



State of West Virginia
Agency Request for Proposals
Highways

Proc Folder: 1800730			Reason for Modification:	
Doc Description: Addendum 01 - SRIC Services - Preston & Monongalia Counties			Addendum 01	
Proc Type: Agency Master Agreement			To attach responses to questions from vendors	
Date Issued	Solicitation Closes	Solicitation No	Version	Phase
2025-10-16	2025-10-23 10:30	ARFP 0803 DOT2600000001	2	Final

BID RECEIVING LOCATION

PROCUREMENT DIVISION
DIVISION OF HIGHWAYS
BLDG 6 RM 340A
1900 KANAWHA BLVD E
CHARLESTON WV 25305
US

OCT 23 '25 AM 10:19
REC'D BUDGET - PROCURE

VENDOR

Vendor Customer Code:

Vendor Name : Anderson Excavating, LLC

Address : 343 Williams Road

Street :

City : Morgantown,

State : WV

Country : Monongalia

Zip : 26501

Principal Contact : Rodney Anderson

Vendor Contact Phone: 304-983-2296

Extension:

FOR INFORMATION CONTACT THE BUYER

Kristine E James
304-558-0408
kristy.e.james@wv.gov

**Vendor
Signature X**

FEIN#

55-0785115

DATE

10-23-2025

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

INVOICE TO			SHIP TO		
VARIOUS AGENCY LOCATIONS AS INDICATED BY ORDER			VARIOUS AGENCY LOCATIONS AS INDICATED BY ORDER		
No City US	WV	99999	No City US	WV	99999

Line	Comm Ln Desc	Qty	Unit of Measure	Unit Price	Total Price
1	Snow Removal Service - Roadway	0.00000	MILE		

Comm Code	Manufacturer	Specification	Model #
72102903			

Extended Description:

Electronic responses through the wvOASIS system are not permitted for the RFP; Vendor must submit their bid prices sealed in an envelope and their technical responses sealed in a different envelope, and both envelopes need to be mailed, or hand delivered prior to the bid closing deadline. See RFP Section 2 for additional information.

INVOICE TO			SHIP TO		
VARIOUS AGENCY LOCATIONS AS INDICATED BY ORDER			VARIOUS AGENCY LOCATIONS AS INDICATED BY ORDER		
No City US	WV	99999	No City US	WV	99999

Line	Comm Ln Desc	Qty	Unit of Measure	Unit Price	Total Price
2	Snow Removal Service - Shoulder	0.00000	MILE		

Comm Code	Manufacturer	Specification	Model #
72102903			

Extended Description:

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No City US	WV	99999	No City US	WV	99999

Line	Comm Ln Desc	Qty	Unit of Measure	Unit Price	Total Price
3	Application of SRIC Materials	0.00000	MILE		

Comm Code	Manufacturer	Specification	Model #
72102903			

Extended Description:

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No City US	WV	99999	No City US	WV	99999

Line	Comm Ln Desc	Qty	Unit of Measure	Unit Price	Total Price
4	Sodium Chloride	0.00000	TON		

Comm Code	Manufacturer	Specification	Model #
72102903			

Extended Description:

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VARIOUS AGENCY LOCATIONS AS INDICATED BY ORDER	VARIOUS AGENCY LOCATIONS AS INDICATED BY ORDER
No City US	No City US
WV 99999	WV 99999

Line	Comm Ln Desc	Qty	Unit of Measure	Unit Price	Total Price
5	Calcium Chloride	0.00000	LB		

Comm Code	Manufacturer	Specification	Model #
72102903			

Extended Description:

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VARIOUS AGENCY LOCATIONS AS INDICATED BY ORDER	VARIOUS AGENCY LOCATIONS AS INDICATED BY ORDER
No City US	No City US
WV 99999	WV 99999

Line	Comm Ln Desc	Qty	Unit of Measure	Unit Price	Total Price
6	Abrasives	0.00000	TON		

Comm Code	Manufacturer	Specification	Model #
72102903			

Extended Description:

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VARIOUS AGENCY LOCATIONS AS INDICATED BY ORDER			VARIOUS AGENCY LOCATIONS AS INDICATED BY ORDER		
No City US	WV	99999	No City US	WV	99999

Line	Comm Ln Desc	Qty	Unit of Measure	Unit Price	Total Price
7	Standby Surcharge - \$500 Flat Rate, Per Ea. Identified Truck	0.00000	EA		

Comm Code	Manufacturer	Specification	Model #
72102903			

Extended Description:

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VARIOUS AGENCY LOCATIONS AS INDICATED BY ORDER			VARIOUS AGENCY LOCATIONS AS INDICATED BY ORDER		
No City US	WV	99999	No City US	WV	99999

Line	Comm Ln Desc	Qty	Unit of Measure	Unit Price	Total Price
8	Seasonal Mobilization	0.00000	LS		

Comm Code	Manufacturer	Specification	Model #
72102903			

Extended Description:

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SCHEDULE OF EVENTS

Line	Event	Event Date
1	TECHNICAL QUESTION DEADLINE 10 AM EST	2025-10-09

	Document Phase	Document Description	Page 6
DOT2600000001	Final	Addendum 01 - SRIC Services - Preston & Monongalia Counties	

ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions

INSTRUCTIONS TO VENDORS SUBMITTING BIDS
(Agency Delegated Procurements Only)

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.

2A. PREBID MEETING: The item identified below shall apply to this Solicitation.

☒ A pre-bid meeting will not be held prior to bid opening

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

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

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing.

Additionally, the person attending the pre-bid meeting should include the Vendor's E-Mail address, phone number, and Fax number on the attendance sheet. It is the Vendor's responsibility to locate the attendance sheet and provide the required information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

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

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

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

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

Question Submission Deadline: 10/09/2025 10:00 AM EST

Submit Questions to:

DOTPROCUREMENTTECHQUES@WV.GOV

Email: **DOTPROCUREMENTTECHQUES@WV.GOV**

4. BID SUBMISSION: All bids must be submitted electronically through *wvOASIS* or signed 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.

4A. BID SUBMISSION

A bid that is not submitted electronically through *wvOASIS* should contain the information listed below on the face of the envelope or the bid may be rejected by the Agency.

SEALED BID: SRIC SERVICES PRESTON & MONONGALIA COUNTIES

BUYER: KRISTY JAMES

SOLICITATION NO.: ARFP DOT2600000001

BID OPENING DATE: 10/23/2025

BID OPENING TIME: 10:30 AM EST

FAX NUMBER: 304-558-0047

5. 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.

6. 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.

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

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

8. 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.

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

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

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

11A. RECIPROCAL PREFERENCE: The State of West Virginia applies a reciprocal preference to all solicitations for commodities and printing in accordance with W. Va. Code § 5A-3-37(b). In effect, if reciprocal preference is requested by a West Virginia resident vendor, non-resident vendors receiving a preference in their home states, will see that same preference granted to West Virginia resident vendors bidding against them in West Virginia. Any request for reciprocal preference must include with the bid any information necessary to evaluate and confirm the applicability of the preference. A request form to help facilitate the request can be found at: <http://www.state.wv.us/admin/purchase/vrc/Venpref.pdf>.

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

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

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

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

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.

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

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

**GENERAL TERMS AND CONDITIONS:
(Agency Delegated Procurements Only)**

1. CONTRACTUAL AGREEMENT: Issuance of an Award Document signed by the Agency and approved as to form by the Attorney General's office, if required, constitutes acceptance by the State of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid, or on the Contract if the Contract is not the result of a bid solicitation, signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.

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

2.1. "Agency" or "Agencies" means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.

2.2. "Bid" or "Proposal" means the vendors submitted response to this solicitation.

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

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

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

2.6. "Award Document" means the document signed by the Agency that identifies the Vendor as the contract holder.

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

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

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

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

☒ **Term Contract**

Initial Contract Term: This Contract becomes effective on
Upon Award _____ and the initial contract term extends until One (1) Year.

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor. Any request for renewal should be delivered 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. Unless otherwise specified below, renewal of this Contract is limited to Three (3) successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited.

☐ **Alternate Renewal Term** – This contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor and Agency.

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

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

☐ **Fixed Period Contract with Renewals:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days. Upon completion of the work covered by the preceding sentence, the vendor agrees that maintenance, monitoring, or warranty services will be provided for _____ year(s) thereafter.

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

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

☐ **Other:** See attached.

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

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

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

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

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

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

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

6. EMERGENCY PURCHASES: The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute of breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.

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

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

☐☐☐☐

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

8. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below on each policy prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. Thirty (30) days prior to the expiration of the insurance policies Vendor shall provide the Agency with proof that the insurance

mandated herein has been continued. Vendor must also provide Agency with immediate notice of any changes in its insurance policies, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed in this section.

Vendor must maintain:

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

☒ **Automobile Liability Insurance** in at least an amount of: 2,000,000.00 per
occurrence.

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

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

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

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

☐ **Pollution Insurance** in an amount of: _____ per occurrence.

☐ **Aircraft Liability** in an amount of: _____ per occurrence.

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

10. LIQUIDATED DAMAGES: This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

☐ _____ for _____

☐ Liquidated Damages Contained in the Specifications.

☒ Liquidated Damages Are Not Included in this Contract.

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

12. PRICING: The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.

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

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

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

16. TAXES: The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

17. FUNDING: This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

18. CANCELLATION: The State 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 Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-5.2.b.

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

20. 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.

20A. VENUE: All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

21. COMPLIANCE WITH LAWS: Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances. Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances.

22. 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.

23. 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.

24. 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.

25. SUBSEQUENT FORMS: The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

26. 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.

27. 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.

28. 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.

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

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

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

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

31. LICENSING: In accordance with West Virginia Code of State Rules § 148-1-6.1.e, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities. Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up-to-date on all state and local obligations as described in this section.

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

33. VENDOR NON-CONFLICT: Neither Vendor nor its representatives are permitted to have any interest, nor shall they acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency.

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

36. NO DEBT CERTIFICATION: In accordance with West Virginia Code §§ 5A-3-10a and 5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State. By submitting a bid, or entering into a contract with the State, Vendor is affirming that (1) for construction contracts, the vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, 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 in the statute cited above unless the debt or employer default is permitted under the statute.

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 and/or the Purchasing Division with the following reports identified by a checked box below:

☒ Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

☒ Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at purchasing.division@wv.gov.

39. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check. Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

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

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

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

Rodney Anderson Member
(Printed Name and Title)
343 Williams Road Morgantown WV 26501
(Address)
304-983-2296 304-983-4755
(Phone Number) / (Fax Number)
randerson@andersonexcavating.com
(E-mail address)

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through wvOASIS, 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 this bid or offer was made without prior understanding, agreement, or connection with any entity submitting a bid or offer for the same material, supplies, equipment or services; that this bid or offer is in all respects fair and without collusion or fraud; that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; that I am authorized by the Vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on Vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the Vendor has properly registered with any State agency that may require registration.

By signing below, I further certify that I understand this Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

Anderson Excavating, LLC
(Company)

[Signature]
(Signature of Authorized Representative)

Rodney Anderson, Member
(Printed Name and Title of Authorized Representative)

10-23-2025
(Date)

304-983-2296 304-983-4755
(Phone Number) (Fax Number)

SOLICITATION NUMBER: ARFP DOT2600000001

Addendum Number: 1

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

Applicable Addendum Category:

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

Description of Modification to Solicitation:

ADDENDUM 1 IS ISSUED FOR THE FOLLOWING REASONS:

1. TO ATTACH RESPONSES TO QUESTIONS FROM VENDORS

NO OTHER CHANGES

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

Terms and Conditions:

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

ATTACHMENT A

ARFP DOT2600000001 SRIC Services Preston & Monongalia Counties

Responses to Questions from Vendors

Question 1

On the attachment A pricing page for SRIC Area 4 Preston County – Why is the estimated QTY for Contract item #1 marked with a *? Does that mean it is the only Contract Item that is required?

Response 1

The standby quantity cannot be pre-estimated as it will be based on the number of trucks the vendor plans to dispatch to the SRIC area. The *Number of Trucks to be actively dispatched for this SRIC area** field highlighted in yellow above the bid pricing table captures this information. For the extended price, for the purposes of the bid price evaluation, we will take the number of trucks the vendor lists multiplied by \$500.00.

We cannot anticipate the frequency at which the Standby Surcharge could be used.

SRIC AREA 1 - MONONGALIA COUNTY

Number of Trucks to be actively dispatched for this SRIC area*:

**required*



Contract Item #	Estimated Qty	Contract Item Description	Unit of Measure	Unit Price	Extended Price
1	6286	Snow Removal Service - Roadway	Mile		
2	6286	Snow Removal Service - Shoulder	Mile		
3	6286	Application of SRIC Materials	Mile		
4	853	Sodium Chloride	Ton		
5	330	Calcium Chloride	Pound		
6	853	Abrasives	Ton		
7	TBD*	Standby Surcharge (\$500 Flat Rate, Per Each Truck Identified Above)	Each	\$500.00	
8	1	Seasonal Mobilization	Lump Sum		

Extended Total

Question 2

On Attachment A pricing page for Monongalia Area 1, Area 2, Area 3 and Preston County Area 5 and Area 6 – Why is the estimated QTY for Contract Item #7 marked with a *?

