



# West Virginia Purchasing Division

2019 Washington Street, East  
Charleston, WV 25305  
Telephone: 304-558-2306  
General Fax: 304-558-6026  
Bid Fax: 304-558-3970

The following documentation is an electronically-submitted vendor response to an advertised solicitation from the *West Virginia Purchasing Bulletin* within the Vendor Self-Service portal at ***wvOASIS.gov***. As part of the State of West Virginia's procurement process, and to maintain the transparency of the bid-opening process, this documentation submitted online is publicly posted by the West Virginia Purchasing Division at ***WVPurchasing.gov*** with any other vendor responses to this solicitation submitted to the Purchasing Division in hard copy format.

Header

- General Information
- Contact
- Default Values
- Discount
- Document Information

<b>Procurement Folder:</b> 127315	<b>SO Doc Code:</b> CRFQ
<b>Procurement Type:</b> Central Master Agreement	<b>SO Dept:</b> 0803
<b>Vendor ID:</b> 000000203375	<b>SO Doc ID:</b> DOT1600000037
<b>Legal Name:</b> KELLY PAVING INC	<b>Published Date:</b> 10/1/15
<b>Alias/DBA:</b>	<b>Close Date:</b> 11/3/15
<b>Total Bid:</b> \$0.00	<b>Close Time:</b> 13:30
<b>Response Date:</b> 11/02/2015	<b>Status:</b> Closed
<b>Response Time:</b> 11:56	<b>Solicitation Description:</b> WINTER GRADE BITUMINOUS PATCHING MIXTURE - COLD MIX
<b>Total of Header Attachments:</b> 0	
<b>Total of All Attachments:</b> 0	



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

**State of West Virginia  
 Solicitation Response**

**Proc Folder :** 127315

**Solicitation Description :** WINTER GRADE BITUMINOUS PATCHING MIXTURE - COLD MIX

**Proc Type :** Central Master Agreement

Date issued	Solicitation Closes	Solicitation No	Version
	2015-11-03 13:30:00	SR 0803 ESR11021500000001903	1

**VENDOR**

000000203375  
 KELLY PAVING INC

**FOR INFORMATION CONTACT THE BUYER**

Misty Delong  
 (304) 558-8802  
 misty.m.delong@wv.gov

Signature X FEIN # DATE

All offers subject to all terms and conditions contained in this solicitation

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
1	WINTER GRADE BITUMINOUS PATCHING MIXTURE - COLD MIX	0.00000	TON		

Comm Code	Manufacturer	Specification	Model #
30121601			

**Extended Description :** WINTER GRADE BITUMINOUS PATCHING MIXTURE - COLD MIX

If submitting an online bid - enter the price of the first line bid into the Oasis commodity line. Vendors must use Exhibit A - Pricing Page for submitting pricing. The Oasis commodity line will not be evaluated.



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

State of West Virginia  
 Request for Quotation  
 27 - Miscellaneous

Proc Folder: 127315

Doc Description: WINTER GRADE BITUMINOUS PATCHING MIXTURE - COLD MIX

Proc Type: Central Master Agreement

Date Issued	Solicitation Closes	Solicitation No	Version
2015-10-01	2015-11-03 13:30:00	CRFQ 0803 DOT1600000037	1

**BID RECEIVING LOCATION**

BID CLERK  
 DEPARTMENT OF ADMINISTRATION  
 PURCHASING DIVISION  
 2019 WASHINGTON ST E  
 CHARLESTON WV 25305  
 US

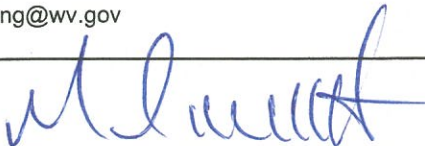
**VENDOR**

Vendor Name, Address and Telephone Number:

Kelly Paving, Inc.  
 P.O. Box 366  
 Williamstown, WV 26187 (740)859-2104

**FOR INFORMATION CONTACT THE BUYER**

Misty DeLong  
 (304) 558-8802  
 misty.m.delong@wv.gov

Signature X  FEIN # 55-0583614 DATE 11/03/2015

All offers subject to all terms and conditions contained in this solicitation

**ADDITIONAL INFORMATION:**

The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Division of Highways to establish an open-end contract for Winter Grade Bituminous Patching Mixture (Cold Mix) for use on maintenance and repair projects throughout the state of West Virginia for delivery to a WVDOH storage site and/or project site.

INVOICE TO		SHIP TO	
ALL STATE AGENCIES VARIOUS LOCATIONS AS INDICATED BY ORDER		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER	
No City	WV99999	No City	WV 99999
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	WINTER GRADE BITUMINOUS PATCHING MIXTURE - COLD MIX	0.00000	TON		

Comm Code	Manufacturer	Specification	Model #
30121601			

**Extended Description :**

WINTER GRADE BITUMINOUS PATCHING MIXTURE - COLD MIX

If submitting an online bid - enter the price of the first line bid into the Oasis commodity line. Vendors must use Exhibit A - Pricing Page for submitting pricing. The Oasis commodity line will not be evaluated.

