

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
1	TREE AND BRUSH SHEARING BY THE VENDOR 6619C043	0.00000	EA	\$0.000000	\$0.00

Comm Code	Manufacturer	Specification	Model #
70111503			

Extended Description : PER THE ATTACHED PRICING PAGES

ASPLUNDH

ASPLUNDH TREE EXPERT, LLC

15599 N. PRESTON HWY, SUITE 1, BRUCETON MILLS, WV 26525 • PHONE: 304-379-8090

March 21, 2019

WVDOH Maintenance Div.

Charleston, WV

25305

To whom it may concern

Asplundh Tree Expert, LLC appreciates the opportunity to bid on your Trimming and Shearing project. This exception letter is to let you know that if we are awarded work we would need to have some changes in the contract language as it stands. Below is the language of upmost concern that we would like to have changed.

1. **Terms §36 – We cover all but their sole negligence. Make comparative negligence.**
 - Delete “*To the fullest extent permitted by law,*” on line 1.
 - Change “*whether caused either wholly or in part*” to “*to the proportionate extent caused*” on line 7.
 - Delete “*sole*” on line 10.

Sincerely,



Michael Wolford
Manager
Asplundh Tree Expert LLC



State of West Virginia
Request For Quotation

Procurement Folder : 540271

Document Description : TREE AND BRUSH SHEARING BY THE VENDOR 6619C043

Procurement Type : Agency Master Agreement

Date Issued	Solicitation Closes	Solicitation No	Version	Phase
2019-03-12	2019-03-21 13:30:00	ARFQ 0803 DOT1900000031	3	Final

SUBMIT RESPONSES TO:	VENDOR
FINANCE & ADMINISTRATION DIVISION OF HIGHWAYS BLDG 5, RM A-220 1900 KANAWHA BLVD E CHARLESTON US	Vendor Name, Address and Telephone <i>Asplundh Tree Expert LLC.</i> <i>15599 N. Preston Hwy Suite 1</i> <i>Bruceston mills, WV 26525</i> <i>304-379-8090</i>
WV 25302	

FOR INFORMATION CONTACT THE

Dusty J Smith
(304) 558-9398
dusty.j.smith@wv.gov

Signature X

FEIN#

231277550

DATE

3/21/19

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

ADDITIONAL INFORMATION:

*****NOTICE*****

MAKE SURE YOU DOWNLOAD ALL INFORMATION
TERMS AND CONDITIONS-SPECIFICATIONS-INFORMATIONAL ATTACHMENTS-PURCHASING AFFIDAVIT-PRICING PAGES

PLEASE NOTE THAT TO BE AWARDED THIS CONTRACT YOU WILL BE TO A REGISTER VENDOR WITH WV STATE PURCHASING, AND COMPLIANT WITH SEVERAL AGENCIES SUCH AS THE WWSOS, TAX DEPARTMENT, WORKER'S COMPENSATION, AND UNEMPLOYMENT INSURANCE

INVOICE TO		SHIP TO	
VARIOUS AGENCY LOCATIONS AS INDICATED BY ORDER		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER	
No City	WV99999	No City	WV 99999
US		US	

Line	Commodity Line Description	Qty	Unit Issue	Unit Price	Total Price
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Commodity Code	Manufacturer	Model #	Specification
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Extended Description
PER THE ATTACHED PRICING PAGES

SCHEDULE OF EVENTS

Line	Event	Event Date
1	TECHINAL QUESTIONS DUE @ 10AM	2019-02-28

DOT1900000031	Document Phase Final	Document Description TREE AND BRUSH SHEARING BY THE VENDOR 6619C043	Page 3 of 3
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ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions

District 1 - Boone County, Clay County, Kanawha County, Mason County and Putnam County

			Unit of Measure	Unit Cost	Extended Cost
Item 1	a.	Shearing and Trimming including debris cleanup, Hourly Rate (first 40 hours in a work-week)	Hour		
	b.	Additional Charge for Overtime (hours beyond 40 hours in a work-week)	Hour		
	c.	Mobilization cost per each (One-time)	Each		
	d.	Site Mobilization cost per shoulder mile	Shoulder Mile		
Item 2	a.	Shearing and Trimming WITHOUT debris cleanup, Hourly Rate (first 40 hours in a work-week)	Hour		
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Item 3	a.	High Reach Trimmer including debris cleanup, Hourly Rate (first 40 hours in a work-week)	Hour		
	b.	Additional Charge for Overtime (hours beyond 40 hours in a work-week)	Hour		
	c.	Mobilization cost per each (One-time)	Each		
	d.	Site Mobilization cost per shoulder mile	Shoulder Mile		
Item 4	a.	High Reach Trimmer WITHOUT debris cleanup, Hourly Rate (first 40 hours in a work-week)	Hour	\$218.00	
	b.	Additional Charge for Overtime (hours beyond 40 hours in a work-week)	Hour	\$288.00	
	c.	Mobilization cost per each (One-time)	Each	\$15,000.00	
	d.	Site Mobilization cost per shoulder mile	Shoulder Mile	\$39.00	

District 2 - Cabell County, Lincoln County, Logan County, Mingo County and Wayne County

