



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

Request for Quotation

RFQ NUMBER
669C0040

PAGE
1

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

VENDOR

*717094953 614-443-8170
TOM BROWN INC
1670 HARMON AVE STE A
COLUMBUS OH 43223-3350

SHIP TO

DIVISION OF HIGHWAYS
VARIOUS LOCALES AS INDICATED
BY ORDER

DATE PRINTED 06/30/2009	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
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BID OPENING DATE: **07/15/2009** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1			745-56		
<p>EXPANSION JOINT SYSTEM BY SILCONE SPECIALTIES</p> <p>OPEN END CONTRACT</p> <p>TO PROVIDE COMPONENTS OF THE X.J.S. EXPANSION JOINT SYSTEM BY SILICONE SPECIALITIES INC. (INTERZINC 52 EPOXY-ZINC RICH BY INTERNATIONAL PROTECTIVE COATINGS, DOW CORNING(R) P5200 ADHESION PROMOTER, SILSPEC(R) 900 POLYMER NOSING SYSTEM MATERIAL, AND DOW CORNING(R) 902 SILICONE SEALANT), SOFT TYPE BACKER ROD BY NOMANCO INC. OR INDUSTRIAL THERMO POLYMERS OR APPROVED EQUAL FOR THE WEST VIRGINIA DIVISION OF HIGHWAYS. PER THE ATTACHED SPECIFICATIONS.</p> <p>THE MODEL/BRAND/SPECIFICATIONS NAMED HEREIN ESTABLISH THE ACCEPTABLE LEVEL OF QUALITY ONLY AND ARE NOT INTENDED TO REFLECT A PREFERENCE OR FAVOR ANY PARTICULAR BRAND OR VENDOR. VENDORS WHO ARE BIDDING ALTERNATES SHOULD SO STATE AND INCLUDE PERTINENT LITERATURE AND SPECIFICATIONS. FAILURE TO PROVIDE INFORMATION FOR ANY ALTERNATES MAY BE GROUNDS FOR REJECTION OF THE BID. THE STATE RESERVES THE RIGHT TO WAIVE MINOR IRREGULARITIES IN BIDS OR SPECIFICATIONS IN ACCORDANCE WITH SECTION 148-1-4(F) OF THE WEST VIRGINIA LEGISLATIVE RULES AND REGULATIONS.</p> <p>EXHIBIT 3</p> <p>LIFE OF CONTRACT: THIS CONTRACT BECOMES EFFECTIVE ON</p>						

RECEIVED
 2009 JUL 15 A 8:23
 PURCHASING DIVISION
 STATE OF WV

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>Reg Sales Mgr</i>	TELEPHONE (614) 554-1528	DATE 7/13/09
TITLE Reg Sales Mgr	FEIN 25-0916837	ADDRESS CHANGES TO BE NOTED ABOVE

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

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

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

INSTRUCTIONS TO BIDDERS

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



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 Department of Administration
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06/30/2009				
BID OPENING DATE: 07/15/2009		BID OPENING TIME 01:30PM		

