gallon	$24.00	$144000.00
	D) Supplied in 250 gallon returnable/refillable shuttle.		6000	gallon	$23.25	$139500.00
DOH-3H	Dispersible Granules Containing: Sulfometuron Methyl	75%				
	Product Trade Name: Oust XP or equal SULFOMET					
	EPA Registration Number: 352 - 401 - 85588					
	A) Supplied in 3 pound containers in lots of 24 pounds		100	pound	$36.50	$3650.00
	B) Supplied in 3 pound jug		100	pound	$37.80	$3780.00
DOH-4H	Water Soluble Aqueous Suspension Containing: Oryzalin	4 lbs/gallon				
	Product Trade Name: Oryzalin 4 Pro or equal ORYZALIN 4					
	EPA Registration Number: 81927 - 46					
	A) Supplied in 2.5 gallon containers in lots of 5 gallons		250	gallon	$49.60	$12400.00

GALLON $49.60 $12400 09 27

Exhibit A Pricing Page RFQ#6614C028

Item #	HERBICIDES Description	% Concentration/ Pounds per Gallon of Active Ingredients	Estimated Quantity	Unit of Measure	Cost Per Unit of Measure	Extended Cost
DOH-5H	Aqueous Solution Containing: Imazapyr	2 lbs/gallon				
	Product Trade Name: Arsenal Powerline or equal					
	EPA Registration Number: 241 - 431					
	A) Supplied in 2.5 gallon containers in lots of 5 gallons		150	gallon	$64.50	$9675.00
	B) Supplied in 15 gallon drums		150	gallon	$62.50	$9375.00
DOH-6H	Aqueous Carrier Containing: Pendimethalin	3.8 lbs/gallon				
	Product Trade Name: Pendulum AquaCap or equal					
	EPA Registration Number:					
	A) Supplied in 2.5 gallon containers in lots of 5 gallons		600	gallon		NO BID
DOH-7H	Water Soluble Concentrate Containing: Triciopyr	3 lbs/gallon				
	Product Trade Name: Element 3A or equal					
	EPA Registration Number: 62719 - 37					
	A) Supplied in 2.5 gallon containers in lots of 5 gallons		500	gallon	$46.50	$23250.00
	B) Supplied in 30 gallon containers		500	gallon	$46.00	$23000.00
DOH-8H	Water Soluble Concentrate Containing: Triciopyr	3 lbs/gallon				
	Product Trade Name: Garlon 3A or equal TRICLOPYR 3					
	EPA Registration Number: 81927- 13					
	A) Supplied in 15 gallon continuum returnable/refillable containers in pallets of 9 containers.		450	gallon	$44.80	$20'160.00
DOH-9H	Water Soluble Concentrate Containing: Triciopyr	4 lbs/gallon				
	Product Trade Name: Element 4 or equal TRICLOPYR 4					
	EPA Registration Number: 81927 - 11					
	A) Supplied in 2.5 gallon containers in lots of 5 gallons		250	gallon	$48.75	$12'187.50
	B) Supplied in 30 gallon containers		250	gallon	$48.00	$12'000.00
DOH-10H	Water Soluble Concentrate Containing: Triciopyr	4 lbs/gallon				
	Product Trade Name: Garlon 4 Ultra or equal					
	EPA Registration Number: 62719 - 527					
	A) Supplied in 15 gallon continuum returnable/refillable containers in pallets of 9 containers			GALLON	$68.50	$15412.50

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Exhibit A Pricing Page RFQ#6614C028

Item #	HERBICIDES Description	% Concentration/ Pounds per Gallon of Active Ingredients	Estimated Quantity	Unit of Measure	Cost Per Unit of Measure	Extended Cost
DOH-11H	A Water Soluble Dispersible Granule Containing: Diuron	80.00%				
	Product Trade Name: Karmex XP or equal DIURON 80 DF					
	EPA Registration Number: 81927 - 12					
	A) Supplied in 5 pound bags in lots of 10 bags		2000	pound	$ 4.85	$9'700.00
	B) Supplied in 25 pound bags		2000	pound	$4.75	$9'500.00
DOH-12H	Water Soluble Liquid Containing: Dimethylamine Salt of 2, 4-D acid	3.8 lbs/gallon				
	Product Trade Name: DM A4 or equal					
	EPA Registration Number: 62719 - 3					
	A) Supplied in 2.5 gallon containers in lots of 5 gallons		100	gallon	$24.60	$2'460.00
	B) Supplied in 30 gallon containers		100	gallon	$24.10	$2'410.00
	C) Supplied in 15 gallon returnable/refillable containers in pallets of 9 containers.		100	gallon	$27.30	$2'730.00
DOH-13H	Water Soluble Liquid Containing: Ammonium Salt of Imazapic	23.60%				
	Product Trade Name: Plateau or equal					
	EPA Registration Number: 241 - 392					
	A) Supplied in 1 gallon containers in lots of 2 gallons		50	gallon	$136.10	$6'805.00
	B) Supplied in 1 quart containers in lots of 4 quarts * PANORAMIC	* EPA# 66222-141-81927	200	quart	$45.00	$9'000.00
	C) Supplied in 15 gallon containers		4	containers	$2'049.00	$8'196.00
DOH-14H	A Dispersible Liquid Containing: Hexazinone	2 lbs/gallon				
	Product Trade Name: Velpar L or equal					
	EPA Registration Number: 352 - 392					
	A) Supplied in 2.5 gallon containers in lots of 5 gallons		50	gallon	$96.45	$4'822.50
DOH-15H	Dry Flowable Containing: Metsulfuron Methyl	60%				
	Product Trade Name: Escort XP or equal METCEL					
	EPA Registration Number: 352 - 439 - 85588					
	A) Supplied in 16 ounce containers in lots of 8 pounds (8-16 oz ctrs)		2400	ounce	$4.20	$10'080.00
	B) Supplied in 16 ounce jugs		2400	ounce	$4.80	~~$11'520.00~~ $11'520.00
	C) Supplied in 64 ounce jug returnable/refillable		2400	ounce	$4.00	$9600.00

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Item #	HERBICIDES Description	% Concentration/ Pounds per Gallon of Active Ingredients	Estimated Quantity	Unit of Measure	Cost Per Unit of Measure	Extended Cost
DOH-16H	Dry Flowable Containing: Chlorsulfuron	75%				
	Product Trade Name: Telar XP or equal					
	EPA Registration Number: 352 - 654					
	A) Supplied in 8 x 16 ounce containter to a case		160	ounce	$21.60	$3'456.00
DOH-17H	A Liquid Solution Containing:					
	Isooctyl ester of 2.4 Dichlorophenoxyacetic Acid	32.48%				
	2-ethylhrxyl ester of +R-2-(2,4-Dichlorophenoxy Propionic Acid	15.90%				
	Dicamba (3, 6-Dicholoro-o-anisic Acid)	5.38%				
	Product Trade Name: BK-800 or equal					
	EPA Registration Number:					
	A) Supplied in 2.5 gallon containers in lots of 5 gallons		100	gallon		NO BID
	B) Supplied in 30 gallon drums		100	gallon		NO BID
DOH-18H	Dry Flowable Containing: Tebuthiuron	80%				
	Product Trade Name: Spike 80 DF or equal TIBUTHIURON 80 WG					
	EPA Registration Number: 81927 - 37					
	A) Supplied in 4 pound bags in lots of 24 pounds		50	pound	$17.40	$870.00
	B) Supplied in 25 pound bags		50	pound	$17.40	$870.00
DOH-19H	A Water Soluble Emulsfiable Concentrate Containing: Clopyralid	3 lbs/gallon				
	Product Trade Name: Transline or equal CLEAN SLATE					
	EPA Registration Number: 228 - 491					
	A) Supplied in 2.5 gallon containers in lots of 5 gallons		25	gallon	$136.75	$3'418.75
	B) Supplied in .5 gallon containers in lots of 2 gallons		25	gallon	$162.50	$4'062.50
DOH-20H	Aqueous Solution Containing:					
	Isopropylamine Salt of Imazapyr	27.60%				
	Product Trade Name: Stalker or equal					
	EPA Registration Number:					
	A) Supplied in 1 quart containers in lots of 4 quarts		200	quart		NO BID

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Item #	HERBICIDES Description	% Concentration/ Pounds per Gallon of Active Ingredients	Estimated Quantity	Unit of Measure	Cost Per Unit of Measure	Extended Cost
DOH-21H	Aqueous Solution Containing: Diglycolamine Salt of 3, 6-Dichloro-0-Anisic Acid	4 lbs/gallon				
	Product Trade Name: Vanquish or equal					
	EPA Registration Number: 228 - 397					
	A) Supplied in 2.5 gallon containers in lots of 5 gallons		300	gallon	$66.75	$20'025.00
	B) Supplied in 15 gallon returnable/refillable containers in pallets of 9 containers.		300	gallon	$69.80	$20'940.00
DOH-22H	Aqueous Solution Containing: Triciopyr	.75 lbs/gallon				
	Product Trade Name: Pathfinder II or equal RELEGATE RTU					
	EPA Registration Number: 228 - 552					
	A) Supplied in 2.5 gallon containers in lots of 5 gallons		300	gallon	$30.25	$9'075.00
DOH-23H	A Water Soluble Emulsfiable Concentrate Containing: Isopropylamine Salt of Glyphosate	53.80%				
	Product Trade Name: Rodeo or equal					
	EPA Registration Number: 62719 - 324					
	A) Supplied in 2.5 gallon containers in lots of 5 gallons		100	gallon	$25.60	$2'560.00
	B) Supplied in 30 gallon plastic returnable drums		100	gallon	$26.75	$2'675.00
DOH-24H	A Liquid Containing: Aminopyralid	40.60%				
	Product Trade Name: Milestone VM or equal					
	EPA Registration Number: 62719 - 519					
	A) Supplied in 1 quart containers, 12 containers per lot		200	quarts	$76.22	$15'244.00
	B) Supplied in 2.5 gallon containers in lots of 5 gallons		50	gallon	$299.73	$14'986.50
DOH-25H	Water Dispersible Granular Material Containing: Prodiamine	65%				
	Product Trade Name: Endurance or equal PRO -CLIPSE					
	EPA Registration Number: 228 - 434					
	A) Supplied in 10 pound containers, 50 pounds per lot		100	pound		NO BID
	A) Supplied in 5 pound containers, 50 pounds per lot		100	pound	$15.80	$1'580.00

