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**Header # 1**

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Procurement Folder: 1575068	SO Doc Code: CRFO
Procurement Type: Central Purchase Order	SO Dept: 0313
Vendor ID: 00000180372	SO Doc ID: DFC2590000911
Legal Name: GW CONSULTANTS INC	Published Date: 10/1/25
Alias/DEA:	Closed Date: 01/13/26
Total Bid: \$36,363.89	Closed Time: 13:30
Response Date: 03/13/2025	Status: Closed
Response Time: 11:57	Solicitation Description: AML Phase I Archaeological Survey N Park of Blackwater AMO
Responded By User ID: jsteele	Total of Header Attachments: 1
First Name: Brittany	Total of All Attachments: 1
Last Name: Steele	
Email: b.steele@gwconsultants.com	
Phone: 412.389.5136	



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

State of West Virginia  
Solicitation Response

**Proc Folder:** 1575860  
**Solicitation Description:** AML-Phase I Archaeological Survey N Fork of Blackwater AMD  
**Proc Type:** Central Purchase Order

Solicitation Closes	Solicitation Response	Version
2025-02-13 13:30	SR 0313 ESR02122500000004945	1

**VENDOR**  
000000160372  
GAI CONSULTANTS INC

**Solicitation Number:** CRFQ 0313 DEP2500000013  
**Total Bid:** 30363  
**Response Date:** 2025-02-12  
**Response Time:** 11:07:28  
**Comments:**

**FOR INFORMATION CONTACT THE BUYER**  
Joseph E Hager III  
(304) 558-2306  
joseph.e.hageriii@wv.gov

<b>Vendor</b>		
<b>Signature X</b>	<b>FEIN#</b>	<b>DATE</b>

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

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
1	Archaeological services				30363.00

Comm Code	Manufacturer	Specification	Model #
81151705			

**Commodity Line Comments:**

**Extended Description:**

Phase I Archaeological Survey to be conducted at the proposed North Fork of Blackwater Acid Mine Drainage (AMD) Treatment site. The project, as proposed, will consist of the construction of a lime storage silo, two round clarifiers, collection and conveyance systems to capture and transport AMD to the site, sludge disposal areas and associated conveyance systems. Additionally, existing AMD treatment systems constructed by WVDEP-AML will be decommissioned.



February 13, 2025

GAI Project Number R250129.00

Joseph E. Hager, III  
West Virginia Purchasing Division  
2019 Washington Street  
East Charleston, West Virginia 25305

**Proposal for CRFQ 0313 DEP2500000013  
Phase I Archaeological Survey  
North Fork of Blackwater AMD Treatment Facility  
Tucker County, West Virginia**

Dear Mr. Hager:

GAI Consultants, Inc. (GAI) appreciates the opportunity to submit this proposal to the West Virginia Purchasing Division and West Virginia Department of Environmental Protection, Office of Abandoned Mine Lands (WVDEP-AML) to assist with the North Fork of Blackwater Acid Mine Drainage (AMD) Treatment Site Project (Project) near Thomas, West Virginia. We understand the Project involves the construction of a lime storage silo, two round clarifiers, collection and conveyance systems to capture and transport AMD to the site, and sludge disposal areas associated conveyance systems. Additionally, existing AMD treatment systems constructed by WVDEP-AML will be decommissioned. It is GAI's understanding the West Virginia Purchasing Division is soliciting bids on behalf of the WVDEP-AML to establish a contract for the completion of a Phase I Archaeological Survey at the North Fork of Blackwater AMD Treatment site as outlined in the Request for Quotation, dated January 16, 2025, January 24, 2025, and January 31, 2025.