**SCHEDULE OF EVENTS**

Line	Event	Event Date
1	Technical Questions Due	2015-10-16

DOT1600000037	<b>Document Phase</b> Draft	<b>Document Description</b> WINTER GRADE BITUMINOUS PATCHI NG MIXTURE - COLD MIX	<b>Page 3</b> of 3
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**ADDITIONAL TERMS AND CONDITIONS**

See attached document(s) for additional Terms and Conditions

## 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. Submitted e-mails should have solicitation number in the subject line.

Question Submission Deadline: October 16, 2015

Submit Questions to: Misty DeLong  
2019 Washington Street, East  
Charleston, WV 25305  
Fax: (304) 558-4115 (Vendors should not use this fax number for bid submission)  
Email: Misty.M.Delong@wv.gov

- 5. VERBAL COMMUNICATION:** Any verbal communication between the Vendor and any State personnel is not binding, including verbal communication 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 submitted electronically through wvOASIS or 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 electronic submission via wvOASIS, 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

A bid that is not submitted electronically through wvOASIS should contain the information listed below on the face of the envelope or the bid may be rejected by the Purchasing Division.:

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, and chooses to respond in a manner other than by electronic submission through wvOASIS, the Vendor shall submit one original technical and one original cost proposal plus <sup>NA</sup> convenience copies of each to the Purchasing Division at the address shown above. Additionally, if Vendor does not submit its bid through wvOASIS, 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: (This only applies to CRFP)

Technical

Cost

- 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 confirmation of delivery is provided by wvOASIS (in the case of electronic submission) or when the bid is time stamped by the official Purchasing Division time clock (in the case of hand delivery).

Bid Opening Date and Time: November 3, 2015 at 1:30 PM, EST.  
Bid Opening Location: Department of Administration, Purchasing Division  
2019 Washington Street East  
Charleston, WV 25305-0130

- 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.
10. **ALTERNATES:** Any model, brand, or specification listed in this Solicitation 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. **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.
13. **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.
14. **UNIT PRICE:** Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.
15. **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 Vendor Preference Certificate form has been attached hereto to allow Vendor to apply for the preference. Vendor's failure to submit the Vendor Preference Certificate form with its bid will result in denial of Vendor Preference. Vendor Preference does not apply to construction projects.
16. **SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES:** For any solicitations publicly advertised for bid, 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 contract award 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.

**17. 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.

**18. ELECTRONIC FILE ACCESS RESTRICTIONS:** Vendor must ensure that its submission in wvOASIS can be accessed by the Purchasing Division staff immediately upon bid opening. The Purchasing Division will consider any file that cannot be immediately opened and/or viewed at the time of the bid opening (such as, encrypted files, password protected files, or incompatible files) to be blank or incomplete as context requires, and are therefore unacceptable. A vendor will not be permitted to unencrypt files, remove password protections, or resubmit documents after bid opening if those documents are required with the bid.

## GENERAL TERMS AND CONDITIONS:

1. **CONTRACTUAL AGREEMENT:** Issuance of a Award Document 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 or 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. **"Award Document"** 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 contract holder.
  - 2.6. **"Solicitation"** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.
  - 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 one 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 should be submitted to the Purchasing Division 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 two successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed <sup>24</sup> months in total. 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.

**Delivery Order Limitations:** In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery 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.

**Fixed Period Contract with Renewals:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within \_\_\_\_\_ days. Upon completion, the vendor agrees that maintenance, monitoring, or warranty services will be provided for one year thereafter with an additional \_\_\_\_\_ successive one year renewal periods or multiple renewal periods of less than one year provided that the multiple renewal periods do not exceed \_\_\_\_\_ months in total. Automatic renewal of this Contract is prohibited.

**One Time Purchase:** The term of this Contract shall run from the issuance of the Award Document until all of the goods contracted for have been delivered, but in no event will 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 Award Document 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 a 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 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 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.

**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:** In the amount of \$1,000,000.00 \_\_\_\_\_ or more.

**Builders 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. WORKERS' COMPENSATION INSURANCE:** The apparent successful Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

**10. 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.

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

\_\_\_\_\_ for \_\_\_\_\_.

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

- 12. 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 Award Document, upon receipt.
- 13. 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.
- 14. 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.
- 15. 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.
- 16. 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 also 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.
- 17. TIME:** Time is of the essence with regard to all matters of time and performance in this Contract.
- 18. 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.
- 19. COMPLIANCE:** Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable law.
- 20. PREVAILING WAGE:** On any contract for the construction of a public improvement whose cost at the time the contract is awarded will be paid with public money in an amount greater than \$500,000, 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 under West Virginia Code §§ 21-5A-1 et seq. Vendor shall

be responsible for ensuring compliance with prevailing wage requirements and determining when prevailing wage requirements are applicable.

21. **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.
22. **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.
23. **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.
24. **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.
25. **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.
26. **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.
27. **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.
28. **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.

**29. 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>.

**30. 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. and the competitive bidding laws found West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-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. 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. Additionally, pricing or cost information will not be considered exempt from disclosure and requests to withhold publication of pricing or cost information 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.

**31. 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.

**32. ANTITRUST:** In submitting a bid to, signing a contract with, or accepting a Award Document 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.