Response 2

Please see Response 1 as it applied to all SRIC Areas / Pricing sheets. The * acts as a cross reference to the *Number of Trucks to be actively dispatched for this SRIC area** field.

Question 3

How did the issuing agency calculate the estimated QTY's listed on the Attachment A Pricing Page for all areas?

Response 3

The following calculation was used for estimating quantities for services and materials, per SRIC Area, based on the miles within that SRIC Area:

The WVDOH Performance Standard for Sodium Chloride / Abrasives establishes a maximum of 250 lb. per lane mile.

250×20 (Example for a 20-mile road) = 5000 lb., $\times 2$ (both lanes, both directions of travel) = 10,000 lb. $\times 151$ (SRIC season working days) = 1,510,000 lb.

You then divide that last total of 1,510,000 lb. by 2,000 to convert to tonnage. That would equal out to 755 Tons.

This final total of 755 tons would be for the entire 151-day SRIC season, if you treated the full length of the road, in both directions 1 time every day.

Question 4

Regarding SRIC Materials & Stockpiles - In an effort to provide the most effective, economical, and best service proposal by the Vendor we suggest that the WVDOH allow the use of already stockpiled WVDOH materials including Sodium Chloride, Calcium Chloride, and Abrasives for use in this Contract. Additionally, Vendor suggests the WVDOH allow the use of a minimum of one WVDOH facility in each SRIC County for the Vendor to pick up the WVDOH SRIC materials. Vendor will provide their own machinery and operator to load the WVDOH supplied materials.

Vendor will purchase the WVDOH supplied materials from the WVDOH at agreed upon pricing. Vendor believes this approach will provide the most economical pricing method and the highest level of service to the WVDOH and the public. Can the WVDOH provide the SRIC materials required for use in this Contract? Can the WVDOH allow the use of one facility in each County for use by Vendor to purchase the materials required to provide the SRIC services?

Response 4

Vendors providing services under this contract are required to secure and maintain their own materials stockpiles, as required within the RFP.

Question 5

Loss, Liability and Indemnification Section 4.2.2.5. Subsection B provides Vendor with responsibility for all damages incurred as a result of carrying out the services of this contract and includes the term "personal injury". While we understand and accept that if one of our trucks strikes another vehicle or person causing personal injury, we are responsible for those injuries. However, the broadness of that general category of personal injury could include any personal injury that occurs as a result of black ice, slick spots, etc that are present during and or after performance of the service. A more defined position on personal injury in the contract if awarded will be necessary.

Response 5

Please reference Section 35 of the Terms and Conditions document included with this RFP.

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: ARFP DOT2600000001

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)

- | | |
|--|--|
| ☒ Addendum No. 1 | ☐ Addendum No. 6 |
| ☐ Addendum No. 2 | ☐ Addendum No. 7 |
| ☐ Addendum No. 3 | ☐ Addendum No. 8 |
| ☐ Addendum No. 4 | ☐ Addendum No. 9 |
| ☐ Addendum No. 5 | ☐ 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.

Anderson Excavating, LLC

Company

[Signature]

Authorized Signature

10-23-2025

Date

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

REQUEST FOR PROPOSAL

West Virginia Department of Transportation RFP DOT26*1
SRIC Services - Preston and Monongalia Counties
ATTACHMENT B - RFP TECHNICAL RESPONSE FORM

IMPORTANT NOTE:

This Technical Proposal response cannot include any bid prices; doing so will disqualify the entire proposal. Submit Technical Response and supporting documentation in a sealed envelope by itself. Submit the Bid Prices (Attachment A) in a separate, sealed envelope, by itself.

FAILURE TO SUBMIT BID SEPARATELY WILL RESULT IN THE DISQUALIFICATION OF THE ENTIRE BID.

Vendor Name: ANDERSON EXCAVATING, LLC

Vendor Instructions: Vendors may submit a Proposal Response Package as their response, ensuring that the entire contents of the questions on this form are responded to, responding with the details of each SRIVC area bid separately, or Vendor may complete this form instead of providing a comprehensive proposal package. Comprehensive proposal package should cross reference the section of the RFP that corresponds with each section of their Proposal Response.

This form was designed to be completed electronically to allow vendors the space needed to provide comprehensive responses. To obtain a Microsoft Word format version of this form, please email your request to DOTProcurementTechQues@wv.gov.

1. Describe your company's approach and methodology to providing the SRIC services described in sections 4.2 and how your company will establish compliance with the mandatory requirements of this contract. Response should include any information about how the proposed approach is superior or inferior to other possible approaches. Reference Section 4.2, all subsections.

Vendors Response: Vendor will provide a single point of contact to manage and communicate with WVDOT personnel regarding SRIC services provided under this contract. Upon award of contract vendor will conduct a pre-job inspection of equipment to ensure compliance with the mandatory requirements of the contract. Vendor will conduct a pre-job training will all personnel to review requirements of the contract, reporting, and tracking. WVDOT personnel will be invited to the pre-job meeting to participate.

REQUEST FOR PROPOSAL

West Virginia Department of Transportation RFP DOT26*1

SRIC Services - Preston and Monongalia Counties

ATTACHMENT B - RFP TECHNICAL RESPONSE FORM

2. Clearly identify which stockpile location you intend to use for which SRIC Area you are bidding, and the proximity of each stockpile location to the SRIC Areas they are intended to service. Only respond to the SRIC Area's you are bidding. Reference 4.2.1.2 and 4.2.2.1; Page 7-8

Vendors Response: Stockpile location noted below.

SRIC Area	Stockpile Location / Address	Proximity to SRIC Area (description & miles)
SRIC Area 1 - Monongalia Co	<u>468 Williams Road Morgantown, WV 26501</u>	<u>Approximately 13 Miles</u>
SRIC Area 2 – Monongalia Co	<u>468 Williams Road Morgantown, WV 26501</u>	<u>Approximately 5 Miles</u>
SRIC Area 3 – Monongalia Co	<u>468 Williams Road Morgantown, WV 26501</u>	<u>Approximately 5 Miles</u>
SRIC Area 4 - Preston Co		
SRIC Area 5 - Preston Co		
SRIC Area 6 - Preston Co		

3. Are the stockpile locations properties that your company already owns, rents or leases? Reference Sections 4.2.1.2 and 4.2.2.1; Pages 7-8.

Vendors Response: Yes

REQUEST FOR PROPOSAL
West Virginia Department of Transportation RFP DOT26*1
SRIC Services - Preston and Monongalia Counties
ATTACHMENT B - RFP TECHNICAL RESPONSE FORM

4. What permits do you currently hold for the stockpile locations you have identified?
Reference Sections 4.2.1.2, 4.2.2.5A; Pages 7 & 12.

Vendors Response: No permits for stockpile location. Sodium Chloride is stored inside building.

5. Which approved aggregate sources will you obtain Abrasives from for your stockpile?
Reference Sections 4.2.1.3 and 4.2.2.1, 3; Pages 7-9.

Vendors Response: Greer Industries and their approved subsidiaries.

6. Which approved sources will you obtain Sodium Chloride from for your stockpile?
Reference Sections 4.2.1.3 and 4.2.2.1, 1; Page 7-8.

Vendors Response:
Sodium Chloride will be sourced from one or multiple approved suppliers based upon availability and need.

REQUEST FOR PROPOSAL

West Virginia Department of Transportation RFP DOT26*1
 SRIC Services - Preston and Monongalia Counties
ATTACHMENT B - RFP TECHNICAL RESPONSE FORM

Sodium Chloride (Roadway Salt)				
#	Manufacturer	Manufacturer Location	Sodium Chloride Source Location(s)	WVDOH Approval Number
1	American Rock Salt Company, LLC.	Mt. Morris, NY	2124 Schoonmaker Ave. Belle Vernon, PA 15012	2502086
2	Cargill, Inc. - Salt, Road Safety	Lansing, NY & Cleveland OH	Route 33 West 3105 Harrison Ave. Elkins, WV 26241	2502087
3	Cargill, Inc. - Salt, Road Safety	Lansing, NY & Cleveland OH	2021 South Clinton Street Baltimore, MD 21224	2502088
4	Cargill, Inc. - Salt, Road Safety	Lansing, NY & Cleveland OH	4927 Starkey Road Roanoke, VA 24018	2502089
5	Cargill, Inc. - Salt, Road Safety	Lansing, NY & Cleveland OH	1000 Madison Ave. West Elizabeth, PA 15088	2502090
6	Compass Minerals	Overland Park, Kansas	1382 Cote Blanche Island Franklin, Louisiana 70538	2502091
7	Government MLO Supplies USA, Inc.	Minneapolis, MN	2021 South Clinton Street Baltimore, MD 21224	2502092
8	Morton Salt, Inc.	Chicago, IL	Baltimore Stockpile 1671 S. Highland Avenue Baltimore, MD 21224	2502093
9	Morton Salt, Inc.	Chicago, IL	Clifton Forge Stockpile 501 W. Ridgeway St. Clifton Forge, VA 24422	2502094
10	Morton Salt, Inc.	Chicago, IL	West Elizabeth Stockpile 1000 Madison Avenue West Elizabeth, PA 15088	2502095
11	Morton Salt, Inc.	Chicago, IL	Portsmouth Stockpile 5150 Gallia Street Portsmouth, OH 45662	2502096
12	Morton Salt, Inc.	Chicago, IL	Parkersburg Stockpile 400 Buckeye Street Parkersburg, WV 26101	2502097

REQUEST FOR PROPOSAL

West Virginia Department of Transportation RFP DOT26*1

SRIC Services - Preston and Monongalia Counties

ATTACHMENT B - RFP TECHNICAL RESPONSE FORM

7. Describe your plan for keeping Sodium Chloride well stocked during times of peak use, such as during back-to-back winter storms. References Sections 4.2.1.2, 4.2.2.1; Page 7-8.

Vendors Response: Stockpile will be filled prior to winter season. At times of peak use Vendor will be refilling the stockpile utilizing its own forces and equipment. Once winter storm has concluded stockpile will be refilled to capacity.

8. Vendors must have enough trucks to service each SRIC Area they bid independently. In the *Truck Description & Blade Size* column, describe your fleet of vehicles to be used per SRIC Area, and identity your back-up trucks. If bidding multiple trucks per SRIC Area to perform services within that area simultaneously, please provide where you plan to have each truck dispatched within the SRIC Area in the *Dispatched Where Within SRIC Area* column. Reference Sections 4.2.1.4, 4.2.2.1, 4.2.2.2, Pages 7, 9-10.

Vendors Response:

SRIC Area Vehicle Assigned	Truck Description & Blade Size, per SRIC Area	Dispatched Where Within SRIC Area
SRIC Area 1 - Monongalia Co	<u>One Single Axle Dump Truck with spreader and 11-foot blade.</u>	<u>Route 119 & 857</u>
	<u>One 1-Ton Dump Truck with spreader and 9-foot blade.</u>	<u>All other routes</u>
SRIC Area 2 – Monongalia Co	<u>One Single Axle Dump Truck with spreader and 11-foot blade.</u>	<u>Route 119</u>
	<u>One 1-Ton Dump Truck with spreader and 9-foot blade.</u>	<u>All other routes</u>
SRIC Area 3 – Monongalia Co	<u>One Single Axle Dump Truck with spreader and 11-foot blade.</u>	<u>Route 7, 857, 119</u>
	<u>One 1-Ton Dump Truck with spreader and 9-foot blade.</u>	<u>All other routes</u>

REQUEST FOR PROPOSAL
West Virginia Department of Transportation RFP DOT26*1
SRIC Services - Preston and Monongalia Counties
ATTACHMENT B - RFP TECHNICAL RESPONSE FORM

**SRIC Area 4 -
Preston Co**

**SRIC Area 5 -
Preston Co**

**SRIC Area 6 -
Preston Co**

9. Describe what other equipment you have that will be used for SRIC Services not already discussed, such as snow blowers or loading equipment. Reference Section 4.2.2.2 and 4.2.2.4; Pages 9-12.

Vendors Response: Vendor will utilize appropriately sized Volvo and Cat wheel loaders to load SRIC material from stockpile onto the trucks. Vendor operators a shop repair facility that is staffed 24 hours per day that completes repairs.

10. Describe vehicle monitoring that goes beyond our minimum requirements. Reference 4.2.2.2; Page 10.

Vendors Response: Equipment utilized will meet the Expectations described in 4.2.2.2 including dash camera.

11. Vendor must have a minimum of two prior projects that are of similar scope of work within this geographical are of the state. Provide a comprehensive overview of each project and include supporting documentation from those projects clearly defined with your technical response. Reference Section 4.3 and 4.3.1; Page 14.

