Road Repair Program Agreement

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EXHIBIT	DOCUMENT	
	February 12, 2016 Order	
В	Request for Proposals (RFP)	
С	March 16, 2016 Response to RFP by Contractor, J.F. Allen Company	
D	RFP Q/A's	

ROAD REPAIR PROGRAM AGREEMENT

THIS AGREEMENT is entered into on April, 20, 2016, and is effective upon Court approval ("Effective Date"), being between J.F. ALLEN COMPANY, a corporation with its headquarters at U.S. Route 33 W. Red Rock Road, Buckhannon, West Virginia 26201 ("Contractor") and THE PERRINE DUPONT SETTLEMENT (hereinafter "Sponsor") which was approved by the Circuit Court of Harrison County, West Virginia, Case No. 04-C-296-2 (the "Court"), by Orders dated January 4, 2011, and June 27, 2011, by and through the appointed Special Master and Claims Administrator, Edgar C. Gentle, III., Esq., of the firm of Gentle, Turner, Sexton, & Harbison, LLC (hereinafter collectively referred to as "Claims Administrator").

The principal place of business of the Sponsor, as administered by the Claims Administrator, is 55 B Street, P.O. Box 257, Spelter, West Virginia, 26438.

WHEREAS, by Order dated February 12, 2016, the Court approved the Road Re-paving/Repair portion of the Settlement Road Repair and Improvement Program in the Perrine DuPont Settlement Road Repair and Improvement Plan. Said Order is attached hereto as Exhibit A.

WHEREAS, on February 24, 2016, the Claims Administrator issued the Request for Proposals (the "RFP") for the Road Re-paving/Repair portion of the Settlement Road Repair and Improvement Program in the Perrine DuPont Settlement, attached hereto as Exhibit B.

WHEREAS, on or about March 16, 2016, a response to said RFP was submitted to the Sponsor by the Contractor, including Appendix A to RFP, "Acceptance of Mandatory Terms", attached hereto as Exhibit C.

WHEREAS, the Claims Administrator recommends to the Court that the Contractor be awarded the contract to provide the Road Repair Services described in this Agreement;

WHEREAS, by entering into this Agreement, the Contractor agrees to provide Road Repair Services, including, the repair, resurfacing and paving of the Eligible Roads as listed in the RFP and incorporated herein by reference (See, Exhibit B).

WHEREAS, the Claims Administrator desires to work with the Contractor and the Contractor desires to work with the Claims Administrator to implement the Road Repair Program; and

WHEREAS, the Claims Administrator and the Contractor (collectively, the "Parties") have agreed that the Contractor shall exclusively provide the Road Repair Services for the Claims Administrator for the roads described in the Order submitted to the Court on April 8, 2016, for the duration of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and for other good and substantial consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

I. <u>DEFINITIONS</u>

All words and phrases defined below shall have the following meaning:

A. "RFP" collectively means the Claims Administrator's February 24, 2016 Request for Proposals with respect to the Road Repair Services defined below (See, Section I.B. below), a copy of which is attached hereto as Exhibit B and is incorporated by reference;

B. "Road Repair Services" includes the Contractor's agreement to (i) perform the "Scope of Work" for the designated "Road Repair List" as described in the RFP and incorporated herein by reference (See, Exhibit B); and (ii) an implementation plan to be prepared for the Claims Administrator's review and approval during a reasonable editing cycle that identifies the full scope of work required of the Contractor and the Claims Administrator, and the protocols that the Contractor shall perform and rely upon in carrying out the Road Repair Services, as described in Section IV.B. below.

II. PERIOD OF PERFORMANCE

This Agreement shall become effective following Court approval, and shall continue in full force through December 31, 2016, or until such time as all conditions and obligations are met and satisfied herein, which the Claims Administrator estimates is sufficient time to complete all Road Repair Services in accordance with the terms of this Agreement.

III. COMPENSATION AND TERMS OF PAYMENT

A. The Contractor agrees to provide the Road Repair Services as described herein at a cost agreed to by the Claims Administrator, with total compensation not to exceed \$243,348.70 (the "capped amount"). Within seven (7) days following Court approval of this Agreement, the Contractor shall receive an amount equal to 5% of the capped amount, or \$12,167.44 (the "5% down payment").

Payment Terms for Road Repair Services. Contractor will submit invoices on a month-to-month

basis, to be paid by Sponsor within thirty (30) days of receipt.

a. Late Payments. If Sponsor does not pay the invoice within 30 days, there shall be a 1.5% per month late fee for past due amounts, 18% annum.