**33. VENDOR CERTIFICATIONS:** By signing its bid or entering into this Contract, Vendor certifies (1) that its bid or offer was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid or offer for the same material, supplies, equipment or services; (2) that its bid or offer 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 Solicitation in its entirety; understands the requirements, terms and conditions, and other information contained herein. Vendor's signature on its bid or offer 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 or offer on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or offer 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.

**34. 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.

**35. 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.

- 36. 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.
- 37. 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.
- 38. 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.
- 39. CONFLICT OF INTEREST:** Vendor, its officers or members or employees, shall not presently have or acquire an 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.
- 40. REPORTS:** Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:
- Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

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

**41. 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.

**42. 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:
- c. 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

- d. 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.

**43. 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, or submitting documentation through wvOASIS, 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, offer or proposal for review and consideration; that I am authorized by the vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

Kelly Paving, Inc.  
(Company)

 Mark Haverty, Vice-President  
(Authorized Signature) (Representative Name, Title)

(740)859-2104 (740)859-6137 11/03/2015  
(Phone Number) (Fax Number) (Date)

ADDENDUM ACKNOWLEDGEMENT FORM  
SOLICITATION NO.: CRFQ DOT1600000037

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

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

Addendum Numbers Received:  
(Check the box next to each addendum received)

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

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

Kelly Paving, Inc.  
Company  
M. Lunt  
Authorized Signature  
11/03/2015  
Date

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

REQUEST FOR QUOTATION  
Winter Grade Bituminous Patching Mixture  
Cold Mix

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**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 for Winter Grade Bituminous Patching Mixture (Cold Mix) for use on maintenance and repair projects throughout the state of West Virginia for delivery to a WVDOH storage site and/or project site.
  
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”** means the list of items identified in Section 3.3 below and on the Pricing Pages.
  - 2.2 **“Pricing Pages”** means the schedule of prices, estimated order quantity, and totals contained in wvOASIS or attached hereto as Exhibit A, and used to evaluate the Solicitation responses.
  - 2.3 **“Solicitation”** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.
  - 2.4 **“WVDOH”** used throughout this Solicitation means the West Virginia Division of Highways.
  - 2.5 **“AASHTO”** used throughout this Solicitation means American Association of State Highway and Transportation Officials. Reference: [www.transportation.org](http://www.transportation.org).
  - 2.6 **“ASTM”** used throughout this Solicitation means the American Society for Testing and Materials. Reference: [www.astm.org](http://www.astm.org).
  - 2.7 **“Cold Mix”** used throughout this Solicitation means Winter Grade Bituminous Patching Mixture.
  - 2.8 **“Contractor” or “Vendor”** used throughout this Solicitation and in any cited sections of the West Virginia Department of Transportation, Division of Highways Standard Specifications, Roads and Bridges, adopted latest Standard Spec book edition, as modified by all subsequent annual Supplemental Specifications, are interchangeable.

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Winter Grade Bituminous Patching Mixture  
Cold Mix

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2.9 “Standard Specs” used throughout this Solicitation means the West Virginia Department of Transportation, Division of Highways Standard Specifications, Roads and Bridges, adopted latest Standard Spec book edition, as modified by all subsequent annual Supplemental Specifications.

**3. GENERAL REQUIREMENTS:**

3.1 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.

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>

The requirements of the Standard Specs, Section 109.20, PRICE ADJUSTMENT FOR LOAD LIMIT VIOLATIONS shall apply to all material supplied under this Contract. This will include material loaded by the Vendor into WVDOH owned and/or rented trucks.

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

The material shall be composed of a suitable aggregate, plant mixed with a liquid asphalt material and chemical anti-stripping additives. The material shall maintain adhesive qualities for all moisture conditions in the patched areas, except those having standing water.

REQUEST FOR QUOTATION  
Winter Grade Bituminous Patching Mixture  
Cold Mix

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**3.2.1 Materials:**

**3.2.1.1 Aggregate:**

The coarse aggregate shall be a clean material consisting of crushed stone, crushed gravel or slag, meeting the requirements of the Standard Specs Sections 703.1, 703.2 and 703.3 respectively. Fine aggregate shall meet the requirements of the Standard Specs Section 702.3.

Allowable standard aggregate sizes shall be #89, #9 or a blend composed of #8 with a minimum of 50% #9. The aggregate gradation shall be as recommended by the liquid asphalt supplier.

The gradation shall be determined in accordance with AASHTO T27 and AASHTO T11.

The aggregate fraction of the final mixture shall meet the crushed particle requirements of the Standard Specs 703.2.2. Questionable aggregates shall be tested as per WVDOH Materials Controls, Soils and Testing Division, Materials Procedure MP 703.00.21, except the #8 sieve will be used. For a copy of this Procedure, please reference:

<http://www.transportation.wv.gov/highways/mcst/Material%20Procedures/M7030021.pdf>

**3.2.1.2 Asphalt Material:**

The asphalt material shall be liquid asphalt containing a minimum of 2.5% chemical anti-stripping additives meeting the requirements of the liquid asphalt supplier.

Results from the following test methods and any additional tests conducted by the liquid asphalt supplier shall be presented to the respective WVDOH District Materials Engineer/Supervisor for review prior to production.

