



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

State of West Virginia
 Centralized Request for Quote
 Highways

Proc Folder: 1251517
Doc Description: Stone & Aggregate Pick Up by Agency
Proc Type: Central Master Agreement
Reason for Modification:

Date Issued	Solicitation Closes	Solicitation No	Version
2023-07-07	2023-07-27 13:30	CRFQ 0803 DOT2400000002	1

BID RECEIVING LOCATION

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



VENDOR

Vendor Customer Code: 55052183000
Vendor Name : Atlas Towing Company
Address : P. O. Box 1632
Street : 1334 Staunton Turnpike
City : Parkersburg
State : WV **Country :** USA **Zip :** 26102
Principal Contact : Vernon Criss
Vendor Contact Phone: 304-428-0341 **Extension:**

FOR INFORMATION CONTACT THE BUYER

John W Estep
 304-558-2566
 john.w.estep@wv.gov

Vendor Signature X  **FEIN#** 55-0116594 **DATE** 7/24/23

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

ADDITIONAL INFORMATION**REQUEST FOR QUOTATION:**

The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Division of Highways to establish an open-end contract for various sizes and types of Stone, Aggregate, Cinders and Slag for Pick Up by Agency from Vendor's designated storage sites, for use on WVDOH projects throughout the state of West Virginia. Per the Bid Requirements, Specifications, Terms and Conditions attached to this solicitation.

INVOICE TO		SHIP TO	
VARIOUS AGENCY LOCATIONS AS INDICATED BY ORDER		VARIOUS AGENCY LOCATIONS AS INDICATED BY ORDER	
No City	WV	No City	WV
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	Stone & Aggregate -Pick up by Agency	0.00000	TON		

Comm Code	Manufacturer	Specification	Model #
11111600			

Extended Description:

PLEASE COMPLETE ATTACHED PRICING PAGE - ATTACHMENT A

SCHEDULE OF EVENTS

<u>Line</u>	<u>Event</u>	<u>Event Date</u>
1	Tech Questions due by 10:00am)	2023-07-19

	Document Phase	Document Description	Page 3
DOT240000002	Final	Stone & Aggregate Pick Up by Agency	

ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
7/19/2023

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

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

PRODUCER Reagle & Padden, Inc. 200 Star Avenue, Suite 210 Parkersburg, WV 26101	CONTACT NAME: Irlene Barnhouse		
	PHONE (A/C, No, Ext): (304) 422-8476	FAX (A/C, No): (304) 428-7374	
	E-MAIL ADDRESS: irlene@reagle-padden.com		
	PRODUCER CUSTOMER ID #: 00004303		
INSURED Atlas Towing Company PO Box 1632 Parkersburg, WV 26102-1632	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Cincinnati Insurance Co.		10677
	INSURER B: RLI Insurance Company		21113
	INSURER C: Starr Indemnity Insurance Co.		38318
	INSURER D: Water Quality Ins Co		
	INSURER E: Great American Spirit Ins Co		
INSURER F: American Longshore Mutual Asso			


COVERAGES CERTIFICATE NUMBER: **CL2282508398** CORRECTED REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY						EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000
B	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X		ENP0158387	9/20/2022	9/20/2023	MED EXP (Any one person) \$ 5,000
	<input checked="" type="checkbox"/> Marine Liability			MRP0100555	9/20/2022	9/20/2023	PERSONAL & ADV INJURY \$ 1,000,000
D	<input checked="" type="checkbox"/> Pollution Liability			50-23030	9/20/2022	9/20/2023	GENERAL AGGREGATE \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:			Liability, Wharfingers, Pollution, P&I			PRODUCTS - COMP/OP AGG \$ 2,000,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						Separate Limits \$ 1,000,000
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO			EBA0158387	9/20/2022	9/20/2023	BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS						PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS						Uninsured motorist BI-single limit \$ 1,000,000
	<input type="checkbox"/> NON-OWNED AUTOS						Underinsured motorist BI single limit \$ 1,000,000
A	<input checked="" type="checkbox"/> UMBRELLA LIAB			ENP0158387	9/20/2022	9/20/2023	EACH OCCURRENCE \$ 4,000,000
	<input checked="" type="checkbox"/> EXCESS LIAB						AGGREGATE \$
	DEDUCTIBLE						\$
C	<input checked="" type="checkbox"/> RETENTION \$ 10,000			MASILCH000215	9/20/2022	9/20/2023	Bumbershoot \$ 3,000,000
E	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						<input checked="" type="checkbox"/> WC STATUTORY LIMITS
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N	N/A	WC 0000 01 A	2/24/2023	2/24/2024	OTHER
F	If yes, describe under DESCRIPTION OF OPERATIONS below			ALMA02390-01 (Longshore WC)	2/24/2023	2/24/2024	E.L. EACH ACCIDENT \$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Inland Marine - Land			ENP0158387	9/20/2022	9/20/2023	
B	Inland Marine - Water			835-102996-2	9/20/2022	9/20/2023	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Certificate holder is additional insured in regard to general liability

CERTIFICATE HOLDER**CANCELLATION**

WV Division of Highways 1900 Kanawha Blvd East Charleston, WV 25305 I	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Irlene Barnhouse/INB 

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

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No one individual is permitted to represent more than one vendor at the pre-bid meeting. Any individual that does attempt to represent two or more vendors will be required to select one vendor to which the individual's attendance will be attributed. The vendors not selected will be deemed to have not attended the pre-bid meeting unless another individual attended on their behalf.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying 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 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 nonbinding.

Submitted emails should have the solicitation number in the subject line.

Question Submission Deadline: July 19, 2023 by 10:00am

Submit Questions to: John Estep
2019 Washington Street, East
Charleston, WV 25305
Fax: (304) 558-3970
Email: john.w.estep@wv.gov

5. VERBAL COMMUNICATION: Any verbal communication between the Vendor and any State personnel is not binding, including verbal communication at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Division is binding.

6. BID SUBMISSION: All bids must be submitted on or before the date and time of the bid opening listed in section 7 below. Vendors can submit bids electronically through *wvOASIS*, in paper form delivered to the Purchasing Division at the address listed below either in person or by courier, or in facsimile form by faxing to the Purchasing Division at the number listed below. Notwithstanding the foregoing, the Purchasing Division may prohibit the submission of bids electronically through *wvOASIS* at its sole discretion. Such a prohibition will be contained and communicated in the *wvOASIS* system resulting in the Vendor's inability to submit bids through *wvOASIS*. The Purchasing Division will not accept bids, modification of bids, or addendum acknowledgment forms via email. Bids submitted in paper or facsimile form must contain a signature. Bids submitted in *wvOASIS* are deemed to be electronically signed.

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.

