



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

# Solicitation

NUMBER
RMA13011

PAGE
1

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

RFQ COPY

TYPE NAME/ADDRESS HERE

DIAN MENENDEZ  
3305382261  
RAILWORKS TRACK SERVICES  
1550 NORTH BAILEY ROAD  
NORTH JACKSON OH 44451

SHIP TO

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

DATE PRINTED
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02/22/2013

BID OPENING DATE:

03/20/2013

BID OPENING TIME 1:30PM

LINE	QUANTITY	UCP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
0001		EA		550-70	\$333,206.00	\$333,206.00
SIGNS, RAILROAD CROSSING (ELECTRIC)						
THE WEST VIRGINIA STATE PURCHASING DIVISION FOR THE AGENCY, WEST VIRGINIA STATE RAIL AUTHORITY IS SOLICITING BIDS TO ESTABLISH A CONTRACT FOR THE REPLACEMENT OF CROSSTIES AND SWITCH TIES ON THE SOUTH BRANCH VALLEY RAILROAD (SBVR) PER THE ATTACHED SPECIFICATIONS.						
***** THIS IS THE END OF RFQ RMA13011 ***** TOTAL: \$333,206.00						
03/26/13 11:35:29 AM West Virginia Purchasing Division						

SIGNATURE <i>Daniel Doyle</i>	TELEPHONE 330-538-2261	DATE 3/25/13
TITLE REGIONAL MANAGER	FEIN 35-1075159	ADDRESS CHANGES TO BE NOTED ABOVE

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



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

# Solicitation

NUMBER
RMA13011

PAGE
2

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

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

DATE PRINTED
03/01/2013

BID OPENING DATE:

03/26/2013

BID OPENING TIME 1:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0001		EA		550-70	<u>\$ 333,206.00</u>	<u>\$ 333,206.00</u>
INSTALL CROSS TIES AND SWITCH TIES						
THE WEST VIRGINIA STATE PURCHASING DIVISION FOR THE AGENCY, WEST VIRGINIA STATE RAIL AUTHORITY IS SOLICITING BIDS TO ESTABLISH A CONTRACT FOR THE REPLACEMENT OF CROSSTIES AND SWITCH TIES ON THE SOUTH BRANCH VALLEY RAILROAD (SBVR) PER THE ATTACHED SPECIFICATIONS.						
***** THIS IS THE END OF RFQ RMA13011 ***** TOTAL:						<u>\$ 333,206.00</u>

SIGNATURE <u>Devin Doyle</u>	TELEPHONE <u>330-538-2261</u>	DATE <u>3/25/13</u>
TITLE <u>REGIONAL MANAGER</u>	FEIN <u>35-1075159</u>	ADDRESS CHANGES TO BE NOTED ABOVE

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



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Department of Administration  
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2019 Washington Street East  
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# Solicitation

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ADDRESS CORRESPONDENCE TO ATTENTION OF:

PAUL REYNOLDS  
304-558-0468

RFQ COPY

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

DATE PRINTED

03/01/2013

BID OPENING DATE:

03/26/2013

BID OPENING TIME 1:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
				ADDENDUM #01		
				THIS AMENDMENT IS CREATED TO MODIFY THE TERMS AND CONDITIONS AS FOLLOWS:		
				ADD PERFORMANCE BOND AMOUNT		
				ADD LIQUIDATED DAMAGES CLAUSE		
				CHANGE "NOTICE TO PROCEED" LANGUAGE TO READ:		
				"180 CALENDAR DAYS"		
				CLARIFY PURCHASING CARD ACCEPTANCE		
				CHANGE VENDOR QUESTION DEADLINE:		
				FROM: MARCH 5, 2013 AT 4:30 P.M.		
				TO: MARCH 12, 2013 AT 4:30 P.M.		
				SPECIFICATION MODIFICATIONS		
				ADD PRICING PAGES		
				BID OPENING DATE CHANGE:		
				FROM: MARCH 20, 2013 AT 1:30 P.M.		
				TO: MARCH 26, 2013 AT 1:30 P.M.		
				ADD CONSTRUCTION CHECKLIST		

SIGNATURE

*David Ogale*

TELEPHONE

330-538-2261

DATE

3/25/13

TITLE

REGIONAL MANAGER

FEIN

35-1075159

ADDRESS CHANGES TO BE NOTED ABOVE

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

SOLICITATION NUMBER: RMA13011  
*Addendum Number: 1*

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The purpose of this addendum is to modify the solicitation identified as RMA13011 ("Solicitation") to reflect the change(s) identified and described below.

**Applicable Addendum Category:**

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

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

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

**Terms and Conditions:**

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

## ATTACHMENT A

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

2. Change question deadline :

From: March 05, 2013 at 4:30 P.M.

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

3. Change bid opening date

From: March 20, 2013 at 1:30 P.M.

To: March 26, 2013 at 1:30 P.M.

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

### INSTRUCTIONS TO VENDORS SUBMITTING BIDS

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

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

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

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

March 5, 2013 at 10:00 A.M.

WV State Rail Authority  
120 Water Plant Drive  
Moorefield, WV 26836

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

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

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

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

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

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

Question Submission Deadline: March 12, 2013 at 4:30 P.M.