### **Scope of Services**

The Phase I archaeological survey is intended to investigate the area referred to as the "Miner's Rowhouse Site" (46Tu300) and the surrounding landform. Therefore, GAI will complete a Phase I Archaeological Survey in accordance with Section 106 of the National Historic Preservation Act of 1966, as amended; the Secretary of the Interior's Guidelines for Archaeological Documentation, West Virginia Code 29-1-8; and the West Virginia State Historic Preservation Office's (WV SHPO's) Guidelines for Phase I, II, and III Archaeological Investigations and Technical Report Preparation (WV SHPO N.d.). This work will consist of the following tasks:

#### **Task 1: Phase I Survey Literature Search**

The background research task will involve a review of data available online via WV SHPO's GIS Interactive Map Viewer, including archaeological site files, historic property inventory forms, and prior archaeological and cultural resources investigations within the boundary of 46Tu300 and vicinity. Additionally, GAI will consult local libraries, informants, museums, and historical societies. GAI will also review county tax maps, historical maps, National Register of Historic Places (NRHP) and National Historic Landmarks listings, historic aerials, and other historical data to develop a context for 46Tu300.

#### **Task 2: Phase I Archaeological Survey**

GAI will conduct a Phase I archaeological survey of 1.6 hectare (4.0 acres), which includes site 46Tu300 and its immediate vicinity. According to a December 2023 report by the WV Department of Transportation, Division of Highways, the site measures approximately 0.8 hectare (0.5 acre). GAI understands the survey is not limited to the 0.8-hectare (0.5-acre) site area, as currently mapped, but

does encompass the site's area. Based on available Project mapping, the proposed survey area appears to be lacking the ground surface visibility required by WV SHPO's guidelines to accommodate Phase I survey by way of systematic pedestrian surface collection (WV SHPO N.d.). As a result, GAI assumes Phase I testing of the proposed survey area will consist of pedestrian reconnaissance augmented with systematic placement of shovel test pits (STPs).

In accordance with WV SHPO's guidelines, STPs will generally be excavated at 50-foot intervals in areas with ground cover exceeding 25 percent and slope less than 20 percent. If artifacts are recovered during shovel testing, GAI archaeologists will excavate radial STPs at 16-foot intervals in grid cardinal directions surrounding the positive STP(s) to delineate site 46Tu300's boundaries within the proposed survey area. Also, in accordance with WV SHPO guidelines, STPs will measure 20 x 20 inches and will be hand-excavated by natural soil stratigraphy. Excavated soils will be screened through 0.25-inch hardware cloth for systematic artifact recovery. Recovered artifacts (if present) will be bagged according to provenience. For each STP, GAI archaeologists will complete a standardized field form noting depths of soil horizons, soil texture and Munsell color, and presence of artifacts. STP locations will be recorded on Project maps and will be backfilled upon their completion. Additionally, Phase I testing areas and representative STPs will be located by way of a Global Position System unit and documented with photographs, as appropriate.

GAI assumes that STPs will be hand-excavated to a maximum depth of 20 inches below ground surface (bgs) if sterile subsoil is not encountered at shallower depths. If subsoil is not reached during shovel testing, GAI assumes excavation of up to five bucket auger soundings from the bases of five STPs to sample soils below 32 inches bgs, determine the depths of subsoil, and investigate the presence of deeply buried artifacts and cultural features. If subsoil is encountered during shovel testing, these excavations will be terminated at least 4 inches into sterile subsoil horizons. Deep archaeological testing (i.e., test unit excavation, mechanical trenching) and geomorphological studies are not included in this proposal, but these tasks can be completed under a supplemental scope of services if deeply buried archaeological deposits are encountered, in consultation with WVDEP-AML.

For the purposes of this scope of services, GAI assumes subsurface survey may require excavation of up to 64 STPs to adequately test site 46Tu300. Given the Project area's proximity to North Fork Blackwater River and the previously recorded archaeological site, GAI further assumes testing within the site will require up to 18 STPs to delineate the resource boundary in compliance with WV SHPO's standards. Additionally, GAI assumes a maximum of 100 artifacts requiring laboratory processing, analysis, and site form preparation. It is expected that the entirety of site 46Tu300 will be contained within privately owned parcels; however, a portion of the site may extend into the Monongahela National Forest. Therefore, testing on U.S. Forest Service (USFS) property may be necessary if evidence from the survey on private parcels shows the site extends onto USFS property. In the event survey is necessary on USFS property, GAI Principal Investigator will obtain an Archaeological Resources Protection Act (ARPA) Permit. After the report is accepted, the artifacts collected from private land will be returned to the landowner. Artifacts collected on USFS-managed land will be curated at an acceptable facility, if necessary.