For Request for Proposal ("RFP") Responses Only: Submission of a response to a Request for Proposal is not permitted in *wvOASIS*. In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal prior to the bid opening date and time identified in Section 7 below, plus _____ convenience copies of each to the Purchasing Division at the address shown below. Additionally, the Vendor should clearly identify and segregate the cost proposal from the technical proposal in a separately sealed envelope.

Bid Delivery Address and Fax Number:
Department of Administration, Purchasing Division
2019 Washington Street East
Charleston, WV 25305-0130
Fax: 304-558-3970

A bid submitted in paper or facsimile form should contain the information listed below on the face of the submission envelope or fax cover sheet. Otherwise, the bid may be rejected by the Purchasing Division.

VENDOR NAME:
BUYER: JOHN ESTEP
SOLICITATION NO.: CRFQ 0803 DOT2400000002
BID OPENING DATE: July 27, 2023
BID OPENING TIME: 1:30 PM
FAX NUMBER: 304-558-3970

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

Bid Opening Date and Time: July 27, 2023 @ 1:30 PM

Bid Opening Location: Department of Administration, Purchasing Division
2019 Washington Street East
Charleston, WV 25305-0130

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

9. BID FORMATTING: Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

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

This Solicitation is based upon a standardized commodity established under W. Va. Code § 5A-3-61. Vendors are expected to bid the standardized commodity identified. Failure to bid the standardized commodity will result in your firm's bid being rejected.

11. EXCEPTIONS AND CLARIFICATIONS: The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.

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

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

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

15. PREFERENCE: Vendor Preference may be requested in purchases of motor vehicles or construction and maintenance equipment and machinery used in highway and other infrastructure projects. Any request for preference must be submitted in writing with the bid, must specifically identify the preference requested with reference to the applicable subsection of West Virginia Code § 5A-3-37, and must include with the bid any information necessary to evaluate and confirm the applicability of the requested preference. A request form to help facilitate the request can be found at: www.state.wv.us/admin/purchase/vrc/Venpref.pdf.

15A. RECIPROCAL PREFERENCE: The State of West Virginia applies a reciprocal preference to all solicitations for commodities and printing in accordance with W. Va. Code § 5A-3-37(b). In effect, non-resident vendors receiving a preference in their home states, will see that same preference granted to West Virginia resident vendors bidding against them in West Virginia. Any request for reciprocal preference must include with the bid any information necessary to evaluate and confirm the applicability of the preference. A request form to help facilitate the request can be found at: www.state.wv.us/admin/purchase/vrc/Venpref.pdf.

16. SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES: For any solicitations publicly advertised for bid, in accordance with West Virginia Code §5A-3-37 and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to contract award to receive the preferences made available to resident vendors. Preference for a non-resident small, women-owned, or minority owned business shall be applied in accordance with W. Va. CSR § 148-22-9.

17. WAIVER OF MINOR IRREGULARITIES: The Director reserves the right to waive minor irregularities in bids or specifications in accordance with West Virginia Code of State Rules § 148-1-4.6.

18. ELECTRONIC FILE ACCESS RESTRICTIONS: Vendor must ensure that its submission in wvOASIS can be accessed and viewed by the Purchasing Division staff immediately upon bid opening. The Purchasing Division will consider any file that cannot be immediately accessed and viewed at the time of the bid opening (such as, encrypted files, password protected files, or incompatible files) to be blank or incomplete as context requires and are therefore unacceptable. A vendor will not be permitted to unencrypt files, remove password protections, or resubmit documents after bid opening to make a file viewable if those documents are required with the bid. A Vendor may be required to provide document passwords or remove access restrictions to allow the Purchasing Division to print or electronically save documents provided that those documents are viewable by the Purchasing Division prior to obtaining the password or removing the access restriction.

19. NON-RESPONSIBLE: The Purchasing Division Director reserves the right to reject the bid of any vendor as Non-Responsible in accordance with W. Va. Code of State Rules § 148-1-5.3, when the Director determines that the vendor submitting the bid does not have the capability to fully perform or lacks the integrity and reliability to assure good-faith performance.”

20. ACCEPTANCE/REJECTION: The State may accept or reject any bid in whole, or in part in accordance with W. Va. Code of State Rules § 148-1-4.5. and § 148-1-6.4.b.”

21. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

22. WITH THE BID REQUIREMENTS: In instances where these specifications require documentation or other information with the bid, and a vendor fails to provide it with the bid, the Director of the Purchasing Division reserves the right to request those items after bid opening and prior to contract award pursuant to the authority to waive minor irregularities in bids or specifications under W. Va. CSR § 148-1-4.6. This authority does not apply to instances where state law mandates receipt with the bid.

23. EMAIL NOTIFICATION OF AWARD: The Purchasing Division will attempt to provide bidders with e-mail notification of contract award when a solicitation that the bidder participated in has been awarded. For notification purposes, bidders must provide the Purchasing Division with a valid email address in the bid response. Bidders may also monitor wvOASIS or the Purchasing Division's website to determine when a contract has been awarded.

24. ISRAEL BOYCOTT CERTIFICATION: Vendor's act of submitting a bid in response to this solicitation shall be deemed a certification from bidder to the State that bidder is not currently engaged in, and will not for the duration of the contract, engage in a boycott of Israel. This certification is required by W. Va. Code § 5A-3-63.

GENERAL TERMS AND CONDITIONS:

- 1. CONTRACTUAL AGREEMENT:** Issuance of an Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance by the State of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid, or on the Contract if the Contract is not the result of a bid solicitation, 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. "Bid" or "Proposal"** means the vendors submitted response to this solicitation.

 - 2.3. "Contract"** means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.

 - 2.4. "Director"** means the Director of the West Virginia Department of Administration, Purchasing Division.

 - 2.5. "Purchasing Division"** means the West Virginia Department of Administration, Purchasing Division.

 - 2.6. "Award Document"** means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the contract holder.

 - 2.7. "Solicitation"** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

 - 2.8. "State"** means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.

 - 2.9. "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: The Initial Contract Term will be for a period of One (1) Year. The Initial Contract Term becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as _____), and the Initial Contract Term ends on the effective end date also shown on the first page of this Contract.

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be delivered to the Agency and then submitted to the Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Unless otherwise specified below, renewal of this Contract is limited to Three (3) successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

Alternate Renewal Term – This contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

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

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

Fixed Period Contract with Renewals: This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days. Upon completion of the work covered by the preceding sentence, the vendor agrees that:

the contract will continue for _____ years;

the contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's Office (Attorney General approval is as to form only).

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

Construction/Project Oversight: This Contract becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as _____), and continues until the project for which the vendor is providing oversight is complete.

Other: Contract Term specified in _____

4. AUTHORITY TO PROCEED: Vendor is authorized to begin performance of this contract on the date of encumbrance listed on the front page of the Award Document unless either the box for "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked in Section 3 above. If either "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked, Vendor must not begin work until it receives a separate notice to proceed from the State. The notice to proceed will then be incorporated into the Contract via change order to memorialize the official date that work commenced.