Submit Questions to:

Paul Reynolds

2019 Washington Street, East

P.O. Box 50130

Charleston, WV 25305

Fax: 304-558-4115

Email: paul.reynolds@wv.gov

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

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

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

SEALED BID

BUYER: PAUL REYNOLDS  
 SOLICITATION NO.: RMA 13011  
 BID OPENING DATE: 3/26/13  
 BID OPENING TIME: 1:30 PM  
 FAX NUMBER: 330-538-2223

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

BID TYPE:   |   | Technical  
                   |   | Cost

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

Bid Opening Date and Time:

March 20, 2013 at 1:30 P.M.

Bid Opening Location:

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

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

**GENERAL TERMS AND CONDITIONS:**

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

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

| | **Term Contract**

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

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

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

| ☒ | **Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within  180 Calendar days.

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

| | **Other:** See attached.

4. **NOTICE TO PROCEED:** Vendor shall begin performance of this Contract immediately upon receiving notice to proceed unless otherwise instructed by the Agency. Unless otherwise specified, the fully executed Purchase Order will be considered notice to proceed.
5. **QUANTITIES:** The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.
  - ☐ **Open End Contract:** Quantities listed in this Solicitation are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.
  - ☐ **Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.
  - ☒ **Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.
  - ☐ **One Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.
6. **PRICING:** The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification.
7. **EMERGENCY PURCHASES:** The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute 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 issued and received by the Purchasing Division prior to Contract award. On construction contracts, the performance bond must be 100% of the Contract value.

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

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

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

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

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

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

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

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

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

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


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

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

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

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

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

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

\$1,000.00 per day	for any work not completed within 180 calendar days
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following the Notice to Proceed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**38. HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, is available online at <http://www.state.wv.us/admin/purchase/vrc/hipaa.html> and is hereby made part of the agreement provided that the Agency meets the definition of a Covered entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the Vendor.

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

**40. DISCLOSURE:** Vendor's response to the Solicitation and the resulting Contract are considered public documents and will be disclosed to the public in accordance with the laws, rules, and policies governing the West Virginia Purchasing Division. Those laws include, but are not limited to, the Freedom of Information Act found in West Virginia Code § 29B-1-1 et seq.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Contractor's Name: RAILWORKS

Contractor's License No. WV041402

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

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

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

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

CERTIFICATION AND SIGNATURE PAGE

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

RAILWORKS  
(Company)

Dan Doyle  
(Authorized Signature)

DAN DOYLE REGIONAL MANAGER  
(Representative Name, Title)

330-538-2261, 330-538-2223  
(Phone Number) (Fax Number)

3/25/13  
(Date)

# ADDENDUM ACKNOWLEDGEMENT FORM

SOLICITATION NO.: RMA13011

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

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

**Addendum Numbers Received:**

(Check the box next to each addendum received)

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6  |
| <input checked="" type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7  |
| <input 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.

RAILWORKS

Company

Daniel Doyle

Authorized Signature

3/25/13

Date

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

**SPECIFICATIONS**

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the WV State Rail Authority (SRA) to establish a contract for replacement of crossties and switch ties on the South Branch Valley Railroad (SBVR).
2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.
  - 2.1 **“Contract Services”** means the replacement of crossties and switch ties on the South Branch Valley Railroad in three locations.
    - 2.1.1 Replace 2,500 crossties in the main track and side tracks between Bridge 50.0 and the end of track at MP 52.4. Replace 95 switch ties in Petersburg Yard between MP 51.0 and MP 52.0. This is in Grant County.
    - 2.1.2 Replace nine switch ties in the Tannery Switch at MP 39.3 in Moorefield Yard. This is in Hardy County.
    - 2.1.3 Replace 43 switch ties in the Industrial Park Switch at MP 14.9 in Romney Yard. This is in Hampshire County.
  - 2.2 **“Pricing Page”** means the pages upon which Vendor should list its proposed price for the Contract Services. The Pricing Page is either included on the last page of this RFQ or attached hereto as Exhibit A.
  - 2.3 **“RFQ”** means the official request for quotation published by the Purchasing Division and identified as RMA13011.
  - 2.4 **“SBVR”** means the South Branch Valley Railroad.
  - 2.5 **“SRA”** means State Rail Authority.
  - 2.6 **“AREMA”** means American Railway Engineering and Maintenance-of-Way Association. ([www.AREMA.org](http://www.AREMA.org))

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RMA13011 – Install Crossties and Switch Ties on SBVR

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**3. QUALIFICATIONS:** Vendor shall have the following minimum qualifications:

- 3.1. Previous experience in crosstie and switch tie replacement is required. Vendor must provide experience and references for at least five projects of similar size completed within the last five years.

**4. MANDATORY REQUIREMENTS:**

**4.1 Mandatory Contract Services Requirements and Deliverables:** Contract Services must meet or exceed the mandatory requirements listed below. All material and workmanship shall meet the AREMA Manual for Railway Engineering's standards.(www.AREMA.org)

**4.1.1 Tie Replacement**

- 4.1.1.1 Ties will be handled in accordance with specifications in the AREMA Manual For Railway Engineering to avoid damage. (www.AREMA.org)
- 4.1.1.2 The contractor will replace only those ties marked for replacement by SBVR.
- 4.1.1.3 The contractor will remove and dispose of old ties. Ties must be stacked clear of tracks and must not be stacked on property other than SBVR right-of-way without the property owner's permission.