Modified Asphalt Test

- 1) Flash Point °C (°F) - AASHTO T79
- 2) Kinematic Viscosity in cSt at 60°C (140°F)  
Requirement – 350 to 500 cSt – AASHTO T201
- 3) Water (%) – Requirement – 0.2% maximum – AASHTO T55
- 4) Distillate Test – AASHTO T78  
    % to 225°C (437°F)  
    % to 260°C (500°F)  
    % to 315°C (600°F)

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Residue (%) at 360°C (680°F)

Residue Tests

- 1) Ductility at 25°C (77°F) – AASHTO T51
- 2) Solubility Test – AASHTO T44

**3.2.1.3 Composition of Mixture:**

The aggregates and asphalt material shall be combined in such proportions that the composition by weight of the finished mixture shall meet the requirements of the plant mix formula.

The aggregate fraction of the mixture shall be evaluated in accordance with AASHTO T27 and AASHTO T11 and shall meet the requirements of the plant mix formula range. Any material failing to meet specification requirements on any sieve shall not be approved.

The minimum amount of asphalt shall be as indicated in the table below. The amount of asphalt shall be sufficient to thoroughly coat the aggregate particles and provide enough adhesion to hold the compacted particles together under traffic conditions when properly placed and to assure that the aggregate particles remain sufficiently coated after stockpiling.

Minimum Asphalt Content for Cold Mix Mixture		
Aggregate Type	#89 or Blend of #8 with minimum of 50% #9	#9
% Asphalt - Note <sup>1</sup>	5.5%	6.0%

Note<sup>1</sup>: Add a minimum additional 0.5% asphalt to the above values for mixtures containing high-absorptive aggregates (>1.5%)

**3.2.1.4 Plant Mix Formula:**

The plant mix formula shall be in accordance with the recommendations of the liquid asphalt supplier. The plant mix formula composition report, which shall include the percentage of chemical anti-stripping additive, shall be forwarded to the WVDOH District Materials Supervisor/Engineer before the mixture is produced.

Should the Contractor at any time propose to change the plant mix formula by changing the source of aggregate in the mixture, the definite asphalt content or change the source of the bituminous material, the provisions of the Standard Specs Section 401.4.2 shall apply.

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Winter Grade Bituminous Patching Mixture  
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**3.2.2 Quality Control Testing:**

Quality control is the responsibility of the Contractor. Quality control testing shall include daily asphalt content and gradation analysis of the design aggregate structure during production. Since the aggregate and asphalt material are required to be measured separately and accurately to the proportions of the plant mix formula, the asphalt content may be determined by calculating the percentage by total weight of mixture. However, all standard methods of determining the asphalt content of the mixture that are allowed for hot mix asphalt under Section 401 of the Standard Specs are acceptable. The ignition oven test method, AASHTO T308, would require an asphalt content correction factor; however, due to the low flash point of most asphalts used in Cold Mix, this test method is not recommended. If the AASHTO T164 solvent extraction test method is used, a non-chlorinated solvent may be substituted for the standard specified solvent and the test method may be modified as per the recommendations of the solvent manufacturer/supplier.

In addition, for each day of production, the completed mixture shall be tested for aggregate coating as follows:

Obtain a 100-150 gram sample and allow it to cure to normal laboratory temperature. Place the sample in a glass jar of sufficient size that the loose sample will protrude to a level of no more than half of its capacity. Cover the sample with water to approximately three-quarters of the capacity of the jar. Place a tight fitting cover on the jar and allow it to stand for a period of 20 to 24 hours at normal laboratory temperature. The sample jar shall then be vigorously agitated for a period of 30 seconds. Pour the water from the jar, remove the sample and spread it on a flat light-colored surface (non-stick laboratory paper is recommended). Allow the sample to air dry and visually examine it for stripping of the asphalt film from the aggregate. Estimate the amount of coated aggregate. Any thin brownish, translucent areas are to be considered fully coated with an asphalt film. Document the results of this test. The mixture shall be considered acceptable if at least 95% of the aggregate is coated. Insufficient coating may require reworking of the mixture and/or an additional amount of anti-stripping additive.

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**3.2.3 Acceptance of the Mixture:**

Acceptance shall be the responsibility of the WVDOH. This shall be accomplished by monitoring the Contractor's quality control testing and reviewing all test data relevant to the mixture.

In addition, if the completed mixture shows signs of stripping, the WVDOH shall choose to either monitor the Contractor's quality control aggregate coating test or conduct their own test and visually estimate the amount of coated particles. Document the results of this test. Although this is a visual estimation, the Contractor should be immediately notified if the WVDOH's test results are below 95%. A low coating percentage should be an indicator for the WVDOH to closely monitor the mixture after stockpiling. All WVDOH testing shall be performed by the WVDOH District Materials Section.

After the mixture is stockpiled on the WVDOH lot, it shall be visually evaluated for any appearance of excessive non-fully coated aggregate particles. If considered necessary, the WVDOH shall evaluate the mixture, in accordance with ASTM D2489 (based on two-sample average), to determine if at least 97% of the coarse aggregate particles are fully coated. This evaluation shall take place within the first week after stockpiling. If the mixture is less than 97% coated, the Contractor will be required to provide new material or remove the existing stockpile material from the WVDOH lot, rework it to an acceptable condition with additional asphalt and/or chemical anti-stripping additive as needed and return it to the WVDOH lot, at no additional cost to the WVDOH.