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/Award Document 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.

Construction: This Contract is for construction activity more fully defined in the specifications.

6. 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.

7. REQUIRED DOCUMENTS: All of the items checked in this section must be provided to the Purchasing Division by the Vendor as specified:

LICENSE(S) / CERTIFICATIONS / PERMITS: In addition to anything required under the Section of the General Terms and Conditions entitled Licensing, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits upon request and in a form acceptable to the State. The request may be prior to or after contract award at the State's sole discretion.

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

8. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. Thirty (30) days prior to the expiration of the insurance policies, Vendor shall provide the Agency with proof that the insurance mandated herein has been continued. Vendor must also provide Agency with immediate notice of any changes in its insurance policies, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether that insurance requirement is listed in this section.

Vendor must maintain:

Commercial General Liability Insurance in at least an amount of: 1,000,000.00 per occurrence.

Automobile Liability Insurance in at least an amount of: _____ per occurrence.

Professional/Malpractice/Errors and Omission Insurance in at least an amount of: _____ per occurrence. Notwithstanding the forgoing, Vendor's are not required to list the State as an additional insured for this type of policy.

Commercial Crime and Third Party Fidelity Insurance in an amount of: _____ per occurrence.

Cyber Liability Insurance in an amount of: _____ per occurrence.

Builders Risk Insurance in an amount equal to 100% of the amount of the Contract.

Pollution Insurance in an amount of: _____ per occurrence.

Aircraft Liability in an amount of: _____ per occurrence.

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

10. VENUE: All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

11. LIQUIDATED DAMAGES: 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. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

_____ for _____.

Liquidated Damages Contained in the Specifications.

Liquidated Damages Are Not Included in this Contract.

12. ACCEPTANCE: Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the State that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the Solicitation unless otherwise indicated.

13. 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. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.

14. PAYMENT IN ARREARS: Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software maintenance, licenses, or subscriptions may be paid annually in advance.

15. PAYMENT METHODS: Vendor must accept payment by electronic funds transfer and P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.)

16. 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.

17. ADDITIONAL FEES: Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia, included in the Contract, or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.

18. 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. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

19. CANCELLATION: The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-5.2.b.

20. TIME: Time is of the essence regarding all matters of time and performance in this Contract.

21. 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.

22. COMPLIANCE WITH LAWS: Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

23. 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.

24. 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). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

~~**25. 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.~~

26. 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.

27. 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.

28. 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.

29. 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.

30. PRIVACY, SECURITY, AND 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>.

31. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

32. LICENSING: In accordance with West Virginia Code of State Rules § 148-1-6.1.e, 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. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. 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.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up-to-date on all state and local obligations as described in this section. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

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

34. VENDOR NON-CONFLICT: Neither Vendor nor its representatives are permitted to have any interest, nor shall they 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.

Revised 11/1/2022

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

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

36. INDEMNIFICATION: The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

37. NO DEBT CERTIFICATION: In accordance with West Virginia Code §§ 5A-3-10a and 5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State. By submitting a bid, or entering into a contract with the State, Vendor is affirming that (1) for construction contracts, the Vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, neither the Vendor nor any related party owe a debt as defined above, and neither the Vendor nor any related party are in employer default as defined in the statute cited above unless the debt or employer default is permitted under the statute.

38. CONFLICT OF INTEREST: Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

39. 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.division@wv.gov.

40. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, 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.

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

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open heath, basic oxygen, electric furnace, Bessemer or other steel making process.
- c. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
 1. 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
 2. 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.

42. 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.

43. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE: W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$1 million, the Vendor must submit to the Agency a disclosure of interested parties prior to beginning work under this Contract. Additionally, the Vendor must submit a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-work interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

44. PROHIBITION AGAINST USED OR REFURBISHED: Unless expressly permitted in the solicitation published by the State, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

45. VOID CONTRACT CLAUSES: This Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

~~**46. ISRAEL BOYCOTT:** Bidder understands and agrees that, pursuant to W. Va. Code § 5A-3-63, it is prohibited from engaging in a boycott of Israel during the term of this contract.~~

DESIGNATED CONTACT: Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

(Printed Name and Title) Vernon Criss- Vice-President

(Address) PO Box 1632 Parkersburg, WV 26102

(Phone Number) / (Fax Number) 304-428-0341 304-485-4585 (Fax)

(Email address) atlastowing@frontier.com

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through wvOASIS, I certify that: I have reviewed this Solicitation/Contract in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation/Contract for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that this bid or offer was made without prior understanding, agreement, or connection with any entity submitting a bid or offer for the same material, supplies, equipment or services; that this bid or offer is in all respects fair and without collusion or fraud; 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; that I am authorized by the Vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on Vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

By signing below, I further certify that I understand this Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law; and that pursuant to W. Va. Code 5A-3-63, the entity entering into this contract is prohibited from engaging in a boycott against Israel.

Atlas Towing Company

(Company) 

(Signature of Authorized Representative) Vernon Criss Vice-President 7/24/23

(Printed Name and Title of Authorized Representative) (Date)

304-428-0341 304-485-4585 (Fax)

(Phone Number) (Fax Number) atlastowing@frontier.com

(Email Address)

REQUEST FOR QUOTATION
Stone & Aggregate, Pick Up by Agency

SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Division of Highways to establish an open-end contract for various sizes and types of Stone, Aggregate, Cinders and Slag for Pick Up by Agency from Vendor's designated storage sites, for use on WVDOH projects throughout the state of West Virginia.
2. **DEFINITIONS:** The terms listed below shall have the following meanings assigned to them throughout and for the purpose of this Solicitation. Additional definitions can be found in Section 2 of the General Terms and Conditions.
 - 2.1 **"ADO" and "Agency Delivery Order"** - a written order entered by WVDOH personnel in the wvOASIS financial system against a master agreement, authorizing quantities of commodities and/or services to be delivered in accordance with all terms, conditions, and prices stipulated in the original contract.
 - 2.2 **"AASHTO"** - the American Association of State Highway and Transportation Officials is a standard setting body which publishes specifications, test protocols, and guidelines that are used in highway design and construction throughout the United States; www.transportation.org.
 - 2.3 **"Contract Item(s)"** – means the list of items available for Vendor to provide pricing as identified in Section 3.2 of this Solicitation and referenced throughout.
 - 2.4 **"Contractor" or "Vendor"** - interchangeably used throughout this Solicitation and in any cited Sections of the West Virginia Department of Transportation, Division of Highways Standard Specifications, Roads and Bridges, adopted latest Standard Specs edition, as amended, including any Supplementals and refers to 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.
 - 2.5 **"Emergency Request"** – orders requiring to be done without delay owing to circumstances for which the WVDOH could not have reasonably expected and has been designated as such by a representative of the WVDOH.
 - 2.6 **"FOB" or "Free on Board"** - indicates that the price for goods includes delivery at the Vendor's expense to a specified point, and that the Vendor retains liability for loss or damage until the goods are delivered.
 - 2.7 **"Liquidated Damages"** - monetary compensation due from the Vendor in the event the Vendor's performance falls short of contractual stipulation or breaches the contract. Delays in the delivery of goods and/or services or quality failures or corrections by the Vendor may result in the Agency assessing charges for such

REQUEST FOR QUOTATION
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deficiencies per these contract Specifications, the Standard Specs Section 108.7, as amended, and calculated from the table posted in Section 6.3.1 of these Specifications.