			Unit of Measure	Unit Cost	Extended Cost
Item 1	a.	Shearing and Trimming including debris cleanup, Hourly Rate (first 40 hours in a work-week)	Hour		
	b.	Additional Charge for Overtime (hours beyond 40 hours in a work-week)	Hour		
	c.	Mobilization cost per each (One-time)	Each		
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	d.	Site Mobilization cost per shoulder mile	Shoulder Mile	\$39.00	

District 3 - Calhoun County, Jackson County, Pleasants County,
Ritchie County, Roane County, Wood County and Wirt County

			Unit of Measure	Unit Cost	Extended Cost
Item 1	a.	Shearing and Trimming including debris cleanup, Hourly Rate (first 40 hours in a work-week)	Hour		
	b.	Additional Charge for Overtime (hours beyond 40 hours in a work-week)	Hour		
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District 4 - Doddridge County, Harrison County, Marion County,
 Monongalia County, Preston County and Taylor County

			Unit of Measure	Unit Cost	Extended Cost
Item 1	a.	Shearing and Trimming including debris cleanup, Hourly Rate (first 40 hours in a work-week)	Hour		
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District 5 - Berkeley County, Grant County, Hampshire County, Hardy County, Jefferson County, Mineral County and Morgan County

			Unit of Measure	Unit Cost	Extended Cost
Item 1	a.	Shearing and Trimming including debris cleanup, Hourly Rate (first 40 hours in a work-week)	Hour		
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District 6 - Brooke County, Hancock County, Marshall
County, Ohio County, Tyler County and Wetzel County

			Unit of Measure	Unit Cost	Extended Cost
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District 7 - Barbour County, Braxton County, Gilmer County,
Lewis county, Upshur County and Webster County

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District 8 - Pendleton County, Pocahontas County,
Randolph County and Tucker County

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District 9 - Fayette County, Greenbrier County, Monroe County, Nicholas County and Summers County

			Unit of Measure	Unit Cost	Extended Cost
Item 1	a.	Shearing and Trimming including debris cleanup, Hourly Rate (first 40 hours in a work-week)	Hour		
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	c.	Mobilization cost per each (One-time)	Each	\$15,000.00	
	d.	Site Mobilization cost per shoulder mile	Shoulder Mile	\$39.00	

District 10 - McDowell County, Mercer County,
Raleigh County and Wyoming County

			Unit of Measure	Unit Cost	Extended Cost
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INSTRUCTIONS TO VENDORS SUBMITTING BIDS

West Virginia Division of Highways Maintenance Division

- 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. BID SUBMISSION:** All bids must be submitted electronically through the West Virginia Vendor Self Service Portal website or signed, sealed in an envelope and delivered by the Vendor to the Agency on or before the date and time of the bid opening. Any bid received by the Agency staff is considered to be in the possession of the Agency and will not be returned for any reason. In the event that a Vendor submits multiple bids in response to the same Solicitation, the bid with the most recent Agency or wvOASIS time stamp shall be the bid considered by the Agency and the Agency shall disregard all other bids by that Vendor for that Solicitation. Any bid received by the Agency after the date and time of the bid opening as specified in the Solicitation shall be disregarded by the Agency.
- 4. ADDENDUM ACKNOWLEDGEMENT:** Changes or revisions to this Solicitation will be made by an official addendum issued by the Agency. 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.
- 5. 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.
- 6. ALTERNATES:** 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 Agency 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.

- 7. 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.
- 8. 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 or the fee then assessed by said Division, if applicable.
- 9. UNIT PRICE:** Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.
- 10. PREFERENCE:** Vendor Preference may only be granted upon written request and only in accordance with the West Virginia Code § 5A-3-37 and the West Virginia Code of State Rules. A Vendor Preference Certificate form has been attached hereto to allow Vendor to apply for the preference. Vendor's failure to submit the Vendor Preference Certificate form with its bid will result in denial of Vendor Preference.
- 11. SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES:** For any solicitations publicly advertised for bid, in accordance with West Virginia Code §5A-3-37(a)(7) and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to contract award to receive the preferences made available to resident vendors. Preference for a non-resident small, women-owned, or minority owned business shall be applied in accordance with W. Va. CSR § 148-22-9.
- 12. ELECTRONIC FILE ACCESS RESTRICTIONS:** Vendor must ensure that its submission in the West Virginia Vendor Self Service Portal website can be accessed by the Agency staff immediately upon bid opening. The Agency will consider any file that cannot be immediately opened and/or 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 therefore unacceptable. A vendor will not be permitted to unencrypt files, remove password protections, or resubmit documents after bid opening if those documents are required with the bid.
- 13. NON-RESPONSIBLE:** The Agency reserves the right to reject the bid of any vendor when the Agency 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. A determination of non-responsibility will only extend to the contract for which the vendor has submitted a bid and does not operate as a bar against submitting future bids.
- 14. ACCEPTANCE/REJECTION:** The Agency may accept or reject any bid in whole, or in part when the Agency determines it is in the best interest of the State.
- 15. TIE BIDS:** When tie bids are received and the Agency intends to award the work to only one vendor, the Agency shall break the tie by allowing the tied vendors to make a final offer, flip of a

coin, draw of the cards, or any other impartial method considered prudent by the Agency. If tie bids are received and the Agency intends to award the bid to multiple vendors, the Agency may award the bid to the number of the tied bidders as Agency deems necessary using the procedure set forth in this section to establish the number of tied bidders which will be awarded the bid.