Vendors Response. Project #1: Morgantown Industrial Park, Morgantown, WV. Project Owner Representative Glenn Adrian 304-692-6516. Anderson Excavating is responsible for SRIC Services within the Morgantown Industrial Park on a 24/7 basis. Anderson Excavating

REQUEST FOR PROPOSAL
West Virginia Department of Transportation RFP DOT26*1
SRIC Services - Preston and Monongalia Counties
ATTACHMENT B - RFP TECHNICAL RESPONSE FORM

staffs he project with the appropriate personnel to complete the work as directed by the client.

Vendors Response, Project #2: WestRidge Business Park, Morgantown WV. Project Owner Representative Ryan Lynch 304-692-1462. Anderson Excavating is responsible for SRIC Services within the WestRidge Business Park on a 24/7 basis. Anderson Excavating staffs he project with the appropriate personnel to complete the work as directed by the client.

Vendors Response, Project #3: Anderson Excavating has a multitude of commercial and industrial clients that it provides SRIC services for including Energy Companies and Commercial Business Clients. Anderson has successfully meet the needs of those clients for multiple years. Anderson Excavating has been requested by the MECCA 911 to provide emergency SRIC services in Monongalia County as needed.

Vendors Response, Project #4:

12. Vehicle Operators must have a minimum of two (2) years of experience with the type of vehicle they will be operating. Provide the name, Equipment they will be operating, and describe their experience. Provide additional documentation as described in Section 4.3.2. with your Technical Response. Reference Sections 4.2.2.3, 4.3, and 4.3.2- 1&2; Pages 10, 14-15.

Vendors Response:

Employee 1 - Name & Equipment Operated: Rodney Anderson – All SRIC Equipment.
Experience: 22 years providing and Managing SRIC Services for Anderson Excavating.

Employee 2 - Name & Equipment Operated: Mitch Stone – All SRIC Equipment.
Experience: 10 years providing and Managing SRIC Services for Anderson Excavating.

Employee 3 - Name & Equipment Operated: Stephen Domonkos – All SRIC Equipment.
Experience: 5 years providing and Managing SRIC Services for Anderson Excavating.

REQUEST FOR PROPOSAL

West Virginia Department of Transportation RFP DOT26*1

SRIC Services - Preston and Monongalia Counties

ATTACHMENT B - RFP TECHNICAL RESPONSE FORM

Employee 4 - Name & Equipment Operated: Charles Moyers – All SRIC Equipment.
Experience: 5 years providing and Managing SRIC Services for Anderson Excavating.

Employee 5 - Name & Equipment Operated: Ben Miller – All SRIC Equipment
Experience: 10 years operating SRIC Equipment.

Employee 6 - Name & Equipment Operated: Joathan Hebron – All SRIC Equipment
Experience: 3 years operating SRIC Equipment.

Employee 7 - Name & Equipment Operated: Larry Murray – All SRIC Equipment
Experience: 3 years operating SRIC Equipment.

Employee 8 - Name & Equipment Operated: Charles Hardman – Non CDL SRIC
Equipment.
Experience: 5 years operating SRIC Equipment.

Employee 9 - Name & Equipment Operated: Matt Riggleman – Non CDL SRIC
Equipment.
Experience: 3 years operating SRIC Equipment.

Employee 10 - Name & Equipment Operated: Casey Bartholow – Non CLD SRIC
Equipment.
Experience: 3 years operating SRIC Equipment.

**List additional employees as needed*

13. Vendor's personnel must be licensed for the class of vehicle they will operate. Provide copies of their licensures and certifications with your technical response. Reference Section 4.3.2, 4.3.2.1 and 4.3.2.2; Page 15.

Vendors Response: Drivers License for Personnel attached.

14. Describe how you will ensure compliance with federal hours-of-service regulations for applicable personnel during 24/7 SRIC Operations. Reference Section 4.2.2.3; Page 10

Vendors Response: Vendor will comply with federal hours of service regulations by utilizing multiple drivers per vehicle.

REQUEST FOR PROPOSAL
West Virginia Department of Transportation RFP DOT26*1
SRIC Services - Preston and Monongalia Counties
ATTACHMENT B - RFP TECHNICAL RESPONSE FORM

15. Describe how you will train your personnel for delivering SRIC Services and Sodium Chloride application rates. Reference Sections 4.2.1.1 and 4.2.2.3; Pages 8 & 10.

Vendors Response: A pre-season training, classroom and field, will be conducted with all personnel performing SRIC services.

16. How will you monitor for and mitigate damages and accidents? How do you propose reporting damage and accidents to WVDOH? Reference Sections 4.2.2.3 and 4.2.2.5 Pages 10, 12-14.

Vendors Response: Vendor will utilize properly trained and licensed personnel to perform SRIC services. A pre-job meeting will be conducted with WVDOH personnel and a single primary contact for the vendor will be used to report damage and accidents to the appropriate WVDOH personnel.

17. Describe your current drug testing program requirements and provide documentation*. Explain how you will ensure compliance with DOT regulation CFR Title 49, part 40. Reference 4.2.1.5 & 4.2.2.3; Pages 7, 10-11.

*NOTE: *Vendors must observe HIPPA requirements if actual drug test results are provided as proof of drug testing program. All information submitted in response to this RFP is public.*

Vendors Response: Vendor drug testing program is in compliance with DOT Regulation CRF Title 49, part 40, and is attached.

REQUEST FOR PROPOSAL

West Virginia Department of Transportation RFP DOT26*1
SRIC Services - Preston and Monongalia Counties
ATTACHMENT B - RFP TECHNICAL RESPONSE FORM

IMPORTANT NOTE:

This Technical Proposal response cannot include any bid prices; doing so will disqualify the entire proposal. Submit Technical Response and supporting documentation in a sealed envelope by itself. Submit the Bid Prices (Attachment A) in a separate, sealed envelope, by itself.

**FAILURE TO SUBMIT BID SEPARATELY WILL RESULT IN THE
DISQUALIFICATION OF THE ENTIRE BID.**



FMCSA DRUG & ALCOHOL PLAN

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA)
PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF:

49 CFR PART 382
49 CFR PART 40

COMPANY NAME:

Anderson Excavating, LLC

ORIGINAL DATE OF IMPLEMENTATION: 01/01/2016
NEW EFFECTIVE DATE: 02/12/2016

TABLE OF CONTENTS

- I. INTRODUCTION**
 - a. Development of "Combined" Plan
- II. GENERAL**
 - a. Applicability
 - b. Compliance
 - c. "DOT" vs. "FMCSA"
 - d. DOT Procedures
 - e. Preemption of State and Local Laws
 - f. Definitions
- III. POLICY AND RESPONSIBILITIES**
 - a. Company Policy
 - b. Responsibilities of Key Personnel
 - c. Responsibility of Drivers
 - d. Use of Service Agents
 - e. "NON-DOT" Testing Program
- IV. DOT PROGRAM REQUIREMENTS**
 - a. Drivers Subject to Testing
 - b. Acknowledgement/Receipt Form
 - c. History Check Requirements
 - d. Notification of Tests
 - e. DOT Drug Violations
 - f. DOT Alcohol Violations and Prohibited Conduct
 - g. Violation Consequences and Company Actions
 - h. Drug and Alcohol Tests
- V. DRUG PROGRAM**
 - a. Drug Tests That Require Direct Observation Procedures
 - b. Specimen Collection Procedures
 - c. Drug Testing Laboratory
 - d. Laboratory Retention Periods and Reports
 - e. Laboratory Quality Control
 - f. MRO Review of Drug Test Results
 - g. Split Specimen Testing
 - h. Medical Marijuana
- VI. ALCOHOL PROGRAM**
 - a. Alcohol Test
- VII. PROGRAM ELEMENTS COMMON TO DRUG AND ALCOHOL**
 - a. Substance Abuse Professional
 - b. Employee Assistance Program Supervisor Training
 - c. Record Keeping
 - d. Management Information System
- VIII. APPENDIX A**
 - a. ACKNOWLEDGEMENT/RECEIPT FORM
- IX. APPENDIX B**
 - a. DESIGNATED PERSONNEL & SERVICE AGENTS
- X. APPENDIX C**
 - a. COMPANY DISCIPLINARY ACTIONS AND ADDITIONAL PROCEDURES

I. INTRODUCTION

a. Development of “Combined” Plan

The Federal Motor Carrier Safety Administration (FMCSA) requires each motor carrier to develop, maintain, and follow a Drug and Alcohol Policy (Plan). This Plan is designed to meet the applicable requirements.

II. GENERAL

a. Applicability

This plan applies to every person and to all employers of such persons who operate a commercial motor vehicle in commerce in any State and is subject to: (1) The commercial driver’s license requirements of Part 383; (2) The Licencia Federal de Conductor (Mexico) requirements; or (3) The commercial driver’s license requirements of the Canadian National Safety Code. All current and prospective DOT employees will be required to complete FMCSA clearinghouse registration. The Company will periodically review records contained in the clearinghouse database. Beginning November 18, 2024, records stored in the clearinghouse will also be available on an employee’s motor vehicle record (MVR).

b. Compliance

- i.* Plan Development. The Plan meets the requirements of Part 382, § 392.601, to provide educational materials that explain the requirements of Parts 382 and 40 and the Company’s policies and procedures with respect to meeting these requirements. The Plan describes the methods and procedures for compliance with the drug and alcohol program requirements of the DOT. The Plan covers the operational, day-to-day requirements that are found in Part 382, and the procedural, testing requirements that are found in Part 40. The Plan provides appendices for the name and address for each laboratory that analyzes specimens for the Company, the Company’s Medical Review Officer, Substance Abuse Professionals, and Employee Assistance Professionals. The plan communicates to drivers, Company officials, and DOT officials the path that the Company will follow in order to comply with the requirements for a successful DOT drug and alcohol program.
- ii.* Plan Availability. The Plan will be posted in a common place, selected by the Company, for driver review and feedback. A copy of the Plan will be made available to all drivers. Any driver desiring a copy of Part 40 and/or Part 382 must contact the Designated Employer Representative (see Appendix B). The Plan will provide a basic description of the rules and testing requirements and will show how the Company implements and follows them. The Plan is not meant as a substitute for the details provided in either rule. If there is any difference in instruction or interpretation between the Plan and the rules, the rules prevail. The Plan will be updated at any time its language, or the intent of its language, differs from that of either Part 40 or Part 382. Drivers are encouraged to obtain and read Part 40 and Part 382 on their own.

c. “DOT” vs “FMCSA”

All DOT workplace testing procedures will follow Part 40 requirements. All DOT procedural responsibilities for motor carriers will follow Part 382. In the Plan, the term “DOT” will be used for reference to general requirements (e.g., testing procedures) placed on motor carriers. The use of the term “FMCSA” will be to distinguish specific, unique administration requirements versus general, DOT requirements (e.g., blood alcohol test results received from law enforcement may be used in a post-accident situation).

d. DOT Procedures

The Company will assure that the procedures of Part 40 are followed for drug and alcohol testing conducted under the requirements and authority of Part 382; a violation of Part 40 is a violation of Part 382.

e. Preemption of State and Local Laws

Part 40 and Part 382 are Federal Laws. Federal law preempts any state or local law, rule, regulation, or order to the extent that: (a) compliance with both the state or local requirement and Part 40 or 382 is not possible; or, (b) compliance with the state or local requirement is an obstacle to the accomplishment and execution of any requirement of Part 40 or 382. This provision does not preempt provisions of state criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees or employers or to the general public.

f. Definitions

Definitions from Parts 40, and 382 have been combined in alphabetical order and are provided in a single listing. For purposes of the Plan the following definitions apply:

- i. Actual knowledge** – For the purpose of Part 382 (subpart B) and the Plan, means actual knowledge by an employer that a driver has used alcohol or controlled substances based on the employer's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances or an employee's admission of alcohol or controlled substance use, except as provided in Sec. 382.121. Direct observation as used in this definition means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under Sec. 382.307.
- ii. Administrator** – The Administrator of the Federal Motor Carrier Safety Administration (FMCSA) or any person to whom authority in the matter concerned has been delegated by the Secretary of Transportation
- iii. Adulterated Specimen** – A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.
- iv. Affiliate** – Person(s) are affiliates of one another if, directly or indirectly, one controls or has the power to control the other or a third party controls or has the power to control both. Indicators of control include, but are not limited to: interlocking management or ownership; shared interest among family members; shared facilities or equipment; or common use of employees. Following the issuance of a Public Interest Exclusion (PIE), an organization having the same or similar management, ownership, or principal employees as the service agent concerning who public interest exclusion is in effect is regarded as an affiliate. This definition is used in connection with the public interest exclusion procedures of Part 40, Subpart R.
- v. Air Blank** – In evidential breath testing devices (EBTs) using gas chromatography technology, a reading of the device's internal standard. In all other EBTs, a reading of ambient air containing no alcohol.
- vi. Alcohol** – The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols, including methyl or isopropyl alcohol.
- vii. Alcohol Concentration** – The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under this part.
- viii. Alcohol Confirmation Test** – A subsequent test using an EBT, following a screening test with a result of 0.02 or greater, that provides quantitative data about the alcohol concentration