**4.1.2 Spiking of Ties**

- 4.1.2.1 New ties will be spiked to a gage of 65 ½ inches, plus or minus ¼ inch. Additional ties will be plugged and respiked to correct gage to ensure there is no abrupt change in gage where ties are replaced. It is estimated that 20 percent of the ties replaced will require adjacent ties to be respiked to proper gage.
- 4.1.2.2 All ties replaced or respiked will have new spikes. Old spikes will not be reused. Spikes shall be started and driven vertically and square with the rail. They shall have full bearing against the side of

the rail base. Spikes shall not be overdriven. Ties on tangents will get four spikes per tie and ties in curves will get six ties per tie as illustrated in Attachment A. The correct spiking pattern will be used on all new ties and any adjacent ties that are respiked to correct gage. Approximately 30% of the ties to be replaced are in curves.

#### **4.1.3 Rail Anchors**

4.1.3.1 All rail anchors will be reapplied in their existing location and properly fitted against ties.

#### **4.1.4 Tamping**

4.1.4.1 Tie gang will tamp all newly inserted ties as they are placed in the track and ballast will be replaced at the ends of ties.

#### **4.1.5 Final Surfacing, Alinement and Ballast Regulations**

4.1.5.1 Contractor will use production tamper with computer alinement control to restore proper surface to the entire track and establish best fit for curves including appropriate spirals. Surfacing will taper into bridges and public grade crossings. Private crossings will be raised and replaced.

4.1.5.2 The condition of the track needs to be restored to vertical evenness or smoothness with a minimum of two insertions for each tie.

4.1.5.3 SBVR will provide information on superelevation of curves.

4.1.5.4 When surfacing a turnout, tamping will continue for a distance of at least 100 feet onto the side track to ensure uniform surface through the turnout.

4.1.5.5 A ballast regulator will follow the tamper to regulate ballast and reshape shoulders. Contractor will place any additional ballast where it

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may be needed after surfacing. All curves with welded rail will have a ballast shoulder of at least 12 inches on the outside of the curve.

4.1.5.6 The contractor is responsible for repair of any damage done to grade crossing signal systems. Repairs must be done that same day.

**4.1.6 Bolt Tightening**

4.1.6.1 There are 3.2 miles with jointed rail in the project area. Bolts must be tightened in these jointed sections after the final surfacing.

**4.1.7 Conduct of Work**

4.1.7.1 The SBVR typically operates freight trains between Moorefield and Petersburg twice a week. These trains will be operated so as to minimize interruption to the contractor. Trains will be rescheduled during this project to provide the contractor with a ten-hour window during daylight hours without train traffic. The SBVR reserves the right to run at any time should an emergency situation develop. Excursion trains are operated on the schedule shown in Attachment B. This schedule cannot be altered and the contractor must not interfere with their operation. The contractor is free to work over weekends as long as this work does not interfere with the excursion trains.

4.1.7.3 A weekly status report must be submitted to the SRA. This report will be signed by the contractor and railroad representative and will list the work completed for the week. A final inspection of all completed work will be conducted by the contractor, STA and SBVR to ensure that all work is completed as stated in the specifications. Final payment will be withheld until this inspection is complete.

4.1.7.4 The contractor is responsible for clean-up of the work site. All debris and refuse will be removed from SBVR property and disposed of offsite.

4.1.7.5 On-track machinery and equipment can be stored on side tracks at Petersburg, Moorefield and Vanderlip (near Romney). There is vehicular access to each of these locations.

**4.1.8 Materials:** Contractor will be responsible for all materials meeting the specs below:

4.1.8.1 Contractor will provide new ties, tie plugs and spikes and will transport them to the work site. Ties will be new 7" x 9" x 8'6" industrial grade ties. The specifications set forth in Chapter 3 of the AREMA specifications will govern ([www.AREMA.org](http://www.AREMA.org)). The ties will be 100% end-plated, mixed hardwoods and oak, creosote pressure treated to 7# retention or refusal.

4.1.8.2 Contractor will provide switch ties for sizes listed in Attachment C. These ties are to be 100% end-plated, mixed hardwoods and oak, creosote pressure treated to 7# retention or refusal that meet AREMA ([www.AREMA.org](http://www.AREMA.org)) specifications.

4.1.8.3 Contractor will provide treated tie plugs and 6" cut track spikes per AREMA specifications. Tie plates will be provided by the SBVR where existing tie plates are defective or missing.

4.1.8.4 SBVR will provide any additional ballast that is needed. It is stockpiled at the Moorefield office. Contractor will be responsible for transporting to locations as needed.

4.1.8.5 Materials can be delivered to the SBVR Moorefield office/shop. Contractor will be responsible for getting materials to the work site.

4.1.8.6 Old spikes removed as part of the tie replacement will remain the property of the SBVR. They will be gathered and brought to the designated location in Moorefield.

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**5. CONTRACT AWARD:**

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

**5.2 Pricing Page:** Vendor should complete the Pricing Page by listing the unit cost for each item listed on the Pricing Page. Vendor should complete the Pricing Page in full as failure to complete the Pricing Page in its entirety may result in Vendor's bid being disqualified.

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

- 6. PERFORMANCE:** Vendor and Agency shall agree upon a schedule for performance of Contract Services and Contract Services Deliverables, unless such a schedule is already included herein by Agency. In the event that this Contract is designated as an open-end contract, Vendor shall perform in accordance with the release orders that may be issued against this Contract.
- 7. PAYMENT:** Agency shall pay on a percent complete of total contract price, as shown on the Pricing Pages, for all Contract Services performed and accepted under this Contract. Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.
- 8. TRAVEL:** Vendor shall be responsible for all mileage and travel costs, including travel time, associated with performance of this Contract. Any anticipated mileage or travel costs may be included in the flat fee or hourly rate listed on Vendor's bid, but such costs will not be paid by the Agency separately.
- 9. FACILITIES ACCESS:** Performance of Contract Services will require access to the railroad.
- 9.1.** Vendor must coordinate with the South Branch Valley Railroad for track access. Contact at the SBVR is John Philbrick at 304-538-2305, ext. 224 or John.J.Philbrick@wv.gov.