16. 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., 5G-1-1 et seq. and the Freedom of Information Act in West Virginia Code §§ 29B-1-1 et seq. Submission of any bid, proposal, or other document to the Agency constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. Labeling any document "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents will not protect that document from public disclosure. All submissions are subject to public disclosure without notice.

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

GENERAL TERMS AND CONDITIONS:

1. CONTRACTUAL AGREEMENT: Issuance of an Award Document signed by the Agency and approved as to form by legal counsel for the Agency, if required, constitutes acceptance of this Contract made by and between the Agency and the Vendor. Vendor's signature on its bid signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.

2. DEFINITIONS: As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.

2.1. "Agency" means the West Virginia Department of Transportation, Division of Highways. This Contract is entered into by the Agency pursuant to the provisions of West Virginia Code § 17-4-19 and §17-2A-8.

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 Agency and the Vendor to provide the goods or services requested in the Solicitation. The Contract shall be comprised of the (i) Solicitation and any other document required by the Solicitation (ii) Bid or Proposal (iii) Award Document and (iv) General Terms and Conditions; Instruction to Vendors Submitting Bids, collectively referred to as the "Contract Documents".

2.4. "Award Document" means the document signed by the Agency, and approved as to form by legal counsel for the agency, that identifies the Vendor as the contract holder.

2.5. "Solicitation" means the official notice of an opportunity to supply the Agency with goods or services.

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 lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

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

Term Contract

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

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor. Any request for renewal should be submitted in writing to the Agency 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 two successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed 24 months in total. Automatic renewal 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 prior to the expiration of this Contract shall be effective for no more than 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 that 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 calendar year.

Other: See attached.

4. NOTICE TO PROCEED: Vendor shall begin performance of this Contract immediately upon receiving notice to proceed unless otherwise instructed by the Agency. Unless otherwise specified, the fully executed Award Document will be considered notice to proceed.

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

Open End Contract: Quantities listed in this Solicitation are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

Service: The scope of the service to be provided will be more clearly defined in the specifications included herewith.

Combined Service and Goods: The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

One Time Purchase: This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor and Agency.

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

7. EMERGENCY PURCHASES: The Agency may 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 and Vendor is unable to provide those goods and services on an immediate or expedited basis in the sole judgment of Agency. 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, by the Agency, shall not constitute a breach of this Contract and shall not entitle the Vendor to injunctive relief or to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.

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

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

PERFORMANCE BOND: The apparent successful Vendor shall provide a performance bond in the amount of _____. The performance bond must be received by the Agency prior to Contract award.

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 delivered to the Agency prior to Contract award.

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

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

INSURANCE: The apparent successful Vendor shall furnish proof of the following insurance prior to Contract award and shall list the State as a certificate holder:

Commercial General Liability Insurance: In the amount of \$1,000,000.00 _____ or more.

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

-
-
-
-
-

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

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

- WEST VIRGINIA CONTRACTOR'S 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. WORKERS' COMPENSATION INSURANCE: The apparent successful Vendor shall comply with laws relating to worker's compensation, shall maintain worker's compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

10. LIQUIDATED DAMAGES: Vendor shall pay liquidated damages in the amount of _____ for _____. 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.

11. ACCEPTANCE: Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the Agency 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.

12. 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.

13. 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.

14. 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.

15. CANCELLATION: The Agency 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 Agency may also cancel any purchase or this contract for any reason or no reason upon 30 days written notice to the Vendor.

16. TIME: Time is of the essence with regard to all matters of time and performance in this Contract.

17. 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.

18. COMPLIANCE: 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.

19. PREVAILING WAGE: To the extent required by applicable law, Vendor shall be responsible for ensuring compliance with prevailing wage requirements and determining when prevailing wage requirements are applicable.

20. 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.

21. 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.

22. 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.

23. 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 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.

24. 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 and any other government agency or office that may be required to approve such assignments.

25. 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.

26. 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.

27. BANKRUPTCY: In the event the Vendor files for bankruptcy protection, the Agency may deem this Contract null and void, and terminate this Contract without notice.

28. PRIVACY, SECURITY, AND CONFIDENTIALITY: The Vendor agrees that it will not disclose to anyone, directly or indirectly, any personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in:
<http://www.transportation.wv.gov/Documents/WVDOT-Privacy-Notice.pdf>.

29. 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. Submission of any bid, proposal, or other document to the Agency constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. Labeling any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents will not protect that document from public disclosure. All submissions are subject to public disclosure without notice.

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

30. 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 Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Agency to verify that the Vendor is licensed and in good standing with the above entities.

31. ANTITRUST: In submitting a bid to, signing a contract with, or accepting an Award Document from Agency, 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.

32. 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 Agency. The individual signing this bid or offer on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or offer 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.

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

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

34. 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.