#### Phase I Archaeological Fieldwork Assumptions

GAI will conduct this task under the following assumptions:

- The proposed area requiring Phase I survey encompasses 4.0 acres.
- Given the existing vegetation in the survey area, GAI assumes poor ground surface visibility that will preclude archaeological survey by way of surface collection.
- No more than 82 STPs will be excavated, of which 18 STPs are designated for site delineation.
- GAI assumes that STPs will be hand-excavated to a maximum depth of 20 inches bgs if sterile subsoil is not encountered at shallower depths
- GAI will prepare an updated West Virginia Archaeological Site Form for site 46Tu300.
- No more than 100 artifacts requiring laboratory processing and analysis will be found.

- It will take three GAI archaeologists 4 days (including travel) to complete the Phase I archaeological survey.
- No deep archaeological testing, geomorphological studies, or Phase II eligibility evaluations will be required.
- No weather events, such as rain, snow, and ice storms, will impede fieldwork.
- If conditions vary and additional work is required to complete the Phase I archaeological study (e.g., more STPs, artifacts, archaeological sites, etc.) this work can be completed under a supplemental scope of services, in consultation with WVDEP-AML.
- An ARPA permit will be required for any Phase I archaeological survey on USFS-managed land needed to delineate site 46Tu300. GAI will secure an ARPA permit, if needed.
- GAI will coordinate with West Virginia 811 to identify buried utilities in the survey area prior to the start of Phase I archaeological fieldwork.

### **Task 3: Deliverables and Laboratory Processing**

Following completion of fieldwork, GAI will present the methods and results of archaeological investigations in a Phase I technical report for review by WVDEP-AML prior to submittal to the USACE Pittsburgh District and WV SHPO. The report will be prepared in accordance with current WV SHPO guidelines (WV SHPO N.D.) and will include information on the Project's environmental setting and culture history, background research, field methods, Phase I survey results, and recommendations. Appropriate maps, figures, and photographs documenting the results of investigations will also be included. The artifact catalog and updated West Virginia Archaeological Site Form will be provided as appendices. GAI will also provide preliminary recommendations on NRHP eligibility for site 46Tu300.

Artifacts recovered will be delivered for processing and analysis to GAI's archaeological laboratory in Homestead, Pennsylvania. Laboratory processing will include cleaning of recovered cultural materials, analysis, and entering artifact information into a database to produce an artifact catalog.

After processing, precontact artifacts will be separated into functional classes and types, and their temporal and cultural affiliation will be identified, if possible. Attributes will be recorded on material types, dimensions and weights, and other characteristics relevant to the artifact classes in question. Historic artifacts will be separated into material groups (e.g., ceramics, glass, metal, faunal, etc.) and cataloged according to established typologies, using the class, type, and variety method. To the extent possible, historic proveniences will be assigned date ranges based on temporally-diagnostic artifacts. GAI assumes that artifacts will be returned to the landowner, and no curation tasks are assumed in this scope of services.

#### Phase I Archaeological Reporting Assumptions

GAI will conduct this task under the following assumptions:

- GAI assumes one round of comments from WVDEP-AML and the WV SHPO.
- GAI will provide the Phase I Archaeology Report within 90 days of the issuance of the contract.

### **Cost, Terms, and Conditions**

GAI is prepared to start work on the Project within five to 10 days upon receipt of WVDEP-AML's written Notice to Proceed. GAI proposes to complete this work on a lump sum basis, not to exceed the costs presented below in Table 1 without prior approval from WVDEP-AML. If additional support is required because of changes to the Project or additional Project elements, those costs will be covered in a separate scope of services.