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>..... AND EXTENDS FOR A PERIOD OF ONE (1) YEAR OR UNTIL SUCH "REASONABLE TIME" THEREAFTER AS IS NECESSARY TO OBTAIN A NEW CONTRACT OR RENEW THE ORIGINAL CONTRACT. THE "REASONABLE TIME" PERIOD SHALL NOT EXCEED TWELVE (12) MONTHS. DURING THIS "REASONABLE TIME" THE VENDOR MAY TERMINATE THIS CONTRACT FOR ANY REASON UPON GIVING THE DIRECTOR OF PURCHASING 30 DAYS WRITTEN NOTICE.</p> <p>UNLESS SPECIFIC PROVISIONS ARE STIPULATED ELSEWHERE IN THIS CONTRACT DOCUMENT, THE TERMS, CONDITIONS AND PRICING SET HEREIN ARE FIRM FOR THE LIFE OF THE CONTRACT.</p> <p>RENEWAL: THIS CONTRACT MAY BE RENEWED UPON THE MUTUAL WRITTEN CONSENT OF THE SPENDING UNIT AND VENDOR, SUBMITTED TO THE DIRECTOR OF PURCHASING THIRTY (30) DAYS PRIOR TO THE EXPIRATION DATE. SUCH RENEWAL SHALL BE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND SHALL BE LIMITED TO TWO (2) ONE (1) YEAR PERIODS.</p> <p>CANCELLATION: THE DIRECTOR OF PURCHASING RESERVES THE RIGHT TO CANCEL THIS CONTRACT IMMEDIATELY UPON WRITTEN NOTICE TO THE VENDOR IF THE COMMODITIES AND/OR SERVICES SUPPLIED ARE OF AN INFERIOR QUALITY OR DO NOT CONFORM TO THE SPECIFICATIONS OF THE BID AND CONTRACT HEREIN.</p> <p>OPEN MARKET CLAUSE: THE DIRECTOR OF PURCHASING MAY AUTHORIZE A SPENDING UNIT TO PURCHASE ON THE OPEN MARKET, WITHOUT THE FILING OF A REQUISITION OR COST ESTIMATE, ITEMS SPECIFIED ON THIS CONTRACT FOR IMMEDIATE DELIVERY IN EMERGENCIES DUE TO UNFORESEEN CAUSES (INCLUDING BUT NOT LIMITED TO DELAYS IN TRANSPORTATION OR AN UNANTICIPATED INCREASE IN THE VOLUME OF WORK.)</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE	TELEPHONE	DATE
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE

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<p>QUANTITIES: QUANTITIES LISTED IN THE REQUISITION ARE APPROXIMATIONS ONLY, BASED ON ESTIMATES SUPPLIED BY THE STATE SPENDING UNIT. IT IS UNDERSTOOD AND AGREED THAT THE CONTRACT SHALL COVER THE QUANTITIES ACTUALLY ORDERED FOR DELIVERY DURING THE TERM OF THE CONTRACT, WHETHER MORE OR LESS THAN THE QUANTITIES SHOWN.</p> <p>ORDERING PROCEDURE: SPENDING UNIT(S) SHALL ISSUE A WRITTEN STATE CONTRACT ORDER (FORM NUMBER WV-39) TO THE VENDOR FOR COMMODITIES COVERED BY THIS CONTRACT. THE ORIGINAL COPY OF THE WV-39 SHALL BE MAILED TO THE VENDOR AS AUTHORIZATION FOR SHIPMENT, A SECOND COPY MAILED TO THE PURCHASING DIVISION, AND A THIRD COPY RETAINED BY THE SPENDING UNIT.</p> <p>BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THE STATE MAY DEEM THE CONTRACT NULL AND VOID, AND TERMINATE SUCH CONTRACT WITHOUT FURTHER ORDER.</p> <p>THE TERMS AND CONDITIONS CONTAINED IN THIS CONTRACT SHALL SUPERSEDE ANY AND ALL SUBSEQUENT TERMS AND CONDITIONS WHICH MAY APPEAR ON ANY ATTACHED PRINTED DOCUMENTS SUCH AS PRICE LISTS, ORDER FORMS, SALES AGREEMENTS OR MAINTENANCE AGREEMENTS, INCLUDING ANY ELECTRONIC MEDIUM SUCH AS CD-ROM.</p> <p>REV. 05/26/2009</p> <p>PURCHASING CARD ACCEPTANCE: THE STATE OF WEST VIRGINIA CURRENTLY UTILIZES A VISA PURCHASING CARD PROGRAM WHICH IS ISSUED THROUGH A BANK. THE SUCCESSFUL VENDOR MUST ACCEPT THE STATE OF WEST VIRGINIA VISA PURCHASING CARD FOR PAYMENT OF ALL ORDERS PLACED BY ANY STATE</p>						

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AGENCY AS A CONDITION OF AWARD. EXHIBIT 10 REQUISITION NO.: ADDENDUM ACKNOWLEDGEMENT I HEREBY ACKNOWLEDGE RECEIPT OF THE FOLLOWING CHECKED ADDENDUM(S) AND HAVE MADE THE NECESSARY REVISIONS TO M PROPOSAL, PLANS AND/OR SPECIFICATION, ETC. ADDENDUM NO.'S: NO. 1 NO. 2 NO. 3 NO. 4 NO. 5 I UNDERSTAND THAT FAILURE TO CONFIRM THE RECEIPT OF THE ADDENDUM(S) MAY BE CAUSE FOR REJECTION OF BIDS. VENDOR MUST CLEARLY UNDERSTAND THAT ANY VERBAL REPRESENTATION MADE OR ASSUMED TO BE MADE DURING ANY ORAL DISCUSSION HELD BETWEEN VENDOR'S REPRESENTATIVES AND ANY STATE PERSONNEL IS NOT BINDING. ONLY THE INFORMATION ISSUED IN WRITING AND ADDED TO THE SPECIFICATIONS BY AN OFFICIAL ADDENDUM IS BINDING.						