**3.2.4 Preparation of Mixture:**

The aggregate shall be heated to insure that it is surface dry at the time of mixing; however, the aggregate temperature shall not exceed the safe temperature recommended by the liquid asphalt supplier. The liquid asphalt shall not be heated beyond the safe temperature recommended by the liquid asphalt supplier. Care shall be taken to prevent local overheating.

The aggregate and asphalt material shall be measured separately and accurately to the proportions in which they are to be mixed. After the aggregate and binder have been combined, they shall be thoroughly mixed until the particles of aggregate are coated. The temperature of the finished mixture shall not be greater than the maximum temperature recommended by the liquid asphalt supplier.



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**3.2.5 Workability:**

The mixture shall be stockpiled on the Vendor's site for 14 days or until the internal mixture temperature is within 10°F of ambient temperature without stripping and when taken from a stockpile, shall be capable of being shoveled, raked, spread and compacted.

At the end of the stockpiling period on the Vendor's site, the mixture shall be tested in accordance with ASTM D2489 (based on two-sample average). The total amount of non-fully coated particles shall not exceed 3%. The Contractor shall provide the ASTM D2489 test results to the WVDOH on Form T410 Degree of Particle Coating of Bituminous-Aggregate Mixtures which is provided by the WVDOH District Materials Section. See Appendix A of this Contract.

If the material fails to conform to the requirements of the specifications, the Contractor may rework the existing material or provide new material.

**3.2.6 Storage:**

The mixture shall be maintained on the Vendor's site in stockpiles not exceeding a height of four feet tall until the internal mixture temperature is within 10°F of the ambient temperature. In addition, the top of all stockpiles shall be leveled to eliminate any peaked areas.

The mixture shall contain sufficient asphalt that is capable of coating the aggregate without stripping.

After delivering to a WVDOH lot stockpile/project site, the mixture shall have a maximum of 5% non-fully coated particles after the first week and up to 90 days from delivery when evaluated in accordance with ASTM D2489 (based on two-sample average). This coating determination may be based on the WVDOH visual inspection, if coating is not a problem or based on WVDOH testing when the amount of non-fully coated particles appears questionable. If stripping occurs, the Contractor will be required to provide new material or remove the existing stockpile material from the WVDOH lot, rework it to an acceptable condition with additional asphalt and/or chemical anti-stripping additive as needed and return it to the WVDOH lot.

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**3.2.7 Sampling and Testing:**

Upon award of the Contract, the Vendor shall inform the WVDOH of the location of the Vendor's storage sites so that materials may be sampled and tested prior to shipment. Information shall be directed to the WVDOH District Materials Engineers/Supervisors.

**3.2.8 Weighing Materials Delivered by Truck:**

Material delivered by truck shall be weighed in accordance with Section 401.9.3 of the Standard Specs.

**4. CONTRACT AWARD:**

**4.1 Contract Award:** The Contract is intended to provide Agencies with a purchase price for Cold Mix for all WVDOH locations. A contract will be awarded to the Vendors that provide the Contract Item meeting the required specifications for those WVDOH Delivery/Storage Sites of which their bid is low based on the Unit Cost per Ton price bid.

**4.2 Prices:** Vendor should submit a price by providing unit prices for Cold Mix per location requested. Vendors may bid any or all WVDOH Delivery/Storage Sites.

Vendors should be cautioned as the quantities listed are estimates only. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery, F.O.B. WVDOH Delivery/Storage Sites, whether more or less than the quantities shown. No future use of the contract or any individual items is guaranteed.

Vendor should electronically enter the information into the Pricing Pages through wvOASIS, if available, or as an electronic document. In most cases, the Vendor can request an electronic copy of the Pricing Pages for bid purposes by sending an email request to the following address: [misty.m.delong@wv.gov](mailto:misty.m.delong@wv.gov).

**5. ORDERING AND PAYMENT:**

**5.1 Ordering:** Vendor shall accept orders through wvOASIS, 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. Vendor

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Cold Mix

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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 VISA Purchasing Card Program which is issued through a bank. The successful Vendors must accept the State of West Virginia VISA Purchasing Card for payment of orders placed by any State agency as a condition of award.

**6. PRODUCTION, DELIVERY AND RETURN:**

- 6.1 Production:** The awarded Vendor should produce material within two weeks of receipt of a Delivery Order.
- 6.2 Delivery Time:** All Delivery Orders shall specify a delivery date based on the Vendor's acceptance of the Delivery Order. If the Contract Item is not delivered by the date requested on the Delivery Order or by an alternate agreed upon date by the WVDOH and the Vendor, liquidated damages may be assessed in accordance with Section 108.7 of the Standard Specs. Vendor shall deliver emergency orders within an agreed upon acceptable timeframe after orders are received. Vendor shall ship all orders in accordance with the dates assigned to each project per the Delivery Order and shall not hold orders until a minimum delivery quantity is met. No Vendor is authorized to ship, nor is the WVDOH authorized to receive materials prior to the issuance of a Delivery Order.
- 6.3 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.