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Item #	HERBICIDES Description	% Concentration/ Pounds per Gallon of Active Ingredients	Estimated Quantity	Unit of Measure	Cost Per Unit of Measure	Extended Cost
DOH-26H	Emulsifiable Concentrate Containing: Quizalofop P-Ethyl	.88 lbs/gallon				
	Product Trade Name: Assure II or equal _____					
	EPA Registration Number: _____					
	A) Supplied in 1 gallon containers in lots of 4 gallons		16	gallon		NO BID
DOH-27H	Emulsifiable Concentrate Containing: Fluazifop-P-butyl	6.75%				
	Product Trade Name: Ornamec or equal _____					
	EPA Registration Number: _____					
	A) Supplied in 1 gallon containers in lots of 4 gallons		16	gallon		NO BID
DOH-28H	A Dispersible Granule Containing: Imazapyr Diuron	7.78% 62.22%				
	Product Trade Name: Sahara DG or equal MOJAVE					
	EPA Registration Number: 81927 - 25					
	A) Supplied in 10 pound bags in lots of 40 pounds		50	pound	$ 14.50	$725.00
DOH-29H	A Water Soluble Dry Granule Containing: Sulfosulfuron	75%				
	Product Trade Name: Outrider or equal _____					
	EPA Registration Number: 524 - 500					
	A) Supplied in 20 ounce bottles in lots of 200 ounce		400	ounce	$16.75	$6'700.00
DOH-30H	A Liquid Containing: Diuron	40%				
	Product Trade Name: Diuron 4L or equal _____					
	EPA Registration Number: 81927 - 44					
	A) Supplied in 2.5 gallon containers in lots of 5 gallons		50	gallon	$26.75	$1'337.50
DOH-31H	A Liquid Containing: Fluroxypyr	45.52%				
	Product Trade Name: Vista XRT or equal FLUROXYPYR					
	EPA Registration Number: 66330 - 385 - 81927					
	A) Supplied in 2.5 gallon containers in lots of 5 gallons		100	gallon	$145.60	$14'560.00

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Item #	HERBICIDES Description	% Concentration/ Pounds per Gallon of Active Ingredients	Estimated Quantity	Unit of Measure	Cost Per Unit of Measure	Extended Cost
DOH-32H	Wettable Granule Formulation Containing: Sodium Salt of Diflufenzopy: 2-[1-({3.5-Difluorophenylamino} Carbony)] Hydrazono} Ethyl)-3-Pyridinecarboxylic Acid, Sodium Sodium Salt of 3.6-Dicholoro-o-anisic Acid	21.40% 55.00%				
	Product Trade Name: Overdrive or equal _____					
	EPA Registration Number: 7969 - 150					
	A) Supplied in 7.5 pound jugs, 30 pounds per case		100	pound	$36.00	$3'600.00
DOH-33H	Dispersible Granules Containing: Sulfometuron Methyl Chlorsulfuron	56.25% 18.75%				
	Product Trade Name: Landmark XP or equal _____					
	EPA Registration Number: 352 - 645					
	A) Supplied in 4 pound jugs in lots of 32 pounds		100	pound	$142.00	$14'200.00
	B) Supplied in 64 ounce jug, returnable/refillable		1600	ounce	$9.00	$14'400.00
DOH-34H	Dispersible Granules Containing: Sulfometuron Methyl Metsulfuron Methyl	56.25% 15.00%				
	Product Trade Name: Oust Extra or equal SULFOMET EXTRA					
	EPA Registration Number: 352 - 622 - 85588					
	A) Supplied in 4 pound jugs in lots of 32 pounds		400	pound	$36.50	$14'600.00
	B) Supplied in 64 ounce jug, returnable/refillable		6400	ounce	$2.40	$15'360.00
	C) Supplied in 12 pound jugs		400	pound	$38.00	$15'200.00
DOH-35H	A Dry Flowable Granule Containing: Bromacil Diuron	40% 40%				
	Product Trade Name: Krovar I DF or equal BROMACIL 40 / 40					
	EPA Registration Number: 81927 - 3					$562.50
	A) Supplied in 6 pound containers in lots of 8 containers		50	pound	$11.25	$562.50

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Item #	HERBICIDES Description	% Concentration/ Pounds per Gallon of Active Ingredients	Estimated Quantity	Unit of Measure	Cost Per Unit of Measure	Extended Cost
DOH-36H	A Liquid Containing:					
	Imazapic	8.13%	PRODUCT LIMITED TO 120 GALLONS I HAVE IN STOCK THIS IS BASF BRANDED PRODUCT ONCE IT IS GONE THERE WILL NOT BE ANYMORE AVAILABLE.			
	Glyphosate	21.94%				
	Product Trade Name: Journey or equal _____					
	EPA Registration Number: 241 417					
	A) Supplied in 2.5 gallon containers in lots of 5 gallons		100	gallon	$86.10	$8'610.00
DOH-37H	A Liquid Containing:					
	Dimethylamine Salt of 2,4-Dichlovophenoxyacetic Acid	24.58%				
	Dimethylamine Salt of Dicamba (3,6-Dichloro-o-Anisic Acid)	12.82%				
	Product Trade Name: Veteran 720 or equal _____					
	EPA Registration Number: 228 - 295					
	A) Supplied in 2.5 gallon containers in lots of 5 gallons		100	gallon	$39.50	$3'950.00
	B) Supplied in 30 gallon drums		100	gallon	$39.00	$3'900.00
DOH-38H	Dispersible Granules Containing:					
	Chlorsulfuron	9%				
	Sulfometuron Methyl	18%				
	Sulfentrazone	48%				
	Product Trade Name: Throttle XP or equal _____					
	EPA Registration Number: 352 - 846					
	A) Supplied in 3.9 pound containers, 8 containers per case		100	pound	$116.00	$1'160.00
DOH-39H	Water Soluble Dispersible Extruded Paste Granule Containing:					
	Aminocyclopyrachlor	39.50%				
	Chlorsulfuron	15.80%				
	Product Trade Name: Perspective™ or equal _____					
	EPA Registration Number: 352 - 846					
	A) Supplied in 20 ounce containers in lots of 240 ounces		240	ounces	$4.60	$1'104.00
	B) Supplied in 20 ounce jug		40	ounces	$4.60	$184.00
	C) Supplied in 5 pound containers in lots of 40 pounds		80	pounds	$73.60	$5888.00
	D) Supplied in 5 pound jug		20	pounds	$73.60	$1'472.00

$1472.00

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Item #	HERBICIDES Description	% Concentration/ Pounds per Gallon of Active Ingredients	Estimated Quantity	Unit of Measure	Cost Per Unit of Measure	Extended Cost
DOH-40H	Water Soluble Dispersible Extruded Paste Granule Containing:					
	Aminocyclopyrachlor	39.50%				
	Metsulfuron methyl	12.60%				
	Product Trade Name: Streamline™ or equal _____					
	EPA Registration Number: 352 - 848					
	A) Supplied in 3 pound containers in lots of 24 pounds		96	pounds	$82.40	$7910.00
	B) Supplied in 3 pound jug		96	pounds	$82.40	$7910.00
DOH-41H	Water Soluble Dispersible Extruded Paste Granule Containing:					
	Imazapyr	31.60%				
	Aminocyclopyrachlor	22.80%				
	Metsulfuron methyl	7.30%				
	Product Trade Name: Viewpoint™ or equal _____					
	EPA Registration Number: 352 - 847					
	A) Supplied in 5 pound containers in lots of 40 pounds		100	pounds	$58.71	$5'871.00
	B) Supplied in 5 pound jug		100	pounds	$58.71	$5871.00
DOH-42H	A Liquid Containing:					
	Indaziflam (1.67 pounds per gallon)	19.05%				
	Product Trade Name: ESPLANADE 200SC or equal _____					
	EPA Registration Number: 432 - 1528					
	A) Supplied in 2.5 gallon containers in lots of 5 gallons		50	gallons	$1031.42	$51'571.00
	B) Supplied in 1 quart containers in lots of 1 gallon		50	gallons	$1081.08	$54'054.00
DOH-43H	A Plant Growth Regulator Containing:					
	Mefluidide, diethanolamine salt	21.45%				
	Imazethapyr, ammonium salt	4.09%				
	Imazapyr, ammonium salt	0.15%				
	Product Trade Name: Stronghold or equal _____					
	EPA Registration Number: _____					
	A) Supplied in 2.5 gallon containers in lots of 5 gallons		50	gallons		NO BID
	B) Supplied in 1 quart containers in lots of 1 gallon		50	gallons		NO BID

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HERBICIDES						
Item #	Description	% Concentration/ Pounds per Gallon of Active Ingredients	Estimated Quantity	Unit of Measure	Cost Per Unit of Measure	Extended Cost
DOH-44H	A Turf and Ornamental Growth Regulator Containing: Diethanolamine Salt of Mefluidide	3.20%				
	Product Trade Name: Embark or equal _____					
	EPA Registration Number: _____					
	A) Supplied in 2.5 gallon containers in lots of 5 gallons		50	gallons		NO BID

ADJUVANTS					
Item #	Description	Estimated Quantity	Unit of Measure	Cost Per Unit of Measure	Extended Cost
DOH-1A	A Water Soluble Blue Liquid Spray Pattern Indicator				
	Product Trade Name: Bullseye or equal SUPER MARKING DYE				
	A) Supplied in 2.5 gallon containers in lots of 5 gallons.	100	gallon	$38.50	$3'850.00
DOH-2A	A Diluent with Emulsifiers				
	Product Trade Name: Hygrade EC or Arborchem Basal Oil or Bark Oil EC or Alenza Basal Oil or Penevator or equal ALLIGARE BASAL OIL				
	A) Supplied in 2.5 containers in lots of 2.	100	gallon	$17.50	$1'750.00
DOH-3A	Non-Ionic Surfactant (90% Active Ingredient)				
	Product Trade Name: ALLIGARE 90				
	A) Supplied in 2.5 containers in lots of 2.	100	gallon	$12.60	$1'260.00
DOH-4A	A Granular/Flake Drift Control Agent				
	Product Trade Name:				
	A) Supplied in _____ containers in lots of _____.	100	pound		NO BID
DOH-5A	A Liquid Drift Control Agent				
	Product Trade Name: ALLIGARE DRIFT CONTROL				
	A) Supplied in QUART containers in lots of 12.	400	quart	9.75	$3'900.00
DOH-6A	Aquatic Surfactant				
	Product Trade Name: ALLIGARE 90				
	A) Supplied in 2.5 containers in lots of 2.	100	gallon	$12.60	$1'260.00
DOH-7A	A Water Soluble Liquid Spray Pattern Indicator				
	Product Trade Name: Blueprint Plus or equal MARKING DYE				
	A) Supplied in 2.5 gallon containers in lots of 5 gallons.	100	gallon	$34.60	$3'460.00
DOH-8A	A Non-Ionic Sticker Spreader				
	Product Trade Name: Nu-Film-IR or equal _____				
	A) Supplied in 2.5 gallon containers in lots of 2.	100	gallon	$46.25	$4'625.00
DOH-9A	A Ready-to-Use Formula Containing Paraffinic Oil Emulsifiers				
	Product Trade Name: Thinvert RTU or equal _____				
	A) Supplied in 2.5 gallon containers in lots of 5 gallons per case.	100	gallon		NO BID
	B) Supplied in 15 gallon drum.	100	gallon		NO BID

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SAFETY EQUIPMENT				Cost Per Unit of Measure	Extended Cost
Item #	Description	Estimated Quantity	Unit of Measure		
DOH-1S	Emergency Spill Kit Containing:				
	15 Universal Plus Sorbent Pads				
	3 Cobra Coils				
	1 Pair Safety Goggles				
	1 Pair Latex Gloves				
	1 Large Refuse Bag				
	1 List of Environmental Compliance Telephone Numbers				
	Size: 18"x18"x4" Vacuum				
	Packed in Puncture Resistant Foil				
	Product Trade Name: _____				
	A) Supplied by the kit.	1	each		X
DOH-2S	A Granular/Flake Spill Absorbent				
	Product Trade Name: _____				
	A) Supplied in _____ containers in lots of _____.	1	pound		X
DOH-3S	32 ounce Eye Wash Bottle				
	Product Trade Name: _____				
	A) Supplied per each.	1	each		X