35. INDEMNIFICATION: To the fullest extent permitted by law, the Vendor agrees to defend, indemnify, and hold harmless the Agency, its officers, agents and employees from and against all suits, claims, damages, liability, losses, and expenses, including but not limited to attorney's fees and costs of investigations, arising out of, pertaining to or resulting from the performance of work for the above identified Project, including all claims, damages, losses or expenses which are attributable to bodily injury, sickness, disease or death, or to damage to or destruction of property, whether caused either wholly or in part by the negligence, actions or omissions of the Vendor, a Subcontractor or anyone directly or indirectly employed by the Vendor or Subcontractor or for anyone whose acts the Vendor or Subcontractor may be liable, except for any liability or damages due to the willful or intentional unlawful acts or the sole negligence of the Agency or its employees.

36. PURCHASING AFFIDAVIT: In accordance with West Virginia Code § 5A-3-10a, all Vendors are required to sign, notarize, and submit the Purchasing Affidavit stating that neither the Vendor nor a related party owe a debt to the State in excess of \$1,000. The affidavit must be submitted prior to the award, but should be submitted with the Vendor's bid. A copy of the Purchasing Affidavit is included herewith.

37. 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.

38. REPORTS: Vendor shall provide the Agency with the following reports identified by a checked box below:

Such reports as the Agency 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 Agency via email to the Agency representative specified by Agency.

39. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the Director of the Division of Protective Services shall require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol complex or who have access to

sensitive or critical information to submit to a fingerprint-based state and federal background inquiry through the state repository. The service provider is responsible for any costs associated with the fingerprint-based state and federal background inquiry. After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol complex to the Director of the Division of Protective Services for purposes of verifying compliance with this provision. The State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check. Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

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

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

41. 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.

42. It is hereby expressly covenanted, agreed and understood by and between the parties hereto, that the Vendor will immediately make payment and refund to the Agency for any and all overpayments made by said Agency to the Vendor on any estimate or estimates, advances ,if applicable ,or partial payments made on this Contract. Agency is given the right and authority to withhold any and all funds in its possession, belonging to, owed by, or which may be owed by it to the Vendor on any agreement or from any other source for the recovery of any overpayment made in connection with this contract. It is further expressly agreed that the statute of limitations will not commence to run against the Agency for such overpayments until the same is discovered and made known to the Agency.

43. In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities in the order listed below with the highest priority being sub-section a:

- a. General Terms and Conditions; Instructions to Vendors Submitting Bids,
- b. Solicitation and any documents required by the Solicitation,
- c. Bid or Proposal,
- d. Award Document.

CERTIFICATION AND SIGNATURE PAGE

By signing below, or submitting documentation through the West Virginia Vendor Self Service Portal website, I certify that I have reviewed this Solicitation 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 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 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.

Asplundh Tree Expert LLC
(Full Company Name)

Christopher B Asplundh
(Authorized Signature)

Christopher B. Asplundh Jr.
(Print or Type Name and Title of Signatory) Executive Vice President.

304.379.8090
(Phone Number)

304.379.8091
(Fax Number)

mgr. Mike Wolford
mwolford@asplundh.com
(Email address)

3.21.2019
(Date)

**Form pre-approved by DOH legal division on July 12, 2016.
Attorney signature not required.**

ADDENDUM ACKNOWLEDGEMENT FORM

SOLICITATION NO.: ARFQ 0803 DOT1900000031

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

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

Addendum Numbers Received:
(Check the box next to each addendum received)

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

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

Asplundh Tree Expert LLC.
Full Company Name

Christopher B. Asplundh
Authorized Signature Christopher B. Asplundh Jr.

3.21.2019
Date

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

REQUEST FOR QUOTATION
Tree and Brush Shearing by the Vendor

SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The West Virginia Division of Highways is soliciting bids to establish an open-end contract to provide Tree and Brush Shearing for use at projects throughout the state of West Virginia including equipment and labor, by the Vendor, to a WVDOH project site.

2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.
 - 2.1 “**Contract Item**” or “**Contract Items**” means the list of items identified in Section 3.2.
 - 2.2 “**Pricing Pages**” means the schedule of prices attached hereto as Exhibit A and used to evaluate the Solicitation responses.
 - 2.3 “**Solicitation**” means the official notice of an opportunity to supply the State with goods or services.
 - 2.4 “**WVDOH**” used throughout this Solicitation means the West Virginia Division of Highways.
 - 2.5 “**EPA**” used throughout this Solicitation means Environmental Protection Agency and the WV Department of Environmental Protection and should reference both the Federal, State and Local levels of government. Please reference www.epa.gov and www.dep.wv.gov.
 - 2.6 “**OSHA**” used throughout this Solicitation means Occupational Safety and Health Administration. Please reference www.osha.gov.
 - 2.7 “**ANSI**” used throughout this Solicitation means the American National Standards Institute. Reference: www.ansi.org.
 - 2.8 “**Contractor**” or “**Vendor**” used throughout this Solicitation and in any cited sections of the West Virginia Department of Transportation, Division of Highways Standard Specifications, Roads and Bridges, adopted latest Standard Specs edition, are interchangeable.
 - 2.9 “**Standard Specs**” used throughout this Solicitation means the West Virginia Department of Transportation, Division of Highways Standard Specifications, Roads and Bridges, adopted latest Standard Specs edition, including any Supplementals.