- ii. Disposition of 5% Down Payment. The 5% down payment shall be utilized in ratably reducing the payments to the Contractor. If the down payment is fully utilized, then future payments to the Contractor shall no longer be reduced by the 5% down payment. But, if the 5% down payment is not so utilized in full, then, following completion of the Road Repair Services, the remaining portion of the 5% down payment shall be refunded by the Contractor to the Claims Administrator.
- B. The Contractor shall be responsible for the payment of all excise, sales, or use taxes and all taxes required by law on all labor, materials, tools, apparatus, equipment, fixtures, and incidentals which purchases or uses for the purpose of conducting, facilitating and/or supervising the Road Repair Services contemplated herein. The Contractor represents that all amounts required for such taxes are included and are part and parcel of the compensation as set out in the Price Proposal submitted by the Contractor.
- C. The Contractor will take the risk of diesel fuel cost fluctuations up to a ceiling of \$3.00 per gallon per http://www.eia.gov/petroleum/gasdiesel/ (the "fuel cap"). Upon the Contractor providing reasonable proof that it purchased diesel fuel for the project and only used it for the project at a price above the fuel cap at a time that the fuel cap was exceeded per http://www.eia.gov/petroleum/gasdiesel/, the Settlement shall reimburse the Contractor, http://www.eia.gov/petroleum/gasdiesel/, the Settlement shall reimburse the Contractor, http://www.eia.gov/petroleum/gasdiesel/, the Settlement shall reimburse the Contractor, http://www.eia.gov/petroleum/gasdiesel/, the Settlement shall reimburse the Contractor, http://www.eia.gov/petroleum/gasdiesel/, the Settlement shall reimburse the Contractor, http://www.eia.gov/petroleum/gasdiesel/, the Settlement shall reimburse the Contractor, http://www.eia.gov/petroleum/gasdiesel/, the Settlement shall reimburse the Contractor, for diesel fuel cap so paid by the Contractor, for diesel fuel cap so paid by the Contractor, for diesel fuel cap so paid by the Contractor, for diesel fuel cap so paid by the Contractor, for diesel fuel cap so paid by the Contractor, for diesel fuel cap so paid by the Contractor, for diesel fuel cap so paid by the Contractor, for diesel fuel cap so paid by the Contractor, for diesel fuel cap so paid by the Contracto

IV. OBLIGATIONS OF: THE CONTRACTOR

A. Good Faith: The Contractor commits to act in good faith in working with the Claims Administrator to complete all of the tasks and obligations identified herein, and to perform all actions required to effectuate the items identified herein in a reasonable and responsible manner consistent with industry practices. The Contractor represents and warrants that all services performed in accordance with this Agreement shall be performed in accordance with all applicable federal, state and local rules and regulations. The Contractor further warrants that it has or will have examined and familiarized itself with the services and the laws, rules and regulations relating to this Agreement and

that all employees and any subcontractors authorized hereunder shall possess such expertise and skill and such training and certifications as may be necessary to perform the tasks and responsibilities to which they are assigned.

- B. <u>Road Repair Services:</u> The Contractor shall provide Road Repair Services for the Eligible Roads listed in the RFP, as follows:
 - a. <u>Incorporation of the RFP:</u> The Parties hereby agree that the RPF in Exhibit B is incorporated herein and, together with this Agreement, define the scope of the work for the Road Repair Services. Nonetheless, if any terms set forth in Exhibit B conflicts with any term contained in this Agreement, the Agreement shall govern.
 - b. Exclusion of Response Assumptions, Exceptions, and Caveats: Claims Administrator and the Contractor specifically exclude any exclusions, limitations, assumptions, or other statements of reservation that are not in this Agreement. This Agreement, with its Exhibits, represents the complete, entire and sole agreement between the Parties, and any and all previous statements of "reservation" made by the Contractor are not a final part of this Agreement unless specifically stated and agreed to by the Claims Administrator herein.

c. Project Planning:

- i. The Contractor shall prepare an Implementation Plan and provide to the Claims Administrator for review and approval that encompasses the full scope of work and identifies the protocols for the completion of the Road Repair Services.
- ii. The Contractor shall carry out and perform any and all duties pursuant to and in compliance with all state and federal laws, including but not limited to any and all state and federal environmental laws, along with any applicable healthy and safety regulations.
- iii. Permits: The Contractor shall ensure that all required permits are secured prior to commencing Road Repair Services. The Contractor shall file permits or notify the appropriate permitting agencies, as necessary, in order to limit potential delays in the commencement of road repair activities. The Contractor shall also obtain any other local authorizations that may be necessary for the completion of work. The Contractor 's activities include, but are not limited to, obtaining all permits required by Harrison County, the State of West Virginia, the United States Government, and/or any municipality within the Class Area that require permits related to the work described herein.
- iv. Access Agreements: The Contractor shall secure from the Claims Administrator copies of all available access agreements prior to commencing Road Repair Services, and shall ensure that copies of said agreements are uploaded and maintained onto an electronic data management system. All necessary and relevant access agreements have been procured by the Claims Administrator and shall be provided upon request to The Contractor by the Claims Administrator. Said data management system shall maintain the ongoing status of Road Repair Services activities at each location where an access agreement has been obtained with weekly updated reports submitted by the Contractor to the Claims Administrator for tracking the work. The Contractor shall also provide reports as requested by the Claims Administrator within forty-eight (48) hours of written request.

d. Site Preparation and Mobilization

i. <u>Pre-Road Repair Program Meeting:</u> The Contractor shall conduct a pre-Road Repair Program conference to introduce key personnel, define authorities and responsibilities, discuss details related to project implementation and a detailed schedule for the Road Repair Services, with a teleconference option for those participants electing to meet via telephone, including, but not limited to Claims