- ix. Alcohol Screening Device (ASD)** – A breath or saliva device, other than an EBT, that is approved by the National Highway Traffic Safety Administration (NHTSA) and placed on a conforming products list (CPL) for such devices.
- x. Alcohol Screening Test** – An analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.
- xi. Alcohol Testing Site** – A place selected by the employer where employees present themselves for the purpose of providing breath or saliva for an alcohol test.
- xii. Alcohol Use** – The drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.
- xiii. Aliquot** – A fractional part of a specimen used for testing. It is taken as a sample representing the whole specimen.
- xiv. Blind sample or Blind performance Test Specimen** – A specimen submitted to a laboratory for quality control testing purposes, with a fictitious identifier, so that the laboratory cannot distinguish it from an employee specimen.
- xv. Breath Alcohol Technician (BAT)** – A person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing device.
- xvi. Cancelled Test** – A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which Part 40 otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.
- xvii. Chain-of-custody (or Custody and Control Form)(CCF)** – The procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (CCF).
- xviii. Collection Container** – A container into which the employee urinates to provide the specimen for a drug test.
- xix. Collection Site** – A place selected by the employer where employees present themselves for the purpose of providing a urine specimen for a drug test.
- xx. Collector** – A person who instructs and assist employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees, and who initiates and completes the CCF.
- xxi. Commerce** – (1) Any trade, traffic or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States; and (2) Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in paragraph (1) of this definition.
- xxii. Commercial Motor Vehicle (CMV)** – A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle – (1) Has a gross combination weight rating 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or (2) Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or (3) is designed to transport 16 or more passengers, including the driver; or (4) is of any size and is used in the transportation of materials found to be hazardous for the purpose of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).
- xxiii. Confirmatory Drug Test** – A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or drug metabolite.

- xxiv. Confirmation (or confirmatory) validity test** – A second test performed on a different aliquot of the original urine specimen to further support a validity test result.
- xxv. Confirmed Drug Test** – A confirmation test result received by an MRO from a laboratory.
- xxvi. Consortium/Third-Party Administrator (C/TPA)** – A service agent that provides or coordinates the provision of a variety of drug and alcohol testing services to employers. C/TPAs typically perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members. C/TPAs are not "employers" for purpose of Part 40.
- xxvii. Continuing Education** – Training for substance abuse professionals (SAPs) who have completed qualification training and are performing SAP functions, designed to keep SAPs current on changes and developments in the DOT drug and alcohol testing program.
- xxviii. Controlled Substances** – Those substances identified in Part 40 and this plan as "drugs".
- xxix. DOT Procedures (or Part 40)** – The procedures for Transportation Workplace Drug and Alcohol Testing Program published by the Office of the Secretary of Transportation in 49 CFR Part 40.
- xxx. Designated Employer Representative (DER)** – An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these safety-sensitive duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of Part 40. Service agents cannot act as DERs.
- xxxi. Dilute Specimen** – A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.
- xxxii. Disabling Damage** – Damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs. (1) inclusions. Damage to motor vehicles that could have been driven, but would have been further damaged if so driven. (2) Exclusions. (i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts. (ii) Tire disablement without other damage even if no spare tire is available. (iii) Headlight or taillight damage. (iv) Damage to turn signals, horn, or windshield wipers which make them inoperative.
- xxxiii. DOT, The Department, DOT agency** – These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). These terms include any designee of a DOT agency.
- xxxiv. Driver** – Any person who operates a commercial motor vehicle. This includes, but is not limited to: Full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent owner-operator contractors.
- xxxv. Drugs** – The drugs for which tests are required under Part 40 and DOT agency regulations are marijuana, cocaine, amphetamines, phencyclidine (PCP), and opiates.

- xxxvi. *Employee (safety-sensitive employee)*** – Any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing. For purposes of drug testing under Part 40, the term employee has the same meaning as the term “donor” as found on CCF and related guidance materials produced by the Department of Health and Human Services. For the purposes of regulation under Part 382, the term employee means a person (i.e. driver) who performs a safety-sensitive function, including full-time, part-time and temporary employees.
- xxxvii. *Employer*** – A person or entity employing one or more employees (including an individual who is self-employed) subject to DOT agency regulations requiring compliance with Part 40. The term includes an employer’s officers, representatives, and management personnel. Service agents are not employers for the purposes of Part 40.
- xxxviii. *Error Correction Training*** – Training provided to BATs, collectors, and screening test technicians (STTs) following an error that resulted in the cancellation of a drug or alcohol test. Error correction training must be provided in person or by a means that provides real-time observation and interaction between the instructor and trainee.
- xxviii. *Evidential Breath Testing Device (EBT)*** – A device approved by NHTSA for the evidential testing of breath at the .02 and .04 alcohol concentrations, placed on NHTSA’s Conforming Products List (CPL) for “Evidential Breath Measurement Devices” and identified on the CPL as conforming with the model specifications available from NHTSA’s Traffic Safety Program.
- xxix. *HHS, Department of Health and Human Services*** – The Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.
- xxx. *Initial Drug Test (also know as a “Screening Drug Test”)*** – The test used to differentiate a negative specimen from one that requires further testing for drugs and drug metabolites.
- xxxi. *Initial Specimen Validity Test*** – The first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid.
- xxxii. *Invalid Drug Test*** – The result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.
- xxxiii. *Laboratory*** – Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.
- xxxiv. *Licensed Medical Practitioner*** – A person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.
- xxxv. *Limit of Quantitation*** – For quantitative assays, the lowest concentration at which the identity and concentration of the measured can be accurately established.
- xxxvi. *Medical Review Officer (MRO)*** – A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer’s drug testing program and evaluating medical explanations for certain drug test results.

- xxxvii. Negative Result** – The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.
- xxxviii. Non-negative Specimen** – A urine specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), and/or invalid.
- xxxix. Office of Drug and Alcohol Policy and Compliance (ODAPC)** – The office in the Office of the Secretary, DOT, that is responsible for coordinating drug and alcohol testing program matters within the Department and providing information concerning the implementation of Part 40.
- xl. Oxidizing Adulterant** – A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or drug metabolites, or affects the reagents in either the initial or confirmatory drug test.
- xli. Performing (a safety-sensitive function)** – A driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.
- xl. Positive rate for random drug testing** – The number of verified positive results for random drug tests conducted under Part 382, plus the number of refusals of random drug tests required by Part 382, divided by the total number of random drug test results (i.e., positives, negatives, refusals) conducted under Part 382.
- xlii. Positive Result** – The result reported by an HHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations.
- xli. Primary Specimen** – In drug testing, the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing. The primary specimen is distinguished from the split specimen, defined in this section.
- xl. Prohibited Drug** – Any of the following substances specified in Schedule I or Schedule II of the Controlled Substances Act (21 U.S.C. 812): marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP).
- xlvi. Qualification Training** – The training required in order for a collector, BAT, MRO, SAP, or STT to be qualified to perform their functions in the DOT drug and alcohol testing program. Qualification training may be provided by an appropriate means (e.g., classroom instruction, internet application, CD-ROM, video).
- xlvi. Reconfirmed** – The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.
- xlvi. Rejected for Testing** – The result reported by an HHS-certified laboratory when no tests are performed for a specimen because of a fatal flaw that is not corrected.
- xl. Refresher Training** – The training required periodically for qualified collectors, BATs, and STTs to review basic requirements and provide instruction concerning changes in technology (e.g. new testing methods that may be authorized) and amendments, interpretations, guidance, and issues concerning Part 40 and DOT agency and alcohol testing regulations (e.g., Part 382). Refresher training can be provided by an appropriate means (e.g., classroom instructions, internet application, CD-ROM, video).
- i. Refusal to Submit, Refuse, or Refuse to Take** – Behavior consistent with Part 40 concerning refusal to take a drug test or refusal to take an alcohol test.
- ii. Safety-sensitive Function** – All time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include: (1) All time at an employer or shipper plant, terminal, facility, or other property, or on any

public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer; (2) All time inspecting equipment as required by Sections 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time; (3) All time spent at the driving controls of a commercial motor vehicle in operation; (4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of Section 393.76); (5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and (6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

- lii. Screening Drug Test** – See initial drug test definition above.
- liii. Screening Test Technician (STT)** – A person who instructs and assists employees in the alcohol testing process and operates an ASD.
- liv. Secretary** – The Secretary of Transportation or the Secretary’s designee
- lv. Service Agent** – Any person or entity, other than an employee of the employer, who provides services specified under Part 40 to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs and STTs, laboratories, MROs, substance abuse professionals, and C/TPAs. To act as service agents, persons and organizations must meet the qualifications set forth in applicable sections of Part 40. Service agents are not employers for purposes of Part 382 and 40.
- lvi. Shipping Container** – A container that is used for transporting and protecting urine specimen bottles and associated documents from the collection site to the laboratory.
- lvii. Specimen Bottle** – The bottle that, after being sealed and labeled according to the procedures in Part 40, is used to hold the urine specimen during transportation to the laboratory.
- lviii. Split Specimen** – In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.
- lix. Split Specimen Collection** – A collection in which the urine collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).
- lx. Stand-Down** – The practice of temporarily removing an employee from the performance of safety sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test results.
- lxi. Substance Abuse Professional (SAP)** – A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing and aftercare.
- lxii. Substituted Specimen** – A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.
- lxiii. Verified Test** – A drug test result or validity testing result from an HHS-certified laboratory that has undergone review and final determination by the MRO.
- lxiv. Violation Rate for Random Alcohol Testing** – The number of 0.04 and above random alcohol confirmation test results conducted under Part 382 plus the number of refusals

of random alcohol tests required by Part 382, divided by the total number of random alcohol screening tests (including refusals) conducted under Part 382.

III. **POLICY AND RESPONSIBILITIES**

a. **Company Policy**

*i. **Policy Statement.*** The Company has a long-standing commitment to maintain the highest standards for employee safety and health. The use of controlled substances and the misuse of alcohol are contrary to these high standards. The use or possession of illegal controlled substances or alcoholic beverages while on Company property, or in any Company vehicle, or on Company time, including breaks or lunch, paid or unpaid, on any shift, is strictly prohibited.

b. **Responsibilities of Key Personnel**

*i. **The Company will convey to responsible individuals*** – the Designated Employer Representative(s) and affected supervisors – that, to the best of their ability, the privacy and confidentiality of any driver subject to the Plan must be maintained at all times.

*ii. **Designated Employer Representative (DER).*** Appendix B contains the name, address and phone number of the DER(s). The DER is:

1. The key employee for the Company's drug and alcohol program functions, and has the knowledge and authority to make decisions about the testing process and answer questions about it.
2. Not a service agent
3. One or more employees of the Company assigned to ensure adequate coverage on all shifts and at all locations.
4. Responsible for the preparation of the Plan, as well as providing oversight and evaluation on the Plan.
5. Responsible to review all adverse personnel action or discipline applied under the Plan for consistency and conformance to human resources policies and procedures.
6. Responsible for scheduling random, return-to-duty and follow-up testing, as applicable, and is authorized to receive and maintain, in a secure files system, all drug and alcohol testing results.
7. Responsible for providing answers to driver questions regarding the testing program, and information on the resources available for drug and alcohol counseling.
8. Responsible for overseeing the employee assistance program (EAP)

*iii. **Supervisor.*** A Company individual(s) responsible for observing the performance and behavior of drivers that is suggestive enough to lead to reasonable suspicion/cause drug and/or alcohol testing. Supervisors who will determine whether a driver must be drug tested and/or alcohol tested based on reasonable suspicion/case will be training in the "signs and symptoms" of each substance. The supervisor is required to document a reasonable suspicion/cause event.

c. **Responsibility of Drivers**

*i. **Compliance*** – Each driver must comply with the requirements of the Plan, and the DOT drug and alcohol rules it pertains to, in order to remain eligible to drive commercial motor vehicles. Each driver has the responsibility to read, be knowledgeable of, and comply with, the requirements of the Plan, and Parts 40 and 382. Committing a DOT violation will result in the driver's immediate removal from the safety-sensitive function, and remain so until successfully completing the DOT return-to-duty conditions of Part

40. The Plan describes circumstances for being tested, violations, prohibited conduct, and their subsequent consequences. The Plan describes what is available to each driver as services (e.g., EAP) in such cases where the driver has a potential problem with drugs or alcohol prior to a drug or alcohol test. It is a condition of employment for all drivers to sign the Acknowledgement/Receipt Form (Appendix A). In doing so, the driver attests to comply with the drug and alcohol program requirements of the Company and the requirements of the Plan. Failure to comply with this condition may result in disciplinary action up to and including termination.