REQUEST FOR QUOTATION
Tree and Brush Shearing by the Vendor

3. GENERAL REQUIREMENTS:

- 3.1** The following sections of the Standard Specs, but not limited to, shall apply to the administration of this contract: Sections 101, 102.4, 102.5, 105.1, 105.3, 105.4, 105.10, 105.11, 105.12, 105.13, 106.3, 106.4, 106.5, 106.6, 106.7, 106.9, 107.1, 107.2, 107.3, 107.14, 107.19, 107.20, 108.8, 109.1, 109.2 and 109.20

A hard copy of the current Standard Specs may be purchased at a cost of \$20.00 (\$15.00 for the 2017 book plus \$5.00 for the Supplemental Latest Edition) using the Attachment A Standard Specifications Order Form and sent to:

West Virginia Division of Highways
Contract Administration
Building 5, Room 722
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305
(Phone) 304-558-2885

A free electronic copy of the Standard Specs may be obtained by sourcing:
<http://www.transportation.wv.gov/highways/contractadmin/specifications/2017StandSpec/Pages/default.aspx>

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

Work to be done consists of trimming the sides and tops of trees overhanging the right-of-way and brush encroaching along the roadside and/or shoulders. The work may include proper disposal of the resulting debris. Determination of work will be provided to the Vendor on the Delivery Order.

**3.2.1 Shearing and Trimming Equipment and Service Minimum Requirements:
Contract Items 1 and 2:**

- Equipment shall be capable of saw cutting trees and brush vertically from ground level to a minimum of 25 feet above ground and have a horizontal reach of at least 10 feet beyond the edge of the tire.
- Equipment shall have the ability to work over a 36-inch vertical obstruction such as a guardrail.
- Equipment shall make smooth saw cuts on trees and limbs of at least 10 inches in diameter.

REQUEST FOR QUOTATION
Tree and Brush Shearing by the Vendor

- Contract Item 1 shall include debris cleanup. Contract Item 2 does not include debris cleanup.
- Sufficient labor and equipment shall be provided to adequately dispose of the debris in a timely manner for Contract Item 1.
- All disposals shall be done in accordance with EPA waste disposal laws and regulations.

**3.2.2 High Reach Trimmer Equipment and Service Minimum Requirements:
Contract Items 3 and 4:**

- Equipment shall be capable of saw cutting trees and brush from ground level to a minimum of 70 feet above ground.
- Equipment shall make smooth saw cuts on trees and limbs to a maximum diameter of no greater than 10 feet in diameter.
- Contract Item 3 shall include debris cleanup. Contract Item 4 does not include debris cleanup.
- Sufficient labor and equipment shall be provided to adequately dispose of the debris in a timely manner for Contract Item 3.
- All disposals shall be done in accordance with EPA waste disposal laws and regulations.

3.2.3 Workmanship: It is the expectation of the WVDOH that each job is completed in the best possible reasonable timeframe while meeting all requirements of the project itself. Reasonable production standards will be based on the type of trees/brush being cleared.

3.2.4 Mobilization:

- Mobilization shall include all equipment, labor and materials necessary to perform the work in a satisfactory and efficient manner.
- Mobilization is into the jobsite of a given District to begin operations. This shall be a one-time, one-way mobilization that will be paid per job.
- Site Mobilization will be to move from one area of operation to the next. This will be paid on a per mile basis measured from the end of work at one site to the beginning of work at the next site within a District or a different district.
- Mobilization or Site Mobilization from one District to another District may be paid per each or per miles at the WVDOH discretion.
- Return of equipment to the contractor's base of operations will not be paid by the WVDOH.

REQUEST FOR QUOTATION
Tree and Brush Shearing by the Vendor

3.2.5 Equipment and Personnel Minimum Requirements:

- The equipment and personnel used to perform the work shall conform to meet the standard as required by OSHA 29 C.F.R. Parts 1910.269 and 1910.333 Job Skills required by OSHA 1910.269 as listed in annex B of ANSI Z133.1, 1994.
- The boom supporting the saw blade shall have a fiberglass isolator that meets OSHA requirements for insulation: tested to 100,000 volts. Upon request by the WVDOH, the awarded Vendor shall provide a copy of the certification.
- Equipment may only cause nominal rutting to turf areas.
- All work shall be accomplished within the WVDOH Right-of-Way.
- All work shall be done with minimal damage to trees and brush that are intended to remain.
- Maintenance of traffic shall be performed by the WVDOH.

3.2.6 Down Equipment: Equipment shall be considered down if it is out of production due to mechanical failure or other conditions and no pay will be authorized until production is resumed. The WVDOH will not pay the time during fueling, lubrication and warm-up of a unit.

The WVDOH may shut the equipment down at any time that the equipment appears to be unsafe.

The WVDOH reserves the right to shut down operations in the event of Snow and Ice Removal or any State of Emergency events.

4. CONTRACT AWARD:

4.1 Contract Award: The Contract is intended to provide Agencies with a price on all Contract Items. A Contract shall be awarded to all responsible Vendors that provide the Contract Items which meet all required specifications of this contract.

4.2 Pricing Pages and Information Attachment Form: Vendor should submit their bid by providing their price, per District, on the Pricing Pages and the information requested on the Information Attachment Form.

4.2.1 Pricing Pages:

Vendors should be aware that each District has its own Pricing Page per the tab identified at the bottom of the excel spreadsheet/Pricing Page.