- Administrator representatives, the Finance Committee and the Claimant Advisory Committee.
- ii. Weekly Meetings: During the execution of the Road Repair Services, the Contractor will conduct weekly project meetings to inform the Claims Administrator of the progress of the work, any problems and/or corrective actions implemented, and updates on the construction schedule. A teleconference option for those participants electing to meet via telephone, and including, but not limited to Claims Administrator representatives, if so requested, shall be provided.
- iii. <u>Daily Safety Meetings:</u> Safety meetings will be conducted by the Contractor daily as part of the Contractor's duty to fulfill its obligations under any and all federal and state as contemplated in Section IV(c)(ii) above.
- iv. Monthly Reports: During the execution of the Road Repair Services, the Contractor shall provide the Claims Administrator monthly written reports identifying, at a minimum, the progress of repairing the Eligible Roads, including, if any, significant damage caused to areas surrounding the road repair area, such as yards, structures, or personal property, caused by the Contractor or its subcontractors; and any complaints received from Claimants or other persons effected by the damage. The report shall be provided to the Claims Administrator office via hand or overnight delivery and electronic mail.
- v. <u>Complaints:</u> The Contractor shall notify the Claims Administrator immediately in writing, to the extent practicable, when it becomes aware of any Claimant's complaint related to the Road Repair Services, and the Contractor shall cooperate with the Claims Administrator in undertaking reasonable measures to resolve such complaints.
- vi. Problem Resolution Meetings: A special meeting shall be held when and if a problem or deficiency is present or likely to occur. At a minimum, the meeting shall be attended by the Claims Administrator, the Contractor team members, and any affected third party subcontractors and/or Claimants. The purpose of the meeting shall be to define and resolve the problem or work deficiency. The meeting shall be documented by the Contractor and minutes shall be prepared and distributed to all parties attending or participating. A teleconference option for those participants electing to meet via telephone, and including, but not limited to Claims Administrator representatives, if so requested, shall be provided. The meeting shall occur promptly but no later than seventy-two (72) hours after written request of the Contractor or Claims Administrator. The request shall identify the condition or event to be discussed.
- vii. <u>Logistics:</u> The Contractor_shall facilitate all logistical support, and any and all logistical planning necessary to effectuate an efficient start-up and continuation of Road Repair Services.
- viii. <u>Utility Identification:</u> Prior to initiating Road Repair Services activities, the Contractor shall locate and mark all underground utilities.
- ix. <u>Access Road Construction:</u> The Contractor shall construct access roadways, as necessary, utilizing crushed stone or other materials, to facilitate work activities. The Contractor shall establish suitable facilities for parking.
- x. <u>Personnel and Equipment Decontamination:</u> As required, the Contractor shall ensure decontamination of personnel and excavation equipment.
- xi. <u>Mobilization:</u> Upon completion of logistical preparation activities, the Contractor shall mobilize personnel, equipment, materials, and other resources to the site to initiate road repair activities. Mobilization activities are anticipated to include, but are not limited to, the delivery, installation, hookup, and maintenance of temporary offices and construction facilities. Temporary offices and construction facilities are expected to include field offices, support facilities, utilities, dust and pollution control facilities, personnel protection and work areas, and creation and maintenance of access roads and parking areas, as required.
- xii. <u>Site Security:</u> The Contractor shall be responsible for access control and security at all staging areas and at the individual work areas. Security shall include at least one of the following: use of existing fencing, snow fencing, at a minimum caution tape, and signage warning of restricted areas and hazards to control access, protect equipment and support facilities, and prevent unauthorized entry

- and exposure to Eligible Roads and to control access to other dangerous conditions.
- xiii. Documentation: The Contractor shall be responsible for documenting all field activities during the Road Repair Program. Records of field activities shall be legible, identifiable, retrievable, and protected against damage, deterioration, and loss. The Contractor shall record all documentation in waterproof, non-erasable ink. If an error in any of these documents is made, shall make corrections by crossing a single line through the error and entering the correct information adjacent to it. The corrections shall then be initialed and dated. All data and documentation shall also be uploaded and maintained onto an electronic data management system. The data management system shall be in a format that is easily readable and exportable, and access to said data and documentation, and/or reports generated from said data and documentation, shall be provided to the Claims Administrator within five (5) days of written request.

C. Reporting Requirements:

- a. The reports to be submitted by the Contractor pursuant to the terms of this Agreement shall be provided to the Claims Administrator's office via hand or overnight delivery and electronic mail.
- b. The Contractor shall work with the Claims Administrator to determine which reports shall be necessary to fully perform the services contained herein.

D. <u>Insurance and Bond Requirements:</u>

- a. The Contractor shall maintain Workers' Compensation benefits within the State of West Virginia throughout all periods relevant to the execution of duties and obligations under this Agreement with waiver of subrogation in favor of the Perrine DuPont Settlement (which is the Perrine DuPont Property Remediation Qualified Settlement Fund, an IRC §468B Qualified Settlement Fund domiciled in West Virginia), E.I. DuPont De NeMours and Company ("DuPont"), and the law firm of Gentle, Turner, Sexton & Harbison, LLC.
- b. The Contractor shall maintain an Employer's Liability insurance policy throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of One Million Dollars (\$1,000,000.00) per incident, with waiver of subrogation in favor of the Perrine DuPont Settlement, DuPont, and Gentle, Turner, Sexton & Harbison, LLC. The Contractor shall maintain a Commercial General Liability insurance policy throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of Two Million Dollars (\$2,000,000.00) per occurrence.
- c. The Contractor shall maintain Professional Liability insurance throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of One Million Dollars (\$1,000,000.00) per claim with maintenance of coverage for two (2) years following the completion of the Project.
- d. The Contractor shall maintain an Excess Liability policy throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of One Million Dollars (\$1,000,000.00) per claim.
- e. The Contractor shall maintain an Environmental Impairment insurance policy or Pollution Liability insurance policy throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of Two Million Dollars (\$2,000,000.00) per claim.
- f. The Contractor shall maintain comprehensive or commercial automobile liability for bodily injury and property damage throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of One Million Dollars (\$1,000,000.00) per claim.
- g. The insurance required herein shall be primary to any other valid and collectible insurance.
- h. The Contractor must ensure that the Perrine DuPont Settlement, DuPont and the law firm of Gentle,

- Turner, Sexton & Harbison, LLC, are listed as additional insureds on the above policies, as evidenced by a Certificate of Insurance verifying coverage limits.
- i. Bonds: The Contractor shall furnish bonds covering the faithful performance of this Agreement and the payment of all obligations arising in connection therewith, said bonds to be in such form Claims Administrator approves, and with sureties that Claims Administrator approves. Approval of the bond form shall not be unreasonably denied; reasons for denial shall be stated in writing. Each bond shall contain a provision to the effect that changes in the Road Repair Services and/or modifications to this Agreement shall in no way relieve the surety of its obligations. Bonding provided by the Contractor shall equal the total contract value of this Agreement. Bonds may be furnished for different phases of the work so long as the penal value of each bond is commensurate with the value of each phase.