- 6.4 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.
- 6.5 Return of Unacceptable Items:** If the Agency deems the Contract Items to be unacceptable, reworking of the material shall be in accordance to the specifications

REQUEST FOR QUOTATION  
Winter Grade Bituminous Patching Mixture  
Cold Mix

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of Section 3.2.3 Acceptance of the Mixture, Section 3.2.5 Workability and Section 3.2.6 Storage of the Contract.

**6.6 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. VENDOR DEFAULT:**

**7.1** The following shall be considered a Vendor default under this Contract.

**7.1.1** Failure to provide Contract Items in accordance with the requirements contained herein.

**7.1.2** Failure to comply with other specifications and requirements contained herein.

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

**7.1.4** Failure to remedy deficient performance upon request.

**7.2** The following remedies shall be available to Agency upon default.

**7.2.1** Immediate cancellation of the Contract.

**7.2.2** Immediate cancellation of one or more release orders issued under this Contract.

**7.2.3** Any other remedies available in law or equity.

**8. MISCELLANEOUS:**

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

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Winter Grade Bituminous Patching Mixture  
Cold Mix

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- 8.2 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.
- 8.3 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.
- 8.4 Contract Manager:** During its performance of the 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: Josh Reed  
Telephone Number: (740) 859-2131  
Fax Number: (740) 859-2134  
Email Address: j.reed@shellyandsands.com

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Winter Grade Bituminous Patching - Cold Mix

Delivery: F.O.B. WV Division of Highways Storage Site  
DISTRICT 1

**AWARD SHALL BE BASED ON THE LOW-BID UNIT  
COST PER TON, PER DELIVERY/STORAGE SITE.**

County	Delivery/Storage Site	Unit of Measure	Estimated Number Tons	Unit Cost Per Ton	Extended Cost
Boone	Clinton @ WV85	TON	100	No	Bid
Boone	Rock Creek	TON	50	No	Bid
Boone	Seth	TON	50	No	Bid
Clay	Widen Road & CR 11	TON	100	No	Bid
Clay	Maysel	TON	0	No	Bid
Kanawha	Chelyan	TON	150	No	Bid
Kanawha	Elkview	TON	100	No	Bid
Kanawha	North Charleston	TON	100	No	Bid
Kanawha	St. Albans	TON	100	No	Bid
Kanawha	I-64 @ Rt. 119 and Penn. Avenue	TON	50	No	Bid
Kanawha	I-77 @ Sissonville	TON	100	No	Bid
Kanawha	I-79 @ Amma	TON	30	No	Bid
Kanawha	Corridor G @ Alum Creek	TON	20	No	Bid
Mason	Pt. Pleasant	TON	250	No	Bid
Putnam	Red House	TON	75	No	Bid
Putnam	Hurricane @ Rt. 34	TON	75	No	Bid
Putnam	Scary	TON	30	No	Bid

\*Quantities listed in this RFQ are approximations only. 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 below. There is no guarantee purchase.

Pricing Page, Exhibit A

Winter Grade Bituminous Patching - Cold Mix

Delivery: F.O.B. WV Division of Highways Storage Site  
DISTRICT 2

**AWARD SHALL BE BASED ON THE LOW-BID UNIT  
COST PER TON, PER DELIVERY/STORAGE SITE.**

County	Delivery/Storage Site	Unit of Measure	Estimated Number Tons	Unit Cost Per Ton	Extended Cost
Cabell	Barboursville	TON	20	No	Bid
Cabell	I-64 @ Huntington	TON	20	No	Bid
Lincoln	West Hamlin	TON	50	No	Bid
Lincoln	Yawkey	TON	20	No	Bid
Lincoln	Harts	TON	20	No	Bid
Logan	Corridor G @ Chapmanville	TON	20	No	Bid
Logan	Wilkinson	TON	20	No	Bid
Logan	Man	TON	20	No	Bid
Mingo	Mingo County @Miller's Creek	TON	20	No	Bid
Mingo	Gilbert	TON	20	No	Bid
Wayne	Crum	TON	20	No	Bid
Wayne	Pritchard	TON	20	No	Bid
Wayne	Wayne	TON	20	No	Bid

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Pricing Page, Exhibit A

Winter Grade Bituminous Patching - Cold Mix

Delivery: F.O.B. WV Division of Highways Storage Site  
DISTRICT 3

**AWARD SHALL BE BASED ON THE LOW-BID UNIT  
COST PER TON, PER DELIVERY/STORAGE SITE.**

County	Delivery/Storage Site	Unit of Measure	Estimated Number Tons	Unit Cost Per Ton	Extended Cost
Calhoun	Millstone	TON	200	No	Bid
Jackson	Ripley	TON	300	No	Bid
Jackson	I-77 @ Medina	TON	20	No	Bid
Pleasants	Belmont	TON	75	No	Bid
Pleasants	St. Mary's (Colin-Anderson Lot)	TON	0	No	Bid
Ritchie	APD Pennsboro	TON	0	No	Bid
Ritchie	Ellenboro	TON	75	No	Bid
Ritchie	Corridor D @ Nutter Farm	TON	0	No	Bid
Ritchie	Smithville	TON	30	No	Bid
Roane	Lefthand @ WV 36	TON	0	No	Bid
Roane	Ambler Hill @ US 119	TON	0	No	Bid
Roane	Spencer	TON	150	No	Bid
Wirt	Elizabeth	TON	75	No	Bid
Wood	Parkersburg @ Rt. 95S	TON	100	No	Bid
Wood	Corridor D @ River Hill	TON	0	No	Bid
Wood	I-77 @ Mill Run Road	TON	35	No	Bid