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Vendor shall bid an hourly rate, which shall be full compensation for equipment and operators up to a standard 40-hour work week, Monday through Friday. For Item 1 and Item 3, this hourly rate shall include debris cleanup. For Item 2 and Item 4, this hourly rate shall NOT include debris cleanup.

For hours beyond 40 hours in a work week, Additional Charge for Overtime, the Vendor shall bid a rate per hour to cover overtime costs of equipment and operators.

The Vendor shall provide Mobilization rates per Section 3.2.4 of the contract specifications.

Vendor may bid any and all Items for any and all Districts. A Vendor should bid all components of each Item ("a", "b", "c" and "d" components) to be awarded that Item.

Currently, there is no estimated volume available for any item. No future use of the Contract or any item is guaranteed or implied.

Vendor should complete the Pricing Pages in their entirety as failure to do so may result in Vendor's bids being disqualified.

4.2.2 Information Attachment Form:

For the WVDOH to calculate a project's potential Site Mobilization costs, the Vendor shall complete the Information Attachment Form by providing the most recent 911 address or physical location of the contractor's base of operation (post office box address is not adequate).

If the Vendor will be servicing this contract from multiple locations and all pricing is the same, all locations can be listed on one Information Attachment Form and one set of Pricing Pages is acceptable.

If the Vendor has multiple locations that will be providing service to this contract, at varying prices, additional, separate Information Attachment Forms and additional Pricing Pages are required.

Vendor should type or electronically enter the information into the Pricing Pages to prevent errors in the evaluation. In most cases, the Vendor can request an electronic copy of the Pricing Pages for bid purposes by sending an email request to the following address: dusty.j.smith@wv.gov.

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5. DETERMINING LOW BID PER PROJECT: To determine the low-bid Vendor per project, the WVDOH District Engineer shall issue a Delivery Order to the low-bidder based on the Item(s) required including the Mobilization Cost and any potential Site Mobilization Costs, to determine the lowest project cost.

6. ORDERING AND PAYMENT:

6.1 Ordering: Vendor shall accept orders through wvOASIS, regular mail, facsimile, e-mail, or any other written forms of communication. Vendor may, but is not required to, accept on-line orders through a secure internet ordering portal/website. If Vendor can accept on-line orders, it should include in its response a brief description of how Agencies may utilize the on-line ordering system. Vendor shall ensure that its on-line ordering system is properly secured prior to processing Agency orders on-line

6.2 Payment: Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia. The State of West Virginia currently utilizes a Purchasing Card program, administered under contract by a banking institution, to process payment for goods and services. The Vendor must accept the State of West Virginia's Purchasing Card for payment of all orders under this Contract.

7. DELIVERY AND RETURN:

7.1 Delivery Time: The low-bid Vendor per project must notify the WVDOH District Engineer within five (5) days after receipt of a Delivery Order of their ability to perform the work requested on the Delivery Order. If the Vendor cannot agree to the work requested, the WVDOH District Engineer shall have the option to contact the next low-bidder and follow the same direction.

Each Delivery Order shall provide the project's tentative start and end date including the daily start and end times. The WVDOH shall have the option to negotiate, with the Vendor, on the project's tentative start and end date. Work on the project shall be continuous unless approved by the WVDOH District Engineer.

In the event of an emergency, the WVDOH District Engineer may require notification of a Vendor's ability to perform within 24 hours of their receipt of the Delivery Order.

Daylight and traffic conditions permitting, all work performed under this contract shall be performed Monday through Friday. Saturday work may be performed, if approved in advance, by the WVDOH District Engineer. Work will not be

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performed on any state or federal holiday unless approved in advance, by the WVDODH District Engineer.

NOTE: Saturday, Sunday or state or federal holiday work will be paid at the straight hourly rate until the work performed is greater than 40 hours.

At the end of each work day, the WVDODH and the Vendor shall agree on the amount of work performed and each shall sign a document attesting to the amount. A copy of this document shall be provided with the invoice for payment.

- 7.2 Late Delivery:** The Agency placing the order under this Contract must be notified in writing if orders will be delayed for any reason. Any delay in delivery that could cause harm to an Agency will be grounds for cancellation of the delayed order, and/or obtaining the items ordered from a third party.

Any Agency seeking to obtain items from a third party under this provision must first obtain approval of the Purchasing Division.

- 7.3 Delivery Payment/Risk of Loss:** Standard order delivery shall be F.O.B. destination to the Agency's location. Vendor shall include the cost of standard order delivery charges in its bid pricing/discount and is not permitted to charge the Agency separately for such delivery. The Agency will pay delivery charges on all emergency orders if Vendor invoices those delivery costs as a separate charge with the original freight bill attached to the invoice.

- 7.4 Return of Unacceptable Items:** If the Agency deems the Contract Items to be unacceptable, the Contract Items shall be returned to Vendor at Vendor's expense and with no restocking charge. Vendor shall either make arrangements for the return within five (5) days of being notified that items are unacceptable or permit the Agency to arrange for the return and reimburse Agency for delivery expenses. If the original packaging cannot be utilized for the return, Vendor will supply the Agency with appropriate return packaging upon request. All returns of unacceptable items shall be F.O.B. the Agency's location. The returned product shall either be replaced, or the Agency shall receive a full credit or refund for the purchase price, at the Agency's discretion.