E. Sub-Contracts:

- a. The Contractor may sublet to Sub-contractors acceptable to the Claims Administrator any portions of the Road Repair Services. Claims Administrator reserves the right to review and approve or disapprove all subcontracts as to scope of the Road Repair Services to be performed or for any reasonable basis. If Claims Administrator rejects a proposed subcontractor, it must state all bases in writing and allow Contractor to respond and request a reconsideration with a reasonable period of time.
- b. Such Claims Administrator's acceptance, review or approval, or the failure to accept, review, or approve a subcontractor shall not be construed as relieving the Contractor of any responsibilities under this Agreement.
- c. The Contractor shall have full directing authority over and responsibility for the performance of all Road Repair Services which the Contractor subcontracts and shall not be relieved of its responsibility for the proper performance of the services contemplated herein due to subcontracting.
- d. The Contractor agrees to bind each and every Sub-contractor by the terms, conditions and provisions of this Agreement applicable to Road Repair Services, unless otherwise specifically agreed to in writing by the Claims Administrator.
- e. Nothing contained in this Agreement is intended to or shall the same create any contractual or privity relation between any Sub-contractor and the Claims Administrator or any obligation on the part of the Claims Administrator to pay or to see to the payment of any moneys due any Sub-contractor.

V. OBLIGATIONS OF THE CLAIMS ADMINISTRATOR

- A. <u>Fiduciary Duties:</u> The Claims Administrator shall be responsible for the interpretation of Court Orders and Road Repair Program documents, and any communications to the Claimants, the Finance Committee, the Claimants Advisory Committee, and the Court.
- B. <u>Amendments to the Road Repair Program:</u> The Claims Administrator shall provide written notification to the Contractor of any modifications or amendments to the Road Repair Program. Modifications to the Road Repair Program that have a cost impact upon the Contractor shall, result in written, reasonable pricing revisions effective as of the date of the modification or amendment.
- C. Response Time: The Claims Administrator shall provide any written response required herein or otherwise reasonably required by the Contractor no later than five (5) working days after request. In instances where a response is needed faster in order to avoid delay, such response shall be provided sooner so as to avoid delay.

V. PROPERTY RIGHTS AND CONFIDENTIALITY

A. <u>Computer Equipment and Confidential Information:</u> All computer equipment owned by the Contractor, programs, drawings, diagrams, specifications, manuals, forms, procedures, data files

(but not the data therein belonging to the Claims Administrator), and all other information and materials of any nature existing before the commencement of the Road Repair Program and furnished, revealed or otherwise made available to the Claims Administrator by the Contractor, whether on the Contractor's premises or the Claims Administrator's premises (the "Confidential Information"), shall remain the sole and exclusive property of the Contractor. All other Information, records, and documentation generated in carrying out the Road Repair Services contemplated herein are hereby designated the "Claims Administrator's Information." The Claims Administrator's Information shall be and remain the sole and exclusive property of the Claims Administrator. The Contractor shall return the Claims Administrator's Information to the Claims Administrator within thirty (30) days from the date of termination of this Agreement, while being able to maintain a copy on a confidential basis and also to be used to enforce the Contractor's rights under this agreement.

- B. Storage and Inspection: All documents, books, and records furnished to the Contractor by the Claims Administrator provided in accordance with this Agreement shall remain the property of the Claims Administrator; and all documents, books, and records of the Contractor provided in accordance with this Agreement pertaining to any individual insurance, group insurance, or services, whether original records of the Contractor or furnished by the Claims Administrator, shall be open for inspection at the Contractor's West Virginia location, unless otherwise agreed, at all reasonable times. The Contractor may store any or all of such documents, books, and records in microfilm, magnetic tape, or other electronic medium.
- C. <u>Disposition upon Termination of this Agreement:</u> To the extent feasible, upon termination of this agreement, the Contractor shall return to the Claims Administrator all Claims Administrator Information received or created by the Contractor on behalf of the Road Repair Road Repair Program within ten (10) business days; however if it is not reasonably feasible, the protections of this Agreement shall continue to apply to such information after the termination of this Agreement.

VII. MANDATORY TERMS

The Mandatory Terms in Appendix A to the RFP and attached hereto in Exhibit B are a part of this Agreement, and are incorporated herein by reference.