d. Use of Service Agents

i. Compliance – The Company may contract with service agents to accomplish many of the requirements of Parts 40 and 382. Contracts with services agents will contain a provision that the service agent will comply with Parts 40 and 382 in services provided. The work of any service agent providing services to the Company will be open to inspection by the Company. The service agent must allow access to property and records by the Company, the Administrator, and if the Company is subject to the jurisdiction of a state agency, a representative of the state agency for the purpose of monitoring the Company's compliance with the requirements of Part 382. No service agent will serve as DER for this Company.

ii. Public Interest Exclusion – The Company will not use a service agent against whom a Public Interest Exclusion (PIE) has been issued. The Company will stop using the services of a service agent no later than 90 days after the Department has published the decision in the Federal Register or posted it on its web site that a PIE has been issued. The Company may apply to the ODAPC Director for an extension of 30 days if it is demonstrated that a substitute service agent cannot be found within 90 days.

iii. Consortium/Third Party Administrator – The Company may employ the service of a Consortium/Third Party Administrator (C/TPA) to assist the DER with overall program management and consultation on any program issue. While the C/TPA will not serve as the DER, the C/TPA may support the DER by explaining the regulations and offering guidance on program-compliance issues.

iv. Employee Assistance Professional

1. The Company may offer a program through their EAP allowing the admission of drug and alcohol use. Drivers who admit to drug use and alcohol misuses are not subject to the referral, evaluation and treatment requirements of Part 382, Part 40, and the Plan, provided that: (1) The admission is in accordance with a written Company-established voluntary self-identification program or policy that meets the requirements of paragraph (b) of this section; (2) The driver does not self-identify in order to avoid testing; (3) The driver makes the admission of drug use or alcohol misuse prior to performing a safety sensitive function (i.e., prior to reporting for duty); and (4) The driver does not perform a safety sensitive function until the Company is satisfied that the driver has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.
2. A qualified voluntary self-identification program or policy will contain the following elements: (1) The Company will not take adverse action against a driver making a voluntary admission of drug use or alcohol misuse within the parameters of the program or policy and paragraph (a) of this section; (2) The Company will allow the driver sufficient opportunity to seek evaluation, education or treatment to establish control over the driver's drug or alcohol

problem; (3) The Company will permit the driver to return to safety sensitive duties only upon successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert, i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor; (4) The Company will ensure that: (i) Prior to the driver participating in a safety sensitive function, the driver shall undergo a return to duty test with a result indicating an alcohol concentration of less than 0.02; and/or (ii) Prior to the driver participating in a safety sensitive function, the driver shall undergo a return to duty drug test with a verified negative test result; and (5) The Company may incorporate driver monitoring and include NON-DOT follow-up testing.

e. "NON-DOT" Testing Program

i. Compliance. The Company may implement an additional drug and/or alcohol testing program, referred to as a "NON-DOT program". Any additional testing program would be completely independent of the DOT testing program. Such a testing program would be developed under the Company's own authority and kept separate from the DOT program. All DOT testing would be accomplished first; the Company's NON-DOT program would commence afterwards. The NON-DOT program would use different forms and not use the Federal Custody and Control Form or the DOT Alcohol Testing Form. The NON-DOT program could test different people, for different drugs, and different reasons-for-testing. If the Company implements its own NON-DOT testing program, the Company will define the program and notify all drivers through a NON-DOT program plan.

IV. DOT PROGRAM REQUIREMENTS

a. Drivers Subject to Drug and Alcohol Testing

i. Compliance. Any driver who operates a commercial motor vehicle in commerce in any State and is subject to:

1. The commercial driver's license requirements of Part 383;
2. The Licencia Federal De Conductor (Mexico) requirements; or
3. The commercial drivers license requirements of the Canadian National Safety Code.

b. Acknowledgment/Receipt Form

i. The "Acknowledgment/Receipt Form: (Appendix A), applies to all drug and/or alcohol test, or related foregoing or subsequent DOT procedures, for drivers of commercial motor vehicles with the Company. The signed form will be maintained by the Company. For any test, the expectations placed on the driver by the Company are to "follow all instructions" in order to accomplish the test.

c. History-Check Requirement

i. Compliance. Prior to the first time that the Company uses a driver (i.e., a new hire or an employee transferring into the safety-sensitive position) the Company will require a "history check" of the driver. The history check will look back into the driver's past three years of DOT employment for DOT violations. History checks are conducted only after obtaining the driver's written authorization to do so. Any driver refusing to provide written consent will not be permitted to perform safety-sensitive functions. The Company will not allow the driver to perform their functions after 30 days from the date on which the driver first performed safety-sensitive functions, unless the Company has obtained or made and documented a good faith effort to obtain drug testing information from previous DOT regulated employers.

1. Information request. The Company will request the following information about the driver:
 - a. Alcohol tests with a result of 0.04 or higher alcohol concentration;
 - b. Verified positive drug tests;
 - c. Refusals to be tested (including verified adulterated or substituted drug test results);
 - d. Other violations of DOT agency drug and alcohol testing regulations; and
 - e. With respect to any driver who violated a DOT drug and alcohol regulation, documentation of the driver's successful completion of DOT return-to-duty and follow-up requirements.
 2. The Company will make at least one attempt by telephone, e-mail or fax, and maintain documentation associated with the attempt to obtain history-check information (e.g., date and time of the attempt, person contacted). If the Company finds evidence of past DOT violations, those violations may be used as the sole reason for not hiring the individual or for termination.
- ii. Violation Consequences.** The Company will not use any driver who has had a past DOT violation and has not complied with DOT eligibility standards for returning to safety-sensitive work. The Company will also ask the driver if they had any pre-employment test that was positive for which the previous employer did not hire them. The driver's answer to this question will be maintained as part of the driver's history-check information.

d. Notification of Tests

Drivers will be notified directly when a test must be conducted. While the circumstances for a test will differ by its reason-for-test, the Company will endeavor to conduct all tests with only a limited number of Company personnel having knowledge of the reason for the test.

All testing will be unannounced until the last possible moment. The timing will vary in conjunction with the reason-for-test. For example, a pre-employment test will be announced during the job application; a random test is announced within the test period, but just prior to the test, to maintain the element of surprise; and, announcements of post-accident or reasonable suspicion tests are controlled by the circumstances that come to light around the time of the event (e.g., accident). All alcohol testing will be conducted just prior to, during, or just after the performance of safety-sensitive duties. Drug tests may be conducted anytime the driver is at work.

The DER and Company supervisors will be responsible for notifications and to help maintain the element of confidentiality. When a driver is notified for a test, the driver must proceed to the collection site immediately. Immediately means that after notification, all the driver's actions must lead to an immediate specimen collection (or test). The Company considers "travel time to the collection site, plus 30 minutes" as the maximum acceptable interval of time between notification and testing.

In test situation such as post-accident and reasonable suspicion/case, where the driver's job performance is called into question, supervisors will use their discretion and training to minimize further confrontation. A reasonable attempt will be made by the supervisor to isolate and inform the driver of the decision to test, the steps that must be taken to accomplish the test, and the consequences of refusing the test. If possible, for post-accident and reasonable suspicion tests, the

Company will have the DER or a supervisor accompany the driver to the collection site. In post-accident test situations occurring where the supervisor is not present, the Company will provide the driver with necessary post-accident information and instructions so that the driver will be able to comply with post-accident testing.

e. DOT Drug Violations

i. Drug Violations. The following provide a listing of DOT drug violations of driver:

1. A verified positive drug test results;
2. A refusal to be tested, determined by:
 - a. Having a verified adulterated or substituted drug test results;
 - b. Failing to appear for any drug test (except a pre-employment test) within a reasonable time, as determined by the Company, after being directed to do so by the Company;
 - c. Failing to remain at the drug testing site until the testing process is complete;
 - d. Failing to provide a urine specimen for any drug test;
 - e. Failing to allow a directly observed or monitored collection in a drug test that requires such a collection procedure;
 - f. Failing to provide a sufficient amount of urine for a drug test when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
 - g. Failing or declining to take an additional drug test the employer or collector has directed you to take;
 - h. Failing to undergo a medical examination or evaluation, as directed by the MOR as part of the verification process, or as directed by the DER; or,
 - i. Failing to cooperate with any part of the testing process (e.g., refuse to employ pockets or failure to wash hands when so directed by the collector, behave in a confrontational way that disrupts the collection process, tampering with a specimen).
 - j. For an observed collection, fail to follow the observer's instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process.
 - k. Possess or wear a prosthetic or other device that could interfere with the collection process.
 - l. Admit to the collector or MRO that a specimen has been adulterated or substituted.
3. On-duty use of any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in § 382.107, and who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

f. DOT Alcohol Violation and Prohibited Conduct

i. Alcohol Violations. The following provides a listing of DOT alcohol violations of drivers:

1. A test results of 0.04 or higher alcohol concentration;
2. A refusal to be tested, determine by:

- a. Failing to appear for any alcohol test (except a pre-employment test) within a reasonable time, as determined by the Company, after being directed to do so by the Company;
 - b. Failing to remain at the alcohol testing site until the testing process is complete;
 - c. Failing to provide an adequate amount of saliva or breath for an alcohol test;
 - d. Failing to provide a sufficient amount of breath for an alcohol test when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
 - e. Failing to undergo a medical examination or evaluation, as directed by the DER;
 - f. Failing to sign the certification statement on Alcohol Testing Form; or,
 - g. Failing to cooperate with any part of the testing process.
- 3. On-Duty use of alcohol while performing safety-sensitive functions.
 - 4. Pre-duty use of alcohol within four (4) hours prior to performing safety-sensitive functions.
 - 5. Use of alcohol within eight (8) hours following an accident unless the driver has already been given a post-accident alcohol test.

ii. Alcohol Prohibited Conduct. The following is prohibited conduct of drivers:

- 1. A test result of 0.02 or greater alcohol concentration, but less than 0.04.

g. Violation Consequences and Company Actions

i. After DOT Rule Violations. The Company will not allow any driver who has a DOT drug or alcohol violation to perform safety-sensitive functions for the Company. Immediately, upon learning of the violation, the DER shall assure the removal of the driver from all safety-sensitive duties. That driver will be ineligible to work in any DOT safety-sensitive function for the Company until the driver has successfully completed the DOT return-to-duty process. The Company will refer the driver to a Substance Abuse Professional (SAP) as soon as practicable after the verified violation report.

ii. After DOT Alcohol Prohibited Conduct. The Company will not allow any driver to perform, or continue to perform, any safety-sensitive functions under Part 382 when the driver is found to have an alcohol concentration of 0.02, or higher, but less than 0.04. The Company may not use the driver in a safety-sensitive function until the start of the driver's next regularly scheduled shift, which must not be less than twenty-four (24) hours following the test that indicated "prohibited conduct".

h. Drug and Alcohol Tests

i. Compliance. The Company will ensure that each driver will be drug and/or alcohol tested for the following reasons when called for by Part 382. All drug and alcohol tests will be conducted following the procedures of Part 40.

ii. Pre-Employment. A pre-employment drug test will be conducted before an individual is hired or used to perform safety-sensitive functions. Pre-employment tests are also required of drivers returning from a leave of absence greater than 30 days who have not been participating in the Company's drug and alcohol program and subsequently subject to the random selection process. A negative DOT urine drug test result is required prior to performing safety-sensitive functions. DOT does not allow the use of a "quick test" or any other methodology other than laboratory-based urine testing for confirmation of a positive test.

- iii. Post-Accident Testing.** The Company will conduct both a drug test and an alcohol test after an accident. As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, the Company shall test for drugs and alcohol for each of its surviving drivers: (1) Who was performing safety-sensitive functions with the respect to the vehicle, if the accident involved the loss of human life; or (2) Who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved: (i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle. Table 1 notes when a post-accident test is required.
1. A post-accident drug test shall be conducted on each driver as soon as possible but no later than 32 hours after the accident. A post-accident alcohol test shall be conducted on each driver as soon as possible but no later than 8 hours after the accident. The Company must take all reasonable steps to test the driver after an accident, but any injury should be treated first. The Company will not delay necessary medical attention for an injured driver following an accident, prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.
 2. A driver who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the Company or Company's representative of their location if they leave the scene of the accident prior to submission to such test, may be deemed by the Company to have refused to submit to testing. Depending on the circumstances of the accident. And if feasible, the driver will not be allowed to perform safety-sensitive functions pending the results of the drug test.
 3. In situations where an accident occurs away from the Company's principal place of business (e.g., "on the road") the responsibility of accomplishing the post-accident tests falls on the driver. The driver must immediately contact the Company, the DER, or other designated Company representation for information and instructions on how to get the test done.
- iv. Exception.** All drug and alcohol testing under Part 382 and this Plan must conform to Part 40 standards, with one exception – that being post-accident testing. In only a post-accident situation, the results of a breath or blood test for the use of alcohol, conducted by Federal, State, or local officials having independent authority for the test, meet the requirements of acceptable alcohol testing, provided such tests conform to the applicable Federal, State or local alcohol testing requirements, and that the results of the tests are obtained by the Company. Likewise, in only a post-accident situation, the results of a urine test for the use of drugs, conducted by Federal, State, or local officials having independent authority for the test, meet the requirements of acceptable drug testing, provided such tests conform to the applicable Federal, state or local controlled substances testing requirements, and that the results of the tests are obtained by the employer.