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MISCELLANEOUS					
Item #	Description	Estimated Quantity	Unit of Measure	Cost Per Unit of Measure	Extended Cost
DOH-1M	Pressure Rinser				
	Product Trade Name: Easy Rinse or equal _____				
	A) Supplied per each.	1	each		X
DOH-2M	Hand Soap with Citrus Oil				
	Product Trade Name: Zep or equal _____				
	A) Supplied in 32 ounce containers in lots of 20 containers per case	1	container		X
DOH-3M	A Biostimulant Containing				
	Soluble Potash 1.00%				
	Iron 0.36%				
	Manure Extract 79.30%				
	Humic and Fulvic Acid Extract 9.00%				
	Kelp Extract 1.20%				
	Organo-Modified Silaxane Surfactant 0.36%				
	Product Trade Name: Launch or equal _____				
	A) Supplied in 2.5 gallon containers in lots of 5 gallons	2.5	gallon		X
DOH-4M	Nitri-Solve 100% - 15 mil 13" Nitrile Gloves - Compliance EPA 40 CFR 170				
	A) Supplied size Small.	1	pair		X
	B) Supplied size Medium.	1	pair		X
	C) Supplied size Large.	1	pair		X
	D) Supplied size X-Large.	1	pair		X
	E) Supplied size XX-Large.	1	pair		X
DOH-5M	A 5-gallon Backpack Sprayer				
	Product Trade Name: Birchmeier or equal _____				
	A) Supplied per sprayer	1	each		X
	B) Gasket Set for Sprayer Pump	1	set		X
	C) Hose Valve and Wand Repair Kit	1	kit		X
DOH-6M	2-Quart Handheld Pressure Sprayer				
	Product Trade Name: Tolco or equal _____				
	A) Supplied per sprayer	1	each		X

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MISCELLANEOUS					
Item #	Description	Estimated Quantity	Unit of Measure	Cost Per Unit of Measure	Extended Cost
DOH-7M	Closed System Backpack Sprayer				
	Product Trade Name: Birchmeier BCS or equal _____				
	A) Supplied per sprayer	1	each		X
	B) Gasket Set for Sprayer Pump	1	set		X
	C) Hose Valve and Wand Repair Kit	1	kit		X

WEST VIRGINIA
DIVISION OF HIGHWAYS

STANDARD SPECIFICATIONS
ROADS AND BRIDGES
Adopted 2010

ver. 20110520

SECTION 101
DEFINITION OF TERMS

101.1-ABBREVIATIONS:

Whenever the following abbreviations are used in these Specifications, Plans or Contract Documents, they are to be construed the same as the respective expressions represented:

AAN	American Association of Nurserymen
AAR	Association of American Railroads
AASHTO	American Association of State Highway and Transportation Officials
AIA	American Institute of Architects
AISC	American Institute of Steel Construction, Incorporated
AISI	American Iron and Steel Institute
AMA	Automotive Manufacturer's Association
AMS	Aerospace Material Specification
ANSI	American National Standards Institute
ARA	American Railway Association
AREA	American Railway Engineering Association
AREMA	American Railway Engineering and Maintenance of Way Association
ASCE	American Society of Civil Engineers
ASD	Aluminum Standards & Data-Aluminum Association
ASLA	American Society of Landscape Architects
ASTM	American Society for Testing and Materials
ATSSA	American Traffic Safety Services Association
AWWA	American Water Works Association
AWS	American Welding Society
FHWA	Federal Highway Administration
FSS	Federal Specifications and Standards, General Services Administration
IEEE	Institute of Electronic and Electrical Engineers
IPCEA	Insulated Power Cable Engineers Association
ISA	Instrument Society of America
MIL	Military Specification
MP	Materials Procedure (see 101.2 in definition)
NBFU	National Board of Fire Underwriters
NEC	National Electric Code
NEMA	National Electrical Manufacturer's Association
NFPA	National Fire Protection Association
PEI-ALS	Porcelain Enamel Institute: Aluminum Standards
UL	Underwriters Laboratories
SAE	Society of Automotive Engineers
SSPC	Society for Protective Coatings
TTE-TTP	Federal Specifications and Standards

101.2-DEFINITIONS:

~ A ~

ACCESS CONNECTION-Any roadway facility by means of which vehicles enter or leave arterial highways.

ADVERTISEMENTS-The public announcement, as required by law, inviting bids for work to be performed, or material to be furnished.

ARTERIAL HIGHWAY-A general term denoting a highway primarily for through traffic.

AUXILIARY LANE-The portion of the roadway adjoining the traveled way for parking, speed-change or other purposes supplementary to through traffic movement.

AWARD-The acceptance by the Division of a bid.

~ B ~

BASE COURSE-A layer or layers of specified material of designated thickness placed on a subbase or a subgrade to support a surface course or courses.

BIDDER-An individual, firm, corporation, or combination thereof, acting directly or through a duly authorized representative, and prequalified according to the requirements and provisions of the Division, submitting a bid for the proposed work.

BRIDGE-A structure, including supports, erected over a depression or an obstruction, such as water, a highway or railway and having a track or passageway for carrying traffic or other moving loads and having a length measured along the center of roadway of more than 20 ft. (6.1 meters) between undercopings of abutments or extreme ends of openings for multiple boxes.

The length of a bridge structure is the overall length measured along the line of survey stationing back to back of abutments if present, otherwise, end to end of the bridge floor, but in no case less than the total clear opening of the structure. Roadway width is the clear width measured at right angles to the longitudinal centerline of the bridge between the bottom of curbs.

~ C ~

CALENDAR DAY-Every day shown on the calendar.

CERTIFIED TECHNICIAN-A Certified Technician is an individual who has been examined by the joint Industry-Division Certification Board and deemed competent in the particular technical field for which the individual has been examined. This competency is documented by written notification and issuance of a certificate to the individual and remains in effect for a given period of time as determined by the regulations of the Board. Should any questions develop concerning the status of an individual, verification may be made through the Training section of the Personnel Division of the Division.

CHANGE ORDER-A general term referring to force account work orders, supplemental agreements, and work orders of the Contract.

CHANNEL-A natural or artificial water course.

CITY, TOWN OR DISTRICT-A subdivision of the county used to designate or identify the location of the proposed work.

COMMISSIONER-West Virginia Commissioner of Highways.

CONSTRUCTION LIMITS-The physical limits of construction as described by designated lines drawn on the Plans.

CONTRACT-The written agreement between the Division and the Contractor covering the performance of the work, the furnishing of labor, equipment and materials, and the basis of payment. The Contract includes the invitation of bids, proposal, contract form, contract bond, specifications, supplemental specifications, special provisions, plans, notice to proceed, any change orders and supplemental agreements that are required to complete the construction of the work in an acceptable manner, including authorized extensions thereof, all of which constitute one instrument.

CONTRACT BOND-The approved form of security, executed by the Contractor and their surety, guaranteeing completion of the work and payment of all legal debts pertaining to the construction of the project.

CONTRACT PERIOD-The period from the specified date of commencement of work to the specified date of completion of the work, both dates inclusive, as is specified in the Contract.

CONTRACT TIME-The number of work or calendar days specified in the proposal, indicating the time allowed for the completion of the work contemplated, including authorized time extensions.

CONTRACTOR-The individual, firm or corporation, party of the second part to the Contract, acting directly or through their agents, employees, or subcontractors.

CONTROL OF ACCESS, FULL-The condition where the right of owners or occupants of abutting land or other persons to access, light, air or view in connection with a highway is fully controlled by public authority. The authority to control access is exercised to give preference to through traffic by providing access connections with selected public roads only and by prohibiting crossings at grade or direct driveway connections.

CONTROL OF ACCESS, PARTIAL-The condition where the right of owners or occupants of abutting land or other persons to access, light, air or view in connection with a highway is partially controlled by public authority. The authority to control access is exercised to give preference to through traffic to a degree that, in addition to access connections with selected public roads, there may be some crossings at grade and some private driveway connections.

COUNTY-The County or Counties of West Virginia in which the work is to be done.

CULVERT-Any structure not classified as a bridge which provides an opening under the roadway.

~ D ~

DEPARTMENT-West Virginia Department of Transportation.

DIVISION-West Virginia Division of Highways

DIVIDED HIGHWAY-A highway with separated roadways for traffic in opposite directions.

~ E ~

EASEMENT-A right acquired by one party to use land belonging to another party for a specified purpose.

EMBANKMENT-The structure of soils, soils aggregate and broken rock between the embankment foundation and the subgrade.

EMBANKMENT FOUNDATION-The material below the original ground surface whose physical characteristics affect the support of the embankment.

EMPLOYEE-Any person working on behalf of the project who is under the direction of the Contractor or any subcontractor.

ENGINEER-The State Highway Engineer of the Division, or an authorized representative, limited by the scope of duties assigned.

EQUIPMENT-All machinery and equipment, together with the necessary supplies for upkeep and maintenance, and also tools and apparatus necessary for the proper construction and acceptable completion of the work.

ESTIMATES-The official written itemization of the value of materials in place and work performed.

EXPRESSWAY-A divided arterial highway for through traffic with full or partial control of access and generally with grade separations at intersections.

EXTRA WORK-An item of work not provided for in the contract as awarded, but found essential to the satisfactory completion of the Contract within its intended scope. See further 104.3.

~ F ~

FORCE ACCOUNT WORK ORDER-An order signed by the Engineer or an authorized representative, directing additional work to be performed, with payments based on labor, materials used, equipment cost, plus specified percentages.

FREEWAY-An expressway with full control of access.

FRONTAGE STREET OR ROAD-A local street or road auxiliary to and located on the side of an arterial highway for service to abutting property and adjacent areas, and for control of access.

~ G ~

~ H ~

HIGHWAY-The entire improvement comprising the entire right-of-way. See definition for Road in Section 101.

HIGHWAY GRADE SEPARATION-Any structure carrying highway or street traffic over or under another highway or street.

HOLIDAYS-Official holidays are New Year's Day, Martin Luther King, Jr. Day, President's Day, Memorial Day, West Virginia Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Christmas Day, and any day in which an election (Primary or General) is held through the State and such other days as the President, Governor, or other duly constituted authority shall proclaim to be holidays. If a holiday falls of Sunday, the following Monday shall be observed in lieu thereof. If a holiday falls on a Saturday, the previous Friday shall be observed in lieu thereof.

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INSPECTOR-The Engineer's authorized representative assigned to make any or all necessary inspection of the work as further described in 105.10.

INSTRUCTIONS TO BIDDERS-The notice to Contractors containing all necessary information as to provisions, requirements, date and time of submitting Proposals.

INVITATION FOR BIDS-The advertisement for bids, as required by law, inviting bids for work to be performed or material to be furnished.

ITEM-A specifically described unit of work for which a price is provided in the contract.

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LABORATORY-The testing laboratories of the Division or any other testing laboratory designated by the Division.

LOT-A lot is an isolated quantity of specified material from a single source or a measured amount of specified construction assumed to be produced by the same process.

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MATERIALS-Any substances specified for use in the construction of the project and its appurtenances.