REQUEST FOR QUOTATION  
RMA13011 – Install Crossties and Switch Ties on SBVR

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9.2. An SBVR employee will provide roadway worker protection for the vendor as well as radio communication with the SBVR control office.

9.3. Per SBVR instructions, vendor shall make tracks available for train service at the end of each day, unless instructed otherwise by the SBVR. This will be determined by SBVR employee in charge who will assure that vendor has cleared all equipment from the track and spiked the ties for safe passage of trains.

**10. VENDOR DEFAULT:**

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

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

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

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

10.1.4. Failure to remedy deficient performance upon request.

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

10.2.1. Cancellation of the Contract.

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

10.2.3. Any other remedies available in law or equity.

**11. MISCELLANEOUS:**

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

Contract Manager: LEE WILLIAMS  
Telephone Number: 330-442-2426  
Fax Number: 330-538-2223  
Email Address: lwilliams@railworks.com

## SBVR Tie Replacement Cost Sheet

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Line Item	Description	Unit Cost	Unit of Measure	Quantity	Extended Cost
	Tie Replacement (including gaging of inserted tie)				
1	Crossties	\$	per tie	2,500	\$
2	Gaging of Respiked Crossties	\$	per tie	500	\$
3	Switch Ties				
	7"X 9"X 9'	\$	per tie	28	\$
	7"X 9"X 10'	\$	per tie	19	\$
	7"X 9"X 11'	\$	per tie	18	\$
	7"X 9"X 12'	\$	per tie	10	\$
	7"X 9"X 13'	\$	per tie	24	\$
	7"X 9"X 14'	\$	per tie	17	\$
	7"X 9"X 15'	\$	per tie	14	\$
	7"X 9"X 16'	\$	per tie	13	\$
	7"X 9"X 17'	\$	per tie	4	\$
4	Final Surfacing and Ballast Regulation	\$	per mile	3.2	\$
5	Bolt Tightening	\$	per mile	3.2	\$
			Total Bid: \$		



State of West Virginia

## PURCHASING DIVISION

### Construction Bid Submission Review Form

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

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

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

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

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

Agency WV State Rail Authority  
REQ P O# RMA13011

# BID BOND

KNOW ALL MEN BY THESE PRESENTS, That we, the undersigned, RailWorks Track Services, Inc.  
of 1550 North Bailey Road, North Jackson, OH 44451, as Principal, and Travelers Casualty and Surety Company  
of America of One Tower Square, Hartford, CT 06183, a corporation organized and existing under the laws of the State of Connecticut  
with its principal office in the City of Hartford, as Surety, are held and firmly bound unto the State  
of West Virginia, as Obligor, in the penal sum of five percent of the total amt. bid (\$5% of total amount bid) for the payment of which,  
well and truly to be made, we jointly and severally bind ourselves, our heirs, administrators, executors, successors and assigns.

The Condition of the above obligation is such that whereas the Principal has submitted to the Purchasing Section of the  
Department of Administration a certain bid or proposal, attached hereto and made a part hereof, to enter into a contract in writing for  
Replacement of Crossties and Switch Ties on the South Branch Valley Railroad (SBVR).

## NOW THEREFORE,

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

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

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

6th day of March, 2013.

Principal Corporate Seal

RailWorks Track Services, Inc.

(Name of Principal)

By Edward Kennedy  
(Must be President or  
Vice President)

President  
(Title)

Surety Corporate Seal

Travelers Casualty and Surety Company of America

(Name of Surety)

By Virginia M. Lovett  
Virginia M. Lovett, Attorney-in-Fact

IMPORTANT -- Surety executing bonds must be licensed in West Virginia to transact surety insurance. Raised corporate seals  
must be affixed, a power of attorney must be attached.

ACKNOWLEDGEMENT OF PRINCIPAL – IF A CORPORATION

STATE OF .....} SS  
COUNTY OF.....}

On this..... day of....., ..... before me personally appeared ..... to be known, who, being by me duly sworn, did depose and say; that he/she resides at ....., that he/she is the ..... of ..... the corporation described in and which executed the within insurance instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that is was so affixed by the Board of Directors of said corporation; and that he/she signed his/her name thereto by like order.

.....

ACKNOWLEDGEMENT FOR PRINCIPAL, IF LIMITED LIABILITY COMPANY

STATE OF .....} SS  
COUNTY OF .....}

On this ..... day of ....., ..... before me personally appeared ..... to me known and known to me to be the ..... of ..... a Limited Liability Company, described in and who executed the foregoing insurance instrument and acknowledged to me that he/she executed the foregoing insurance instrument and acknowledged to me that he/she executed the same as and for the act and deed of said Limited Liability Company.

.....

ACKNOWLEDGMENT OF SURETY COMPANY

STATE OF New York .....} SS  
COUNTY OF Nassau .....