VIII. INDEMNIFICATION

- A. <u>Indemnification of the Contractor</u>. Claims Administrator agrees to indemnify and hold harmless the Contractor or any of its officers, or employees from any and all losses, liability, damages, expenses or other cost or obligation, resulting from or arising out of claims, demands, lawsuits or judgments brought against Claims Administrator and/or the Contractor as a result or arising out of Claims Administrator's performance of its responsibilities pursuant to the provisions of this Agreement, except any such claims, losses, liabilities, damages, or expense which arise out of or in connection with the Contractor's negligence, willful misconduct, or criminal misconduct.
- B. <u>Indemnification of the Claims Administrator</u>. The Contractor agrees to indemnify and hold harmless the Claims Administrator or any of its officers, or employees from any and all losses, liability, damages, expenses or other cost or obligation, resulting from or arising out of claims, demands, lawsuits or judgments brought against the Contractor and/or the Claims Administrator as a result or arising out of the Contractor's performance of its responsibilities pursuant to the provisions of this Agreement, except any such claims, losses, liabilities, damages, or expense which arise out of or in connection with the Claims Administrator's negligence, willful misconduct, or criminal misconduct.

IX. TERMINATION

- A. <u>Material Breach:</u> If either party materially breaches this Agreement, the other party may terminate the Agreement provided that it notifies, in writing, the breaching party of the specific breach and allows the breaching party the opportunity to cure the breach within fifteen (15) days of the date of the notice. If reasonable and substantial steps to cure the breach have not been corrected in fifteen (15) days, the Agreement may be terminated upon five (5) days further written notice. If a notice and opportunity to cure is generated by the Contractor for non-payment and not cured by Claims Administrator, the Contractor may, at its sole discretion, suspend performance upon expiration of the fifteen (15) days the Contractor shall be entitled to an equitable adjustment to this Agreement.
- B. Termination for Insolvency: If either party applies for or consents to the appointment of a receiver, trustee, or liquidator of itself or of all, or a substantial part, of its assets; files a voluntary petition in bankruptcy; admits in writing to its inability to pay its debts as they become due; makes a general assignment for the benefit of creditors; files a petition or an answer seeking reorganization or rearrangement with creditors; or, as a debtor, invokes or takes advantage of any insolvency law; or if an order, judgment, or decree is entered by a court of competent jurisdiction upon application of a creditor adjudicating such party bankrupt or insolvent or approving a petition seeking reorganization of such party of all, or a substantial part, of its assets, and such order, judgment, or decree continues unstayed for thirty (30) days, then the other party may, by written notice, terminate this Agreement effective on any future date specified in such notice.
- C. <u>Termination for Convenience</u>: The Claims Administrator reserves the right to terminate this Agreement and all rights and obligations hereunder without cause, or for convenience, at its sole discretion, at any time after five (5) days written notice. In the event Claims Administrator terminates this Agreement without cause then Claims Administrator shall reimburse the Contractor for any reasonable out-of-pocket costs and expenses incurred for the actual preparation and/or performance of Work and for reasonable lost profit and overhead.
- D. <u>Effect of Termination:</u> In the event of a termination, this Agreement shall be of no further force or effect except that each party hereto shall remain liable for any debts and/or liabilities arising from activities under this Agreement occurring prior to the effective date of termination.
- E. <u>Continuation of Services:</u> Except for termination due to Claims Administrator's breach, the Contractor agrees that upon completion of the work, at Claims Administrator's request for continuation of services, it shall continue to provide services hereunder, provided Claims Administrator complies with all the terms and provisions of this Agreement in effect prior to the termination. The fees for such continuation period shall be equitably adjusted.
- F. <u>Information Transfer:</u> In the event of termination of this Agreement, the Contractor agrees to provide Claims Administrator all Information in the Contractor's possession pertaining to all services, records, and efforts related to this Agreement, consistent with reasonable industry norms, are within five (5) business days. The Contractor may provide the data by electronic or wire communication or a media type such as disk, tape, or CD.

X. CHOICE OF LAW AND RESOLUTION OF ALL DISPUTES

- A. <u>Choice of Law:</u> This Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia.
- B. Resolution of All Disputes: In accordance with the Mandatory Terms in Appendix A to the RFP and attached hereto as Exhibit D, the Circuit Court in Harrison County, West Virginia, retains continuous and exclusive jurisdiction and supervision over the Property Remediation Plan and over this Agreement, and any agreements related thereto. Any judicial proceeding arising out of or relating to this Agreement may be brought only before the Circuit Court of Harrison County West Virginia, and any judgment against a party may be enforced only by a proceeding before the Circuit Court of Harrison County West Virginia. The Parties irrevocably and expressly submit to the jurisdiction of the Court

over any such proceeding. The Parties irrevocably and expressly waive any objection that they might now or hereafter have to the laying of venue for such proceeding in the Circuit Court of Harrison County West Virginia and any claim that any such proceeding in the Circuit Court of Harrison County West Virginia has been brought in an inconvenient forum.

C. <u>Mediation</u>: Prior to litigation or juridical proceeding, the Parties must first subject the dispute to mediation as a condition precedent. Mediation shall be administered by a mediator to be agreed upon by the parties.

XI. MISCELLANEOUS

- A. Prompt Notification of any and all Complaints: The Contractor and Claims Administrator both mutually agree that each shall both promptly notify in writing the other of any and all complaints and/or issues which relate to or arise from this Agreement contemplated herein, and the Contractor and Claims Administrator shall work in tandem to resolve any and all claims and/or complaints which may arise.
- B. <u>Correlation of Documents:</u> The Agreement documents are complementary and what is called for by any one of the documents described herein and attached hereto are binding as if called by all. There are certain operations, labor, equipment, materials and things reasonably inferable from the Agreement as being necessary to produce the intended results; even though no mention thereof is made in said Agreement, such omission shall not relieve the Contractor from its obligation to provide all such operations, labor, equipment, materials and things reasonably required. Parts of the Road Repair Services described in words which, when applied, have a well-known technical or trade meaning shall be furnished or performed in accordance with the recognized standards applicable to such meaning.
- C. <u>Force Majeure:</u> Notwithstanding anything herein or otherwise which may appear to be to the contrary, neither party shall be responsible for delays or failures in performance under this Agreement resulting from any force majeure or acts beyond the reasonable control of the party. Such acts shall include, without limitation, acts of God, strikes, blackouts, riots, acts of war, epidemics, governmental regulations, fire, communication line failure, power failures, mechanical failures, storms or other disasters. Notwithstanding any other provision, the Contractor shall be entitled to an equitable adjustment to this Agreement for delays due to weather.
- D. <u>Notice:</u> Any notice or demand desired or required to be given hereunder shall be in writing and deemed given when personally <u>hand delivered</u> or, if sent via overnight mail upon receipt, or three (3) days after deposit in the United States Mail, postage prepaid, sent certified or registered, addressed as follows:
 - a. If to the Claims Administrator, to:

The Perrine DuPont Property Remediation Road Repair Program

Spelter Volunteer Fire Department Office

55 B Street

PO BOX 257

Spelter, West Virginia 26438

Attention: Edgar C. Gentle, III, Esq.

Claims Administrator

With an email copy to escrowagen@aol.com

b. If to the Contractor, to:

J.F. Allen Company

US Route 33 W.

Red Rock Road

PO BOX 2049

Buckhannon, West Virginia 26201

Attention: Ed Phares

With an email copy to ephares@jfallenco.com

or to such other address or person as hereafter shall be designated in writing by the applicable party.

- E. Entire Agreement: This Agreement and all exhibits and schedules hereto constitute the entire agreement between the Parties hereto pertaining to the subject matters hereof and supersede all negotiations, preliminary agreements and all prior or contemporaneous discussions and understandings of the Parties hereto in connection with the subject matters hereof. All exhibits and schedules are incorporated into this Agreement as if set forth in their entirety and constitute a part hereof. Any exceptions or reservations set forth by the Contractor in any responses to the RFP shall not be part and parcel of this Agreement, excepting those that are explicitly acknowledged herein.
- F. Modifications in Writing: No failure or delay on the part of any party in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy, preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies provided for herein are cumulative and are not exclusive of any remedies that may be available at law or in equity or otherwise. No amendment, modification, supplement, termination or waiver of or to any provision of this Agreement, nor consent to any departure therefrom, shall be effective unless the same shall be in writing and signed by or on behalf of the party subject to the enforcement thereof. Any amendment, modification or supplement of or to any provision of the Agreement, any waiver of any provision of this Agreement, and any consent to any departure from the terms of any provisions of this Agreement, shall be effective only in the specific instance and for the specific purpose for which made or given.
- G. <u>Conflicting Terms:</u> In the event that any term shall conflict with any of the terms contained in any of the documents which are part and parcel of this Agreement, including but not limited to, Claims Administrator's RFP, the Contractor's Response to RFP, and/or any other Exhibits attached hereto, and/or any other documents identified in this Agreement, this Agreement shall control.
- H. <u>Severability:</u> In the event any provision of this Agreement is held invalid, illegal or unenforceable, in whole or in part, the remaining provisions of this Agreement shall not be affected thereby and shall continue to be valid and enforceable. In the event any provision of this Agreement is held to be unenforceable as written, but enforceable if modified, then such provision shall be deemed to be amended to such extent as shall be necessary for such provision to be enforceable and shall be enforced to that extent.
- I. <u>Relationship:</u> Nothing contained in this Agreement and no action taken by the Parties pursuant hereto shall be deemed to constitute the Parties as a partnership, an association, a joint venture or other entity. It is expressly agreed that neither Party for any purpose shall be deemed to be an agent, ostensible or apparent agent, employee, or servant of the other Party.
- J. <u>Headings and Captions</u>: The titles or captions of sections and paragraphs in this Agreement are provided for convenience of reference only, and shall not be considered a part hereof for purposes of interpreting or applying this Agreement, and such titles or captions do not define, limit, extend, explain or describe the scope or extent of this Agreement or any of its terms or conditions.
- K. Binding Effect on Successors and Assigns: This Agreement shall upon and shall inure to the benefit of the Parties hereto and their respective heirs, legal representatives, successors and assigns. In the event of assignment, all of the terms, covenants and conditions of this Agreement shall remain in full force and effect and the party making the assignment shall remain liable and responsible for the due performance of all of the terms, covenants and conditions of this Agreement that it is obligated to observe and perform. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the Parties hereto (and their respective heirs, successors, legal representatives and permitted assigns) any rights, remedies, liabilities or obligations under or by reason of this Agreement. However, neither the Claims Administrator, nor the Contractor may assign the rights and obligations provided hereunder without the prior written express permission of the other party, which shall not be unreasonably denied. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and in making proof hereof, it shall not be necessary to produce or account for more than one such counterpart.
- L. Changes in Law: If changes in the laws materially affect a party's rights and obligations under this

Agreement or render any portion illegal or unenforceable, then the Parties agree to negotiate modifications to the terms of this Agreement in good faith. If the Parties cannot agree to modify terms that comply with the changes in laws, then either party may terminate this Agreement upon thirty (30) days prior written notice.