MATERIALS PROCEDURE-A procedure defining standard methods or guidelines for the inspection, sampling, testing, evaluation, and documentation of the Material's Division activities relative to the quality assurance program for materials, products, and processes. Each Materials Procedure is identified by the letters MP followed by seven digits, (i.e. MP XXX.XX.XX).

MEDIAN-The portion of a divided highway separating the traveled ways for traffic in opposite directions.

MEDIAN LANE-A speed-change lane within the median to accommodate left-turning vehicles.

MULTIPLE DEFICIENCY-A multiple deficiency is defined as a failure to meet specified requirements involving more than one characteristic of a material within the same lot.

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NOTICE TO PROCEED-Written notice to the Contractor to proceed with the contract work including, when applicable, the date of beginning of contract time.

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PARKING LANE-An auxiliary lane primarily for the purpose of vehicular parking.

PARKWAY-An arterial highway for non-commercial traffic, with full or partial control of access, and usually located within a park or a ribbon of parklike development.

PAVEMENT STRUCTURE-The combination of subbase, base course, and surface course placed on a subgrade to support the traffic load and distribute it to the roadbed.

PLANS-The approved Plans, profiles, typical cross sections, working drawings, standard drawings, and supplemental drawings, or exact reproductions thereof, which show the location, character, dimensions and details of the work to be done.

PRE-CONSTRUCTION CONFERENCE-A conference normally called by the District Engineer, following award and prior to start of construction, to be attended by Division officials and by the responsible officials of the Contractor and other affected parties.

PRE-QUALIFICATION STATEMENT-The approved form or forms upon which Contractors shall furnish information as to their ability to perform work, their experience, personnel, equipment and financial condition.

PROFILE GRADE-The trace of a vertical plane intersecting the top surface of the proposed wearing surface, usually along the longitudinal centerline of the roadway. Profile grade means either elevation or gradient of such trace according to the context.

PROJECT-The specific section of the highway, together with all appurtenances and construction to be performed, under the Contract.

PROJECT ENGINEER OR PROJECT SUPERVISOR-The representative of the Engineer on a project. See further 105.9.

PROPOSAL-The offer of a bidder, on the prescribed form, to perform the work and to furnish the labor and material at the prices quoted.

PROPOSAL FORM-The approved form on which the Division requires a bid to be prepared and submitted for the work.

PROPOSAL GUARANTY-The security furnished with a bid to guarantee that the bidder will enter into the Contract if their bid is accepted.

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RAILWAY-HIGHWAY SEPARATION-Any structure carrying highway traffic over or under the tracks of any railway.

RAMP-A connecting roadway between two intersecting highways, usually at a highway grade separation.

RIGHT-OF-WAY-A general term denoting land, property, or interest, usually in a strip, acquired for or devoted to a highway.

ROAD-A general term denoting a public way for purposes of vehicular travel, including the entire area within the right-of-way, or needed for the maintenance of travel. See West Virginia Code, Chapter 17, Article 1, Section 3.

ROADBED-The grade portion of a highway, within top and side slopes, prepared as a foundation for the pavement structure and shoulders.

ROADSIDE-A general term denoting the area adjoining the outer edge of the roadway. Extensive areas between the roadways of a divided highway may also be considered roadside.

ROADSIDE DEVELOPMENT-Those items necessary to the complete highway which provide for the preservation of landscape materials and features; the rehabilitation and protection against erosion of all areas disturbed by construction through seeding, sodding, mulching and the placing of other ground covers; such suitable planting and other improvements as may increase the effectiveness and enhance the appearance of the highway.

ROADWAY-The portion of the highway within limits of construction.

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SEASONAL RESTRICTIONS-Limitations imposed on the work which prohibit the Contractor from performing certain types of work during specific seasons of the year.

SHOULDERS-The portion of the roadway contiguous with the traveled way for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses.

SIDEWALK-That portion of the roadway primarily intended for the use of pedestrians.

SINGLE DEFICIENCY-A single deficiency is defined as a failure to meet specified requirements involving one characteristic of a material.

SPECIAL PROVISIONS-Additions and revisions to the Standard and Supplemental Specifications covering conditions peculiar to an individual project.

SPECIALTY ITEM-An item of work designated as "Specialty Item" in the proposal that is limited to work which requires highly specialized knowledge, craftsmanship, or equipment that is not ordinarily available in contracting organizations prequalified to bid and is usually limited to minor components of the overall Contract.

SPECIFICATIONS-A general term applied to all directions, provisions, and requirements pertaining to performance of the work.

STATE-The State of West Virginia.

STREET-A general term denoting a public way for purposes of vehicular travel, including the entire area within the right-of-way.

STRUCTURES-Bridges, culverts, catch basins, drop inlets, retaining walls, cribbing, manholes, endwalls, buildings, sewers, service pipes, underdrains, foundation drains, and other features which may be encountered in the work and not otherwise classed.

SUBBASE-The layer or layers of specified or selected materials of designed thickness placed on a subgrade to support a base course.

SUBCONTRACTOR-An individual, firm, or corporation to whom the Contractor sublets part of the Contract.

SUBGRADE-The upper portion of a roadbed upon which the pavement structure and shoulders are constructed.

SUBSTANTIAL COMPLETION or SUBSTANTIALLY COMPLETE-The work on the Contract will be considered substantially complete when the Project could be opened continuously for the safe, convenient, and unimpeded use of the traveling public, or the Project has met the intention of the plans, as reasonably determined by the Engineer.

SUBSTRUCTURE-All that part of the structure below the bearings of simple and continuous spans, skewbacks of arches and tops of footings of rigid frames, together with the backwalls, wingwalls, and wing protection railings.

SUPERINTENDENT-The Contractor's authorized representative in responsible charge of the work.

SUPERSTRUCTURE-The entire structure except the substructure.

SUPPLEMENTAL AGREEMENT-A modification of the Contract covering changes in the Plans or quantities, or both, and establishing the basis of payment and time adjustment for the work necessitated by reason of the modification, requiring the signature of the Commissioner, the Contractor, and the Surety, or their authorized representatives.

SUPPLEMENTAL SPECIFICATIONS-Additions to and revisions of the Standard Specifications that are approved subsequent to issuance of the printed book. Supplemental Specifications prevail over Standard Specifications when in conflict therewith.

SURETY-The corporation, partnership, or individual, other than the Contractor, executing a bond furnished by the Contractor.

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TEMPORARY STRUCTURE-A structure required for the use of traffic or other purpose while construction is in progress and not to be retained as a part of the improvement.

TITLES-The titles or headings of the sections and subsections are intended for convenience of reference and shall not be considered as having any bearing on their interpretation except those titles and headings used in conjunction with the definition of terms.

TRAFFIC LANE-The portion of the roadway for the movement of a single line of vehicles.

TRAVELED WAY-The portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

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WORK-Work shall mean the furnishing of all labor, materials, equipment, and other incidentals necessary or convenient to the successful completion of the project and the carrying out of all duties and obligations imposed by the contract.

WORKING DAY-Every day shown on the calendar, exclusive of Saturdays, Sundays, and Holidays as set forth in definitions for Holidays in Section 101, on which weather and other conditions not under the control of the Contractor will permit construction operations to proceed for a minimum of five hours with normal working forces engaged in performing the controlling item or items of work.

WORKING DRAWINGS-The Contractor shall submit to the Engineer all stress sheets, shop drawings, erection plans, falsework plans, framework plans, cofferdam plans, bending diagrams for reinforcing steel, or any other supplemental plans or similar data for the Engineer's use.

WORK ORDER-A written order, signed by the Engineer, requiring certain performance by the Contractor without negotiation. Such order shall not change quantities of major items beyond the twenty-five percent (25%) limitations, shall not create new items, nor make revisions to item prices.

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101.3-INTERPRETATIONS:

In order to avoid cumbersome and confusing repetition of expressions in these Specifications, it is provided that whenever anything is, or is to be done, if, as, or, when, or where "contemplated, required, determined, directed, specified, authorized, ordered, given, designated, indicated, considered necessary, deemed necessary, permitted, reserved, suspended, established, approval, approved, disapproved, acceptable, unacceptable, suitable, accepted, satisfactory, unsatisfactory, sufficient, insufficient, rejected, or condemned," it shall be understood as if the expression were followed by the words "by the Engineer" or "to the Engineer".

The Division may at its discretion issue to a Contractor a Proposal requiring prequalification in excess of the amount allotted the Contractor provided it considers that this Contractor is particularly fitted by reason of their experience or equipment, or both, to perform work of this type involved in an amount exceeding their prequalification limits and further provided that the prospective bidder furnish the Division with a letter from a reputable Surety advising of their willingness to furnish bond to the Contractor for the project.

When more than one project is advertised, Proposals will be issued on as many projects as the Contractor requests, providing the Contractor is qualified as above for each individual project, but no contracts will be awarded exceeding the permissible limit of the Contractor's prequalification rating except as otherwise provided in 103.1.

102.4-INTERPRETATION OF APPROXIMATE ESTIMATES:

The quantities appearing in the proposal form are approximate only and are prepared for the comparison of bids. Payment to the Contractor will be made only for the work accepted, or for materials furnished in accordance with the Contract. If upon completion of the construction the actual quantities show either increase or decrease, the unit bid prices offered in the Proposal will prevail except as further provided.

102.5-EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE OF WORK:

The bidder is required to examine carefully the Plans, Specifications, Supplemental Specifications, contract forms, and the site of the work contemplated. The submission of a bid shall be considered prima facie evidence that the bidder has made such examination and has judged for and satisfied themselves as to the character, quality, and quantity of work to be performed and material required to be furnished under the Contract.

102.6-PREPARATION OF PROPOSAL:

The bidders Proposal must be submitted through the Division's Bid Express Website. The bidder must furnish a unit price or a lump sum price as called for in the Proposal, in numerical figures, for each pay item listed, except that in the case of alternates, the bid may be made on only one alternate if so desired.

The Contractor or qualified and authorized agent shall use a digital signature as provided at law for the Proposal submission.

The proposal shall comply with West Virginia Contractor Licensing Act, Chapter 21, Article 11 Code of West Virginia, except that on Federal-Aid Projects a Contractor's license is not required at time of bid, but will be required before work can begin.

102.7-IRREGULAR PROPOSALS:

Proposals will be considered irregular and will be rejected for any of the following reasons:

SECTION 105
CONTROL OF WORK

105.1-AUTHORITY OF THE ENGINEER:

The Engineer will decide all questions which may arise as to the quantity, quality, and acceptability of materials furnished and work performed, and as to the rate of progress of the work; all questions which may arise as to the interpretation of the Plans and Specifications; and all questions as to the acceptable fulfillment of the Contract on the part of the Contractor. The decision of the Engineer will be final.

The Engineer will have the authority to suspend the work wholly or in part due to the failure of the Contractor to correct conditions unsafe for the employees or the general public, for failure to carry out orders, for such periods as the Engineer may deem necessary due to unsuitable weather, for conditions considered unsuitable for the prosecution of the work, or for any other condition or reason deemed to be in the public interest. All such suspension orders will be directed to the Contractor in writing.

The Engineer is not authorized to increase the obligation of the Division to any Contract except as provided.