On this March 6, 2013....., before me personally came Virginia M. Lovett..... to me known, who, being by me duly sworn, did depose and say; that he/she resides in Richmond County....., State of New York.....at he/she is the Attorney-In-Fact of the Travelers Casualty and Surety Company of America.....the corporation described in which executed the above instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that is was so affixed by order of the Board of Directors of said corporation; and that he/she signed his/her name thereto by like order; and the affiant did further depose and say that the Superintendent of Insurance of the State of New York, has, pursuant to Section 1111 of the Insurance Law of the State of New York, issued to Travelers Casualty and Surety Company of America.....(Surety) his/her certificate of qualification evidencing the qualification of said Company and its sufficiency under any law of the State of New York as surety and guarantor, and the propriety of accepting and approving it as such; and that such certificate has not been revoked.

.....  
Notary Public

NY acknowledgment

KRISTY CAPORALE  
Notary Public, State Of New York  
Suffolk County  
Lic. #01CA6246097  
Term Expires August 8, 2015



## POWER OF ATTORNEY

Farmington Casualty Company  
 Fidelity and Guaranty Insurance Company  
 Fidelity and Guaranty Insurance Underwriters, Inc.  
 St. Paul Fire and Marine Insurance Company  
 St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company  
 Travelers Casualty and Surety Company  
 Travelers Casualty and Surety Company of America  
 United States Fidelity and Guaranty Company

Attorney-In Fact No. 226017

Certificate No. 005325317

KNOW ALL MEN BY THESE PRESENTS: That Farmington Casualty Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company are corporations duly organized under the laws of the State of Connecticut, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc., is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Thomas Bean, Rita Sagistano, Gerard S. Macholz, Susan Lupski, Robert T. Pearson, Camille Maitland, George O. Brewster, Colette R. Chisholm, Virginia M. Lovett, Vincent A. Walsh, Lee Ferrucci, and Kristy Caporale

of the City of Garden City, State of New York, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 10th day of January, 2013.

Farmington Casualty Company  
 Fidelity and Guaranty Insurance Company  
 Fidelity and Guaranty Insurance Underwriters, Inc.  
 St. Paul Fire and Marine Insurance Company  
 St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company  
 Travelers Casualty and Surety Company  
 Travelers Casualty and Surety Company of America  
 United States Fidelity and Guaranty Company



State of Connecticut  
 City of Hartford ss.

By: 

Robert L. Raney, Senior Vice President

On this the 10th day of January, 2013, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.  
 My Commission expires the 30th day of June, 2016.



  
 Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

**FURTHER RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

**FURTHER RESOLVED**, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

**FURTHER RESOLVED**, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this \_\_\_\_\_ day of **MAR 06 2013**, 20 \_\_\_\_.

  
Kevin E. Hughes, Assistant Secretary



To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at [www.travelersbond.com](http://www.travelersbond.com). Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA

HARTFORD, CONNECTICUT 06183

FINANCIAL STATEMENT AS OF DECEMBER 31, 2011

CAPITAL STOCK \$ 6,480,000

ASSETS		LIABILITIES & SURPLUS	
CASH AND INVESTED CASH	\$ 103,657,622	UNEARNED PREMIUMS	\$ 813,328,906
BONDS	3,525,992,354	LOSSES	937,681,730
INVESTMENT INCOME DUE AND ACCRUED	49,234,241	REINSURANCE PAYABLE ON PAID LOSSES & LOSS ADJ. EXPENSES	2,604,752
OTHER INVESTED ASSETS	249,171,807	LOSS ADJUSTMENT EXPENSES	625,055,953
PREMIUM BALANCES	239,276,662	COMMISSIONS	30,858,691
NET DEFERRED TAX ASSET	67,832,057	TAXES, LICENSES AND FEES	60,276,105
REINSURANCE RECOVERABLE	10,983,463	OTHER EXPENSES	29,866,613
SECURITIES LENDING REINVESTED COLLATERAL ASSETS	7,344,098	FUNDS HELD UNDER REINSURANCE TREATIES	95,031,416
UNDISTRIBUTED PAYMENTS	2,593,967	CURRENT FEDERAL AND FOREIGN INCOME TAXES	49,086,527
OTHER ASSETS	361,289	REMITTANCES AND ITEMS NOT ALLOCATED	18,641,351
		AMOUNTS WITHHELD / RETAINED BY COMPANY FOR OTHERS	31,860,277
		RETROACTIVE REINSURANCE RESERVE ASSUMED	3,152,706
		POLICYHOLDER DIVIDENDS	8,117,549
		PROVISION FOR REINSURANCE	6,397,371
		PAYABLE TO PARENT, SUBSIDIARIES AND AFFILIATES	63,766,609
		PAYABLE FOR SECURITIES	1,249,903
		PAYABLE FOR SECURITIES LENDING	7,344,088
		CEDED REINSURANCE NET PREMIUMS PAYABLE	(71,042,044)
		ESCHEAT LIABILITY	591,943
		OTHER ACCRUED EXPENSES AND LIABILITIES	501,836
		TOTAL LIABILITIES	\$ 2,604,372,282
		CAPITAL STOCK	\$ 6,480,000
		PAID IN SURPLUS	433,803,760
		OTHER SURPLUS	1,211,791,508
		TOTAL SURPLUS TO POLICYHOLDERS	\$ 1,652,075,268
TOTAL ASSETS	\$ 4,256,447,550	TOTAL LIABILITIES & SURPLUS	\$ 4,256,447,550

STATE OF CONNECTICUT )  
COUNTY OF HARTFORD ) SS.  
CITY OF HARTFORD )

MICHAEL J. DOODY, BEING DULY SWORN, SAYS THAT HE IS SECOND VICE PRESIDENT, OF TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, AND THAT TO THE BEST OF HIS KNOWLEDGE AND BELIEF, THE FOREGOING IS A TRUE AND CORRECT STATEMENT OF THE FINANCIAL CONDITION OF SAID COMPANY AS OF THE 31ST DAY OF DECEMBER, 2011.