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Winter Grade Bituminous Patching - Cold Mix

Delivery: F.O.B. WV Division of Highways Storage Site  
DISTRICT 4

**AWARD SHALL BE BASED ON THE LOW-BID UNIT  
COST PER TON, PER DELIVERY/STORAGE SITE.**

County	Delivery/Storage Site	Unit of Measure	Estimated Number Tons	Unit Cost Per Ton	Extended Cost
Doddridge	Smithburg	TON	100	No	Bid
Harrison	Gore	TON	300	No	Bid
Harrison	I-79 @ Lost Creek	TON	75	No	Bid
Harrison	APD 50 @ Tunnel Hill	TON	75	No	Bid
Marion	Fairmont	TON	100	No	Bid
Marion	Mannington	TON	75	No	Bid
Monongalia	I-79 @ Goshen Road	TON	15	No	Bid
Monongalia	Ridgedale	TON	400	No	Bid
Monongalia	Pentress	TON	100	No	Bid
Preston	Albright	TON	300	No	Bid
Preston	Bruceton	TON	100	No	Bid
Preston	Terra Alta	TON	100	No	Bid
Preston	Fellowsville	TON	100	No	Bid
Preston	Aurora	TON	100	No	Bid
Preston	I-68 @ Copper's Rock	TON	25	No	Bid
Taylor	Fetterman/Prunytown	TON	75	No	Bid

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Winter Grade Bituminous Patching - Cold Mix

Delivery: F.O.B. WV Division of Highways Storage Site  
DISTRICT 5

**AWARD SHALL BE BASED ON THE LOW-BID UNIT  
COST PER TON, PER DELIVERY/STORAGE SITE.**

County	Delivery/Storage Site	Unit of Measure	Estimated Number Tons	Unit Cost Per Ton	Extended Cost
Berkeley	I-81 @ Martinsburg	TON	300	No	Bid
Berkeley	I-81 @ Exit 8	TON	0	No	Bid
Grant	Petersburg	TON	75	No	Bid
Grant	Mt. Storm	TON	50	No	Bid
Grant	Corridor H @ Knobley Road	TON	0	No	Bid
Hampshire	Romney	TON	80	No	Bid
Hampshire	Capon Bridge	TON	30	No	Bid
Hampshire	Slanesville	TON	0	No	Bid
Hardy	Moorefield	TON	75	No	Bid
Hardy	Baker	TON	75	No	Bid
Jefferson	Charles Town	TON	100	No	Bid
Mineral	New Creek	TON	75	No	Bid
Mineral	Sky Line	TON	25	No	Bid
Mineral	Short Gap	TON	25	No	Bid
Mineral	District Headquarters	TON	0	No	Bid
Morgan	Berkeley Springs	TON	150	No	Bid
Morgan	Largent	TON	0	No	Bid

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Winter Grade Bituminous Patching - Cold Mix

Delivery: F.O.B. WV Division of Highways Storage Site  
DISTRICT 6

**AWARD SHALL BE BASED ON THE LOW-BID UNIT  
COST PER TON, PER DELIVERY/STORAGE SITE.**

County	Delivery/Storage Site	Unit of Measure	Estimated Number Tons	Unit Cost Per Ton	Extended Cost
Brooke	Wellsburg	TON	200	91.55	
Brooke	Weirton	TON	0	No	Bid
Hancock	New Manchester	TON	300	91.55	
Marshall	Glen Dale	TON	1300	91.05	
Marshall	Cameron	TON	700	99.05	
Ohio	Triadelphia	TON	150	94.55	
Ohio	I-70 @ Triadelphia	TON	100	94.55	
Tyler	Centerville	TON	100	101.55	
Tyler	Sistersville	TON	200	98.55	
Tyler	Sistersville Old Headquarters	TON	0	No	Bid
Wetzel	Hundred	TON	100	106.55	
Wetzel	New Martinsville	TON	150	96.55	
Wetzel	Pine Grove	TON	100	101.55	

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Winter Grade Bituminous Patching - Cold Mix

Delivery: F.O.B. WV Division of Highways Storage Site  
DISTRICT 7

**AWARD SHALL BE BASED ON THE LOW-BID UNIT  
COST PER TON, PER DELIVERY/STORAGE SITE.**

County	Delivery/Storage Site	Unit of Measure	Estimated Number Tons	Unit Cost Per Ton	Extended Cost
Barbour	Phillipi	TON	25	No	Bid
Braxton	Laurel Court	TON	60	No	Bid
Braxton	I-79 @ Coon Knob	TON	30	No	Bid
Braxton	I-79 @ Burnsville	TON	30	No	Bid
Gilmer	Glenville Headquarters	TON	50	No	Bid
Lewis	Weston (Ben Dale)	TON	50	No	Bid
Upshur	Clow Lot @ Buckhannon	TON	60	No	Bid
Webster	Cherry Falls	TON	25	No	Bid
Webster	Cowen	TON	20	No	Bid
Webster	Hacker Valley	TON	20	No	Bid