105.2-PLANS AND WORKING DRAWINGS:

Approved Plans will show the location, profile, typical cross section, structures, except as specified, incidental items, and a summary of all items appearing in the Proposal. Any deviations which may be required by the exigencies of the construction will be determined by the Engineer and authorized by the Engineer in writing. The Contractor shall keep one set of approved Plans available on the work at all times.

Plans will show such details as are necessary to give a comprehensive idea of the construction contemplated. Any information which may be shown on drawings regarding results obtained from test piles or borings will be a record of conditions encountered at the place where such test piles were driven or borings were made, as nearly as these conditions could be interpreted by the Engineer observing the operations. The Contractor shall interpret the data in the light of their own experience. The Contractor is not bound to accept or rely on the data shown on the drawings, but may make such additional borings and investigations, including test piles, as the Contractor may desire in order to satisfy themselves concerning the lengths of piles and the conditions governing or entering into the construction of foundations.

The Plans will show the foundation depths and dimensions on which the estimate of quantities is based. These depths and foundation dimensions, however, are subject to such variations as may be necessary to secure a foundation satisfactory to the Engineer, and the right is expressly reserved to increase or diminish the dimensions and depths of the foundations as the Engineer may determine.

The Contractor shall submit to the Engineer all stress sheets, shop drawings, erection plans, falsework plans, framework plans, cofferdam plans, bending diagrams for reinforcing steel, or any other supplemental plans or similar data for the Engineers use.

any submittal which does not comply with the requirements of this Special Provision. The verification and distribution or rejection of Contractor approved shop drawings will normally require seven (7) calendar days after receipt of the drawings.

Additional certifications and/or slightly different wording of the above tow certification may be used if approval is given by the Legal Division. This approval must be obtained prior to any submission of contractor approved shop drawings. This approval may take up to thirty (30) days to be obtained. If this approval is obtained, a copy of the approval letter must be submitted with the first submission of shop drawings for distribution.

The Division shall reserve the right to review any submission of shop drawings or catalog sheets. This review shall not delay the contractor in the construction project or delay the distribution of the approved shop drawings or catalog sheets.

105.3-CONFORMITY WITH PLANS AND SPECIFICATIONS:

All work performed and all materials furnished shall be in reasonably close conformity with the lines, grades, cross sections, dimensions and material requirements, including tolerances, shown on the Plans or indicated in the Specifications.

Should the Engineer determine the materials, or the finished product do not conform to the Specifications or the Plans, the Engineer will then make a determination if the work will be accepted and remain in place in accordance with 106.3.1 and 106.7. In this event, the Engineer will document the basis of acceptance by contract modification which will provide for an adjusted payment. All nonconforming material or construction judged to be inadequate for the use intended shall be either reworked or removed and replaced at no expense to the Division.

Each supplemental agreement containing an adjusted price will also have added the sum of Two Hundred Dollars to each adjusted price, for the Divisions administration costs, to be deducted from monies due the Contractor.

105.4-COORDINATION OF PLANS, SPECIFICATIONS, SUPPLEMENTAL SPECIFICATIONS, AND SPECIAL PROVISIONS:

These Specifications, the Supplemental Specifications, the Plans, Special provisions, and all Supplementary Documents are essential parts of the Contract, and a requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete work. In case of discrepancy, calculated dimensions will govern over scaled dimensions; Supplemental Specifications will govern over Specifications; Plans will govern over Specifications and Supplemental Specifications; Special Provisions will govern over Specifications, Supplemental Specifications and Plans. When the plans provide that new work is to connect with existing structures, the Contractor must verify all dimensions with the Engineer before proceeding with the work.

The Specifications, Supplemental Specifications, and Special Provisions are in dual units. The first Primary unit is in English with the Metric unit

following in parentheses "( )". The Metric values are considered replacements for the English units and they are not conversions.

The Contractor shall take no advantage of any apparent error or omission in the Plans or Specifications. In the event the Contractor discovers such an error or omission, the Contractor shall immediately notify the Engineer. The Engineer will then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the Plans and Specifications.

105.5-COOPERATION BY CONTRACTOR:

The Contractor will be furnished One (1) complete set of plans and profile sheets, and one (1) set of Cross Sections upon request, without charge. The Contractor shall maintain on the Project at all times one complete set of Plans, Specifications, and Special Provisions.

The Contractor shall give the work the constant attention necessary to facilitate the progress thereof, and shall cooperate with the Engineer, their inspectors, other Contractors, and utilities in every way possible.

The Contractor shall have on the work at all times, as an agent, a competent superintendent capable of reading and thoroughly understanding the Plans and Specifications, and thoroughly experienced in the type of work being performed, who shall receive instructions from the Engineer or an authorized representatives. The Superintendent shall have full authority to execute orders or directions of the Engineer without delay, and to promptly supply such materials, equipment, tools, labor, and incidentals as may be required. Such superintendence shall be furnished irrespective of the amount of work sublet.

The Contractor shall furnish to the Engineer a list of addresses and telephone numbers of their personnel who may be reached in case of emergency during hours when no work is to be performed. On weekends, holidays, during suspensions of work, and during storms the Contractor shall alert certain of their personnel to stand by and shall inform the Engineer of arrangements so made.

The Contractor shall provide all reasonable facilities and furnish the Division the information, assistance and samples required by the Engineer and Inspector for proper inspecting or testing of materials and workmanship.

On some contracts it may be necessary, to insure proper coordination between the work of the Contractor and the work of various utilities, to hold a pre-construction utility meeting. The Division will arrange for the affected utilities to be present. The Contractor or their representative, authorized to make decisions for them in regard to the scheduling of the proposed work, is required to attend the meeting. A report of the pre-construction utility meeting will be prepared and distributed by the Engineer to all represented at the meeting.

105.6-COOPERATION WITH UTILITIES:

The Division will notify all utility companies, all pipe line owners, or other parties affected, and endeavor to have all necessary adjustments of the public or private utility fixtures, sewers, pipe lines, and other appurtenances within or adjacent to the limits of construction, made as soon as practicable.

Water lines, gas lines, wire lines, sewer lines, service connections, water and gas meter boxes, water and gas valve boxes, light standards, cableways, signals, and all other utility appurtenances within the limits of the proposed construction which are to be relocated or adjusted are to be moved by the owners

with that of the others in an acceptable manner and shall perform it in proper sequence to that of the others.

In the event the Engineer finds further coordination effort is necessary, the Engineer shall call a meeting of the Contractors involved. After the meeting has been held, the Engineer may notify the Contractors of the action required of each and the Engineer's decision shall be final.

105.8-CONSTRUCTION STAKES, LINES AND GRADES:

Except when "Construction Layout Stakes", is included in the Contract, the Engineer will set construction stakes establishing lines, slopes and continuous profile-grade, together with necessary reference stakes and bench marks. The Engineer will set sufficient right-of-way stakes to define the right-of-way limits. The Engineer will set stakes to mark centerline and establish bench marks for bridges and special structures as may be considered necessary.

The stakes and marks in the paragraph above shall constitute field control by and in accordance with which the Contractor shall establish all additional stakes and marks necessary to secure a correct layout of all the work. All stakes, except those set by the Engineer, shall be furnished by the Contractor. The Contractor shall not engage the services of any person or person in the employ of the Division for the performance of any of the Contractor's layout work.

The Contractor shall be responsible for having the finished work in reasonably close conformity with the lines, grades, elevations, and dimensions called for on the Plans or established by the Engineer. The Contractor shall be held responsible for the preservation of stakes, marks, and references, and shall have them reset at the Contractor's expense when they are damaged, lost, displaced, or removed.

105.9-AUTHORITY AND DUTIES OF THE PROJECT ENGINEER OR PROJECT SUPERVISOR:

The project Engineer or Supervisor has immediate charge of the engineering details of each construction project. The Engineer or Supervisor are responsible for the administration and satisfactory completion of the project.

The Project Engineer or Supervisor has the authority to reject defective material and to suspend any work that is being improperly performed.

The Project Engineer or Supervisor will have the authority to suspend the work wholly or in part due to the failure of the Contractor to correct conditions unsafe for the employees or the general public; for failure to carry out provisions of the Contract; for failure to carry out orders; for such periods as they may deem necessary due to unsuitable weather. All such suspension orders will be directed to the Contractor in writing. The suspension of the work for the above reasons does no relieve the Contractor of their responsibility according to 107.16.

105.10-AUTHORITY AND DUTIES OF THE INSPECTOR:

Inspectors employed by the Division will be authorized to inspect all work done and materials furnished. Such inspection may extend to all or any part of the work and to the preparation, fabrication or manufacture of the materials to be used. The Inspector is not authorized to alter or waive the provisions of the Contract. The Inspector is authorized to call the attention of the Contractor to any failure of the work or materials to conform to the Specifications and Contract.

The Inspector is authorized to reject materials which do not meet specification requirements or suspend the portion of the work involved until any question at issue can be referred to the Project Engineer or Project Supervisor. The Inspector is not authorized to issue instructions contrary to the Plans and Specifications. The Inspector shall not act as foreman or perform other duties for the Contractor, nor interfere with the management of the work by the latter.

105.11-INSPECTION OF WORK AND MATERIALS:

All materials and each part or detail of the work shall be subject to inspection by the Engineer. The Engineer or a representative shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the Contractor as is required to make a complete and detailed inspection. To facilitate the inspection of materials, all delivery tickets shall contain as a minimum the information required in MP 700.00.01.

At the Engineer's request, the Contractor, at any time before acceptance of the work, shall remove or uncover such portions of the finished work as may be directed. After examination, the Contractor shall restore said portions of the work to the standard required by the Specifications. Should the work thus exposed or examined prove acceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be paid for as extra work; but should the work so exposed or examined prove unacceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed shall be at the Contractor's expense.

Any work done or materials used without supervision or inspection by an authorized Division representative may be ordered removed and replaced at the Contractor's expense. Failure to reject any defective material or work shall not in any way prevent later rejection when such defects are discovered, nor obligate the Division to final acceptance.

When any unit of government or political subdivision or any railroad corporation is to pay a portion of the cost of the work covered by this Contract, its respective representatives shall have the right to inspect the work. Such inspection shall in no sense make any unit of government or political subdivision or any railroad corporation a party to this Contract, and shall in no way interfere with the rights of either party hereunder.

No work shall be done at night, Saturdays, Sundays, or Holidays without documented prior approval of the Engineer.

105.12-REMOVAL OF UNACCEPTABLE AND UNAUTHORIZED WORK:

Except as provided in 105.3, all work which does not conform to the requirements of the Contract will be considered as unacceptable work.

Unaccepted work, whether the result of poor workmanship, use of defective materials, damage through carelessness or any other cause, found to exist prior to the final acceptance of the work, shall be removed immediately and replaced in an acceptable manner.

Unacceptable material shall be removed from the job site.

No work shall be done without lines and grades having been given or approved by the Engineer. Work done contrary to the instructions of the Engineer, work done beyond the lines shown on the Plans, or as given, except as specified, or any extra work done without authority, will be considered as

unauthorized and will not be paid for under the provisions of the Contract. Work so done may be ordered removed or replaced at the Contractor's expense.

Upon failure on the part of the Contractor to comply promptly with any order of the Engineer, made under the provisions of this Subsection, the Engineer will have authority to cause unacceptable work to be remedied or removed and replaced and unauthorized work to be removed, and to deduct the costs from any monies due or to become due the Contractor.

