

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

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

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

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. The West Virginia Parkways Authority will not accept any other form of proof or documentation to verify attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing. Additionally, the person attending the pre-bid meeting should include the Vendor's E-Mail address 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 Department. Questions must be submitted in writing. All questions must be submitted on or before the date listed in the solicitation and to the email address purchasing@wvturnpike.com to be considered. A written response will be published as an addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are non-binding. Submitted e-mails should have solicitation number in the subject line.
- 5. VERBAL COMMUNICATION:** Any verbal communication between the Vendor and any West Virginia Parkways Authority personnel is not binding, including that made at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Department is binding.
- 6. BID SUBMISSION:** All bids must be submitted electronically through wvOASIS by the Vendor on or before the date and time of the bid opening. The Department will not accept bids, modification of bids via e-mail, hand delivery, delivery by courier, or facsimile.

Vendors must register and maintain an active Vendor Self Service (VSS) account in wvOASIS to submit a bid. Registration may be completed at: <https://prd311.wvoasis.gov/PRDVSS1X1ERP/Advantage4>

Vendors are responsible for allowing sufficient time to complete registration and submit bids prior to the deadline.
- 7. ELECTRONIC FILE ACCESS RESTRICTIONS:** Vendor must ensure that its submission in wvOASIS can be accessed and viewed by the Department staff immediately upon bid opening. The Department 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 applicable, 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. The completed transmission must be received by the Purchasing Department prior to the specified date and time for submission of the bid. A vendor choosing to submit a bid or a written change to a bid accepts full responsibility for the transmission and receipt of the bid or change. West Virginia Parkways Authority accepts no responsibility for the unsuccessful and/or incomplete transmission of bids.
- 8. BID OPENING:** Bids submitted in response to this Solicitation are considered sealed upon electronic submission through wvOasis and will be electronically opened at the date and time specified in the Solicitation. The electronic bid opening is open to the public. Vendors and other interested parties may attend at the location identified below and, on the date, time listed in the Solicitation. The opening will be conducted by the West Virginia Parkways Authority Purchasing Department. wvOasis will not accept bid submissions after the date and time established for bid closing. For purposes of this Solicitation, a bid is considered received when successfully submitted in wvOasis prior to the bid closing deadline.

Bid Opening Location:

West Virginia Parkways Authority
374 George St.
Beckley, West Virginia 25801

- 9. ADDENDUM ACKNOWLEDGEMENT:** Changes or revisions to this Solicitation will be made by an official written addendum issued by the Purchasing Department. 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.
- 10. 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.
- 11. EMAIL NOTIFICATION OF AWARD:** For notification purposes, bidders must provide the Department with a valid email address in the bid response. Bidders may also monitor wvOASIS to determine when a contract has been awarded. The Department will notify the low bid vendor by electronic mail to the address shown on the solicitation response that its bid has been accepted and that it is the apparent low bidder.

GENERAL TERMS AND CONDITIONS:

1. **CONTRACTUAL AGREEMENT:** Issuance of an Award Document signed by the Purchasing Department Director and, if applicable, approved as to form by the Executive Director, and the West Virginia Parkways Authority Board constitutes acceptance of this Contract made by and between West Virginia Parkways Authority and the Vendor. Vendor's signature on its bid signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.
2. **DEFINITIONS:** As used in this Solicitation / Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation / Contract.

2.1 **"Contract"** means the binding agreement that is entered into between the West Virginia Parkways Authority and the Vendor to provide the goods and services requested in the Solicitation.

2.2 **"Director"** means the Director of West Virginia Parkways Authority, Purchasing Department.

2.3 **"Purchasing Department"** means the West Virginia Parkways Authority, Purchasing Department.

2.4 **"Purchase Order"** means the document signed by the West Virginia Parkways Authority, that identifies the Vendor as the Contract holder.

2.5 **"Solicitation"** means the official notice of an opportunity to supply the Purchasing Department with goods or services and includes any Request for Quotes, Request for Proposals, or Expression of Interest (EOI), as applicable.

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

2.7 **"Vendor"** or **"Vendors"** means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the successful bidder, or the entity that has been awarded the Contract as context requires.

2.8 **"WVPA"** means the West Virginia Parkways Authority.

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

Term Contract

Initial Contract Term: This Contract becomes effective on the effective start date listed on the first page of this Contract and extends for a period of [1] year(s).