- M. Advertising, Promotion, and Trade Name: The Contractor may not list Claims Administrator as one of the Contractor's clients in proposals and responses to proposals for the development of new business, without Claims Administrator's prior written permission. Claims Administrator may use the Contractor's name, in any form other than its logo, in marketing materials, in a form acceptable to the Contractor Claims Administrator may not use the Contractor's name or logo, or any form thereof, in such a way as to convey that the Contractor is an administrator and/or fiduciary with regards to Claimants, or the Road Repair Program.
- N. Exclusivity: Claims Administrator agrees that, during the term of this Agreement, it shall not utilize the services of another entity to provide the services the Contractor has agreed to perform under this Agreement.
- O. <u>Third Party Beneficiaries:</u> The Contractor and Claims Administrator specifically state, acknowledge, and agree that it is their intent that no other party, person or entity, including, but not limited to, Claimants, shall be third-party beneficiaries to this Agreement.
- P. The Bidder Q/A's in Exhibit D.
- Q. The Exhibits to the Agreement are as follows:

Exhibit A: February 12, 2016 Order

Exhibit B: Request for Proposals (RFP)

Exhibit C: March 16, 2016 Response to RFP by Contractor, J.F. Allen Company

Exhibit D: RFP Q/A's

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

The undersigned certifies that he has legal authority to bind J.F. ALLEN COMPANY.

Ed Phares

By:

Title: Lywhere

Date: 122 29,2016

WITNESS: Euron P

The undersigned certifies that he has legal authority to bind Claims Administrator upon approval of this Agreement by the Court in the DuPont Case.

The Perfine DuPont Settlement

Edgar C. Gentle, III

Title: Claims Administrator

Date:

By:

WITNESS:

EXHIBIT A TO AGREEMENT: FEBRUARY 12, 2016 ORDER



IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

LENORA PERRINE, et al.,

У.

Plaintiffs,

Case No. 04-C-296-2 Judge Thomas A. Bedell

E. I. DUPONT DE NEMOURS & COMPANY, et al.,

. Defendants:

FINAL ORDER APPROVING (i) THE DESCRIPTION AND MAPS OF THE ROADS SUBJECT TO THE ROAD RE-PAVING/REPAIR PORTION OF THE SETTLEMENT ROAD IMPROVEMENT PROGRAM; (ii) THE ROAD RE-PAVING/REPAIR BIDDER LIST; (iii) THE ROAD RE-PAVING/REPAIR REQUEST FOR PROPOSALS; AND (iv) THE ROAD RE-PAVING/REPAIR AGREEMENT

Presently before the Court is the Claims Administrator's February 11, 2016 Report (the "Claims Administrator's Report"), submitted for review and consideration in connection with the Settlement Property Remediation (Clean-Up) Program approved by the Court's June 27, 2011 Order, regarding the implementation of a portion of the Court's April 15, 2014 Order approved Settlement Road Repair and Improvement Program ("Road Repair Program"). The Road Repair Program has three parts: (i) road re-paving/repairs; (ii) alleys; and (iii) drainage. The portion of the Road Repair Program subject to this Order is the first step of the program, road re-paving repairs. The roads subject to the road re-paving portion of the program are illustrated in the Maps in Exhibit A, and are listed below:

I. Spelter Roads

- 1) 1st Street County Road ("CR") 19/90
- 2) 2nd Street CR 19/91
- 3) 3rd Street CR 119/10

- 4) 4th Street CR 119/9
- 5) 5th Street CR 119/10
- 6) 6th Street CR 24/12
- 7) A Street CR 119/11
- 8) B Street CR 19/33 (from Spelter side of bridge to the top of hill)
- 9) C Street CR 119/10

II. Erie Roads-

- 10) Maple Ave CR 19/32
- 11) Rose Street/Poplar Street CR 19/34

To begin this portion of the program, the Claims Administrator's Report requests that the Court consider: (i) finalizing of the roads to be so re-paved/repaired, as described above and depicted in Exhibit A; (ii) approving the Bidder List of qualified bidders for this portion of the program in Exhibit B; (iii) approving the Request for Proposals form to be used to obtain the lowest qualified bid in Exhibit C; and (iv) approving the form of Agreement with the successful bidder in Exhibit D.

After a careful review of the Claims Administrator's Report, along with the list of maps of the roads to be re-paved/repaired, the Bidder List, the Request for Proposals and the Agreement, and in consideration of the applicable law, the Court ORDERS AND APPROVES: (i) the map and description of the roads subject to the road re-paving/repair portion of the Road Improvement Program depicted in Exhibit A; (ii) the Bidder List of qualified bidders for the work contained in Exhibit B; (iii) the Request for Proposals form to be used in obtaining the lowest qualified bidder in Exhibit C; and (iv) the form of the Agreement with the successful bidder in Exhibit D, with the resulting Agreement with the lowest qualified bidder to be substantially in the form of Exhibit D, but subject to negotiations.

IT IS SO ORDERED.

The Clerk of this Court shall provide certified copies of this Order to the following:

James S. Arnold, Esq. Thomas Combs & Spann, PLLC P. O. Box 3824 Charleston, WV 25338 DuPont's Finance Committee Representative Meredith H. McCarthy, Esq. Guardian Ad Litem for Children 901 W. Main St.: Bridgeport, WV 26330

Virginia Buchanan, Esq. Levin, Papantonio, Thomas, Mitchell, . Rafferty & Proctor, P.A. P.O. Box 12308 Pensacolà, FL 32591 Plaintiffs' Finance Committee Representative

Edgar C. Gentle, III, Claims Administrator Gentle, Turner, Sexton & Harbison P. O. Box 257 Spelter, WV 26438

Order Prepared & Edgar C. Gentle, III, Claims Administrator

Gentle, Turner, Sexton & Harbison

P. O. Box 257

Spelter, WN 26438

Michael A. Jacks, Esq./ Jacks Legal Group, P.L.L.C.