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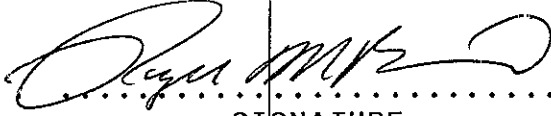
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 SIGNATURE Tom Brown, Inc. COMPANY 7/13/09 DATE						
REV. 11/96						
NOTICE						
A SIGNED BID MUST BE SUBMITTED TO:						
DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION BUILDING 15 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25305-0130						
THE BID SHOULD CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPE OR THE BID MAY NOT BE CONSIDERED:						
SEALED BID						
BUYER:				33		
RFQ. NO.:				669C0040		
BID OPENING DATE:				-----		

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<p>BID OPENING TIME: -----</p> <p>PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID: ----- (614) 559-6598 Fax -----</p> <p>CONTACT PERSON (PLEASE PRINT CLEARLY): ----- ROGER BURRIS -----</p> <p>***** THIS IS THE END OF RFQ 669C0040 ***** TOTAL: _____</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE _____ TELEPHONE _____ DATE _____

TITLE _____ FEIN 25-0916837 ADDRESS CHANGES TO BE NOTED ABOVE

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1. SPECIFICATIONS

The following sections of the West Virginia Department of Transportation, Division of Highways Standard Specifications, Roads and Bridges, adopted 2000, as modified by the current Supplemental Specifications at time of bid opening 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.

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

West Virginia Department of Transportation, Division of Highways' Standard Specifications Roads and Bridges, adopted 2000, and the current Supplemental Specifications at time of bid opening may be obtained from:

West Virginia Department of Transportation
Division of Highways, Building 5, Room A729
1900 Kanawha Blvd., East
Charleston, West Virginia 25305

1.1 COMPONENTS OF X.J.S. EXPANSION JOINT SYSTEM or "Approved Equal"

- A. Interzinc 52 Epoxy Zinc Rich Primer for priming of plain carbon steel and weathering steel. The material shall have the following physical properties:

Color: Gray
Gloss: Matte
VOC: 2.00 lbs/gal
Coverage: 207 to 315 sq ft/gal @ 3 mils.
Volume Solids: 59% ± 2%
Weight Solids: 59% ± 2%
Flash Point: 84° F mixed
Packaging: 1-Gal Kit
Drying Time @ 77° F; 50% relative humidity:
Touch 1 hour 15 minutes
Handle 4 hours
Recoat 3 hours minimum
Surface Temperature and relative humidity for application:
Temperature: 5° F above dew point

- B. Dow Corning® 5200 Adhesion Promoter Coat for priming Silspec 900 Nosing and concrete substrates. Shelf life of unopened material shall be one and one-half (1.5) years when stored between 50° F and 90° F. The material shall have the following physical properties:

Color: Clear or Red
Low VOC: 43 g/L
Flash Point: 88° F
Dry Time: 30 min cold conditions
10 min warm conditions

C. SSI Silspec® 900 Polymer Nosing System

The polymer material shall be a three-component (polymer resin, curing agent, engineered blend of graded aggregates), rapid curing liquid polymer that cures to a dense, semi-flexible, weather, abrasion, and impact resistant polymer mortar. The polymer material shall cure sufficiently to accept traffic in four (4) hours at a substrate temperature of 70° F. Shelf life of unopened material shall be two (2) years when stored between 50° F and 90° F. The material shall have the following physical properties:

Mixed Epoxy Without Aggregate:

Mixing Ratio:	1:1 by Volume	
Color:	Black	
Tensile Strength:	900 PSI min.	ASTM D 638*
Elongation at Break:	45% min.	ASTM D 638*
Shore D Hardness:	45-75 (at 77° F)	ASTM D 2240
Gel Time:	20-60 minutes	AAASHTO M200

*Molded Specimens, 0.25 in Thickness

Mixed Epoxy With Aggregate:

Compressive Strength:	2500 PSI min	ASTM C 579 Method B @ 24 Hours
Bond Shear Strength:	700 PSI min	ASTM C 882
Abrasion Resistance:	1.0 max	ASTM C 501, Taber H22
Resilience:	70% min	OKLA Test Procedure OHD L6
Thermal Compatibility	PASS	ASTM C 884

Aggregate: Supplied by the manufacturer. It shall be well graded, clean and dry.