Post-Accident Test Criteria

Type of Accident Involved	Citation issues to the CMV driver	Test must be performed by Employer
Human fatality	YES	YES
	NO	YES
Bodily injury with immediate medical treatment away from the scene	YES	YES
	NO	NO
Disabling damage to any motor vehicle requiring tow away	YES	YES
	NO	NO

Table 1

v. Random Drug Testing. The Company will conduct a number of random drug and alcohol tests each calendar year that meets or exceeds the current minimum annual percentage random testing rate. The minimum rate for random drug testing, set by FMCSA regulations, is 25 percent of the Company's drivers. The minimum rate for random alcohol testing, set by FMCSA regulations, is 10 percent of the Company's drivers. The Company may use the services of the C/TPA to manage all aspects of the Company's random testing program. If the Company conducts random testing through a C/TPA, the number of drivers to be tested may be calculated for each individual Company or may be based on the total number of drivers covered by the C/TPA who are subject to random testing.

All drivers will be immediately placed in a drug and alcohol random pool after obtaining a negative result on their pre-employment test. Drivers will remain in the random selection pool at all times, regardless of whether or not they have been previously selected for testing. The selection of drivers shall be made by using a computer-based, scientifically valid method (e.g., random number generator or equivalent random selection method) that is matched with a driver's social security number or driver ID number. The DER will assure the pools contain driver social security number or driver identification numbers that are current, complete, and correct. Drivers will have an equal chance of being selected for testing. Drivers are subject to both random alcohol and drug testing.

Random testing will occur on a quarterly basis. Prior to selection, the DER shall ensure that the random testing pool has been updated to include all current drivers in the Company's workforce. The number of tests to be conducted will be based on the number of drivers at the beginning of each quarter's test cycle. The DER, or C/TPA, shall use the random selection procedures to compile lists of drivers selected for drug and alcohol testing in each testing cycle. The number of drivers selected on each list shall be sufficient to assure that the minimum number of required tests can be achieved for both drugs and alcohol. The list of

drivers selected will be retained by the DER in a secure location until the time of testing when the list will then be provided to the appropriate division manager, department head, or supervisor who will, in turn, notify the driver(s) to report for testing. Random testing is unannounced, with drivers being notified that they have been selected for testing after they have reported for duty on the day of collection. All testing will be conducted on different days of the week throughout each test cycle to prevent drivers from matching their substances use patterns to the schedule for testing.

Once notified by the appropriate Company official, drivers will be instructed to report immediately to the collection site.

vi. Reasonable Suspicion/Cause Testing. The Company will conduct reasonable suspicion testing, also known as reasonable cause testing, based on the Company's observation of "signs and symptoms" of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver.

The supervisor making the determination to test shall document, in writing, the behavioral signs and symptoms that support the determination to conduct a reasonable suspicion/cause test. This documentation of the driver's conduct shall be prepared and signed within 24 hours of the observed behavior or before the results of the tests are released, whichever is earlier. Refer to the Post Accident or Reasonable Cause/Suspicion Supervisor Written Record. The driver will be tested for drugs if the supervisor believes the driver has violated the prohibitions of Part 382 and this Plan concerning drugs. The driver will be tested for alcohol if the supervisor believes the driver has violated the prohibitions of Part 382 and this Plan concerning alcohol. In situations where the supervisor is sure of the signs and symptoms but unsure of the substance, the driver will be tested for both drugs and alcohol. The potentially affected driver should not be allowed to proceed along to or from the testing site. In addition to the safety concerns for the driver, accompanying the driver also assures that there is no opportunity en route to the testing site for the driver to compromise the test through any method of tampering that could affect the outcome of the test result.

The driver shall not perform a safety-sensitive function pending the receipt of the drug test results. The driver should make arrangements to be transported home. The driver should be instructed not to drive any motor vehicle due to the reasonable belief that they may be under the influence of a drug. If the driver insists on driving, a supervisor should notify the proper local law enforcement authority that a driver believed to be under the influence of a drug or alcohol is leaving the Company premises driving a motor vehicle.

vii. Return-to-Duty Testing. The Company will conduct a return-to-duty test prior to a driver returning to safety-sensitive duty following a DOT violation. When a driver has a DOT violation they cannot work again in any DOT safety-sensitive function until successfully completing the Substance Abuse Professional (SAP) return-to-duty requirements. Only after the SAP has reported to the Company that the driver is

eligible to return to safety-sensitive duties is the Company authorized to return the driver to a safety-sensitive function. However, whether or not to do so is a business decision of the Company, not the DOT. When the Company makes the decision to return the driver to safety-sensitive duty, the Company will initiate the order for the return-to-duty test. All return-to-duty drug tests will be conducted using direct-observation collection procedures.

A return-to-duty test, as a minimum, will be for the substance associated with the violation. A return-to-duty test may, however, be for both drugs and alcohol. The decision belongs solely to the SAP from information gained during the SAP-evaluation/treatment processes. The results of a return-to-duty test must be negative for drugs and less than 0.02 for alcohol in order “to count” and allow the driver to return to work. A cancelled test must be recollected. A positive drug test, an alcohol test of 0.04 or higher, or a refusal-to-test will be considered as a new separate violation. When the driver “passes” his return-to-duty test, their name is immediately placed into the Company’s random testing pool.

viii. Follow-up Testing. The company will conduct follow-up testing, as a series of tests that occur after a driver returns to safety-sensitive work, following a negative result on the return-to-duty drug and/or alcohol tests. Follow-up testing, as a minimum, will be for the substance associated with the violation. In addition, follow-up testing may be for both drugs and alcohol, as directed by the SAP’s written follow-up testing plan.

Follow-up testing is the Company’s responsibility to conduct. Follow-up testing will run concurrently with random testing. All follow-up drug tests will be conducted using direct observation collection procedures. The results of a follow-up must be negative for drugs and less than 0.02 for alcohol. A cancelled test must be recollected. A positive drug test, an alcohol test of 0.04 or higher, or a refusal-to-test will be considered as a new, separate violation.

The number and frequency of the follow-up tests will be determined by the SAP, but shall consist of at least six tests in the first 12 months following the driver’s return to duty. The follow-up plan will give both the number of tests and their frequency; the Company will select the actual day and time of the test and tests are unannounced. Follow-up testing shall not exceed 60 months from the date of the driver’s return to duty. The SAP may determine the requirement for follow-up testing at any time after the first six tests have been administered, if the SAP determines that such testing is no longer necessary.

V. DRUG PROGRAM

a. Drug Tests that Require Direct Observation Procedures

i. Compliance. The Company will conduct all return-to-duty and follow-up tests using the direct observation collection procedures specified by Part 40. Pre-employment, post-accident, reasonable suspicion/cause, and random drug tests are normally conducted by giving the driver the privilege of privacy when providing the urine specimen. However, should it become required that these collections be conducted under direct observation procedures, the Company will convey instructions to the

collector to ensure that this occurs. Direct observation procedures will also be used for collections when a specimen is provided and the temperature is out of range, when the specimen appears to have been tampered with or when a previous specimen has been reported as invalid, adulterated, substituted or negative-dilute with a creatinine concentration greater than or equal to 2 mg/dl but less than or equal to 5 mg/dl, as defined in Part 40.

b. Specimen Collection Procedures

- i. Compliance.** The Company will follow the requirements of Part 40 for its DOT collections. A full description of DOT collection requirements that collectors will follow can be found in Part 40, Subpart C (“Urine Collection Personnel”), Subpart D (“Collection Sites, Forms, Equipment and Supplies Used in a DOT Urine Collection”), and Subpart E (“Urine Specimen Collections”).
- ii. Collection Site Personnel.** The Company will ensure that collection sites, utilized by its drivers are aware of their responsibilities with regard to the DOT specimen collection process. These responsibilities are to collect urine specimens using Part 40 procedures, ship the specimens to a Department of Health and Human Services (HHS) certified laboratory for analysis, and distribute copies of the Federal Drug Testing Custody and Control Form (CCF) to the laboratory, Medical Review Officer, employer or employer’s C/TPA, and driver in a confidential manner. All attempts are made to use collectors who have been trained in accordance with Part 40. The Company, or the Company’s C/TPA, will ask the collection sites conducting DOT collections to attest to the fact that they comply with DOT standards of practice. Any collection site that fails to attest to this goal will not be used by the Company for a DOT collection. The direct supervisor of a driver shall not serve as a collector in conducting any required drug test unless it is otherwise impracticable.
- iii. Collection Site, Forms, and Specimen.** The Company will provide the driver with the specific location of the collection site where the drug test will take place. In some cases, the Company will provide the driver with a drug testing kit, which includes the CCF, to present to the collector. The only specimen that will be collected for any DOT collection is urine; the only form that will be used is the Federal CCF.
- iv. Collections.** The Company will inform every driver that they are required to carry and present a current valid photo ID, such as a driver’s license, passport, or employer-issued picture ID to the collection site. The driver will be advised that the collector will ask them to empty their pockets, remove any unnecessary garments (the driver may retain their wallet), and wash and dry their hands prior to the collection. The driver will be instructed to follow the collector’s instructions throughout the collection process. Normally, the driver will be afforded privacy to provide a urine specimen. Exceptions to the rule generally surround issues of attempted adulteration or substitution of a specimen or any situation where questions of specimen validity arise, like an unusual specimen temperature.

After the driver has provided the specimen (a minimum of 45 ml) of their urine into a collection container, the collector will check the temperature and color of the urine. All DOT collections are “split specimen collections”. The collector will pour the urine into two separate bottles (bottle “A” as the primary specimen and bottle “B” as split specimen), seal them with tamper-evident tape, and then ask the driver to initial the seals after they have been placed on the bottles. (Remember: Neither the driver nor the

collector should let the specimen out of their sight until it has been poured into two separate bottles and sealed). Next, the driver will write their name, date of birth, and daytime and evening phone numbers on the MRO Copy (Copy 2) of the CCF. This is so the MRO can contact the driver directly if any questions arise about their test.

Lastly, the collector will complete the necessary documentation on Copy 1 of the CCF and package the CCF and the two specimen bottles in the plastic bag and seal the bag for shipment to the laboratory. Copies of the CCF will be distributed: Copy 2 to the MRO and Copy 4 to the employer or the employer's C/TPA; the collector keeps Copy 3; and, the driver gets Copy 5. The driver may list any prescription and over-the-counter medications they may be taking on the back of their copy of the CCF (this may serve as a reminder for the driver in the event the MRO calls to discuss their test results).

v. Possible collection issues. If the driver is unable to provide 45 ml of urine on the first attempt, the time will be noted, and they will be required to remain in the testing area under the supervision of the collection site personnel, their supervisor, or a representative from their Company (e.g., supervisor accompanying the driver). Leaving the testing area without authorization may be considered a refusal to test. The driver will be urged to drink up to 40 oz. of fluid, distributed reasonably over a period of up to three hours, and asked to provide a new specimen (into a new collection container). If the DER is contacted, the DER should instruct the driver to remain at the collection site to complete the collection process. If the driver does not provide a sufficient specimen within three hours, the DER, in consultation with the MRO, will direct the driver to obtain a medical evaluation within five days to determine if there is an acceptable medical reason for not being able to provide a specimen. If it is determined that there is no acceptable physiological or pre-existing psychological reason for not providing a urine specimen, it will be considered a refusal to test.

vi. Directly Observed Collections. If a direct observation collection is required of the driver, the Company will ensure that the DOT requirements (i.e., direct observation by same-sex collector, observation of body-to-bottle urination, and use of full turn-around observation) procedures are followed.

c. Drug Testing Laboratory

- i. Compliance.** The Company will employ a laboratory that will follow the requirements of Part 40 for the Company's DOT drug tests.
- ii. Laboratory.** The Company shall ensure that all DOT testing is conducted only by a laboratory that is certified by the Department of Health and Human Services (HHS) under the National Laboratory Certification Program (NLCP). Doing so ensures that the Company complies with the requirements of Part 40 and with all applicable requirements of HHS in testing DOT specimens, whether or not those requirements are explicitly stated in the Plan. The laboratory used by this Company is specified in Appendix B. The laboratory will report the certified results to the MRO and only to the MRO, at the address provided on the Federal CCF. Results will not be reported directly to the Company or to or through another service agent, such as the C/TPA.
- iii. Specimen.** Beginning on January 1, 2025, both urine and saliva specimens will be authorized for DOT drug testing. A "quick test" (e.g. a urine test that produces an immediate test result) is also prohibited by the DOT.
- iv. Drug Testing.** The laboratory will ensure that, on each DOT test, each specimen is tested for marijuana, cocaine, amphetamines, opiates, and phencyclidine (PCP). (See

Table 2, pg 23) The testing is a “two step” process: all presumptive positive results on the initial test must be confirmed by a confirmation test. The initial and the confirmation tests use different chemical principles and separate portions of the original specimen, for testing. DOT specimens will not be tested for any other drugs. DOT specimens will not be subjected to DNA testing.