105.13-LOAD RESTRICTIONS:

The Contractor shall comply with all legal load restrictions in the hauling of materials on public roads. A special permit will not relieve the Contractor of liability for damage which may result from the moving of equipment.

The operation of equipment of such weight or so loaded as to cause damage to structures or the roadway or to any other type of construction will not be permitted. Hauling of materials over the base course or surface course under construction shall be limited as directed. No loads will be permitted on a concrete pavement, base or structure before the expiration of the curing period. In no case shall legal load limits be exceeded unless permitted in writing. The Contractor shall be responsible for all damage done by their own equipment.

105.14-MAINTENANCE DURING CONSTRUCTION:

The Contractor shall maintain the work during construction and until the project is accepted except as otherwise provided in 105.16.1. This maintenance shall constitute continuous and effective work prosecuted day by day, with adequate equipment and forces to the end that the roadway and structures are kept in satisfactory condition at all times.

In the case of a Contract for the placing of a course upon a course or subgrade previously constructed, the Contractor shall maintain the previous course or subgrade during all construction operations.

All cost of maintenance work during construction and before the project is accepted shall be included in the unit prices bid on the various pay items, and the Contractor will not be paid an additional amount for such work except as otherwise provided in 104.5.

105.15-FAILURE TO MAINTAIN ROADWAY OR STRUCTURE:

If the Contractor, at any time, fails to comply with the provisions of 105.14, the Engineer will immediately notify the Contractor of such non-compliance. If the Contractor fails to remedy unsatisfactory maintenance within 24 hours after receipt of such notice, the Engineer may immediately proceed to maintain the project, and the entire cost of maintenance will be deducted from monies due or to become due the Contractor on their Contract.

105.16-ACCEPTANCE:

105.16.1-Partial Acceptance: If at any time during the prosecution of the project, the Contractor completes a unit or portion of the project, such as a structure, an interchange, or a section of road or pavement, the Contractor may request the Engineer to make final inspection of that unit. If the Engineer finds upon inspection that the unit has been completed in compliance with the

as provided in 652 without additional compensation. Where practicable, borrow pits, gravel pits, and quarry sites shall be located so they will not be visible from the highway.

In accordance with the agreement between the Division of Highways and the Division of Environmental Protection, the Contractor cannot furnish material from borrow areas outside the right of way for any other public or private use.

106.3-SAMPLES, TESTS, CITED SPECIFICATIONS:

All materials will be inspected, tested and approved prior to incorporation into the work. Any work which incorporates materials prior to the above evaluation shall be performed at the Contractor's risk, and may subsequently be considered as unacceptable. Unless otherwise specified, the materials shall meet the applicable Standard or Interim Specifications of the American Association of State Highway and Transportation Officials, the Standard or Tentative Specifications of the American Society for Testing and Materials, or Standards adopted by other specifying agencies, with preference given in the same order in which the above agencies are listed. The specification which is current at the time of advertisement for bids shall govern, except that, with the approval of the Engineer, subsequent revisions or adoptions may govern. All materials being used are subject to inspection, testing or rejection at any time prior to final acceptance of the completed work.

The Contractor shall be responsible for the quality of construction and materials incorporated. When called for in the Specifications, the Contractor shall perform all necessary process control inspection, sampling and testing. All materials will be approved for acceptance through the Division's acceptance procedures. The Division has the exclusive right and responsibility for determining the acceptability of the construction and materials incorporated. The Division may use the results of the Contractor's inspection, sampling and testing for acceptance purposes.

Lot or sublot sizes will normally be designated. In the event that operational conditions cause work to be interrupted, or only partially completed before the lot size designated has been achieved, the lot or sublot may be redefined by the Engineer as being either the amount of work accomplished within the day or that work partially completed combined with the next lot or sublot of work. It is the intent of these Specifications that the number of samples required to evaluate each lot or sublot will be unchanged even when the lot or sublot is redefined.

When an acceptance plan is cited, it shall be in accordance with 106.3.1.

106.3.1-Acceptance Plans:

106.3.1.1-Percent Within Tolerance: The percentage of each lot or sublot of material, product, item of construction, or completed construction within the specified tolerances will be determined by the procedures as referenced by the specification requirements. When West Virginia AP-A is referenced, it will consist of Tables 106-1 to 106-5 inclusive, published in MP 106.00.20.

106.3.1.2-Sampling of Reworked Lots or Sublots: It is the intent of these Specifications that lots or sublots of materials, products, items of construction or completed construction meet specification requirements at the time of submission. Lots or sublots generally will not be resampled unless reworked before submission. Sampling after reworking will be at the expense of the Contractor.

106.4-PLANT INSPECTION:

The Engineer may undertake the inspection of materials at the source.

In the event plant inspection is undertaken, the following conditions shall be met:

i. The Engineer shall have the cooperation and assistance of the Contractor and the producer with whom the Contractor has contracted for materials.
ii. The Engineer shall have full entry at all times to such parts of the plant as may concern the manufacture or production of the materials being furnished.
iii. Adequate safety measures are to be provided and maintained.

The Division reserves the right to retest all materials, which have been tested and accepted at the source of supply, after the materials have been delivered to the project and prior to incorporation into the work and to reject all materials which, when retested, do not meet the requirements of these Specifications or those established for the specific project.

106.5-STORAGE OF MATERIALS:

Materials shall be so stored as to assure the preservation of their quality and fitness for the work. Stored materials, even though approved before storage, may again be inspected prior to their use in the work. Stored materials shall be located so as to facilitate their prompt inspection. Approved portions of the right-of-way may be used for storage purposes and for the placing of the Contractor's plant and equipment, but any additional space required therefore must be provided by them at their expense. Private property shall not be used for storage purposes without written permission of the owner or lessee, and if requested by the Engineer, copies of such written permission shall be furnished. All storage sites shall be restored to their original condition by the Contractor at their expense. This shall not apply to the stripping and storing of topsoil, or to other materials salvaged from the work.

Care shall be exercised to protect finished concrete surfaces from being stained from storing or placing materials, including but not limited to reinforcing bars or mesh or unpainted structural steel, on same. Any such material so stored shall be adequately protected from weather. Any stains resulting from storage of materials on finished concrete surfaces shall be removed by the Contractor at their expense.

Aggregate stockpiles may be made on ground that is denuded of vegetation, hard, and well drained. If necessary, the ground shall be covered with two inch (50 mm) plank. Different kinds and sizes of aggregates shall be kept separate during transportation, handling, and storage until batched. If necessary,

partitions of suitable height and strength shall be constructed between stockpiles to prevent different materials from becoming mixed. Care must be taken to prevent segregation of the coarse and fine particles of aggregates from taking place during handling or hauling. The inclusion of foreign materials will not be permitted. Aggregates placed directly on the ground shall not be removed from the stockpiles within one foot (300 mm) of the ground until the final cleaning up of the work, and then only the clean aggregate will be permitted to be used.

106.6-HANDLING MATERIALS:

All materials shall be handled in such manner as to preserve their quality and fitness for the work. Aggregates shall be transported from the storage site to the work in tight vehicles, so constructed as to prevent loss or segregation of materials after loading and measuring, in order that there may be no inconsistencies in the quantities of materials intended for incorporation in the work as loaded and the quantities as actually received at the place of operations.

106.7-UNACCEPTABLE MATERIALS:

106.7.1-Acceptance or Rejection: Following the application of the appropriate acceptance plan, the decision of the Engineer will be final as to the acceptance, rejection, or acceptance at an adjusted price of sampled lots or sublots.

106.7.2-Disposition of Lots or Sublots: Lots or sublots not conforming to specification requirements may be reworked or removed and replaced and resubmitted for acceptance. All nonconforming lots or sublots evaluated as unsatisfactory for the use intended shall be reworked or removed and replaced and resubmitted for acceptance. When the evaluation indicates the lots or sublots may satisfactorily remain in place, acceptance will be an adjusted price as stated in the Specifications or as directed by the Engineer.

106.8-DIVISION-FURNISHED MATERIAL:

The Contractor shall furnish all materials required to complete the work, except those specified to be furnished by the Division.

Materials furnished by the Division will be delivered or made available to the Contractor at the points specified in the Contract.

The cost of handling and placing all materials after they are furnished to the Contractor shall be considered as included in the contract price for the item in connection with which they are used.

The Contractor will be held responsible for all material delivered to them, and deductions will be made from any monies due the Contractor to make good any shortages and deficiencies, from any cause whatsoever, and for any damage which may occur after such delivery, and for any demurrage charges.

106.9-SILENCE OF SPECIFICATIONS:

The apparent silence of these Specifications, Supplemental Specifications, plans and Special Provisions as to any detail, or the apparent omission from them of a detailed description concerning any point shall be regarded as meaning that only material and workmanship of acceptable quality are to be used.

SECTION 107
LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC

107.1-LAWS TO BE OBSERVED:

The Contractor shall keep fully informed of all Federal and State laws, all local laws, ordinances, and regulations and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on the work, or which in any way affect the conduct of the work. The Contractor shall at all times observe and comply with all such laws, ordinances, regulations, orders and decrees; and shall protect and indemnify the State and its representatives against any claim or liability arising from or based on the violation of any such laws, ordinances, regulations, orders, or decrees, whether by themselves, their subcontractors or their employees.

107.2-PERMITS, LICENSES AND TAXES:

The Contractor shall procure all permits and licenses, pay all charges, fees, and taxes, and give all notices necessary and incidental to the due and lawful prosecution of the work.

107.3-PATENTED DEVICES, MATERIALS, AND PROCESSES:

If the Contractor employs any design, devise, material, or process covered by letters of patent or copyright, the Contractor shall provide for such use by suitable legal agreement with the patentee or owner. The Contractor and the surety shall indemnify and save harmless the Division, and affected third party, or political subdivision from and claims for infringement by reasons of the use of any such patented design, device, material or process, or any trademark or copyright, and shall indemnify the Division for any costs, expenses, and damages which it may be obligated to pay by reason of any infringement, at any time during the prosecution or after the completion of the work.

107.4-RESTORATION OF SURFACES OPENED BY PERMIT:

The right to construct or reconstruct any utility service in the highway or street or to grant permits for same, at any time, is expressly reserved by the Division for the proper authorities of the municipality in which the work is done, and the Contractor shall not be entitled to any damages either for the digging up of the street or for any delay occasioned.

Any individual, firm, or corporation wishing to make an opening in the highway must secure a permit from the Division. The Contractor shall allow parties bearing such permits, and only those parties, to make openings in the highway. The Contractor shall, when ordered by the Engineer, make in an acceptable manner all necessary repairs due to such openings and such necessary work will paid for as "Extra Work", or as provided in these Specifications, and will be subject to the same conditions as original work performed.

107.5-FEDERAL-AID PROVISIONS:

When the United States Government pays any portion of the cost of a project, the Federal Laws and the Rules and Regulations made pursuant to such laws must be observed by the Contractor, and the work shall be subject to the inspection of the appropriate Federal Agency.

107.12-PROTECTION AND RESTORATION OF PROPERTY AND LANDSCAPE:

The Contractor shall be responsible for the preservation of all public and private property and shall protect carefully from disturbance or damage all land monuments and property marks until the Engineer has witnessed or otherwise referenced their location and shall not move them until directed.