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

8. ANTI-COLLUSION CLAUSE:

8.1 Contractor affirms that in regard to this contract and the bidding process which underlies this contract, neither Contractor nor anyone on its behalf, including affiliate and subsidiary entities of Contractor, has:

8.1.1. been a party to any collusion among potential or actual bidders or with any state or federal official or employee in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding;

8.1.2 been a party to any collusion with any other potential or actual bidders, federal or state official or employee as to quantity, quality or price in the contract, or any other terms of the contract;

8.1.3 been a party to any discussions between or among potential or actual bidders and any federal or state official or employees concerning exchange of money or other thing of value for special consideration in the letting or award of this of contract;

8.1.4 exchanged money or other thing of value with other potential or actual bidders, federal or state officials or employees for special consideration in the letting or award of this contract;

8.1.5 otherwise taken any action in restraint of free competitive bidding.

8.2 Contractor further affirms that that neither Contractor nor anyone on its behalf, including affiliate and subsidiary entities of Contractor, has:

8.2.1 made its bid in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation and that the bid is genuine and is not a sham;

8.2.2 directly or indirectly colluded, conspired, connived, or agreed with any potential or actual bidder or anyone else to put in a sham bid;

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8.2.3 otherwise taken any action to put in a sham bid.

9. VENDOR DEFAULT:

- 9.1 The following shall be considered a vendor default under this Contract.
- 9.1.1 Failure to provide Contract Items in accordance with the requirements contained herein.
 - 9.1.2 Failure to comply with other specifications and requirements contained herein.
 - 9.1.3 Failure to comply with any laws, rules and ordinances applicable to the Contract Services provided under this Contract.
 - 9.1.4 Failure to remedy deficient performance upon request.
- 9.2 The following remedies shall be available to Agency upon default.
- 9.2.1 Immediate cancellation of the Contract.
 - 9.2.2 Immediate cancellation of one or more Delivery Orders issued under this Contract.
 - 9.2.3 Any other remedies available in law or equity.

10. MISCELLENOUS:

- 10.1 **No Substitutions:** The Vendor shall supply only Contract Items submitted in response to the Solicitation unless a contract modification is approved in accordance with the provisions contained in this Contract.
- 10.2 **Vendor Supply:** Vendor must carry sufficient inventory of the Contract Items being offered to fulfill its obligations under this Contract. By signing its bid, Vendor certifies that it can supply the Contract Items contained in its bid response.
- 10.3 **Reports:** Vendor shall provide quarterly reports and annual summaries to the Agency showing the Agency's items purchased, quantities of items purchased and total dollar value of the items purchased. Vendor shall also provide reports, upon request, showing the items purchased during the term of this Contract, the quantity purchased for each of those items and the total value of purchases for

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each of those items. Failure to supply such reports may be grounds for cancellation of this Contract.

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

Contract Manager: Michael Wolford
Telephone Numbers: 304-379-8090
Fax Number: 304-379-8091
Email Address: mwolford@asplundh.com

INFORMATION ATTACHMENT FORM
Vendor's Storage Sites
Tree and Brush Shearing by the Vendor

VENDOR NAME Asplundh Tree Expert, LLC

Mandatory - Vendor shall complete this form and return with bid submission.

If a Vendor will be servicing this contract from multiple Locations and ALL pricing is the same, ALL Locations can be listed on one Information Attachment Form and one set of Pricing Pages is acceptable.

If a Vendor will be servicing this contract from multiple Locations, at varying prices, additional, separate Information Attachment Forms and additional Pricing Pages are required.

Vendor's Base Location:

Asplundh Tree Expert LLC
15599 N. Preston Hwy Suite 1
Bruceston Mills, WV 26025

Vendor's Base Location:

Vendor's Base Location:

Vendor's Base Location:



**West Virginia Department of Transportation
Division of Highways**

Standard Specifications Order Form

Ordering Instructions:

Copies of the *2017 Standard Specifications Roads and Bridges* and latest **Supplemental Specifications** may be purchased by completing this form, indicating the number of books desired, along with proper mailing and billing information.

Submit completed form by e-mail DOHSpecifications@wv.gov, or mail to:

Contract Administration Division
1900 Kanawha Boulevard East
Building Five, Room 840
Charleston, WV 25305

Order Form:

Delivery Method (check one): Pick-up Mail (S&H fees apply – see below)
Payment Method (check one): Invoice Check (payable to: WV Division of Highways)

Number of Copies	Title	Price Each	Total
	2017 Standard Specifications Roads and Bridges	\$15.00	
	Supplemental Specifications, Latest Edition	\$5.00	
Shipping and Handling (S&H) *			
* 1-9 Items = \$5.00 10+ Items = \$10.00			
Total Amount Due			

NOTICE: The *2017 Standard Specifications Roads and Bridges* and *Supplemental Specifications* are available free of charge on the [Specifications Webpage](#).

Customer Information:

Company Name: _____
ATTENTION: _____
Street Address: _____
City, State, Zip Code: _____
Telephone: _____ Fax: _____ e-mail: _____

For Office Use Only (Do not write in the space below)				
Order Filled By: _____			Date: _____	
REC ORG	AUTH	ACT	OBJ	P/N
0064	COTH126	126	021	N

West Virginia Ethics Commission



Disclosure of Interested Parties to Contracts

Pursuant to *W. Va. Code* § 6D-1-2, a state agency may not enter into a contract, or a series of related contracts, that has/have an actual or estimated value of \$1 million or more until the business entity submits to the contracting state agency a Disclosure of Interested Parties to the applicable contract. In addition, the business entity awarded a contract is obligated to submit a supplemental Disclosure of Interested Parties reflecting any new or differing interested parties to the contract within 30 days following the completion or termination of the applicable contract.