- 2.8** “MP” and/or “MCS&T” - means the Materials Procedures as administered by the WVDOH Materials Control, Soil and Testing Division who perform all procedures necessary with sampling, testing, reporting and inspection of products and materials to maintain a reliable quality assurance system. <https://transportation.wv.gov/highways/mcst/Pages/WVDOH-Materials-Procedures.aspx>
- 2.9** “Pricing Pages,” “Attachment A,” and “ATT A” - the schedule of prices attached hereto as Attachment A (ATT A) and used to evaluate Solicitation responses.
- 2.10** “Solicitation” - the official notice of an opportunity to supply the State with goods or services.
- 2.11** “Standard Specs” - used throughout this solicitation means the West Virginia Department of Transportation, Division of Highways Standard Specifications, Roads and Bridges, most recent edition, as modified or amended by all subsequent Supplemental Specifications.
- 2.12** “WVDOH” or “Agency” – means the West Virginia Division of Highways.

3. GENERAL REQUIREMENTS:

- 3.1 Standard Specifications Roads and Bridges:** The following Standard Specs Sections shall apply, as applicable, to the administration of this contract: 101, 102, 103, 104, 105, 106, 107, 108, 109, and 110, as amended.

Materials, equipment, and performance of this contract shall conform to, but are not limited to, the requirements of Sections 401, 702, 703, 704, and 716.1.1 as amended.

Free electronic copies of the Standard Specs and Supplementals are available at: <https://transportation.wv.gov/highways/TechnicalSupport/specifications/Pages/default.aspx>. Hard copies of these publications may be purchased from Technical Support Division, by completing the Specification Order Form provided within the website.

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

REQUEST FOR QUOTATION
Stone & Aggregate, Pick Up by Agency

3.2.1 Materials: All materials bid and provided under this contract must meet or exceed mandatory requirements as shown below and adhere to the Standard Specs, as amended:

3.2.1.1 Fine Aggregate must adhere to Standard Spec Section 702. Fine Aggregate on the Pricing Pages, ATT A, shall be for Portland Cement Concrete or mortar sand. The type shall be specified by the Agency on the ADO.

3.2.1.2 Coarse Aggregate must adhere to Standard Spec 703. Coarse Aggregate on the Pricing Pages, ATT A, is identified by an AASHTO standard size. Except for the following Contract Items, grading on all specified sieve sized for material and grading shall adhere to AASHTO T-27 (Dry Test Only) or by AASHTO T-27 with AASHTO T-11:

- AASHTO #7
- AASHTO #8
- AASHTO #9
- AASHTO #8 Modified
- AASHTO #9 Modified

3.2.1.3 Crushed Stone must adhere to Standard Spec 703.1.

3.2.1.4 Rip Rap must adhere to Standard Spec 704.2.

3.2.1.5 Stone For Gabions must adhere to Standard Spec 704.3.

3.2.1.6 Shot Rock must adhere to Standard Spec 704.8.

3.2.1.7 Abrasives: In addition to meeting the gradation requirements of AASHTO #8 and #9 aggregate in table 703.4, Modified AASHTO # 8 and Modified AASHTO #9 aggregate shall have a maximum of 2% passing the #200 sieve, when sampled at the source (the Vendor's last point of possession), prior to shipment, as determined by AASHTO T-11 and T-27. The aggregates shall be crushed with a minimum of 80% two face fracture. Modified AASHTO #8 and Modified AASHTO #9 aggregate shall meet all other requirements for AASHTO #8 and AASHTO #9 aggregate.

A. Quality

- Liquid limit shall not exceed 25 and plasticity index shall not exceed six (6).

REQUEST FOR QUOTATION
Stone & Aggregate, Pick Up by Agency

- Total deleterious substances including, but not limited to metal, glass, clay, shale, and thin or elongated pieces shall not exceed 3% of the dry weight of the total sample. Deleterious content shall be determined on that fraction of material retained on the U.S. Standard # 4 (4.75 mm) sieve.
- When gravel is used as an abrasive, the material retained on the AASHTO #8, the sieve shall have a majority of crushed particles.

B. Gradation: Material shall adhere to AASHTO T-27:

Sieve Size	% Passing By Weight	
	Standard	Modified
1/2 inch	100	100
3/8 inch	85-100	85-100
# 100	0-10	0-4

3.2.1.8 Cinders consist of Wet Bottom Boiler Slag (shiny, black, glassy material) formed when molten ash from the burning of coal drops into water and shatters at the bottom of the boiler, and/or Bottom Ash formed when ash particles from the burning of pulverized coal is allowed to air cool at the bottom of the furnace.

A. Quality

- Total deleterious substances, including but not limited to metal, glass, clay, shale, and thin or elongated pieces, shall not exceed 3% of the dry weight of the total sample. Deleterious content shall be determined on that fraction of material retained on the US Standard # 4 (4.75 mm) sieve.

B. Gradation: Material shall adhere to AASHTO T-27.

Sieve Size	% Passing By Weight
1/2 inch	100
3/8 inch	85-100
# 100	0-10

3.2.1.9 Aggregate For Base and Sub-Base must adhere to Standard Spec 704.6. Aggregate for base and sub-base on ATT A are identified by Class.

3.2.1.10 #8 Modified and #9 Modified must adhere to Standard Spec 703.3. In addition to meeting the gradation requirements of

REQUEST FOR QUOTATION
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AASHTO #8 and #9 aggregate in table 703.4, Modified AASHTO #8 and Modified AASHTO #9 aggregate shall have a maximum of 2% passing the #200 sieve, when sampled at the source (the Vendor's last point of possession), prior to shipment, as determined by AASHTO T-11 and T-27. The aggregates shall be crushed with a minimum of 80% two face fracture. Modified AASHTO #8 and Modified AASHTO #9 aggregate shall meet all other requirements for AASHTO #8 and AASHTO #9 aggregate.

Except for the following Contract Items, grading on all specified sieve sized for material and grading shall adhere to AASHTO T-27 (Dry Test Only) or by AASHTO T-27 with AASHTO T-11

- AASHTO #7
- AASHTO #8
- AASHTO #9
- AASHTO #8 Modified
- AASHTO #9 Modified

3.2.1.11 #11 Limestone for SRIC must adhere to Standard Spec 703.1.