The Contractor shall be responsible for all damage or injury to property of any character, during the prosecution of the work, resulting from any act, omission, neglect, or misconduct in the Contractor's manner or method of executing the work, or at any time due to defective work or materials, and this responsibility will not be released until the project shall have been completed and accepted.

When or where and direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect, or misconduct in the execution of the work, or in consequence of the nonexecution thereof by the Contractor, the Contractor shall restore, at their own expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding, or otherwise restoring as may be directed, or the Contractor shall make good such damage or injury in as acceptable manner.

107.13-FOREST PROTECTION:

In carrying out work within or adjacent to State or National Forests, the Contractor shall comply with all regulations of the State Fire Marshall, Division of Natural Resources, or any other authority having jurisdiction, governing the protection of forests and the carrying out of work within forests, and shall observe all sanitary laws and regulations with respect to the performance of work in forest areas. The Contractor shall keep the areas in an orderly condition, dispose of all refuse, obtain permits for the construction and maintenance of all construction camps, stores, warehouses, residences, latrines, cesspools, septic tank, and other structures in accordance with the requirements of the Forest Supervisor.

The Contractor shall take all reasonable precaution to prevent and suppress forest fires and shall require their employees and subcontractors, both independently and at the request of forest officials, to do all reasonably within their power to prevent and suppress and to assist in preventing and suppressing forest fires and to make every possible effort to notify a forest official at the earliest possible moment of the location and extent of any fire seen by them.

107.14-RESPONSIBILITY FOR DAMAGE CLAIMS:

The Contractor shall indemnify and save harmless the Division, its officers and employees, from all suits, actions, or claims of any character brought because of any injuries or damage received or sustained by any person, persons, or property on account of the operations of the Contractor; or on account of or in consequence of any neglect in safeguarding the work; or through use of unacceptable materials in constructing the work; or because of any act or omission, neglect, or misconduct of the Contractor; or because of any claims or amounts recovered from any infringements of patent, trademark, or copyright; or from any claims or amounts arising or recovered under the "Worker's Compensation Act," or any other law, ordinance, order, or decree; and so much of the money due the Contractor under and by virtue of their Contract as may be

At points where the Contractor's operations are adjacent to properties of railway, telegraph, telephone, and power companies, or are adjacent to other property, damage to which might result in considerable expense, loss, or inconvenience, work shall not be commenced until all arrangements necessary for the protection thereof have been made.

The Contractor shall cooperate with the owners of any underground or overhead utility lines in their removal and rearrangement operations in order that these operations may progress in a reasonable manner, that duplication of rearrangement work may be reduced to a minimum, and that services rendered by those parties will not be unnecessarily interrupted.

In the event of interruption to water or utility services as a result of accidental breakage, or as a result of being exposed or unsupported, the Contractor shall promptly notify the proper authority and shall cooperate with such authority in the restoration of service. If water service is interrupted, repair work shall be continuous until the service is restored. No work shall be undertaken around fire hydrants until provisions for continued service have been approved by the local fire authority.

107.18-FURNISHING RIGHT-OF-WAY:

The Division will be responsible for securing all necessary right-of-way in advance of construction. Any exceptions will be indicated in the Contract.

107.19-PERSONAL LIABILITY OF PUBLIC OFFICIALS:

In carrying out any of the provisions of these Specifications, or is exercising and power or authority granted to them by or within the scope of the Contract, there shall be no liability upon the Commissioner, Engineer, or their authorized representatives, either personally or as officials of the State, it being understood that in all such matters they act solely as agents and representatives of the Division.

107.20-NO WAIVER OF LEGAL RIGHTS:

The Division shall not be precluded or estopped by any measurement, estimate, or certificate made either before or after the completion and acceptance of the work and payment therefor, from showing the true amount and character of the work performed and materials furnished by the Contractor, nor from showing that any such measurement, estimate or certificate is untrue or is incorrectly made, nor that the work or materials do not in fact conform to the Contract. The Division shall not be precluded or estopped, notwithstanding and such measurement, estimate, or certificate and payment in accordance therewith, from recovering from the Contractor or sureties, or both, such damage as it may sustain by reason of their failure to comply with the terms of the Contract. Neither the acceptance by the Division or any representative of the Division, nor any payment for or acceptance of the whole or any part of the work, nor any extension of time, nor any possession taken by the Division, shall operate as a waiver of any portion of the Contract or of any power reserved or of any right to damages. A waiver of any breach of the Contract shall not be held to be a waiver of any other or subsequent breach.

4. Loss of time due solely to acts or omissions by the Division and not caused or contributed to by the Contractor's fault or negligence.

The allowable time required for the Division to take action on properly prepared submissions shall be fourteen (14) calendar days after receipt unless otherwise specified in the Contract documents.

Consideration for an adjustment of Contract time shall be limited to the number of potential working days lost as determined by the Engineer.

108.7-COMPLETION DATES:

108.7.1-Failure To Complete On Time And Liquidated Damages: Time is an essential element of the Contract, and it is important that the work be completed within the time specified. The cost to the Division for the administration of the Contract, including engineering, inspection, and supervision, will increase as the time required to complete the work is increased.

Therefore, for each calendar day the project is deemed not to be Substantially Complete after the Contract Time specified for completion of the work, subject to such extensions of contract time required or permitted in 108.6, the Division will assess liquidated damages against the Contractor. Daily charges will be deducted for each calendar day, as defined in 101.2, on all contracts, except daily charges will not be deducted between November 30 and April 1. The total amount of daily charges will be deducted from any monies due the Contractor, not as a penalty but as liquidated damages. Unless specified elsewhere in the Contract, the amount of the daily charge will be calculated from the table posted at the WVDOH Contract Administration's Specifications and Documents website:
http://www.transportation.wv.gov/highways/contractadmin/specifications/Pages/LiquidDatedDamages.aspx on the date the project is first advertised.

108.7.2-Interim Completion Date: When an interim completion date has been specified in the Contract documents for the Contractor to complete a specific amount of work, pay item, or structure, and if the Contractor fails to meet the interim date, the Division will assess a per calendar day charge as liquidated damages, as specified elsewhere in the Contract documents until such amount of work, pay item, or structure has been completed. Extension of interim completion dates will be governed by the provisions of 108.6. The liquidated damages provided for in this subsection are in addition to those provided for elsewhere in this Section.

108.7.3-Incentive/Disincentive for Early Completion: When an Incentive/Disincentive (I/D) provision has been included in the Contract documents, Subsection 108.7.1 relating to liquidated damages remains in effect and is applicable to the total Contract time; however, there will be concurrent assessment of liquidated damages with disincentive assessments. Extension of the date(s) established for completion of work stages covered by the I/D provision and/or the Contract completion date will be governed by the provisions of 108.6.

SECTION 109
MEASUREMENT AND PAYMENT

109.1-MEASUREMENT OF QUANTITIES:

All work completed under the Contract will be measured by the Engineer according to United States standard measure.

The method of measurement and computations to be used in determining of quantities of materials furnished and of work performed under the Contract will be those methods generally recognized as conforming to good engineering practice.

Unless otherwise indicated, the requirements prescribed shall govern.

Earthwork will be computed by the average end area method, using the horizontal length measured along the centerline as the distance between sections, applying corrections for curvature where the apparent error exceeds 25 percent of the volume in any one cut. Other acceptable methods may be used.

Unless otherwise specified, longitudinal measurements for area computations will be made horizontally and no deductions will be made for individual fixtures having an area of nine square feet (one square meter) or less. Unless otherwise specified, transverse measurements for area computations will be the neat dimensions shown on the Plans or ordered in writing by the Engineer.

Structures will be measured according to neat lines shown on the Plans or as altered to fit field conditions.

All items which are measured by the linear foot (meter), such as pipe culverts, guardrail, underdrains, etc., will be measured parallel to the base or foundations upon which such structures are placed.

The term "gage" when used in connection with the measurements of plates, will mean the U.S. Standard Gage.

The galvanized sheet thicknesses to be used in the manufacture of metal cribbing, corrugated steel culvert pipe, underdrain pipe, plate pipe, pipe arches, plate pipe arches and plate arches shall be as specified in AASHTO M 36 or AASHTO M 167. The sheet thicknesses to be used in the manufacture of corrugated aluminum alloy culvert pipe, underdrain pipe, plate pipe, pipe arches, plate pipe arches and plate arches shall be as specified in AASHTO M 196 or AASHTO M 219.

The "size number" used in the measurement of wire will be as specified in AASHTO M 32 or AASHTO M 225.

The term ton will mean the short ton consisting of 2,000 lb (The term megagram is defined as a mass of 1,000 kg). All materials which are measured or proportioned by weight shall be weighed on approved scales by competent, qualified personnel. Scales for weighing shall be of either the beam type, springless-dial type or digital recorder type. All plant and truck scales and metering devices shall be inspected, approved and sealed in accordance with the requirements of the West Virginia Division of Labor, Bureau of Weights and Measures, or other appropriate agencies of the State or its political subdivisions. Poises shall be designed to be locked in any position to prevent unauthorized changes. When the beam type scales are used, provisions for a "telltale" dial shall be made for indicating to the operator that the required load in the weighing hopper is being approached. A device on the weighing beams shall clearly indicate the critical position.

Truck scales shall be provided by the producer or Contractor, except that truck scales are not required where the material is weighed at properly calibrated automatic batching plant facilities which are equipped with digital print-out equipment. The scales shall be of sufficient size and capacity to weigh the heaviest loaded trucks that are used for delivery of the material. All truck scales shall be mounted on solid foundations which will ensure their remaining plumb and level.

A weigh person shall be provided by the producer. The weigh person shall certify that the weight of the material, as determined either by the truck scales or from the digital print-out of the weights, is correct. To signify the certification of weight the weigh person must either sign their full name on each ticket, or if the ticket printer prints the weigh person's full name they must at least initial each ticket.

Each truck shall be weighed empty prior to each load, except at automatic batch plants approved to operate without truck scales. A digital recorder shall be required on all truck scales. The digital recorder shall produce a printed record of the gross, tare and net weights, and the time, date, truck identification and project number. Provision shall be made for constant zero compensation and further provision shall be made so that the scales may not be manually manipulated during the printing process. The system shall be interlocked so as to allow printing only when the scale has come to rest.

In case of a breakdown of the automatic equipment, the Engineer may permit manual operation for a reasonable time, normally not to exceed 48 hours, while the equipment is being repaired.

If material is shipped by rail, the car weight may be accepted provided the actual weight of material only will be paid for. However, car weights will not be acceptable for material to be passed through mixing plants.

Devices, used to meter or measure component or other materials in a simultaneous manner, shall be located so as to be readily accessible and visible to a single Inspector, unless otherwise directed by the Engineer.

Materials to be measured by volume in the hauling vehicle shall be hauled in approved vehicles and measured at the point of delivery. Vehicles for this purpose may be of any size or type acceptable to the Engineer, provided that the body is of such shape that the actual contents may be readily and accurately determined. All vehicles shall be loaded to at least their water level capacity, and all loads shall be leveled when the vehicles arrive at the point of delivery.

When approved by the Engineer, material specified to be measured by the cubic yard (meter) may be weighed and these weights converted to cubic yard (meter)s for payment purposes. Further, when it is impractical to measure the material by weighing, or in its original position, the material will be measured in its final position and adjusted by a volume change factor. These conversion factors will be determined by the Engineer and shall be agreed to by the Contractor before these methods of measurement are used.