**Table 1 – Cost Proposal Summary**

Task	Cost
Task 1: Background Research	\$2,155
Tasks 2: Phase I Archaeological Survey	\$13,020
Task 3: Phase I Archaeological Survey Reporting	\$15,188
<b>Total</b>	<b>\$30,363</b>

## Closing

GAI appreciates the opportunity to submit this proposal for your review and consideration, and we look forward to working with you on this Project. Should you have any questions in the meantime, please feel free to contact Ms. Kelly Hockersmith at [k.hockersmith@gaiconsultants.com](mailto:k.hockersmith@gaiconsultants.com) or 615-788-9016.

Sincerely,  
**GAI Consultants, Inc.**

Kelly S. Hockersmith, MA, RPA  
Cultural Resources Director

Amy C. Favret, MA, RPA  
Archaeological Manager

Attachment: Appendix A – Qualifications, Appendix B - CRFQ 0313 DEP2500000013 Solicitation Documents

## References

West Virginia State Historic Preservation Office (WV SHPO)  
N.D. *Guidelines for Phase I, II, and III Archaeological Investigations and Technical Report Preparation*. Electronic document, <https://wvculture.org/wp-content/uploads/2021/03/Guidelines-for-Phase-I-II-and-III-Archaeological-Investigations-and-Technical-Report-Preparation.pdf>, accessed January 2024.



## **APPENDIX A: Qualifications**

## Project Team



### Education

MA, Applied Anthropology,  
University of South Florida

BA, Anthropology and  
Psychology, Heidelberg  
University

### Registrations

Register of Professional  
Archaeologists (RPA)  
#15792

## Kelly Hockersmith, RPA, MA

Ms. Hockersmith has managed cultural resources projects throughout the Southeast, Midwest, Mid-Atlantic, and Southwestern United States in various federal, state, municipal, and private sectors. Ms. Hockersmith is listed on the Register of Professional Archaeologists (RPA) and has experience with Sections 106 and 110 of the National Historic Preservation Act (NHPA), NEPA, Native American Graves Protection and Repatriation Act (NAGPRA), Archaeological Resources Protection Act (ARPA), FERC environmental regulations for natural gas facilities, and the USACE permitting. Ms. Hockersmith's qualifications exceed those set forth by the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716-42) with specialization in the management of and quality control for energy and transportation projects.

- Mission Farms Arch Bridge Replacement, West Virginia Division of Highways, Marion County, West Virginia. Cultural Resources Task Manager. Granted to GAI as part of our NEPA statewide contract, the project includes preparation of a Programmatic Categorical Exclusion (PCE) for the replacement of the Mission Farms Arch Bridge. Work included cultural resources survey and reporting.
- Pipeline Project, Confidential Client, Ohio, West Virginia, Pennsylvania, and Michigan. Project Archaeologist. Coordinated Phase I surveys of 700 miles of natural gas pipeline and writing support for the FERC Resource Report 4.
- Pipeline Project, Confidential Client., 17 Counties in West Virginia and Virginia. Project Manager. Completed cultural resources inventory surveys, NRHP evaluations, data recovery investigations, variance reporting, and archaeological monitoring for the project.



### Education

MA, Anthropology, Ball  
State University

BA, Anthropology and  
Geology, Northern  
Kentucky University

### Registrations

Register of Professional  
Archaeologists (RPA)

Qualified Professional  
Archaeologist: FL, IL, IN,  
IA, KS, KT, MD, MI, MO,  
NY, NC, PA, TN, VA, DC,  
WV, WI, WY

Qualified Skeletal Analyst:  
IL, WI

Archaeologist Qualified to  
Excavate Burials: WI

## Amy Favret, MA, RPA

Ms. Favret is a RPA with experience in cultural resource management services throughout the Midwest and Eastern United States. Her experience includes research, all phases of fieldwork, analysis, and reporting as well as plans and memoranda of agreement/understanding. Her experience also includes coordination with local, state, and federal agencies and consulting parties involved with NEPA, Section 106 of the NHPA, and other related cultural resource laws and regulations. Additionally, she has extensive experience with prehistoric and historic cemetery delineation, excavation, analysis, and reporting. Ms. Favret is proficient in Microsoft Office Suite, Fordisc, and mapping programs such as ArcGIS.