D. Dow Corning 902 Silicone Sealant

The silicone sealant shall be a cold-applied, self leveling, ultra-low-modulus, two-part, rapid curing, 100 percent, silicone rubber sealant. The silicone sealant shall cure sufficiently to accept traffic within one (1) hour. Shelf life of unopened material shall be one (1) year when stored between 32° F and 90° F. Sealant shall meet the following physical requirements:

As Supplied	Parts A & B	
Flow	Self Leveling	ASTM C 639 Type I
Extrusion Rate	200-550 grams/min	MIL-S-8802
Specific Gravity	1.25 to 1.34	ASTM D 792 Method A

As Cured (at 77° F & 50% Relative Humidity)

Mixing Ratio:	1:1 by Volume	
Color:	Gray	
Skin-Over Time:	20 min max	MIL-S-8802
Tack-Free Time:	90 min max	
Elongation	600 % min	ASTM D 3583, Sec 14 Mod
Modulus @ 100%	3 to 12 PSI	ASTM D 3583, Sec 14 Mod

1.2 SOFT TYPE BACKER ROD as Manufactured by Nomaco Inc., and Industrial Thermo Polymers or "Approved Equal".

Backer rod shall be non-exuding, chemically inert extruded polyolefin foam with a non-absorbing outer skin and a resilient interior network of open and closed cells, which does not out-gas when ruptured. The material shall have the following physical properties:

Water Absorption:	0.5% (by volume % max)	ASTM D 5249
Density:	6 lb/ft ³ max	ASTM D 1622
Outgassing:	<1 (No. of bubbles)	ASTM C 1253
Comp. Recovery:	90% min	ASTM D 5249
25% Compression		
deflection force:	15 psi max	ASTM D 5249
Tensile Strength:	20 psi min	ASTM D 1623
Temp. Limits:	-45° F to 160° F	

2. CONTRACT REQUIREMENTS

The purpose of this contract is to establish unit prices for following Items; Items 1, 2, 3, 4 and 5 which are to be used as the basis for requisitioning components of the X.J.S. Expansion Joint System, (zinc primer, adhesion promoter, polymer nosing material, silicone sealant), for use in the repair and construction of sealed bridge expansion joints. All components bid as equal, must be part of a complete expansion joint system approved as equal to the X.J.S. Expansion Joint System and not a single component approved as an equal to a component of the X.J.S. Expansion Joint System.

Item 6 which is to be used as the basis for requisitioning soft type backer rod material for use in bridge expansion joints.

Bid price for Items 1 thru 6 shall be "F.O.B." Division of Highways storage sites as indicated on the Approved State Contract Purchase Order (SCO). Refer to bid schedule for a listing of the Division of Highways storage sites.

Vendor may bid any or all items on the bid schedule. However, the amount bid on any one item may be conditioned on the acceptance of the bid on any other item.

Any qualification of bids or modification of the specification or conditions governing the bid may be cause to reject bids.

3. CONTRACT AWARD

Contract shall be awarded on any individual item basis.

In the event a Vendor fails to conform to the requirements of this contract document or the governing specifications the contract may be canceled and re-awarded to the next lowest bidder.

4. DELIVERY

Upon receipt of a State Contract Order (SCO) the requested item(s) shall be delivered or available for Division of Highways pick-up within fifteen (15) calendar days.

5. VENDOR'S INVOICE

Vendor's invoice must be submitted in original and one (1) copy and contain the following:

- a. Division of Highways' State Contract Order (SCO) Number and this contract number.
- b. Total quantity and unit price with the extended total cost of each item purchased.

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

6. BID SCHEDULE

Division of Highways Storage Sites
Districts 1-10 & Maintenance Div.