A. Quality

- The liquid limit shall not exceed 25 and plasticity index shall not exceed six (6).
- Total deleterious substances including, but not limited to metal, glass, clay, shale, and thin or elongated pieces shall not exceed 1% of the dry weight of the total sample. Deleterious content shall be determined on that fraction of material retained on the U.S. Standard # 8 (2.36 mm) sieve.

B. Gradation – Material shall adhere to AASHTO T-27:

Sieve Size	% Passing By Weight
3/8 inch	100
#4	40-90
#8	10-40
#100	0-5

3.2.1.12 Quarry Waste shall adhere to Standard Specs 716.1.1 Random Material, as amended.

3.2.1.13 Steel Slag for SRIC must adhere to Standard Spec 703.3.

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A. Quality

- The liquid limit shall not exceed 25 and the plasticity index shall not exceed six (6).
- Total deleterious substances including, but not limited to metal, glass, clay, shale, and thin or elongated pieces shall not exceed 3% of the dry weight of the total sample. Deleterious content shall be determined on that fraction of material retained on the U.S. Standard # 4 (4.75 mm) sieve.

B. Gradation – materials shall adhere to AASHTO T-27:

Sieve Size	% Passing By Weight
1/2 inch	100
3/8 inch	85–100
#100	0–20

3.2.1.14 Imbricated Stone/Rock shall meet Standard Specs 704.5 Special Rock Fill, as amended. Size shall be a minimum of 36 inches with a maximum of 72 inches. Imbricated Stone/Rock shall have two flat surfaces that may be used in a stackable manner. Imbricated Stone/Rock may be used in conjunction with Standard Specs 218.3 and 218.4, as amended.

3.2.2 Sampling And Testing for quality of all items furnished in this contract will be the responsibility of WVDOT. Minimum frequency of sampling and testing for quality on all materials (other than those sources already covered by the WVDOT's "commercial source" approval) will be at least one sample every six (6) days of shipment (or if tested during production, at least one sample every six days of production). All samples taken by Vendor shall be by a Certified Aggregate Sampler or Certified Aggregate Inspector. Tests shall be performed by a Certified Aggregate Inspector. Other minimum frequencies shall be:

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Property	Frequency
Gradation Delivered Material	One sample per each day of shipment or if tested during production, one sample per each day of production. See 3.2.2.1.
Gradation	(A-1 Source) One sample per each week of shipment per MP 700.00.52, Guide for Source Rating System Relative to Maintenance Contracts, as amended; or if tested during production, one sample per each day of production. See 3.2.2.1.
	(A-2 Source) One sample per 250 tons shipped and a minimum of one per week shipment.
Moisture Content	See 3.2.2.2.

3.2.2.1 The vendor shall provide gradation test results attesting to the gradation of materials delivered. Gradation results from the production source will be acceptable. **Gradation test results shall be sent to the Materials Department of each District the aggregate was delivered to within 72 hours of delivery.** The WVDOH will enter the gradations into the AASHTO Wear Project (AWP) system within one week of receiving the gradations.

3.2.2.2 In the event visual inspection of the aggregate indicates excess or unusual moisture beyond what is normally expected in the aggregate, the WVDOH reserves the right to determine moisture content by standard methods per established Division procedures. If this becomes necessary, the net weight of portion represented will be adjusted utilizing test results obtained by WVDOH per MP 700.00.22. Abrasives and Steel Slag Items will be considered fine aggregate as outlined in MP 700.00.22.

3.2.3 Acceptance Plan: Per Standard Specs 703, crushed stone shall consist of particles of clean, hard, tough, durable rock, free from adherent and foreign material. Acceptance for gradation shall be based on test results, provided, and certified by Vendor to be true test results and representative of the material supplied to WVDOH, on consecutive random samples from a lot. A lot shall consist of a quantity of material represented by an average value (not to exceed 5 sub-lots). A sub-lot shall consist of the quantity of material represented by a single gradation test. When only one sample is taken to represent the total quantity, the sub-lot and lot will be considered the same. Frequency of sampling and testing shall be per

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Vendor's quality control plan outlined in MP 700.00.51 Guide for Quality Control and Acceptance Plans for Purchase Order Contracts for Stone and Aggregate, as amended. Vendor shall provide gradation test results to the Agency within 72 hours.

- 3.2.4 Sampling Testing & Evaluation:** As per Standard Specs 704, the Agency reserves the right to have materials sampled, tested, and evaluated material deliveries. If material fails to comply with WVDOH quality requirements, the Agency, at its own discretion, shall notify Vendor that the nonconforming material will not be accepted and shall be removed and replaced at Vendor's expense, or at the option of the ordering Agency, may be left in place with reduced payment.

At the discretion of the Agency, material failing to comply with the quality requirements will not be accepted. Acceptance for gradation shall be based on test results, provided, and certified by Vendor to be true test results and representative of the material supplied to WVDOH, on consecutive random samples from a lot. A lot shall consist of a quantity of material represented by an average value (not to exceed 5 sub-lots). A sub-lot shall consist of the quantity of material represented by a single gradation test. In the case where only one sample is taken to represent the total quantity, the sub-lot and lot will be considered the same. Frequency of sampling and testing shall be per the Vendor's quality control plan outlined in MP 700.00.51, Guide for Quality Control and Acceptance Plans for Purchase Order Contracts for Stone and Aggregate, as amended. Vendor shall provide the gradation test results to the WVDOH within 72 hours.

Gradation test results shall be averaged per MP 300.00.51, Procedural Guidelines for Maintaining Control Charts for Aggregate Gradations, as amended. When the average falls outside the applicable limits, the entire lot of material represented thereby will be considered non-conforming to the extent that the last of its sub-lots is non-conforming. When a lot of material is nonconforming, then the last sub-lot contained therein shall have its degree of non-conformance determined as set forth below.

- 3.3.1.1 Non-Conformance Price Adjustment:** When a sub-lot of material is to have its price adjusted, the percentage point difference between the non-conforming test value and the specification limit shall be determined for each sieve size determined to be non-conforming, and this value shall be multiplied by its appropriate multiplication factor as set forth in Table 1. The total measure of non-conformance of an individual sub-lot is the sum of all non-conformances on the various sieve sizes of that sub-lot. In no case, however, shall a sub-lot of material have its price adjusted more than once, and the first adjustment determined shall apply. When the total degree of non-conformance has been established and it is 12 or less, the material will be paid for at an adjusted contract price as specified in Table 2.

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Table 1

Non-Conforming Sieve Size	Multiplication Factor
Plus #40	1
#40	1.5
#50	1.5
#100	2.0 (1.3 for Abrasives & Cinders)
#20	2.5
½"	1
3/8"	1

Table 2

Degree of Non-Conformance	Percent Of Contract Price to Be Reduced
1.0 TO 3.0	2
3.1 TO 5.0	4
5.1 TO 8.0	7
8.1 TO 12.0	11
Greater than 12	*

*WVDOH will make a special evaluation of the material and determine action.