*Michael J. Doody*  
SECOND VICE PRESIDENT

SUBSCRIBED AND SWORN TO BEFORE ME THIS  
13TH DAY OF APRIL, 2012

*Susan M. Weissleder*  
NOTARY PUBLIC

SUSAN M. WEISSLEDER  
Notary Public

My Commission Expires November 30, 2012





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

STATE OF OHIO

COUNTY OF MAHONING, TO-WIT:

I, DAN DOYLE, after being first duly sworn, depose and state as follows:

1. I am an employee of RAILWORKS; and,  
(Company Name)

2. I do hereby attest that RAILWORKS  
(Company Name)

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

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

RAILWORKS  
(Company Name)

By: Dan Doyle

Title: REGIONAL MANAGER

Date: 3/25/13

Taken, subscribed and sworn to before me this 25<sup>th</sup> day of MARCH.



By Commission expires May 30, 2017  
DIAN L. MENENDEZ  
NOTARY PUBLIC  
STATE OF OHIO  
Comm. Expires  
May 30, 2017

Dian Menendez  
(Notary Public)

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

RFQ No. RMA13011STATE OF WEST VIRGINIA  
Purchasing Division**PURCHASING AFFIDAVIT**

**MANDATE:** Under W. Va. Code §5A-3-10a, no contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

**EXCEPTION:** The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. Code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

**DEFINITIONS:**

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

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

"Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

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

**WITNESS THE FOLLOWING SIGNATURE:**Vendor's Name: RHILWORKSAuthorized Signature: Daniel Doyle Date: 3/25/13State of OHIOCounty of MAHONING, to-wit:Taken, subscribed, and sworn to before me this 25<sup>th</sup> day of MARCH, 2013.My Commission expires May 30, 2017.

DIAN L. MENENDEZ  
NOTARY PUBLIC  
STATE OF OHIO  
Comm. Expires  
May 30, 2017

NOTARY PUBLIC

Purchasing Affidavit (Revised 07/01/2012)



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

# Solicitation

NUMBER
RMA13011

PAGE
1

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

RFQ COPY  
TYPE NAME/ADDRESS HERE

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

DATE PRINTED
03/14/2013

BID OPENING DATE:

03/26/2013

BID OPENING TIME 1:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
ADDENDUM #02						
THIS ADDENDUM IS CREATED TO:						
ANSWER VENDOR QUESTIONS FROM PRE-BID MEETING						
ADD ATTACHMENTS:						
A - SPIKING PATTERN						
B - EXCURSION TRAIN SCHEDULE						
C - LIST OF SWITCH TIES (QUANTITY CHANGE)						
UPDATED COST SHEET						
BID OPENING REMAINS MARCH 26, 2013 AT 1:30 P.M.						
0001		EA	550-70	INSTALL CROSS TIES AND SWITCH TIES	\$ 333,206.04	\$ 333,206.00
SIGNATURE <i>David Dale</i>					TELEPHONE 330-538-2261	DATE 3/25/13
TITLE REGIONAL MANAGER					FEIN 35-1075159	ADDRESS CHANGES TO BE NOTED ABOVE

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

## SOLICITATION NUMBER: RMA13011

### *Addendum Number: 2*

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The purpose of this addendum is to modify the solicitation identified as RMA13011 ("Solicitation") to reflect the change(s) identified and described below.

#### **Applicable Addendum Category:**

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

**Description of Modification to Solicitation:** Answer Vendor Questions

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

#### **Terms and Conditions:**

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

## ATTACHMENT A

A. Answer Vendor pre-bid meeting questions

B. Add Specifications attachments

C. Updated Cost Sheet

D. Pre-bid attendee list

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

## **Vendor questions from Pre-bid meeting**

**Question #1:** Item 4.1.5.5 says the contractor will place any additional ballast where it may be needed after surfacing. Do you have an estimated quantity of what may be required?

**Answer:** Correction to 4.1.5.5, SBVR will place any additional ballast that may be required.

**Question #2:** What are the mile post limits for the surfacing and bolt tightening?

**Answer:** The 3.2 miles of final surfacing, ballast regulation and bolt tightening include the main track between Bridge 50.0 (just north of MP 50) to the end of track at MP 52.4, various side tracks in Petersburg Yard, the turnout in Moorefield and the turnout in Romney.

**Question #3:** Are there any turnouts to be surfaced in the surfacing item?

**Answer:** There are 12 turnouts to be surfaced in Petersburg Yard. There is also one in Moorefield and one in Romney.

**Question #4:** Are there any road crossings to be removed and surfaced through?

**Answer:** There are three paved public crossings in Petersburg Yard that the contractor will taper into when surfacing. South Main Street has signals and the contractor will be responsible for the immediate repair of any damage done to the signal system. There are five private crossings that the contractor will remove and then replace after surfacing and bolt tightening. Two are timber and ballast, three are ballast only. They average 30 feet in length. SBVR will supply new timbers if the old ones cannot be reused.