- Pipeline Replacement Archaeological Monitoring, Confidential Client, West Virginia. Archaeologist Task Manager and Specialty Bioarcheologist. The project consists of archaeology monitoring of a gas pipeline replacement. During excavation for the project, a Native American burial, associated with previously identified archaeological site, was encountered. During an on-site meeting the WV SHPO archaeological monitoring was requested for the remainder of ground disturbing activities for the Project.
- Sump 20 Project, Confidential Client, West Virginia. Principal Investigator. Responsible for the cultural resources tasks necessary to meet Section 106 requirements, including records review, and report production of a cultural resources literature review report. A cultural resources assessment was completed for the Sump 20 Project at the Charleston Facility, near Charleston, West Virginia. The project consisted of a remediation activity entirely within the backchannel of the Kanawha and includes geotechnical borings for site characterization studies.
- Utility Infrastructure Replacement Project, National Parks Service (NPS), Maryland. Principal Investigator and Cultural Resources Task Lead. Responsible for review of Maryland Historic Trust and NPS cultural resources databases, development of an archaeological work plan, oversight of Phase I archaeological survey, and reporting for a parkwide utility replacement project. The utility infrastructure project will replace park-owned and operated infrastructure systems.

# Prehistoric and Historical Archaeology

The cultural resources staff at GAI Consultants remains one of the few groups nationwide providing archaeological and historic architectural services within an engineering and environmental consulting firm. From Phase IA sensitivity modeling through Phase III site mitigation, GAI's dedicated professionals clear the way for our clients to effectively manage prehistoric- and historic-period cultural resources.

**Quick response, cost-effective surveys that meet federal guidelines mean streamlined environmental clearances.**

Our archaeology staff qualifications exceed federal standards and many of our archaeologists are certified by the Register of Professional Archaeologists. We have the resources to mobilize multiple teams quickly while remaining responsive to clients' immediate and changing project needs.

GAI's cultural resource services are supported by a well-equipped and staffed archaeology laboratory

featuring Geographic Information System (GIS) and Computer Aided Design and Drafting (CADD) capabilities, and a large-format camera that meets stringent Historic American Buildings Survey/ Historic American Engineering Record (HABS/ HAER) standards.

GAI routinely streamlines archaeological studies by conducting preliminary studies and Phase IA reconnaissance surveys prior to subsurface investigations. Our clients favor this cost- and time-saving approach, which meets the guidelines of both federal agencies and State Historic Preservation Offices (SHPOs).

GAI's award-winning public outreach programs convey the benefits of cultural resource efforts to affected local communities. We create web sites, author publisher-quality reports, and organize hands-on programs for students.

GAI guides clients through Section 106 of the National Historic Preservation Act (NHPA), National Environmental Policy Act (NEPA), Federal Energy Regulatory Commission (FERC), and environmental



gai consultants®



## Service Profile



permitting processes while skillfully managing consultations with local, state, and federal historic preservation agencies and Native American tribes.

Our artifact analyses are complemented by an integrated database management system that streamlines the regulatory compliance process so we can efficiently review and share large volumes of data with our clients, State Historic Preservation Offices (SHPOs), and other approving agencies.

Nationally recognized for efficiently meeting the requirements of historic preservation and environmental regulations, GAI's core team of cultural resource specialists provide innovative services in historic, prehistoric, and urban archaeology, historic preservation and public history, and soils science.

GAI's cultural resource professionals are committed to advancing their skills and delivering the highest quality services as they travel to participate in archaeology and historic preservation efforts for clients in the energy, transportation, and development markets.