- v. **Validity Testing.** The laboratory will ensure that, on each DOT test, each specimen is also subjected to “validity testing”. The purpose of validity testing is to determine if the driver tampered with their specimen during the collection process. Validity testing measures the creatinine concentration and specific gravity to detect a diluted or substituted specimen; pH is measured as one criterion established to detect an adulterated specimen. Validity testing also incorporates HHS criteria (used by DOT) in testing for specific adulterants such as nitrites, chromates, surfactants, and other active chemical compounds.
- vi. **Laboratory Specimen Handling and Reporting.** When the laboratory receives a DOT specimen they will unpack and enter it into the testing process. Part of that process is to examine the condition of the specimen bottles and accompanying CCF. The laboratory will look closely for any specific reason to stop the testing process (i.e. “fatal flaws”). If the laboratory determines a fatal flaw exists, the specimen is rejected for testing. If a fatal flaw does not exist, the specimen will be tested. DOT specimens are limited to four fatal flaws. They are:
 1. Specimen ID numbers on the CCF and the bottles do not match.
 2. Not enough urine and the bottles cannot be redesignated.
 3. Signs of tampering and the bottles cannot be redesignated.
 4. Collector’s printed name and signature are missing.

The laboratory will open only the primary specimen (“A” bottle) to conduct the two tests (initial and confirmatory). If the specimen tests negative in either test and does not have any specimen validity issues, the result will be reported to the MRO as a negative. Only if the specimen test results are positive, adulterated, substituted, and/or invalid under both tests will the specimen be reported to the MRO as a positive, adulterated, substituted, and/or invalid, respectively. These results are also referred to as “non-negative” results.

Required DOT Drug Tests & Cutoffs

TYPE OF DRUG Initial Test Analyte	INITIAL TEST Cutoff Concentration	CONFIRMATORY TEST Analyte	CONFIRMATORY TEST Cutoff Concentration
Marijuana metabolites	50ng/mL	THCA ¹	15 ng/mL
Cocaine metabolites	150 ng/mL	Benzoyllecgonine	100 ng/mL
Opiate metabolites: Codene/Morphine	2000 ng/mL	Codeine Morphine	2000 ng/mL 2000 ng/mL
6-acetylmorphine (6-AM)	10 ng/mL	6-acetylmorphine (6-AM)	10 ng/mL
Phencyclidine (PCP)	25 ng/mL	Phencyclidine	25 ng/mL
Amphetamines: AMP/MAMP MDMA	500 ng/mL	Amphetamine Methamphetamine MDMA ² MDA ³ MDEA ⁴	250 ng/mL 250 ng/mL 250 ng/mL ⁵ 250 ng/mL

Table 2

d. Laboratory Retention Periods and Reports

- i. Specimen Retention.* Specimens that are confirmed by the laboratory to be positive, adulterated, substituted, or invalid will be retained by the laboratory in properly secured, long-term, frozen storage for at least 365 days. Within this 365 day period, the MRO, the driver, the Company, FMCSA or other state agencies with jurisdiction, may request in writing that the specimens be retained for an additional period. If the laboratory does not receive the request to retain the specimen within the 365-day period, the specimen will be discarded.
- ii. Record retention.* All laboratory records pertaining to any test for this Company on its drivers will be retained for two years. The employer-specific data that is created by the laboratory for the laboratory statistical summary will be retained for two years.
- iii. Semi-annual reports.* The laboratory will prepare and send to the Company the aggregate employer-specific summary on a semi-annual basis. The format for this report is found in Part 40, Appendix B.

e. Laboratory Quality Control

- i. Inspections.* The laboratory shall permit inspections by the Company, the FMCSA Administrator, or if the Company is subject to the jurisdiction of a state agency, a representative of the state agency. Additionally, if the Company uses a C/TPA, that C/TPA may conduct a periodic inspection of the laboratory on the behalf of the companies that are clients of the C/TPA.

- ii. Quality Control.** If the Company, or any C/TPA employed by the Company, has 2000 or more safety-sensitive employees, the Company will submit quality control specimens to any laboratory where they have more than 100 specimens tested each year. The rate of quality control specimens is 1% with a cap at 50 per quarter. At any time that the Company, or any C/TPA employed by the Company, reaches the 2000-employee threshold, quality control specimens will be submitted following the specifications of Part 40. Quality control specimens, known as “blind” specimens to the laboratory, will appear to be real employee specimens. The MRO will be informed of each test result and expected outcome.
- iii. Reporting discrepancies.** The MRO will inform the Company or its C/TPA of any discrepancy in the expected result of any blind specimen. The MRO and C/TPA will resolve any discrepancies in the expected outcomes with this testing. If the unexpected outcome is positive, adulterated, or substituted where the expected outcome was to be negative, the MRO will report this results directly to DOT/ODAPC, in accordance with Part 40.

f. MRO Review of Drug Test Results

- i. Compliance.** The Company will have, on staff or contract for the services of, an MRO who is a licensed physician with knowledge of drug abuse and is qualified under Part 40. The MRO will follow the requirements of Part 40 in carrying out the functions of the “independent and impartial gatekeeper of the drug testing process”. A full description of DOT MRO requirements can be found in Part 40, Subpart G (“Medical Review Officers and the Verification Process”), and Subpart H (Split Specimen Testing).
- ii. Duties.** All confirmed drug test results for the Company are received by the MRO directly from the laboratory. The MRO is responsible for the review of both negative and non-negative test results, review of the CCFs associated with each test, and to conduct quality control reviews of the MRO staff. The MRO will review and interpret confirmed positive, adulterated, substituted, and invalid test results. In carrying out this responsibility, the MRO shall examine alternate medical explanations for any positive, adulterated, substituted, or invalid test result. This action would include conducting a medical interview with the driver and review of the driver’s medical history, or review of any other relevant biomedical factors, such as the results of a physical examination following an opiate positive. The MRO shall review medical records made available by the tested driver when the source of the confirmed result could have been legally prescribed medication. The MRO shall not, however, consider the results of urine or other specimens that are not obtained or processed in accordance with DOT regulations.
- iii. Results.** The MRO will use staff under his direct supervision to handle administrative processes for negative test results including receiving the result from the laboratory, reviewing the paperwork for accuracy, and reporting of the result to the DER.

The MRO staff may make the initial contact with drivers having confirmed positive, adulterated, substituted, and invalid test results, for the purposes of setting up an interview for the MRO. The MRO will personally conduct the interview with the driver to determine whether there is a legitimate medical explanation for these results. This interview will be conducted, in most cases, before the Company is

notified. If the result is confirmed positive, and a legitimate medical explanation is established, the MRO will report the result to the DER as negative. If no, the MRO will report the result to the DER as positive. If the confirmed result is adulterated or substituted, and a legitimate medical explanation is established, the MRO will report the result to the DER as cancelled and notify ODAPC, in accordance with Part 40 procedures. If not, the MRO will report the result to the DER as a refusal to test. If the result is invalid, and an acceptable reason is established, the MRO will report the result to the DER as cancelled and the process will stop, unless a negative test result is needed (e.g., pre-employment, return-to-duty). If an acceptable reason is not established, the MRO will report the result to the DER as cancelled and order an immediate recollection under direct observation.

- iv. Reports.* All drug test results will be reported to the Company DER in a confidential and timely manner. Before reporting any results, the MRO will have received a copy of the CCF showing where the driver has signed the form. The time period from collecting the specimen to reporting the verified is generally shorter for negatives than for non-negatives. Non-negatives will not be reported to the DER until all information required for the driver interview is received and approved by the MRO. The Company may use a C/TPA as its intermediary in receiving drug test results. If so, those reports will be handled in accordance with Part 40 requirements. If the MRO does not use Copy 2 of the CCF for reporting results, the MRO will maintain a copy of the signed or stamped report in addition to the signed or stamped and data Copy 2. If the MRO uses an electronic data file to report negatives, the MRO will maintain a retrievable copy of that report in a format suitable for inspection and auditing by a DOT representative.

g. Split Specimen Testing

- i. Split Specimen.* When the MRO has verified a result as positive, adulterated, or substituted, the MRO will notify the driver of his right to have the split specimen tested. The driver must notify the MRO within 72 hours of the result being verified in order to have this testing conducted. If the driver requests that the split specimen be tested within the 72-hour period, the MRO will ensure that the split specimen is tested. Testing of the split specimen is only conducted at the request of the driver, and then only after using the MRO as the requesting agent for the driver.

The Company is responsible for making sure that the MRO, first laboratory, and the second laboratory perform the functions noted in Part 40 in a timely manner, once the driver has made a timely request for a test of the split specimen (e.g., by establishing appropriate accounts with laboratories for testing split specimens).

The Company must not condition compliance with these requirements on the driver's direct payment to the MRO or laboratory or the driver's agreement for reimbursement of the costs of testing. For example, if the Company asks the driver to pay for some or all of the cost of testing the split specimen, and the driver is unwilling or unable to do so, the Company must ensure that the test takes place in a timely manner, which means that the Company will pay for the split testing. The Company may seek payment or reimbursement of all or part of the cost of the split specimen from the driver. Part 40 takes no position on who ultimately pays the cost

of the test, so long as the Company ensures that the testing is conducted as required and the results released appropriately.

ii. Laboratory. The testing of the split specimen will be conducted at another HHS-certified laboratory, different from the original laboratory. The Company will select the second laboratory. The split specimen will be tested for the same substance or condition that was found in the primary specimen. The MRO will report back to the DER and the driver whether the split reconfirms the primary. If the test of the split does not reconfirm the primary, both tests will be cancelled as if they never occurred.

h. Medical Marijuana. The DOT and the Company do not accommodate the use of the medical marijuana by DOT-Safety-sensitive employees.

VI. ALCOHOL PROGRAM

a. Alcohol Test

i. Compliance. The Company will follow Part 40 procedures for alcohol testing. These procedures apply to all DOT alcohol tests regardless of the reason for the test.

ii. Personnel and Testing Devices. The Company will only use qualified Screening Test Technicians (STT) or Breath Alcohol Technicians (BAT) for DOT alcohol tests. These technicians will only conduct the test using DOT-approved devices. Devices are approved by the National Highway Traffic Safety Administration (NHTSA), an agency of DOT, and placed on the Conforming Products List (CPL).⁶ The devices used by the Company will be maintained according to the particular manufacturer's specifications in the Quality Assurance Plan (QAP). External calibration checks will be performed at the intervals specified in the manufacturer's instructions for any EBT used for DOT-required alcohol confirmation testing.

v. Testing Site, Forms, and Specimen. The Company will provide the driver with the specific location where the test will take place. Tests will be conducted in an area to prevent unauthorized people from hearing or seeing the driver's test result. The Company will remind the driver that failure to sign the DOT Alcohol Testing Form at the instruction of the testing technician will be viewed as a refusal to test. The alcohol screening test may be conducted with breath or saliva, as applicable for the device used by the testing technician. Only breath will be used for the confirmation test, which is conducted by a BAT using an EBT.

vi. Test. The Company will inform the driver that they are required to carry and present a current valid picture ID, such as a driver's license, passport, or employer-issued picture ID to the testing site. The testing technician will perform a screening test and show the driver the test result. If the screening test result is an alcohol concentration of less than 0.02, no further testing is authorized, and there is no DOT action to be taken. The technician will document the result on the ATF, provide the driver a copy and also provide the Company and/or the Company's C/TPA a copy. If the screening test result is 0.02 or greater, the driver will be required to take a confirmation test, which can only be administered by a BAT using an EBT. The BAT will wait at least 15-minutes, but not more than 30 minutes, before conducting the confirmation test. During that time, the driver will not be allowed to eat, drink, smoke, belch, put anything in their mouth or leave the testing area. Leaving the testing area without authorization may be considered a refusal to test. The BAT will perform an "air blank" (which must read 0.00) on the EBT device to ensure that there is no residual alcohol in the EBT or in the air around it. The confirmation test result is the final

result of the test, and the result will be shown to the driver and on the printout from the EBT. If the result is less than 0.02, no action is taken under Part 382. Any result of 0.02 or greater will be immediately reported to the Company.