**Question #5:** Are there any cattle guards to be removed and replaced?

**Answer:** There are no cattle guards in this project.

**Question #6:** Who will furnish replacements for defective bolts and/or joint bars?

**Answer:** SBVR will supply replacements for any defective or missing tie plates, joint bars or track bolts.

**Question #7:** How much superelevation should be in the curves?

Answer: All curves in this project will be given  $\frac{1}{2}$  inch of superelevation.

**Question #8:** How much do you want the main track to be raised in Petersburg Yard?

Answer: The main track between Potomac Avenue and South Main Street in Petersburg Yard needs to be lifted an average of  $3 \frac{1}{2}$  inches to bring it up to the level of the adjacent side tracks. This section of track is 316 feet long.

**Question #9:** Where can we unload track machinery directly from the trailer to the track?

Answer: There are two locations where track machinery can be rolled directly onto a track and back onto a trailer. They are the stockyard runaround at Jefferson Street in Moorefield (MP 38.5) and the side track at Vanderlip (MP 16.9) by US 50 just west of Romney.

**Question #10:** Can we use the state's tax exemption when purchasing materials?

Answer: The State Rail Authority's tax exemption does not apply to purchases made by the contractor for this project.

**Question #11:** Item 4.1.2.1 of the RFQ indicates gage of  $65 \frac{1}{2}$  inches. What is the correct gage?

Answer: Correction to 4.1.2.1, new ties will be spiked to a gage of  $56 \frac{1}{2}$  inches, plus or minus  $\frac{1}{4}$  inch.

**Question #12:** Where are the attachments that are mentioned in the RFQ?

Answer: They are included with this addendum as:

Attachment A – Spiking Pattern

Attachment B – Excursion Train Schedule

Attachment C – List of Switch Ties (Note that the quantities have changed from the RFQ).

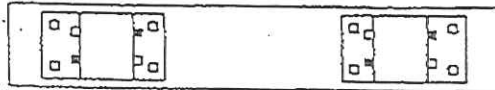
**Question #13:** May we have a copy of the sign-in sheets?

Answer: They are Attachment D.

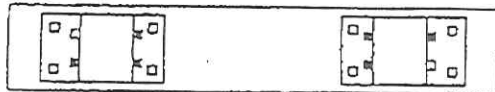
14. The updated cost sheet is attached with new quantities.

## Attachment A

SPIKING PATTERN "A"



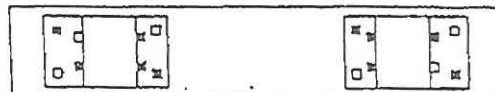
SPIKING PATTERN "B"



SPIKING PATTERN "C"



SPIKING PATTERN "D"



TRACK TYPE, TRACK ALIGNMENT, AND SPEED AUTHORIZED	SPIKES PER TIE PLATE	SPIKING PATTERN
MAIN TRACKS AND SIDINGS		
TANGENTS AND CURVES LESS THAN 2 DEGREE WITH SPEED UP TO 45 MPH	2	A
TANGENTS AND CURVES LESS THAN 2 DEGREE WITH SPEED GREATER THAN 45 MPH	3	D
CURVES 2 DEGREE AND OVER BUT LESS THAN 6 DEGREE	4	C
CURVES OVER 6 DEGREE	5	D
SIDE TRACKS - SPEEDS UP TO 25 MPH		
TANGENTS AND CURVES LESS THAN 6 DEGREE	2	A
CURVES 6 DEGREE AND OVER BUT LESS THAN 12 DEGREE	3	D
CURVES OVER 12 DEGREE	4	C
SIDE TRACKS - SPEEDS GREATER THAN 25 MPH		
TANGENTS AND CURVES LESS THAN 2 DEGREE	2	A
CURVES 2 DEGREE AND OVER BUT LESS THAN 4 DEGREE	3	D
CURVES OVER 4 DEGREE	4	C

■ - TRACK SPIKE

MAIN TRACK - A TRACK, OTHER THAN AN AUXILIARY TRACK, EXTENDING THROUGH YARDS AND BETWEEN STATIONS, UPON WHICH TRAINS ARE OPERATED IN CONFORMANCE WITH RULES OR SPECIAL INSTRUCTIONS.

SIDING - AN AUXILIARY TRACK DESIGNATED IN SPECIAL INSTRUCTIONS FOR THE MEETING OR PASSING OF TRAINS.

SIDE TRACK - AN AUXILIARY TRACK FOR PURPOSES OTHER THAN MEETING OR PASSING TRAINS.

MAIN TRACK SPIKING PATTERNS  
SIDE TRACK SPIKING PATTERNS

## Attachment B

Excursion Trains Operating Between Moorefield and Petersburg on the SBVR

January through June 2013

One Saturday evening in February: Dinner train Petersburg to Moorefield and return

Last Saturday in April: Civil War trains between Petersburg and MP 48

May 22: Potomac Eagle train Romney to Petersburg and return

June 29: Potomac Eagle train Romney to Petersburg and return

Attachment C

## Switch Ties on South Branch Valley Railroad FY2013

	9'	10'	11'	12'	13'	14'	15'	16'	16' 6"	Total
Petersburg										
Main Street R/A (North)	1		3		1		1			6
Mathias Track	2				3			1		6
X-over (Main)	3	2		1	1	2				9
X-over (Siding)		1				3				4
Wye Track (South)							1	1		2
Adell Track		4	2	1	4	1	2	3		17
Main Street R/A (South)					1	1				2
Greer Track	9	1	6	2	2	3	3	1		27
Greer R/A (North)	1				2			1		4
Sub-Total	16	8	11	4	14	10	7	7	0	77
Moorefield										
Tannery					6	6	4	2	2	20
Romney										
Industrial Park	7	8	5	5	4	3	5	6		43
TOTAL	23	16	16	9	24	19	16	15	2	140