For purposes of complying with these requirements, the following definitions apply:

"Business entity" means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership or corporation, but does not include publicly traded companies listed on a national or international stock exchange.

"Interested party" or *"Interested parties"* means:

- (1) A business entity performing work or service pursuant to, or in furtherance of, the applicable contract, including specifically sub-contractors;
- (2) the person(s) who have an ownership interest equal to or greater than 25% in the business entity performing work or service pursuant to, or in furtherance of, the applicable contract. (This subdivision does not apply to a publicly traded company); and
- (3) the person or business entity, if any, that served as a compensated broker or intermediary to actively facilitate the applicable contract or negotiated the terms of the applicable contract with the state agency. (This subdivision does not apply to persons or business entities performing legal services related to the negotiation or drafting of the applicable contract.)

"State agency" means a board, commission, office, department or other agency in the executive, judicial or legislative branch of state government, including publicly funded institutions of higher education: Provided, that for purposes of *W. Va. Code* § 6D-1-2, the West Virginia Investment Management Board shall not be deemed a state agency nor subject to the requirements of that provision.

The contracting business entity must complete this form and submit it to the contracting state agency prior to contract award and to complete another form within 30 days of contract completion or termination.

This form was created by the State of West Virginia Ethics Commission, 210 Brooks Street, Suite 300, Charleston, WV 25301-1804. Telephone: (304)558-0664; fax: (304)558-2169; e-mail: ethics@wv.gov; website: www.ethics.wv.gov.

West Virginia Ethics Commission Disclosure of Interested Parties to Contracts

(Required by W. Va. Code § 6D-1-2)

Name of Contracting Business Entity: Asplundh Tree Expert LLC Address: 15599 N. Pishom Hwy Ste 1

Bethlehem MD 20825

Name of Authorized Agent: Christopher B. Asplundh Jr Address: 708 Blair Mill Road, Willow Grove, PA 19090-1784

Contract Number: _____ Contract Description: _____

Governmental agency awarding contract: _____

Check here if this is a Supplemental Disclosure

List the Names of Interested Parties to the contract which are known or reasonably anticipated by the contracting business entity for each category below (attach additional pages if necessary):

1. Subcontractors or other entities performing work or service under the Contract

Check here if none, otherwise list entity/individual names below.

2. Any person or entity who owns 25% or more of contracting entity (not applicable to publicly traded entities)

Check here if none, otherwise list entity/individual names below.

Asplundh Tree Expert Holding Co.
Gorilla Investor, LLC

3. Any person or entity that facilitated, or negotiated the terms of, the applicable contract (excluding legal services related to the negotiation or drafting of the applicable contract)

Check here if none, otherwise list entity/individual names below.

Signature: Christopher B. Asplundh Jr

Date Signed: 3-21-2019

Notary Verification

State of Pennsylvania, County of Montgomery:

I, Christopher B. Asplundh Jr, the authorized agent of the contracting business entity listed above, being duly sworn, acknowledge that the Disclosure herein is being made under oath and under the penalty of perjury.

Taken, sworn to and subscribed before me this 21 day of March, 2019.

[Signature]
Notary Public's Signature

To be completed by State Agency:

Date Received by State Agency: _____

Date submitted to Ethics Commission: _____

Governmental agency submitting Disclosure: _____

Commonwealth of Pennsylvania - Notary Seal
KIMBERLY S WILEY - Notary Public
Montgomery County
My Commission Expires May 4, 2022
Commission Number 1178828

Commonwealth of Pennsylvania - Notary Seal
KIMBERLY S WILEY - Notary Public
Montgomery County
My Commission Expires June 28, 2018
Commission Number 1178828

5/4/2022
CW

STATE OF WEST VIRGINIA
Purchasing Division

PURCHASING AFFIDAVIT

CONSTRUCTION CONTRACTS: Under W. Va. Code § 5-22-1(i), the contracting public entity shall not award a construction contract to any bidder that is known to be in default on any monetary obligation owed to the state or a political subdivision of the state, including, but not limited to, obligations related to payroll taxes, property taxes, sales and use taxes, fire service fees, or other fines or fees.

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

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

DEFINITIONS:

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

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

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

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

WITNESS THE FOLLOWING SIGNATURE:

Vendor's Name: Asplundh Tree Experts LLC

Authorized Signature: Christy B. Asplundh Date: 3.21.2019

State of Pennsylvania

County of Montgomery, to-wit:

Taken, subscribed, and sworn to before me this 21 day of March, 2019.

My Commission expires May 4, 2022.

AFFIX SEAL HERE

NOTARY PUBLIC

Commonwealth of Pennsylvania - Notary Seal
KIMBERLY S WILEY - Notary Public
Montgomery County
My Commission Expires May 4, 2022
Commission Number 1178828

[Signature]
Purchasing Affidavit (Revised 01/19/2018)