3.3.1.2 Non-Conforming Sub-Lots: In the event the WVDOH picks up a specific quantity of material from a stockpile, and said quantity is less than the total quantity contained in the stockpile, and it has been determined from this certified test data that a non-conforming sub-lot(s) is contained in said stockpile, the price reduction shall be calculated for the specific quantity as follows:

The percent price reduction shall be determined as set forth above for the non-conforming sub-lot. The quantity represented by the non-conforming sub-lot shall then be calculated as a percent of the total (total material contained in the stockpile). To determine the price reduction on the specific quantity picked up, multiply the percent of non-conforming material contained in the stockpile by the quantity picked up, and reduce this quantity by the percent price reduction as determined.

Example: If it has been determined that a stockpile of 100 tons contains 10 percent failing material, and said material is to have its price reduced by 4 percent, then the actual quantity picked up, say 15 tons, will be multiplied by 0.10 (10 percent failing material) which equals 1.5 tons. These 1.5 tons

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will thus have its price reduced by 4 percent. The remaining 13.5 tons will be paid for at full contract price.

If two sub-lots are non-conforming within the stockpile, calculate each separately for the adjusted payment on the quantity picked up (as above). Add these two adjusted payments together and subtract from the total the price to be paid before adjustment for tonnage picked up (TD). If three sub-lots are non-conforming, calculate each separately and subtract twice the price to be paid before adjustment for tonnage picked up, and so on.

EXAMPLE:

$(AP1 + AP2) - TD = \text{Final price to be paid after adjustments}$

OR

$(AP1 + AP2 + AP3) - 2 TD = \text{Final price to be paid after adjustments}$

WHERE: AP = price to be paid after initial adjustment for one nonconforming sub-lot determined by the above equation.

3.2.5 Continuous Stockpile: In the event material is picked up from a continuous stockpile, that is, a stockpile which is continuously being replenished while also having material removed for these applications, certification shall be based on the shipment samples.

3.2.6 Emergency Requests: Emergency requests as ordered by WVDOH District Engineer, or their designee are orders which shall be initiated within 24 hours from when the order is received by the vendor. The determination of emergency work will be in accordance with Section 2.5 of this Solicitation and prominently noted on ADO. Designated emergency requests will be paid at 1.50 times the vendors bid price.

4. CONTRACT AWARD:

4.1 Contract Award: The Contract is intended to provide Agencies with a purchase price on all Contract Items. This is a multiple vendor award contract. All qualified responsible Vendors shall be awarded a contract for those Contract Items bid which meet all mandatory requirements of this Contract.

4.1.1 Determining Low Bid Per Project: To determine the low bid vendor for individual projects, the WVDOH District Engineer or their designee will calculate the lowest overall total cost of the Contract Items required for individual projects. A written ADO will be issued to the Vendor with the lowest overall total cost. The agency will factor mileage into this calculation using a haul cost of \$1.50 for the first ton-mile and \$0.25 for each additional

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ton-mile. This haul rate is for Agency expense assessment purposes only and is not billed to the Vendor.

WVDOH reserves the right to request any one or combination of Contract Items for which bids are awarded at the lowest overall total as set forth in this section.

- 4.2 Pricing Pages, Attachment A (“ATT A”):** Vendor shall complete the Pricing Pages by providing a bid price for each Contract Item listed. Vendor may bid any or all Contract Items. Vendor shall factor into their bid prices any related overhead expenses, equipment, materials, and labor related to loading WVDOH trucks, when calculating their bid price for each Contract Items. Vendor shall complete the Pricing Pages for each Contract Item bid in their entirety as failure to do so may result in Vendor’s bids being disqualified. All bids or pricing submitted shall be held and honored by the Vendor for 90 days after the bid opening date.

The Pricing Pages contain a list of the Contract Items with no guarantee that any Contract Item will be purchased throughout the life of this contract. Estimated quantities are not available.

4.2.1 Vendor should type or electronically enter the information into the Pricing Pages spreadsheet to prevent errors in the evaluation. In most cases, the Pricing Pages are available in wvOASIS within the solicitation attachments, however, Vendors may request an electronic copy of the Pricing Pages spreadsheet for bid purposes by sending an email request to the following address: John.W.Estep@wv.gov

4.2.2 Vendor shall supply its pricing with corresponding plant source and storage site information for all Items bid.

4.2.3 Changing a column or row description, Contract Item description, unit of measure on the **Pricing Pages, Attachment A (ATT A)** shall result in the disqualification of Contract Item bid on the altered line.

4.2.4 Submitting Pricing Pages other than those provided with this solicitation, as described in Section 4.2, such as pricing pages from a previous solicitation, shall result in the disqualification of Vendor’s bid in its entirety.

4.2.5 Vendor entries of bid prices or other notations made in wvOASIS commodity line descriptions will not be considered for bid evaluation or award. **Failure to submit ATT A with bid submission will result in the disqualification of the Vendors entire bid.**

- 4.3 Contract Award Transition:** Upon award of this contract, the WVDOH Operations Division will announce the effective date of use of this contract to the

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Districts and the Vendors, whether it is by the effective date, the completed and encumbered date, or an established date by the WVDOH. Upon the announced effective date of use, any order issued prior to the award of the contract shall remain in effect and should not be cancelled until that order is filled; however, after 10 working days of the Districts and Vendors notice, any order that has not been completely filled by the Vendors shall NOT be completed and a cancellation notice will be sent to that Vendor from the issuing District for cancellation of the balance of that order only. No orders from prior contracts should be held open by the Districts or Vendors longer than 10 working days after the effective date of use is announced for the new contract.

- 4.4 Cooperative Contracting:** The purchase prices on all Contract Items herein, available for the WVDOH, shall be adoptable for other public agencies upon their request. Agencies under the authority of the West Virginia Purchasing Division must receive prior approval by the Purchasing Director.
- 4.5 Price Adjustment of Fuel Oil #2 (Diesel Fuel):** Due to the uncertainty in estimating the cost of diesel fuel that will be used during the life of this contract, adjustment in compensation for applicable items shall be per Standard Specs 109.9, as amended, with the exception that Factor “C” in the Price Adjustment for Fuel formula is to be broken down by component, as shown in Figure 4.5A below.

The Price Adjustment for Fuel formula to be utilized for this contract is:

$$Pa = [(Mbp \div Cbp) - 1.00] \times Cbp \times C \times Q$$

Where: Pa = Price Adjustment
Mbp = Monthly base price at time of placement
Cbp = Contract Base Price at time of bidding*
C = Cost Adjustment Factors per Unit, as per Figure 4.5A
Q = ‘As Constructed’ Quantity

FIGURE 4.5A

Description	Factor	Unit	Applicable Item
Aggregate Production	0.49	Tons	All Contract Items

The bidding index will be listed on the Contract Administration website for Fuel, Asphalt and Cement Prices Adjustments listed for July 2023. Contract Base Price at time of bid will be based on July 2023.