When bituminous material is measured by volume, the measured volume at loading temperature shall be converted to volume at 60° F (15° C) using the temperature correction factors in 705 for asphaltic materials and 706 for tar materials, except that when volume is measured by an approved temperature compensated metering device, no further volume correction for temperature shall be required. When bituminous material is measured by weight, the actual specific

gravity, API gravity, or weight per gallon (liter) of the material shall be used to convert the measured weight to volume at 60° F (15° C). The Contractor shall furnish all information necessary as determined solely by the Division to determine the amount of bituminous material actually incorporated into the project.

Net certified scale weights or weights based on certified volumes in the case of rail shipments will be used as a basis of measurement, subject to correction when bituminous material has been lost from the car or the distributor, wasted, or otherwise not incorporated in the work.

When bituminous materials are shipped by truck or transport, net certified weights or volume, subject to correction for loss or foaming may be used for computing quantities.

Cement will be measured by the cwt (hundredweight = 100 lb) (kilogram). For the purpose of determining the total amount used in the mixture, one bag of cement shall be considered as weighing 0.94 cwt (42.64 kg), and one barrel of cement shall be considered as weighing 3.76 cwt (175.55 kg).

Timber will be measured by the thousand feet board measure (mfbm) (cubic meters) actually incorporated in the structure. Measurement will be based on nominal widths and thicknesses and the extreme length of each piece.

The term "lump sum" when used as an item of payment will mean complete payment for the work described in the Contract.

When a complete structure or structural unit (in effect, "lump sum" work) is specified as the unit of measurement, the unit will be construed to include all necessary fittings and accessories.

When standard manufactured items are specified such as fence, wire, plates, rolled shapes, pipe conduit, etc., and these items are identified by gage, unit weight, section dimensions, etc., such identification will be considered to be nominal weights or dimensions. Unless more stringently controlled by tolerances in cited specifications, manufacturing tolerances established by the industries involved will be accepted.

109.2-SCOPE OF PAYMENT:

The Contractor shall receive and accept compensation provided for in the Contract as full payment for furnishing all materials and for performing all work under the Contract in a complete and acceptable manner and for all risk, loss, damage, or expense of whatever character arising out of the nature of the work or the prosecution thereof, subject to the provisions of 107.20.

If the "Basis of Payment" clause in the Specifications relating to any unit price in the bid schedule requires that the unit price cover and be considered compensation for certain work or material essential to the item, this work or material will not also be measured or paid for under any other pay item which may appear elsewhere in the Specifications, except as provided in 104.6.

When the Contract specifies payment of an item or a portion of an item on a plan quantity basis, the quantities for payment will be those shown on the Plans with deductions from or additions to such quantities resulting from authorized deviations from the Plans.

If the Contractor believes that a quantity which is specified for payment on a plan quantity basis is incorrect, the Contractor may request the Division in writing to check the questionable quantity. The request shall be accompanied by calculations, drawing, or other evidence indicating why the plan quantity is believed to be in error. If the plan quantity is found to be in error, payment will be made in accordance with the corrected plan quantity.

The Division reserves the right to check the quantity of an item which is specified for payment on a plan quantity basis if there is reason to believe that it is inaccurate. If the quantity is found to be in error, payment will be made in accordance with the corrected plan quantity.

Should the Division determine during construction that conditions have varied from those anticipated in design to the extent that actual measurement of a plan quantity item is warranted, the Division will make such measurement, and payment will be based in lieu of the plan quantity.

109.2.1-General Basis of Adjusted Payment:

109.2.1.1-Single Deficiency: In the case of the single characteristic deficiency, the resulting deficiency shall be used directly to determine an adjusted price.

109.2.1.2-Multiple Deficiency: In the case of a multiple deficiency, the related adjusted percentage of contract price as determined by the acceptance plan for each characteristic shall be determined and the resulting percent of contract price to be paid shall be the product of these related adjusted percentages.

109.2.2-Basis of Charges for Additional Testing: When additional acceptance testing is performed by the Division for reworked lots or sublots in accordance with 106.3.1.2, the cost of such testing will be deducted on current estimates from the amount due the Contractor by the Division. The cost of such testing will be determined in accordance with the unit costs per test as shown in Table 9-1, published in MP 109.00.20.

109.3-COMPENSATION FOR ALTERED QUANTITIES:

When the accepted quantities of work vary from the quantities in the bid schedule, the Contractor shall accept as payment in full, so far as contract items are concerned, payment at the original contract unit price for the accepted quantities of work done. No allowance except as provided in 104.2 will be made for any increased expense, loss of expected reimbursement, or loss of anticipated profits suffered or claimed by the Contractor resulting either directly from such alterations of indirectly from unbalanced allocation among the contract items of overhead expense on the part of the bidder and subsequent loss of expected reimbursements therefore or from any other cause.

Increased work involving supplemental agreements will be paid for as stipulated in such agreements. The Contractor shall furnish substantiating data required in the preparation of these agreements.

The "C" values given per gallon of Liquid Asphalt Material is based on the use of an emulsion which is assumed to contain 65% asphalt material and a gallon of emulsion weights 8.43 pounds of a liter of emulsion weights 1.00 kg. If a cut-back asphalt is used "C" as given in the above table must be multiplied by 1.54 to arrive at a modified "C" factor for use in the formula. No change will be made in the Adjustable Material Cost (C) for variations between these assumptions and actual factors.

The adjustable materials costs (C_1) and (C_2) are based on the approved job mix formula for the specific asphalt mixture being placed in accordance with the following formulae:

$$(C_1) = I_b \times A_c \times 1 \text{ ton} \quad \text{or} \quad [\,(C_1) = I_b \times A_c \times 1 \text{ megagram}\,]$$

Where A_c equals the approved asphalt content expressed in decimals, i.e. 5.8% asphalt content equals 0.058. When reclaimed asphalt pavement (RAP) is used in the mix, A_c is the % virgin or new asphalt added to the mix.

$$(C_2) = I_b \times A_c \times 1.6 \text{ tons/cy} \quad \text{or} \quad [\,(C_2) = I_b \times A_c \times 1.9 \text{ mg/m}^3 \times 1 \text{ meter}\,]$$

where A_c equals approved asphalt content expressed in decimals and it is assumed that a cubic yard of asphalt treated open-graded free draining base weights 1.6 tons or 1.9 Mg. No change will be made in C_2 for variations between this assumption and the actual factor.

109.11 THROUGH 109.19-BLANK:

109.20-LOAD LIMIT VIOLATIONS AND WEIGH TICKETS:

The Allowable Gross Weight for any vehicle being used to haul materials on publicly maintained highways under the terms of this contract shall be as follows.

Title 23 Code of Federal Regulations, Section 658.17, establishes maximum allowable gross weight on the Interstate System. The maximum allowable gross weight on WV and US Routes will be as established in Chapter 17C, Articles 17 and 17A of the Official Code of West Virginia, as amended. The Public Service Commission, Weight Enforcement Section is responsible for the enforcement of these provisions.

A weigh ticket shall be required with each load of material from a commercial source which would normally have truck scales. This includes, but is not limited to, all asphalt paving materials and all aggregates regardless of the contract pay unit. The weigh ticket shall include gross, tare, and net weights, time and date of loading, Item Number or Description of Materials, Contract Number or Project Number, number of axles on haul unit, license number of haul unit, and signature of the weigher certifying that all information on the ticket is correct. If the weigher's name is printed by the computer on the ticket, then it only needs to be initialed by the weigher.

For material from a commercial source or a batch plant, which would not normally have truck scales, a weigh ticket documenting the tare weight, number of axles on the haul unit, license number of haul unit, date weighed, location of

scales, and signature of the weigher certifying that all information on the ticket is correct, may be supplied for each haul unit as an alternate to the ticket required in the previous paragraph. The tare weight ticket shall be supplied for each contract on a yearly basis and when modifications are made to the vehicle or combination of vehicles. The weight of the material delivered shall be calculated and furnished by the vendor/supplier shipping the material to the project site or DOH facility. This includes, but is not limited to, concrete, structural steel, piling, reinforcing steel and all prepackaged material of known weight, such as cement, grout, fertilizer, lime, abrasives, etc.

If the haul unit is a combination of vehicles, the license number shall be supplied for each component. The tare weight shall be for the complete haul unit.

All weighing shall be done on scales approved and sealed by the West Virginia Division of Labor, Bureau of Weights and Measures. If the scales are moved or upon the request of the Engineer, the scales shall be reapproved and sealed. The Engineer shall be notified of any scale malfunctions. The Division of Highways may, at its option, accept inspection and sealing by out of state agencies when the material is being loaded outside West Virginia.

Any material, covered by this provision, which is delivered without the proper weigh ticket shall not be accepted by the Division of Highways.

Nothing in this provision relieves any party from compliance with the State Law on load limits or any fines which may be assessed for violation of said law.

State of West Virginia
VENDOR PREFERENCE CERTIFICATE

Certification and application* is hereby made for Preference in accordance with ***West Virginia Code***, §5A-3-37. (Does not apply to construction contracts). ***West Virginia Code***, §5A-3-37, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the ***West Virginia Code***. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Resident Vendor Preference, if applicable.

1. **Application is made for 2.5% resident vendor preference for the reason checked:**

N/A Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or,**

N/A Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or 80% of the ownership interest of Bidder is held by another individual, partnership, association or corporation resident vendor who has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or,**

N/A Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; **or,**

2. **Application is made for 2.5% resident vendor preference for the reason checked:**

N/A Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; **or,**

3. **Application is made for 2.5% resident vendor preference for the reason checked:**

N/A Bidder is a nonresident vendor employing a minimum of one hundred state residents or is a nonresident vendor with an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia employing a minimum of one hundred state residents who certifies that, during the life of the contract, on average at least 75% of the employees or Bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; **or,**

4. **Application is made for 5% resident vendor preference for the reason checked:**

N/A Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; **or,**

5. **Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:**

N/A Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; **or,**

6. **Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:**

N/A Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.

7. **Application is made for preference as a non-resident small, women- and minority-owned business, in accordance with *West Virginia Code* §5A-3-59 and *West Virginia Code of State Rules*.**

N/A Bidder has been or expects to be approved prior to contract award by the Purchasing Division as a certified small, women- and minority-owned business.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) reject the bid; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

Under penalty of law for false swearing (West Virginia Code, §61-5-3), Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.

Bidder: Summit Helicopter Inc. **Signed:** DeWayne J. Peters

Date: 3/11/2014 **Title:** Director of Chemical Sales

RFQ No. 6614C028

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: Summit Helicopters Inc.

Authorized Signature: DeWayne J. Peters Date: 3/11/2014

State of Virginia

County of Botetourt, to-wit:

Taken, subscribed, and sworn to before me this 11th day of March, 2014.

My Commission expires 8/31, 2015.

AFFIX SEAL HERE

NOTARY PUBLIC Elizabeth J Whitmore

Purchasing Affidavit (Revised 07/01/2012)

ELIZABETH J WHITMORE
Notary Public
Commonwealth of Virginia
339463
My Commission Expires Aug 31, 2015

NOTE:
Vendor and Notary's date must be the same.
Notary required to AFFIX SEAL on Purchasing Affidavit.