Renewal Term: This Contract may be renewed upon the mutual written consent of the West Virginia Parkways Authority, and the Vendor, with approval of the Purchasing Department. Any request for renewal must be submitted to the Purchasing Department Director thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Renewal of this Contract is limited to [3] successive one (1) year periods. Automatic renewal of this Contract is prohibited.

Reasonable Time Extension: At the sole discretion of the Purchasing Department Director, this Contract may be extended for a reasonable time after the initial Contract term or after any renewal term as may be necessary to obtain a new contract or renew this Contract. Any reasonable time extension shall not exceed twelve (12) months. Vendor may avoid a reasonable time extension by providing the Purchasing Department Director with written notice of Vendor's desire to terminate this Contract 30 days prior to the expiration of the then current term. During any reasonable time extension period, the Vendor may terminate this Contract for any reason upon giving the Purchasing Department Director 30 days written notice. Automatic extension of this Contract is prohibited.

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 between ___ excluding weekends and Holidays.

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

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 the contract cover page and continues until the project for which the vendor is providing oversight is complete.

Other: See attached.

4. NOTICE TO PROCEED: Vendor shall begin performance of this Contract immediately upon receiving the notice to proceed unless otherwise instructed by the West Virginia Parkways Authority.

Unless otherwise specified, the fully executed Award Document will be considered the notice to proceed.

5. **QUANTITIES:** The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

Open End Contract: Quantities listed in this Solicitation are approximations only, based on estimates supplied by the West Virginia Parkways Authority. 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, Purchasing Department, and, if applicable, the Executive Director and/or West Virginia Parkways Authority Board.

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

6. **PRICING:** The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the West Virginia Parkways Authority. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the West Virginia Parkways Authority in the Solicitation to do so, may result in bid disqualification.

7. **EMERGENCY PURCHASES:** The Purchasing Department Director may authorize the 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 Department 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 West Virginia Parkways Authority from fulfilling its obligations under a One Time Purchase contract.

8. **REQUIRED DOCUMENTS:** All of the items checked below must be provided to the Purchasing Department by the Vendor as specified below.

BID BOND: All Vendors shall furnish a bid bond in the amount of five percent (5%) of the total amount of the bid protecting the West Virginia Parkways Authority. The bid bond must be submitted with the bid. See Exhibit B.

- PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of 100% of the Contract value. The performance bond must be issued and received by the Purchasing Department prior to Contract award. On construction contracts, the performance bond must be 100% of the Contract value. See Exhibit C.
- LABOR/MATERIAL PAYMENT BOND:** The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be issued and delivered to the Purchasing Department prior to Contract award.
- MAINTENANCE BOND:** The apparent successful Vendor shall provide a two (2) year maintenance bond covering the roofing system. The maintenance bond must be issued and delivered to the Purchasing Department prior to Contract award.
- WORKERS' COMPENSATION INSURANCE:** The apparent successful Vendor shall have appropriate workers' compensation insurance and shall provide proof thereof upon request.
- INSURANCE:** The apparent successful Vendor shall furnish proof of the following insurance prior to Contract award:

Commercial General Liability Insurance: The apparent successful vendor's Commercial General Liability Policy shall contain at a minimum, Contractual liability and Products/Completed Operations Liability which must meet or exceed the following limits: Bodily Injury of \$1,000,000.00 per person, \$1,000,000.00 per occurrence; Property Damage of at least \$1,000,000.00 per occurrence; Bodily Injury/Property Damage of at least \$2,000,000.00 combined single limit.

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

Comprehensive Automobile Liability Insurance: The apparent successful vendor shall have and maintain at a minimum, during the life of this contract, Comprehensive Automobile Liability, including non-owned and hired vehicle, of at least \$1,000,000.00 per person, \$1,000,000.00 per occurrence; property damage of at least \$1,000,000.00 per occurrence, or bodily injury/property damage of at least \$2,000,000.00 combined single limit.

Professional Liability/Errors and Omission Coverage: The apparent successful vendor shall have and maintain at a minimum, during the life of this contract Professional Liability/Errors and Omission Coverage of \$1,000,000.00 per occurrence, \$3,000,000.00 aggregate.