From nuclear power plants, electric transmission lines, and gas pipelines to transportation corridors, military battlefields, and Native American sites, GAI has built

a performance record for providing accurate, cost-effective results that serve clients' time-sensitive needs.

### Prehistoric and Historical Archaeology Services

- Phase I/II archaeological investigations
- Phase III data recovery, treatment, mitigation plans
- Assessment and site formation studies
- Historical background and geomorphic studies
- NEPA, NHPA, FERC compliance reviews/reports
- Section 4(f) reports
- EIS, EAs, Categorical Exclusion Evaluations
- GIS predictive modeling
- HABS/HAER recordation
- Quantitative analysis and statistics
- Prehistoric and historic material analyses
- Historic architectural surveys
- Archival and deed research
- Avoidance and preservation measures
- SHPO and Native American consultation
- Public outreach and education programs

### GAI Services Summary

- |  |  |
|--|--|
| ■ Airport Planning and Design                        | ■ Geotechnical Engineering and Geology           |
| ■ Bridge and Structure Inspection and Design         | ■ Impoundment and Landfill Permitting and Design |
| ■ Coal Combustion Residuals Management               | ■ Land Development Engineering                   |
| ■ Construction Inspection and Management             | ■ Landscape Architecture and Design              |
| ■ Cultural Resources Management                      | ■ Master Planning and Urban Design               |
| ■ Economic Analyses and Strategies                   | ■ Mechanical, Electrical, Structural Engineering |
| ■ Electric Transmission Design and Siting            | ■ Natural Gas FERC Certification and Permitting  |
| ■ Environmental Engineering                          | ■ Right of Way and Appraisal Support             |
| ■ Environmental Studies, Species Studies, Permitting | ■ Land Surveying and Mapping                     |
| ■ Gas Pipeline Surveying and Mapping                 | ■ Transportation Planning and Design             |
| ■ Geographic Information Systems (GIS)               | ■ Utility Management Consulting                  |
|  | ■ Water, Stormwater, Wastewater Management       |

The scope of professional services that are provided by or offered out of each GAI office including, but not limited to, engineering and surveying services, is governed by the professional and business licensing requirements of each individual State or jurisdiction in which the GAI office is located and whether GAI has the requisite professional and business licenses for that State or jurisdiction. Nothing on GAI's Web Site or marketing materials is intended to be interpreted or construed as offering to perform professional licensed services where prohibited unless the licensing requirements have been met. Engineering services are not offered out of GAI's Northern Kentucky (Florence) office location.

Surveying services are not offered out of GAI's Ohio, Kentucky, or Illinois locations or by our New York subsidiary.

**APPENDIX B:**  
**CRFQ 0313 DEP2500000013 Solicitation Document**



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  
Consulting

<b>Proc Folder:</b> 1575860			<b>Reason for Modification:</b> Addendum #2 issued to upload GIS Shapefiles to the header of wvOasis for vendors to download and vie..... See Page 2 for complete info
<b>Doc Description:</b> AML-Phase I Archaeological Survey N Fork of Blackwater AMD			
<b>Proc Type:</b> Central Purchase Order			
<b>Date Issued</b>	<b>Solicitation Closes</b>	<b>Solicitation No</b>	<b>Version</b>
2025-01-31	2025-02-13 13:30	CRFQ 0313 DEP2500000013	3

BID RECEIVING LOCATION

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

VENDOR

**Vendor Customer Code:** 000000160372  
**Vendor Name :** GAI Consultants, Inc.  
**Address :** Charleston Office  
**Street :** 500 Lee Street East, Suite 700  
**City :** Charleston  
**State :** West Virginia **Country :** United States **Zip :** 25301  
**Principal Contact :** Scott Burnsworth, Vice President  
**Vendor Contact Phone:** 681.245.8853 **Extension:**

FOR INFORMATION CONTACT THE BUYER

Joseph E Hager III  
(304) 558-2306  
joseph.e.hageriii@wv.gov

Vendor  
Signature X **FEIN#** 25-126999 **DATE** February 13, 2025

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

**Reason for Modification:**

Addendum #2 issued to upload GIS Shapefiles to the header of wvOasis for vendors to download and view and to extend the bid close date until 2/13/2025 @ 1:30 PM ET.