## SBVR Tie Replacement Cost Sheet

Line Item	Description	Unit Cost	Unit of Measure	Quantity	Extended Cost
	<b>Tie Replacement</b> (including gaging of inserted tie)				
1	Crossties	\$ 86.30	per tie	2,500	\$215,750.00
2	Gaging of Respiked Crossties	\$ 16.00	per tie	500	\$ 8,000.00
3	Switch Ties				
	7"X 9"X 9'	\$220.00	per tie	23	\$ 5,060.00
	7"X 9"X 10'	\$238.00	per tie	16	\$ 3,808.00
	7"X 9"X 11'	\$305.00	per tie	16	\$4,880.00
	7"X 9"X 12'	\$315.00	per tie	9	\$2,835.00
	7"X 9"X 13'	\$330.00	per tie	24	\$7,920.00
	7"X 9"X 14'	\$345.00	per tie	19	\$6,555.00
	7"X 9"X 15'	\$365.00	per tie	16	\$5,840.00
	7"X 9"X 16'	\$390.00	per tie	15	\$5,850.00
	7"X 9"X 16' 6"	\$394.00	per tie	2	\$ 788.00
4	Final Surfacing and Ballast Regulation	\$12,500.00	per mile	3.2	\$40,000.00
5	Bolt Tightening	\$8,100.00	per mlie	3.2	\$25,920.00
				<b>Total Bid:</b>	<b>\$333,206.00</b>

PRE-BID CONFERENCE  
SIGN IN SHEET

Page 1 of 2

Request for Quotation Number:

RMA 13011

Date:

3/5/13

Project Description:

Replacement of Crossties and Switch Ties on South Branch Valley Railroad

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

Firm Name: Koppers Inc  
Firm Address: 785 Railroad St  
Green Spring, WV  
26722  
Representative Attending: Vance Haskin; Dason Haskin  
Phone Number: 412-227-2297  
Fax Number: 412-227-2841  
Email Address: haskojt@Koppers.com

Firm Name: Rhinchart Railroad Construction  
Firm Address: 1600 Angleside Road Suite A  
Fallston, MD 21047  
Representative Attending: Richard Rhinchart, Jr.  
Phone Number: 410-879-1322 x102  
Fax Number: 410-879-1344  
Email Address: richjr@rhinchart-railroad.com

Firm Name: RAILROAD CONSTRUCTORS INC  
Firm Address: 205 MANTUA AVE  
PAULSBORO NJ 08066  
Representative Attending: WAYNE B. RIGGS  
Phone Number: 856-423-2220  
Fax Number: 856-423-9389  
Email Address: WRIGGS@RAILWY.COM

Firm Name: Armored Cassil Co  
Firm Address: 6403 Rinker St  
Warren MI 48091  
Representative Attending: Steve Thomas  
Phone Number: (586) 754-4200  
Fax Number: (586) 754-4408  
Email Address: direct@railsource.com

Firm Name: RAILWORKS  
Firm Address: 1550 N. BAILEY RD  
N. JACKSON, OHIO 44451  
Representative Attending: LEE WILLIAMS  
Phone Number: 330-538-2261  
Fax Number: 330-538-2228  
Email Address: lwilliams@railworks.com

Firm Name: AMTRAC RAILROAD CENTRAL TIES OF MARYLAND  
Firm Address: 9436 EARLEY DRIVE  
HAGERSTOWN, MD 21740  
Representative Attending: BOB MATTHEWS  
Phone Number: 301-797-3730  
Fax Number: 301-797-3740  
Email Address: BMATTHEWS@AMTRACMD.COM

PRE-BID CONFERENCE  
SIGN IN SHEET

Page 2 of 2

Request for Quotation Number:

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Project Description:

Replacement of Crossties and Switch Ties on South Branch Valley Railroad.

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

Firm Name: G.W. Peoples Const Co  
Firm Address: 600 N. Bell Ave  
Bldg 1 Suite 210  
Carnegie PA 15106  
Representative Attending: Johnny R Wharton Jr  
Phone Number: 412-276-2342  
Fax Number: 412-276-2325  
Email Address: jdreyer@GWPeoples.com

Firm Name: \_\_\_\_\_  
Firm Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Representative Attending: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Fax Number: \_\_\_\_\_  
Email Address: \_\_\_\_\_

Firm Name: AMTRAC OF OHIO, INC  
Firm Address: 11842 LINCOLN WAY EXT  
ORRVILLE, OH 44667  
Representative Attending: STEVE GEISSINGER  
Phone Number: 330-683-7204  
Fax Number: 330-683-3243  
Email Address: STEVE@AMTRACOHIO.COM

Firm Name: \_\_\_\_\_  
Firm Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Representative Attending: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Fax Number: \_\_\_\_\_  
Email Address: \_\_\_\_\_

Firm Name: \_\_\_\_\_  
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Representative Attending: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Fax Number: \_\_\_\_\_  
Email Address: \_\_\_\_\_

**ADDENDUM ACKNOWLEDGEMENT FORM**  
**SOLICITATION NO.: RMA13011**

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

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

**Addendum Numbers Received:**

(Check the box next to each addendum received)

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

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

RAILWORKS

Company

Daniel Doyle

Authorized Signature

3/25/13

Date

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