Other:

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

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

Valid WV Contractors license

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

- 9. LITIGATION BOND:** The Director reserves the right to require any Vendor that files a protest of an award to submit a litigation bond in the amount equal to one percent of the lowest bid submitted or \$5,000, whichever is greater. The entire amount of the bond shall be forfeited if the hearing officer determines that the protest was filed for frivolous or improper purpose, including but not limited to, the purpose of harassing, causing unnecessary delay, or needless expense for the West Virginia Parkways Authority. All litigation bonds shall be made payable to the Purchasing Department. In lieu of a bond, the protester may submit a cashier's check or certified check payable to the Purchasing Department. Cashier's or certified checks will be deposited with and held by the West Virginia Parkways Authority. If it is determined that the protest has not been filed for frivolous or improper purpose, the bond or deposit shall be returned in its entirety.
- 10. ALTERNATES:** Any model, brand, or specification listed herein establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the West Virginia Parkways Authority at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.
- 11. EXCEPTIONS AND CLARIFICATIONS:** The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or other proposed modifications in its bid. Exceptions to clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.
- 12. LIQUIDATED DAMAGES:** Vendor shall pay liquidated damages in the amount of ___% of the contract total, assessed daily, for each calendar day beyond the contract delivery date of _____. This clause shall in no way be considered exclusive and shall not limit the West Virginia Parkways Authority's right to pursue any other available remedy.
- 13. ACCEPTANCE/REJECTION:** The West Virginia Parkways Authority may accept or reject any bid in whole or in part. Vendor's signature on its bid signifies acceptance of the terms and conditions contained in the Solicitation and Vendor agrees to be bound by the terms of the Contract, as reflected in the Purchase Order, upon receipt.

- 14. REGISTRATION:** Prior to Contract award, the apparent successful Vendor must be properly registered and in good standing with the West Virginia Purchasing Division.
- 15. COMMUNICATION LIMITATIONS:** Communication with the West Virginia Parkways Authority or any of its employees regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through its Purchasing Department, is strictly prohibited without prior Purchasing Department approval. Purchasing Department approval for such communication is implied for all exempt purchases.
- 16. FUNDING:** This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the West Virginia Parkways Authority or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available.
- 17. PAYMENT:** Payment in advance is prohibited under this Contract. Payment may only be made after the delivery and acceptance of goods or services. The Vendor shall submit invoices, in arrears, to the West Virginia Parkways Authority at the address on the face of the purchase order labeled "Invoice To."
- 18. UNIT PRICE:** Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.
- 19. DELIVERY:** All quotations are considered freight on board destination ("F.O.B. destination") unless alternate shipping terms are clearly identified in the bid. Vendor's listing of shipping terms that contradict the shipping terms expressly required by this Solicitation may result in bid disqualification.
- 20. INTEREST:** Interest attributable to late payment will only be permitted if authorized by the West Virginia Code. Presently, there is no provision in the law for interest on late payments.
- 21. 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 West Virginia Parkways Authority is exempt from federal and state taxes and will not pay or reimburse such taxes.
- 22. CANCELLATION:** The Purchasing Department 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.
- 23. WAIVER OF MINOR IRREGULARITIES:** The Director reserves the right to waive minor irregularities in bids or specifications.
- 24. TIME:** Time is of the essence with regard to all matters of time and performance in this Contract.
- 25. 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, West Virginia Code of State Rules or the applicable policies of the West Virginia Parkways Authority is void and of no effect.

- 26. COMPLIANCE:** Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendors acknowledge that they have reviewed, understand, and will comply with all applicable law.
- 27. HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, is available online at <https://www.state.wv.us/admin/purchase/VRC/hipaa.html> and is hereby made a part of the agreement. This is only applicable should the solicitation contain a requirement concerning the process of protected health information and are considered to be a business associate. (see 45 CFR &160.103).
- 28. 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.
- 29. 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 West Virginia Parkways Authority, and the Vendor, with approval of the Purchasing Department. **No Change shall be implemented by the Vendor until such time as the Vendor receives an approved written change order from the Purchasing Department.**
- 30. 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 remain in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.
- 31. 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 West Virginia Parkways Authority or Purchasing Department 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.
- 32. 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 Purchasing Department, or if applicable, the Executive Director and/or the West Virginia Parkways Authority Board, and any office that may be required to approve such assignments. Notwithstanding the foregoing, Purchasing Department approval may or may not be required on certain exempt purchases.
- 33. 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 West Virginia Parkways Authority; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