**ADDITIONAL INFORMATION**

The West Virginia Purchasing Division is soliciting bids on behalf of West Virginia Department of Environmental Protection, Office of Abandoned Mine Lands (WVDEP-AML) to establish a contract for the completion of a Phase I Archaeological Survey to be conducted at the proposed North Fork of Blackwater Acid Mine Drainage (AMD) Treatment site per the attached specifications and terms and conditions.

INVOICE TO			SHIP TO		
ENVIRONMENTAL PROTECTION OFFICE OF AML&R  601 57TH ST SE CHARLESTON WV US			STATE OF WEST VIRGINIA  JOBSITE - SEE SPECIFICATIONS  No City WV US		

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	Archaeological services	1	Lump Sum	\$30,363	\$30,363

Comm Code	Manufacturer	Specification	Model #
81151705			

**Extended Description:**

Phase I Archaeological Survey to be conducted at the proposed North Fork of Blackwater Acid Mine Drainage (AMD) Treatment site.

The project, as proposed, will consist of the construction of a lime storage silo, two round clarifiers, collection and conveyance systems to capture and transport AMD to the site, sludge disposal areas and associated conveyance systems. Additionally, existing AMD treatment systems constructed by WVDEP-AML will be decommissioned.

**SCHEDULE OF EVENTS**

<u>Line</u>	<u>Event</u>	<u>Event Date</u>
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## 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. **PRE-BID 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. 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.



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.

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 non-binding.

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

Submission Deadline:

Submit Questions to:

2019 Washington Street, East Charleston, WV 25305

Fax: (304) 558-3970

Email:

**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 or modification of bids via email.

**Bids submitted in paper, facsimile, or via wvOASIS must contain a signature. Failure to submit a bid in any form without a signature will result in rejection of your bid.**

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:

SOLICITATION NO.:

BID OPENING DATE:

BID OPENING TIME:

FAX NUMBER:

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.

**Bid Delivery Address and Fax Number:**

Department of Administration, Purchasing Division 2019 Washington Street East

Charleston, WV 25305-0130

Fax: 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 or via delivery by mail).

Bid Opening Date and Time:

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 Acknowledgement Form. 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 **shall** 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. **COMMUNICATION LIMITATIONS:** In accordance with West Virginia Code of State Rules §148-1-6.6.2, 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.

12. **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.

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

14. **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](http://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](http://www.state.wv.us/admin/purchase/vrc/Venpref.pdf).

**15. 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.

**16. 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 § 148-1-4.7.

**17. 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.

**18. 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.”

**19. ACCEPTANCE/REJECTION:** The State may accept or reject any bid in whole, or in part in accordance with W. Va. Code of State Rules § 148-1-4.6. and § 148-1-6.3.”

20. **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 § 148-1-4.7. This authority does not apply to instances where state law mandates receipt with the bid.

21. **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.

22. **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.

## **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 \_\_\_\_\_. 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 \_\_\_\_\_ 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.

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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: \_\_\_\_\_ 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.

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**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 [www.state.wv.us/admin/purchase/privacy](http://www.state.wv.us/admin/purchase/privacy).

**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.

**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](mailto: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 hearth, 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) \_\_\_\_\_

(Address) \_\_\_\_\_

(Phone Number) / (Fax Number) \_\_\_\_\_

(email address) \_\_\_\_\_

**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.

\_\_\_\_\_  
(Company)

\_\_\_\_\_  
(Signature of Authorized Representative)

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

\_\_\_\_\_  
(Phone Number) (Fax Number)

\_\_\_\_\_  
(Email Address)

ADDENDUM ACKNOWLEDGEMENT FORM  
SOLICITATION NO.:

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

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

Addendum Numbers Received:

*(Check the box next to each addendum received)*

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

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

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Company

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Authorized Signature

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Date

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