VII. PROGRAM ELEMENTS COMMON TO DRUG AND ALCOHOL

a. Substance Abuse Professional

- i. Compliance.** The Company will follow the requirements of Part 40 for its Substance Abuse Professional (SAP) obligations. A full description of the SAP requirements is in Part 40, Subpart O ("Substance Abuse Professionals and the Return-to Duty Process").
- ii. Qualifications.** The Company will refer drivers only to SAP's who have the credentials, basic knowledge, and qualification training, including fulfilling obligations for continuing education courses, for DOT violations. The SAP will not be an advocate for the Company or the driver. The SAP's function is to protect the public interest in safety by professionally evaluating the driver and recommending appropriate education/treatment, follow-up tests, and aftercare.
- iii. SAP Referral.** The Company will provide to each driver who violates a DOT drug and alcohol regulation a listing of SAP's readily available to the driver and acceptable to the Company. The list will include SAP names, addresses, and telephone numbers. There will not be a charge to the driver for compiling or providing this list. The Company may use its C/TPA or other service agent to provide this information. Any driver who has violated DOT drug and alcohol regulations cannot again perform any DOT safety-sensitive duties for this Company until and unless the driver successfully completes the SAP evaluation, referral, and education/treatment process. I
- iv. Payment.** The Company is not required to pay for a SAP evaluation or any subsequent recommended education or treatment for a driver who has violated a DOT drug and alcohol regulation.
- v. Company Responsibility.** The Company is only bound by DOT to ensure that if the driver is provided an opportunity to return to a DOT safety-sensitive duty following a violation, that the Company ensure that the driver receives an evaluation by a SAP meeting the requirements of Part 40 and that the driver successfully complies with the SAP's evaluation recommendations before returning to the safety sensitive job. Even if a SAP believes that the driver is ready to return to safety-sensitive work, the Company is under no obligation to return the driver to work. Under the DOT regulations, hiring and reinstatement decisions are left to the employer. The DOT leaves all payment issues for SAP evaluations and services to the Company and the driver to resolve.
- vi. SAP Process.** The SAP will make a face-to-face clinical assessment and evaluation to determine what assistance is needed by the driver to resolve problems associated with alcohol and/or drug use. The SAP will refer the driver to an appropriate education and/or treatment program. At the completion of the education and/or treatment, the SAP will conduct a face-to-face follow-up evaluation to determine if the driver actively participated in the education and/or treatment program and demonstrated successful compliance with the initial assessment and evaluation recommendations. Reports will be provided to the Company on both the initial requirements and the outcome of the follow-up evaluation. The report will be specific and will include all of the Part 40 requirements of a written SAP report. The SAP will provide the DER with a

written follow-up drug and/or alcohol testing plan for the driver and, if deemed necessary, will also provide the driver and the Company with recommendations for continuing education and/or treatment.

- b. **Employee Assistance Program** – The Company may provide an Employee Assistance Program (EAP) for its drivers and supervisors. The EAP may be established “in house”, as part of internal personnel service or may be contracted to an entity that provides EAP services at other locations. The function of the EAP will be to provide drivers with informational material on the awareness and danger of drug and alcohol use. General EAP-information material, such as the availability of brochures or videos, and community service “hotline” telephone numbers will be displayed in common areas and distributed to drivers. Drivers will be encouraged to call the hotline if needed. Additionally, this Plan will be displayed and made available to all drivers. The Plan contains the employer’s policy regarding the use of prohibited drugs and alcohol misuse. The areas and places in which the above material will be displayed include employee bulletin boards, break rooms, locker rooms, or other areas designated by the Company.
- c. **Supervisor Training** – Each supervisor who will determine whether a driver must be drugtested and/or alcohol tested based on reasonable suspicion/case will be trained in the “sign and symptoms” of each substance. Each supervisor will receive one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use and one 60-minute period of training on specific, contemporaneous physical, behavioral, and performance indicators of probable alcohol use. The two 60-minute training periods may run concurrently.

d. **Recordkeeping**

- i. **Compliance.** The Company will ensure that all records required by the DOT are maintained. The Company is not required to keep records related to a program requirement that does not apply to Part 40 or 382. The Company or its C/TPA will maintain the records in a locked file system and will be accessed only on a strict “need to know” basis. The Company or its C/TPA will not release a driver’s drug and alcohol records to third parties without the driver’s specific written consent. A “third party” is any person or organization to whom Parts 40 and 382 do not explicitly authorize or require the transmission of information in the course of the drug and alcohol testing process. “Specific written consent” means a statement signed by the driver that he or she agrees to the release of a particular piece of information to a particular, explicitly identified, person or organization at a particular time.

The Company or its C/TPA will release the driver’s information without consent to DOT, FMCSA, or other government agency having regulatory authority over the Company or driver without consent. The Company or its C/TPA will release the driver’s information without consent as a part of an accident investigation by the National Transportation Safety Board. The Company or its C/TPA will release the driver’s information without consent in certain legal proceedings. These proceedings include a lawsuit, grievance, administrative proceeding (e.g., an unemployment compensation hearing brought by or on behalf of a driver resulting from a positive drug or alcohol test or refusal to test), a criminal or civil action resulting from a driver’s performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information sought is relevant to the case and issues an order directing the

Company to produce the information. In such a proceeding, the information will be released to the decision maker in the proceeding with a binding stipulation that the decision maker to whom it is released will make it available only to parties to the proceeding. After releasing the information, the Company or its C/TPA will notify the driver.

If the Company uses a C/TPA to maintain the records, the Company will ensure that the C/TPA can produce these records at the Company's principal place of business in the time required by the DOT agency for an inspection. The records will be provided within two business days after receipt of the request. The records will be provided within two business days after receipt of the request. Most records will be stored electronically, where permitted by Part 40 and 382. The Company will ensure that the records are easily accessible, legible, and formatted and stored in an organized manner. If electronic records do not meet these criteria for the DOT inspector, the Company will convert them to printed documentation in a rapid and readily auditable manner, at the request of DOT agency personnel.

ii. Records and Retention Periods. The Company or its C/TPA will maintain the following records for the noted time periods, as a minimum:

1. Records kept for five years:
 - a. Records of alcohol test results indicating an alcohol concentration of 0.02 or greater;
 - b. Records of the inspection, maintenance, and calibration of EBTs;
 - c. Records of verified positive drug test results;
 - d. Documentation of refusals to take required alcohol or drug tests (including substituted or adulterated drug test results);
 - e. SAP reports;
 - f. Follow-up tests and schedules for follow-up tests; and,
 - g. Statistical data related to the Company's testing program, entitled "Management Information System", will be available to a representative of DOT, FMCSA, or a state agency having regulatory authority over the Company upon request.
2. Records kept for three years:
 - a. Records of information obtained from previous employers under Part 40 concerning drug and alcohol test results of drivers;
3. Records kept for two years:
 - a. Records that demonstrate the drug-testing collection process; and, Records related to the alcohol collection process (i.e., calibration documentation for evidential breath testing devices, documentation of breath alcohol technician training, documents generated in connection with decisions to administer reasonable suspicion alcohol tests, documents generated in connection with decisions on post-accident tests, and documents verifying existence of a medical explanation of the inability of a driver to provide adequate breath for testing).
4. Records kept for one year:
 - a. Negative drug test results
 - b. Alcohol results less than 0.02
5. Records kept indefinitely:

- a. Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors, and drivers shall be maintained by the Company while the individual performs the functions which require the training and for two years after ceasing to perform those functions.
6. Types of records to be maintained is outlined in 382.401(c)
7. Location of Records. All records required by Part 382 shall be maintained as required by §390.29 and shall be made available for inspection at the Company's principal place of business within two business days after a request has been made by an authorized representative of the FMCSA.
- iii. Request for Records.** All drivers have the right to request and obtain copies of any records pertaining to the driver's use of alcohol and/or drugs, including records of the driver's DOT-mandated drug and/or alcohol tests, and copies of SAP reports. Requests for records must be made in writing to the DER. A laboratory must provide, within 10 business days of receiving a written request from a driver, and made through the MRO, the records relating to the results of a driver's drug test (i.e., laboratory report and data package). Service agents providing records may charge no more than the cost of preparation and reproduction for copies of these records. SAPs must redact follow-up testing information from the report before providing it to the driver.
- e. **Management Information System**
 - i. Compliance.** The Company will prepare and maintain the DOT Management Information System (MIS) report for its drug and alcohol testing program. This report will be submitted to FMCSA in accordance with annual submission requirements. If the Company uses a C/TPA then the C/TPA may prepare and maintain the MIS, reporting the MIS as the Company requires. The DER will certify each report submitted by a C/TPA for accuracy and completeness.

APPENDIX A – ACKNOWLEDGEMENT/RECEIPT FORM

I acknowledge, by signing this form, that my full compliance with the Drug and Alcohol Plan (the "Plan") and DOT drug and alcohol regulation requirements is a condition of my initial and continued employment with the Company. I understand and agree that I may be discharged or otherwise disciplined for any drug and/or alcohol violation, committed by me, as cited in the Plan and/or in the DOT drug and alcohol regulatory requirements.

I also acknowledge, by signing this form that a copy of the Plan has been made available to me and I have read and understand the requirements of the Company and DOT drug and alcohol program. I have also been provided with informational material on the dangers and problems of drug abuse and alcohol misuse.

Signed, this the _____ day of _____, 20

Employee Name (Please Print)

Employee Signature

Company Representative Name (Please Print)

Company Representative Signature

I. APPENDIX B – DESIGNATED PERSONNEL AND SERVICE AGENTS

CONSORTIUM/THIRD PARTY ADMINISTRATOR (C/TPA)

Name: TEAM Professional Services, Inc.
Address: 7707 E 111th Street, Suite 100, Tulsa OK 74133
Phone Number: 918-970-2323

DESIGATED EMPLOYER REPRESENTATIVE (DER)/ALCOHOL & DRUG PROGRAM MANAGER

Name: Cathy Starkey, Administrative Director _____
Address: _____
Phone Number: 304-983-2296 _____

MEDICAL REVIEW OFFICER (MRO)

Name: Janelle A. Jaworksi, MD
Address: 9501 Northfield Blvd, Denver CO 80238
Phone Number: 855-252-5666

SUBSTANCE ABUSE & MENTAL HEALTH ADMINISTRATION (SAMHSA/HHS) LABORATORY Name: Clinical Reference Laboratory
Address: 8433 Quivira Road, Lenexa KS 66215 Phone Number: 913-492-3652

SUBSTANCE ABUSE & MENTAL HEALTH ADMINISTRATION (SAMHSA/HHS) LABORATORY Name: Alere Toxicology Services Address: 1111 Newton Street, Gretna LA 70053 Phone Number: 504-361-8989

SUBSTANCE ABUSE & MENTAL HEALTH ADMINISTRATION (SAMHSA/HHS) LABORATORY Name: Omega Laboratories Address: 400 N. Cleveland Avenue, Mogadore OH 44260 Phone Number: 330-628-5748

SUBSTANCE ABUSE & MENTAL HEALTH ADMINISTRATION (SAMHSA/HHS) LABORATORY Name: Quest Diagnostics Address: 10101 Renner Boulevard, Lenexa KS 66700 Phone Number: 800-877-7484

SUBSTANCE ABUSE & MENTAL HEALTH ADMINISTRATION (SAMHSA/HHS) LABORATORY Name: Labcorp Address: 5199 S. Green Street, Salt Lake City UT 84123 Phone Number: 913-888-8397

EMPLOYEE ASSISTANCE PROGRAM (EAP)

Name: Substance Abuse Hotline
Phone Number: 800-522-9054

APPENDIX C – COMPANY DISCIPLINARY ACTIONS AND ADDITIONAL PROCEDURES

a. **Company Discipline.** Under the Drug and Alcohol Plan, the Company is committed to a drug and alcohol free workplace. Violations to this Plan include:

- i. The presence in the body, possession, use, distribution, dispensing, and/or unlawful manufacture of prohibited drugs and the misuse of alcohol is not condoned while conducting Company business, or while in work areas or Company vehicles on or off Company premises. No employee will work under the influence of prohibited drugs and alcohol.
- ii. An employee or applicant who tests positive for drugs, has an alcohol concentration of 0.04 or higher, or refuses to take any drug or alcohol test as directed by the Company
- iii. The prohibited use of alcohol with a test result of 0.02 or greater, but less than 0.04.
- iv. Employees violating this Plan will be subject to disciplinary actions up to and including termination. Disciplinary action may include, but is not limited to: removal from working in a covered position, suspension, loss of pay, and termination of employment.

b. **Additional Company Procedures**

- i. **Reservation of Rights.** The Company reserves the right to interpret, modify, or revise this policy statement in whole or in part without notice. Nothing in this policy statement is to be construed as an employment contract nor does this alter an employee's employment at-will-status. The employee remains free to resign his/her employment at any time for any or no reason, without notice. Similarly, the Company reserves the right to terminate any employee's employment, for any or no reason, without notice.
- ii. **Compliance with All Laws.** This policy statement will be amended from time to time to comply with changes in Federal and State laws.

The Company reserves the right to revise or amend this policy with or without notice at any time.