<https://transportation.wv.gov/highways/contractadmin/Lettings/Pages/FuelandAsphaltPrices.aspx>

- 4.6 Price Adjustments at Renewal:**

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4.6.1 Except for the monthly fuel adjustment referenced in Section 4.5, price adjustments may only be considered annually at the contract renewal, and only if WVDOH and the renewing vendor agrees to renew the contract for another year under the same terms, conditions, and specifications.

4.6.2 Contract Items will be adjusted proportionally, upwards, or downwards, based on the percentage change from 12 months prior to the date of renewal submission using monthly rate in the FRED Economic Data, Producer Price Index by Commodity: Nonmetallic Mineral Products: Construction Sand, Gravel and Crushed Stone (WPU132101) at <https://fred.stlouisfed.org>.

EXAMPLE:

- The January 2021 index rate was 371.800.
- The January 2022 index rate was 397.430.
- The bid price for Contract Item 1, at the time of bid: \$15 Ton

A 6.89% increase in the Construction Sand, Gravel and Crushed Stone Producers Price Index occurred between January 2021 and January 2022. Contract Item 1 would be adjusted proportionally to match the percentage change in the index – therefore will be increased by 6.89% will be applied. The contract price for this Contract Item during the renewal period will be adjusted to \$16.03.

4.6.3 Price adjustments shall be memorialized by a written Change Order which must be reviewed and approved by the West Virginia Purchasing Division, and as to form by the Attorney General's Office, to be effective. Adjusted pricing will not take effect until the effective date of such Change Order and cannot be retroactive.

5. ORDERING AND PAYMENT:

5.1 **Ordering:** Vendor shall accept orders through regular mail, facsimile, email, or any other written forms of communication. Vendor shall maintain and keep current its phone numbers, fax number, email address, locations, and ordering/billing/payment addresses with WVDOH and in wvOASIS. Vendor may, but is not required to, accept online orders through a secure internet ordering portal/website. If Vendor can accept online orders, it shall include in its response a brief description of how Agencies may utilize the online ordering system. Vendor shall ensure that its online ordering system is properly secured prior to processing Agency orders online.

5.2 **Agency Delivery Order ("ADO"):** District personnel should issue an Agency Delivery Order (ADO) from OASIS for specific quantities of materials based on each project's requirements and detailing the need and location information of work to be completed per Contract Items, as well as the start and end dates, which will

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become the agreed upon official start and end dates. The ADO must be created in OASIS and approved to "Final", prior to placing the order with the vendor. The District is responsible for creating the ADO in OASIS and is required to submit the approved order, in writing, directly to the vendor via mail, email or fax. **Verbal communication with the vendor is not considered an official order.** In the event the vendor denies an order or if there are changes to an ADO, the District must process a change order to the approved ADO issued from OASIS.

Emergencies shall be prominently noted on the ADO. Once complete, the ADO shall be sent to Vendor via fax, email, or mail.

- 5.3 Payment:** Upon completion of the work indicated on the ADO, Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia. The State of West Virginia currently utilizes a Purchasing Card program, administered under contract by a banking institution, as well as Electronic Funds Transfer as methods to process payment for goods and services. The Vendor shall accept the State of West Virginia's Purchasing Card and Electronic Funds Transfer for payment of orders under this Contract. Electronic Funds Transfer for payment is available through the WV State Auditor's Office. The Vendor may visit the WV State Auditor's website (wvsao.gov) for all necessary forms and instructions. Payment method may be dictated at WVDOH's discretion.

6. PROJECT ACCEPTANCE, DELIVERY AND RETURN:

- 6.1 Project Acceptance and Written Verification of Receipt:** Upon receipt of a WVDOH ADO, the Vendor shall advise the WVDOH in writing within three (3) calendar days of their acceptance or refusal of the ADO. As verification of receipt, Vendor must provide written acknowledgement of any ADOs, and any Revisions/Modifications thereto sent by WVDOH. Failure to provide the WVDOH with written acknowledgement of any ADOs/Revisions within three (3) days of the Order being sent shall be considered refusal of the ADO. In the event of refusal, the WVDOH at its own discretion shall cancel the ADO and may seek to obtain the goods or services from the next low bid Vendor or proceed with an emergency purchase from the open market.
- 6.2 Delivery Time:** Vendor shall promptly commence and complete standard orders within five (5) working days after orders are received. If for any reason the Vendor anticipates delay or failure for any reason to commence its delivery/provision of 100% of the ordered Contract Items, Vendor shall provide, *in writing*, to the ordering Agency the reason for its failure no later than three (3) business days prior to the Agency Delivery Order/Release Order date, and no later than 4:00pm.

Vendor shall deliver emergency orders within 24 hours of the order date, or per the agreed upon timeframe established by the Agency and the Vendor.

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Vendor shall ship all orders in accordance with the above schedule and shall not hold orders until a minimum delivery quantity is met. No Vendor is authorized to ship project related goods or begin work/services, nor is the WVDOH authorized to receive materials, prior to the issuance of an ADO.

6.3 Late Delivery: The Agency placing the order under this Contract must be notified in writing if orders will be delayed for any reason. Any delay in delivery that could cause harm to an Agency will be grounds for cancellation of the delayed order, and/or obtaining the items ordered from another awarded vendor or proceed with an Emergency Purchase from the open market.

The Agency placing the ADO under this Contract must be notified **in writing by the Vendor no later than five (5) business days prior to the scheduled start date from the Agency's order.** Any failure to notify, acknowledge receipt of WVDOH's written ADOs/ Revisions resulting in delivery delay, or failure to start or complete the project per the WVDOH scheduled due dates, or failure to provide Contract Items in compliance with the quality requirements of this contract, may be determined by the WVDOH at its sole discretion as harmful to the Agency and as such, shall result in WVDOH's cancellation of the ADO and application of Liquidated Damages.

Any Agency seeking to obtain items from the open market under this provision must first obtain approval of the West Virginia Purchasing Division.

6.3.1 Liquidated Damages: If the Vendor's work completion or corrections of deficient work/materials exceeds the ADO completion due date or timeframe, the Vendor shall agree that no extension of contract time will be granted unless Liquidated Damages are applied by the WVDOH in the form of an off-set reduction to the total amount of the Vendor's final invoice. The WVDOH shall calculate Liquidated Damages per project beginning on day one (1) after the WVDOH's specified ADO due date and in accordance with this Section, the Contract's Terms and Conditions, Standard Specs Section 108.7, and the following Standard Specs Section Table 108.7.1 - Schedule of Liquidated Damages, as amended:

**Table 108.7.1
Schedule of Liquidated Damages**

Original Contract Amount		Daily Charges Per Calendar Day
For More Than	To and Including	
\$0	\$500,000	\$350
\$500,000	\$2,000,000	\$650
\$2,000,000	\$10,000,000	\$1,600
\$10,000,000	\$25,000,000	\$3,100
\$25,000,000		\$4,200

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6.3.2 Force Majeure: It shall be further noted that the Vendor is not responsible for and shall not be penalized for delays in its delivery of goods and/or services when caused by factors or events outside Vendor's control, including but not limited to acts or omissions of the Agency or third parties, acts of civil or military authority, civil disturbance, war, terrorism, pandemics, explosions, fire, floods, tornadoes, or other natural disasters or acts of God.