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Winter Grade Bituminous Patching - Cold Mix

Delivery: F.O.B. WV Division of Highways Storage Site  
DISTRICT 8

**AWARD SHALL BE BASED ON THE LOW-BID UNIT  
COST PER TON, PER DELIVERY/STORAGE SITE.**

County	Delivery/Storage Site	Unit of Measure	Estimated Number Tons	Unit Cost Per Ton	Extended Cost
Pendleton	Franklin	TON	100	No	Bid
Pocahontas	Marlinton	TON	25	No	Bid
Randolph	Elkins	TON	125	No	Bid
Tucker	Parsons	TON	60	No	Bid

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Winter Grade Bituminous Patching - Cold Mix

Delivery: F.O.B. WV Division of Highways Storage Site  
DISTRICT 9

**AWARD SHALL BE BASED ON THE LOW-BID UNIT  
COST PER TON, PER DELIVERY/STORAGE SITE.**

County	Delivery/Storage Site	Unit of Measure	Estimated Number Tons	Unit Cost Per Ton	Extended Cost
Fayette	Oak Hill	TON	200	No	Bid
Fayette	Corridor L @ Oak Hill	TON	0	No	Bid
Fayette	Lookout	TON	100	No	Bid
Fayette	Glen Ferris	TON	100	No	Bid
Greenbrier	Lewisburg	TON	125	No	Bid
Greenbrier	Crawley	TON	100	No	Bid
Greenbrier	I-64 @ Hart's Run	TON	15	No	Bid
Monroe	Union	TON	325	No	Bid
Monroe	Peterstown	TON	0	No	Bid
Nicholas	Summersville	TON	150	No	Bid
Nicholas	Curtin	TON	50	No	Bid
Nicholas	Corridor L @ Muddlety	TON	100	No	Bid
Summers	Hinton	TON	100	No	Bid

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Pricing Page, Exhibit A

Winter Grade Bituminous Patching - Cold Mix

Delivery: F.O.B. WV Division of Highways Storage Site  
DISTRICT 10

**AWARD SHALL BE BASED ON THE LOW-BID UNIT  
COST PER TON, PER DELIVERY/STORAGE SITE.**

County	Delivery/Storage Site	Unit of Measure	Estimated Number Tons	Unit Cost Per Ton	Extended Cost
McDowell	County Headquarters	TON	100	No	Bid
Mercer	County Headquarters	TON	100	No	Bid
Raleigh	County Headquarters	TON	150	No	Bid
Wyoming	County Headquarters	TON	100	No	Bid

\*Quantities listed in this RFQ are approximations only. 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 below. There is no guarantee purchase.

# 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: Kelly Paving, Inc.  
Authorized Signature: [Signature] Date: 11/03/2015

State of Ohio  
County of Jefferson, to-wit:

Taken, subscribed, and sworn to before me this 3 day of November, 2015.  
My Commission expires \_\_\_\_\_, 20\_\_\_\_.



Edward J. Leonard  
Notary Public, State of Ohio  
My Commission Expires  
April 9, 2016

[Signature]  
Purchasing Affidavit (Revised 08/01/2015)



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 Vendor Preference, if applicable.

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

- Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or**,  
 Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or 80% of the ownership interest of Bidder is held by another individual, partnership, association or corporation resident vendor who has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or**,  
 Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; **or**,

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

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

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

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

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

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

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

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

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

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

**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*.**

- 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: Kelly Paving, Inc

Signed: [Signature]

Date: 11/03/2015

Title: Mark Haverly, Vice-President



## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/30/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Dawson Insurance 1340 Depot Street Cleveland, OH 44116-1799 Kyp L. Ross	CONTACT NAME: Kyp L. Ross	FAX (A/C. No.): 440-356-2126	
	PHONE (A/C. No. Ext): 440-333-9000	E-MAIL ADDRESS:	
INSURED Kelly Paving, Inc. Carl Kelly Paving, Inc. 1731 Old State Route 7 P.O. Box 66 Rayland, OH 43943-0066	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : Cincinnati Insurance Company		10677
	INSURER B : American Guarantee & Liability		26247
	INSURER C :		
	INSURER D :		
	INSURER E :		
INSURER F :			

## COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

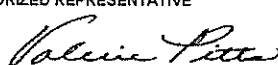
INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> \$100,000 DEDUCT GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	X	CPP 0895439	04/01/2015	04/01/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS No Phys		CPP 0895439	04/01/2015	04/01/2016	<input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS Damage COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTIONS		AUC011342100	04/01/2015	04/01/2016	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A	CPP 0895439 OH EMPL LIABILITY	04/01/2015	04/01/2016	<input type="checkbox"/> PER STATUTE <input checked="" type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project: Solicitation #CRFQ 0803 DOT1600000037; Winter Grade Bituminous Patching Mixture - Cold Mix  
The State of West Virginia, Purchasing Division is included as Additional Insured under the General Liability per form GA233 02/07 when required in a written contract or agreement.

## CERTIFICATE HOLDER

## CANCELLATION

STAWV-1  State of West Virginia, Purchasing Virginia 2019 Washington Street East Charleston, WV 25305	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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