ITEM/UNIT PRICE

- 1. Interzinc 52 Primer
Epoxy-Zinc Rich
or "Approved Equal" 160.⁰⁰ per 1 Kit
- 2. Dow Corning® P5200
Adhesion Promoter
or "Approved Equal" 64.95 per 12 oz Can
- 3. Silspec® 900 Polymer
Nosing System
or "Approved Equal" 227.15 per Unit*
- 4. Silspec® 900 Polymer
Nosing System
or "Approved Equal" 6714.50 per 30 Unit* Lot
- 5. Dow Corning 902 RCS
Silicone Sealant (Package
With 8 part A tubes & 8 Part B
Tubes. Total 320 ounces ~~329.⁰⁰~~ 329.00 per Package *RMB*
- 6. Soft Type Backer Rod or "Approved Equal"

BACKER ROD DIAMETER								
3/8" per L.F.	5/8" per L.F.	7/8" per L.F.	1 1/8" per L.F.	1 1/2" per L.F.	2" per L.F.	2 1/2" per L.F.	3" per L.F.	4" per L.F.
<u>.037</u>	<u>.054</u>	<u>.095</u>	<u>.15</u>	<u>.40</u>	<u>.77</u>	<u>1.22</u>	<u>1.78</u>	<u>3.47</u>

* Unit equals 1 cubic foot

Division of Highways Storage Sites

District One
1334 Smith Street
Charleston, WV 25301

District Two
P.O. Box 880
Huntington, WV 25712

District Three
624 Depot Street
Parkersburg, WV 26101

District Four
P. O. Box 4220
Clarksburg, WV 26302-4220

District Five
P.O. Box 99 (US Route 50)
Burlington, WV 26710

District Six
1 DOT Drive
Moundsville, WV 26041

District Seven
P.O. Box 1228
Weston, WV 26452

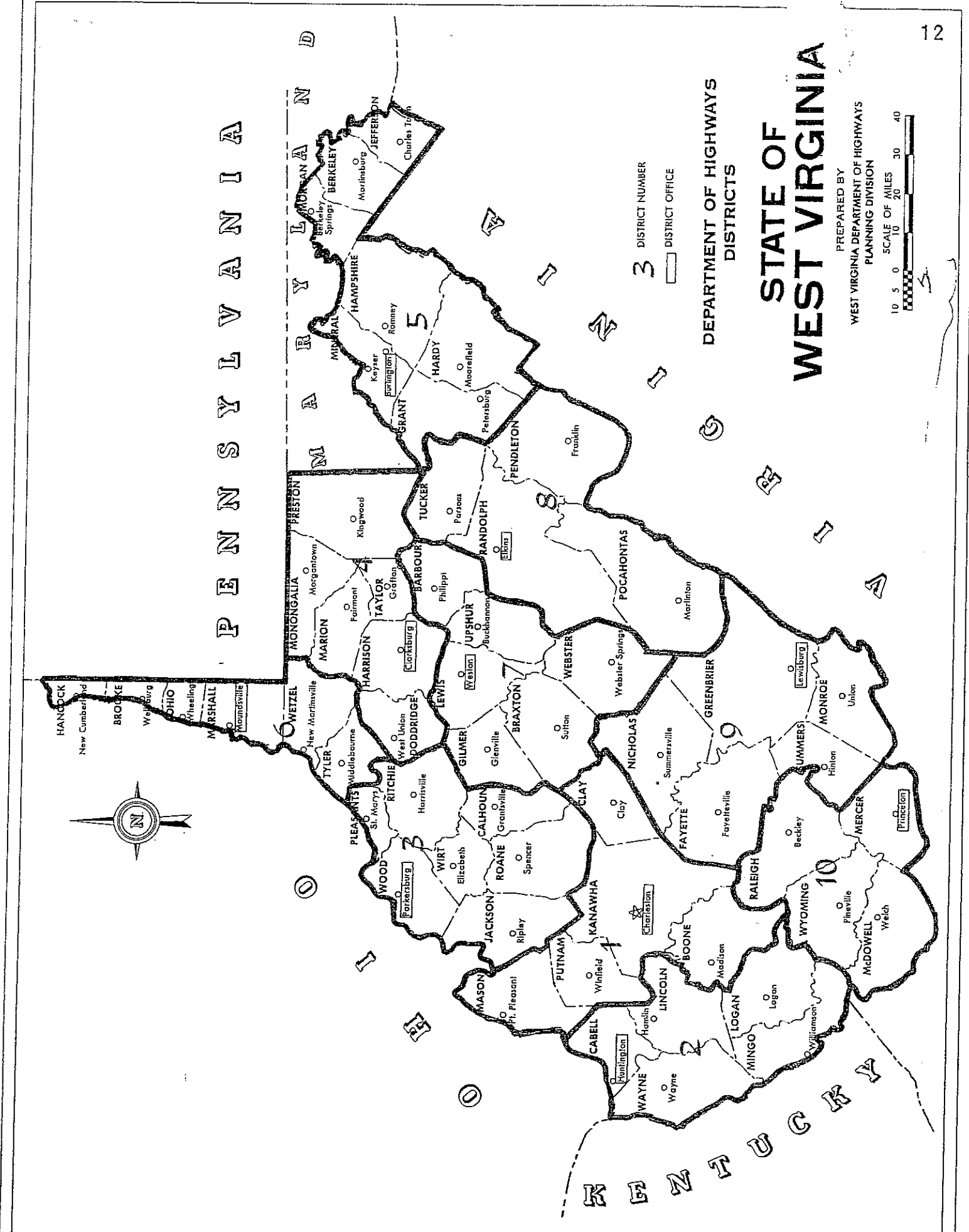
District Eight
US Route 219 North
P.O. Box 1516
Elkins, WV 26241