6.4 Return of Unacceptable Items: The decision of the WVDOH District Engineer or their designee regarding materials, workmanship, quality etc., shall be final per the Standard Specs Section 105.1, as amended. If the Agency deems the Contract Items to be unacceptable, the Contract Items shall be returned to Vendor at Vendor's expense and with no restocking charge. Vendor shall either arrange for the return within five (5) days of being notified that items are unacceptable or permit the Agency to arrange for the return and reimburse Agency for delivery expenses. If the original packaging cannot be utilized for the return, Vendor will supply the Agency with appropriate return packaging upon request. All returns of unacceptable items shall be F.O.B. the Agency's location. The returned product shall either be replaced, or the Agency shall receive a full credit or refund for the purchase price, at the Agency's discretion.

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

7. VENDOR DEFAULT:

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

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

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

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

7.1.4 Failure to remedy deficient performance upon request.

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

7.2.1 Immediate cancellation of the Contract.

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

7.2.3 Any other remedies available in law or equity.

8. MISCELLANEOUS:

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

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

8.3 **Reports:** Vendor shall provide the Agency with quarterly reports, annual summaries, and/or monthly reports as requested by the Agency and/or the West Virginia Purchasing Division showing quantities, total dollar value of the Contract Items purchased, ordered, shipped & invoiced with dates in spreadsheet format as defined by the Agency. Failure to supply such reports may be grounds for cancellation of this Contract.

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

Contract Manager: Vernon Criss
Telephone Number: 304-428-0341
Fax Number: 304-485-4585
Email Address: atlastowing@frontier.com

Vendor shall inform the Agency in writing of any changes to the information provided above within 10 calendar days of such changes. Failure to comply may be grounds for cancellation of this contract.

**Stone Aggregate Pick Up by Agency
Attachment A (ATT A) Pricing Pages**

VENDOR INSTRUCTIONS: Vendor shall provide their Source Plant address, Pick Up Storage Location Address, and bid pricing for the Contract Item listed below. Vendor may bid any or all Contract Items. Failure to provide Source Plant and Pick Up Storage Location information will result in the disqualification of the entire bid. This is a multiple vendor award contract. All qualifying vendors meeting the contract specifications will be awarded with a contract. The low bid vendor per project will be determined at the time of need, as per Section 4 of the contract specifications. Estimated quantities are not available.

VENDOR NAME: ATLAS TOWING COMPANY

***Source Plant Address(es):** ~~Mulzer Crushed Stone-New Amsterdam, Charlestown &~~
Required Cape Sandy Quarries
Carmeuse Americas- Wolf Creek & Maysville Quarries

***Pick Up Storage Location Address:** 1334 Staunton Turnpike
**Required (if different from* Parkersburg, WV 26104
Source Plant address)

Contract Item	Description	Composition**	Unit of Measure	Bid Price
1	Class 1 Aggregate	Limestone Only	Tons	\$ 23.98
2	Class 1 Aggregate	LSGS	Tons	
3	Class 1 Aggregate	Slag	Tons	
4	Class 2 Aggregate	Limestone Only	Tons	
5	Class 2 Aggregate	LSGS	Tons	
6	Class 2 Aggregate	Slag	Tons	
7	Class 10 Aggregate	LSGS	Tons	23.98
8	AASHTO #1 Aggregate	Limestone Only	Tons	27.76
9	AASHTO #1 Aggregate	LSGS	Tons	
10	AASHTO #3 Aggregate	Limestone Only	Tons	27.76
11	AASHTO #3 Aggregate	LSGS	Tons	
12	AASHTO #4 Aggregate	LSGS	Tons	27.76
13	AASHTO #467 Aggregate	LSGS	Tons	27.76
14	AASHTO #57 Aggregate	Limestone Only	Tons	27.76
15	AASHTO #57 Aggregate	LSGS	Tons	
16	AASHTO #67 Aggregate	Limestone Only	Tons	
17	AASHTO #67 Aggregate	LSGS	Tons	
18	AASHTO #7 Aggregate	Limestone Only	Tons	
19	AASHTO #7 Aggregate	LSGS	Tons	
20	AASHTO #8 Aggregate	Limestone Only	Tons	28.55
21	AASHTO #8 Aggregate	LSGS	Tons	
22	AASHTO #8 MODIFIED	Limestone Only	Tons	35.00
23	AASHTO #8 MODIFIED	LSGS	Tons	
24	AASHTO #9 Aggregate	Limestone Only	Tons	
25	AASHTO #9 Aggregate	LSGS	Tons	
26	AASHTO #9 MODIFIED	Limestone Only	Tons	

**Stone Aggregate Pick Up by Agency
Attachment A (ATT A) Pricing Pages**

VENDOR NAME: Atlas Towing Company

***Source Plant Address(es):** Mulzer Crushed Stone- New Amsterdam, Charlestown &
Required Cape Sandy Quarries
Carmeuse Americas- Wolf Creek & Maysville Quarries

***Pick Up Storage Location Address:** 1334 Staunton Turnpike
**Required (if different from* Parkersburg, WV 26104
Source Plant address)

Contract Item	Description	Composition**	Unit of Measure	Bid Price
27	AASHTO #9 MODIFIED	LSGS	Tons	
28	Stone for Gabions	Limestone Only	Tons	\$ 27.76
29	Stone for Gabions	LSGS	Tons	
30	Fine Aggregate	LSGS	Tons	
31	Limestone Standard Abrasives	Limestone Only	Tons	
32	Limestone Standard Abrasives	LSGS	Tons	
33	Sandstone Standard Abrasives	LSGS	Tons	
34	Steel Slag for SRIC	Slag	Tons	
35	Limestone MODIFIED Abrasives	Limestone Only	Tons	
36	Limestone MODIFIED Abrasives	LSGS	Tons	
37	Sandstone MODIFIED Abrasives	LSGS	Tons	
38	Cinders	Cinders	Tons	
39	Pea Gravel	LSGS	Tons	
40	#11 Limestone Abrasives	LSGS	Tons	
41	Quarry Waste	LSGS	Tons	
42	Rip Rap	LSGS	Tons	
43	Shot Rock	Limestone Only	Tons	
44	Shot Rock	LSGS	Tons	
45	Imbricated Stone	LSGS	Tons	

****LSGS can contain mixed amounts of Limestone, Sandstone, Gravel and Sand, where allowed within the Standard Specifications.**