- 34. WEST VIRGINIA PARKWAYS AUTHORITY EMPLOYEES:** West Virginia Parkways Authority employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.
- 35. BANKRUPTCY:** In the event the Vendor files for bankruptcy protection, the West Virginia Parkways Authority may deem this Contract null and void, and terminate this Contract without notice.
- 36. 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 West Virginia Parkways Authority, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the West Virginia Parkways Authority's policies, procedures, and rules.
- 37. DISCLOSURE:** Vendor's response to the Solicitation and the resulting Contract are considered public documents and will be disclosed to the public in accordance with the laws, rules, and policies governing the West Virginia Parkways Authority Purchasing Department. Those laws include, but are not limited to, the Freedom of Information Act found in West Virginia Code § 29B-1-1 et seq. If a Vendor considers any part of its bid to be exempt from public disclosure, Vendor must so indicate by specifically identifying the exempt information, identifying the exemption that applies, providing a detailed justification for the exemption, segregating the exempt information from the general bid information, and submitting the exempt information as part of its bid but in a segregated and clearly identifiable format. Failure to comply with the foregoing requirements will result in public disclosure of the Vendor's bid without further notice. A Vendor's act of marking all or nearly all of its bid as exempt is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor's act of marking a bid or any part thereof as "confidential" or "proprietary" is not sufficient to avoid disclosure and WILL NOT BE HONORED. In addition, a legend or other statement indicating that all or substantially all of the bid is exempt from disclosure is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor will be required to defend any claimed exemption for nondisclosure in the event of an administrative or judicial challenge to the State's nondisclosure. Vendor must indemnify the West Virginia Parkways Authority for any costs incurred related to any exemptions claimed by Vendor. Any questions regarding the applicability of the various public records laws should be addressed to your own legal counsel prior to bid submission.
- 38. LICENSING:** 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 Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Department Director or the West Virginia Parkways Authority to verify that the Vendor is licensed and in good standing with the above entities.
- 39. ANTITRUST:** In submitting a bid to, signing a contract with, or accepting a Purchase Order from the West Virginia Parkways Authority, the Vendor agrees to convey, sell, assign, or transfer to the West Virginia Parkways Authority 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 West Virginia Parkways Authority. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

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

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

41. PURCHASING CARD ACCEPTANCE: The West Virginia Parkways Authority currently utilizes a Purchasing Card program, administered under contract by a banking institution, to process payment for goods and services. Unless otherwise indicated below, the Vendor must accept the West Virginia Parkways Authority's Purchasing Card for payment of all orders under this Contract.

Vendor is not required to accept the West Virginia Parkways Authority's Purchasing Card as payment for all goods and services

42. VENDOR RELATIONSHIP: The relationship of the Vendor to the West Virginia Parkways Authority 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 West Virginia Parkways Authority 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 West Virginia Parkways Authority and shall provide the West Virginia Parkways Authority 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.

- 43. INDEMNIFICATION:** The Vendor agrees to indemnify, defend, and hold harmless the West Virginia Parkways Authority, 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.
- 44. NO DEBT CERTIFICATION:** In accordance with West Virginia Code § 5A-3-10a and 5-22-1(i), the State, including the West Virginia Parkways Authority, 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, or West Virginia Parkways Authority, 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, that neither the Vendor nor any related party owe a debt as defined above and that neither Vendor nor any related party are in employer default as defined in the statutes cited above unless the debt or employer default is permitted under statute.
- 45. CONFLICT OF INTEREST:** Vendor, its officers or members or employees, shall not presently have or acquire any interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the West Virginia Parkways Authority.
- 46. BACKGROUND CHECK:** In accordance with W.Va. Code §15-2D-3, the Director of the Division of Protective Services may require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol Complex or who have access to sensitive or critical information to submit to a fingerprint-based state and federal background inquiry through the State repository. After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol Complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol Complex to the Director of the Division of Protective Services for the purpose of verifying compliance with this provision. The State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol Complex based upon results addressed from a criminal background check.

CERTIFICATION AND SIGNATURE PAGE

ARFQ # [TPK26000000015]

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

(Company)

(Representative Name, Title)

(Contact Phone/Fax Number)

(Date)

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.

Company

Authorized Signature

Date

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