District Nine
103 1/2 Church Street
Lewisburg, WV 24901

District Ten
270 Hardwood Lane
Princeton, WV 24740

Maintenance Division
I-79 Exit 57
Coon Knob, WV 26601

P E N N S Y L V A N I A

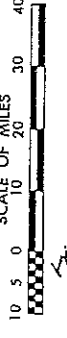


DISTRICT NUMBER
DISTRICT OFFICE

DEPARTMENT OF HIGHWAYS DISTRICTS

STATE OF WEST VIRGINIA

PREPARED BY
WEST VIRGINIA DEPARTMENT OF HIGHWAYS
PLANNING DIVISION



VENDOR PREFERENCE CERTIFICATE

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

- 1. Application is made for 2.5% resident vendor preference for the reason checked: Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; or, Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or 80% of the ownership interest of Bidder is held by another individual, partnership, association or corporation resident vendor who has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or, Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; or,
2. Application is made for 2.5% resident vendor preference for the reason checked: Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,
3. Application is made for 2.5% resident vendor preference for the reason checked: Bidder is a nonresident vendor employing a minimum of one hundred state residents or is a nonresident vendor with an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia employing a minimum of one hundred state residents who certifies that, during the life of the contract, on average at least 75% of the employees or Bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,
4. Application is made for 5% resident vendor preference for the reason checked: Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; or,
5. Application is made for 3.5% resident vendor preference who is a veteran for the reason checked: Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; or,
6. Application is made for 3.5% resident vendor preference who is a veteran for the reason checked: Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.

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

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

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

Bidder: Tom Brown, Inc.

Signed: [Signature]

Date: 7/13/09

Title: Regional Sales Manager

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

STATE OF WEST VIRGINIA
Purchasing Division

PURCHASING AFFIDAVIT

VENDOR OWING A DEBT TO THE STATE:

West Virginia Code §5A-3-10a provides that: No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and the debt owed is an amount greater than one thousand dollars in the aggregate.

PUBLIC IMPROVEMENT CONTRACTS & DRUG-FREE WORKPLACE ACT:

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

ANTITRUST:

In submitting a bid to any agency for the state of West Virginia, the bidder offers and agrees that if the bid is accepted the bidder will convey, sell, assign or transfer to the state of West Virginia all rights, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the state of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the state of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to the bidder.

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

LICENSING:

Vendors must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agencies or political subdivision. Furthermore, the vendor must provide all necessary releases to obtain information to enable the Director or spending unit to verify that the vendor is licensed and in good standing with the above entities.

CONFIDENTIALITY:

The vendor agrees that he or she will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the agency's policies, procedures and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/noticeConfidentiality.pdf>.

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

Vendor's Name: Tom Brown Inc.

Authorized Signature: [Signature]

Date: 7/13/09