W.Va. Bar No 11044

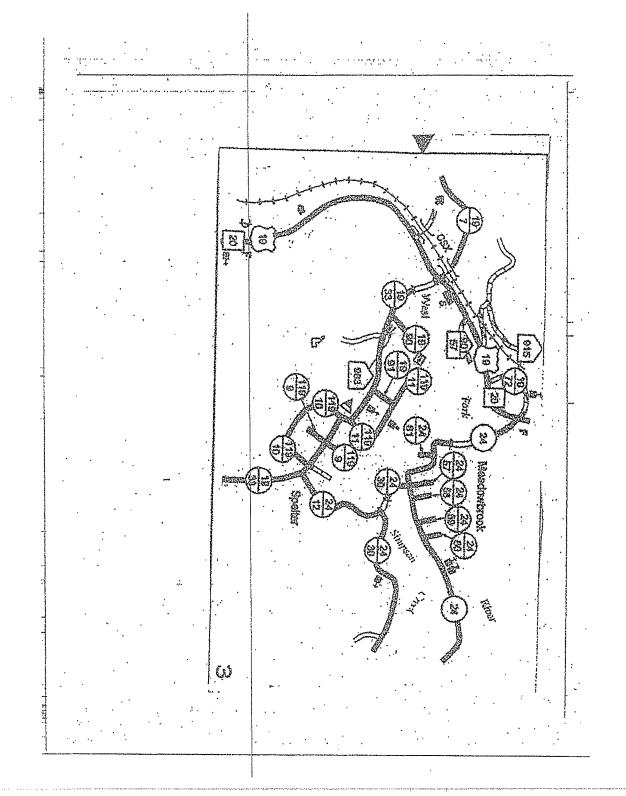
United Federal Credit Union Building 3467 University Ave, Suite 200

Morgantown, WV 26505

Thomas A. Bedell, Circuit Judge

EXHIBIL V LO OEDEK:

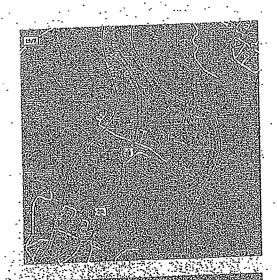
MAPS OF ROADS SUBJECT TO THE ROAD RE-PAVING/REPAIR AND IMPROVEMENT PROCRAM

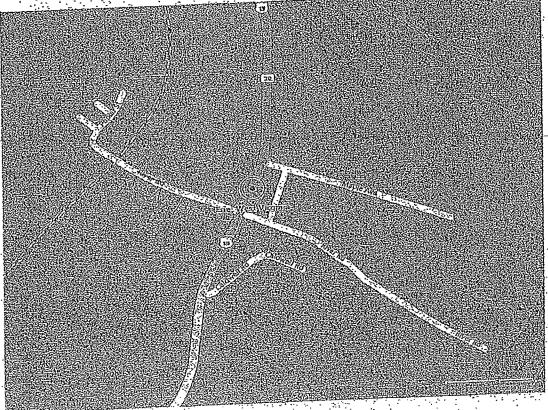


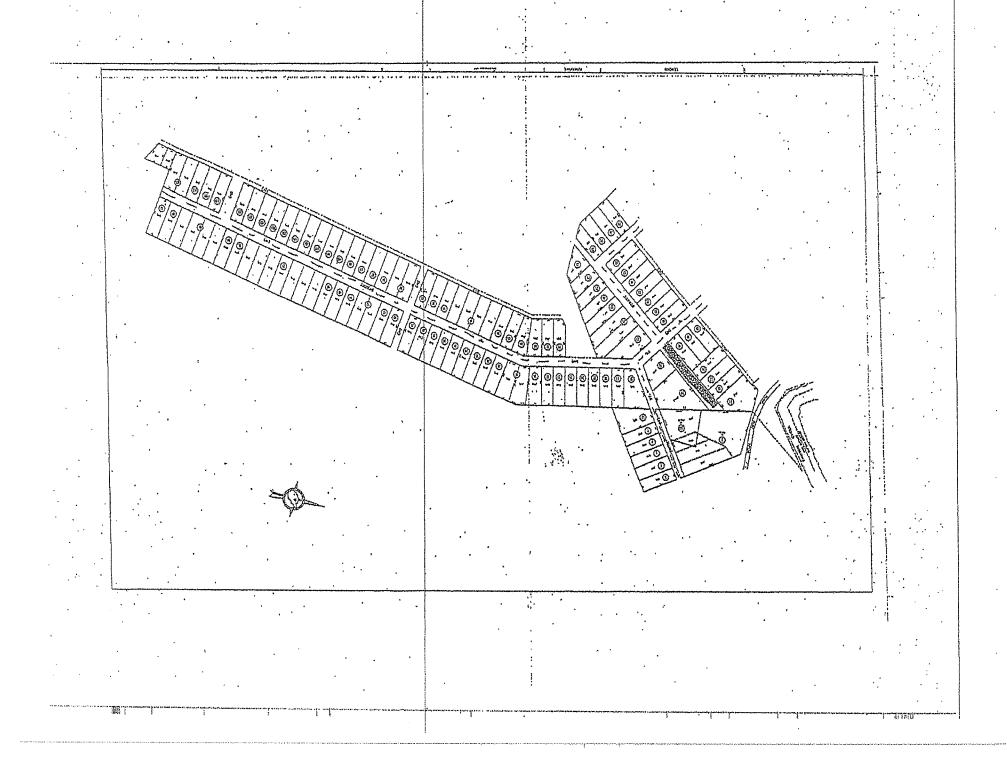
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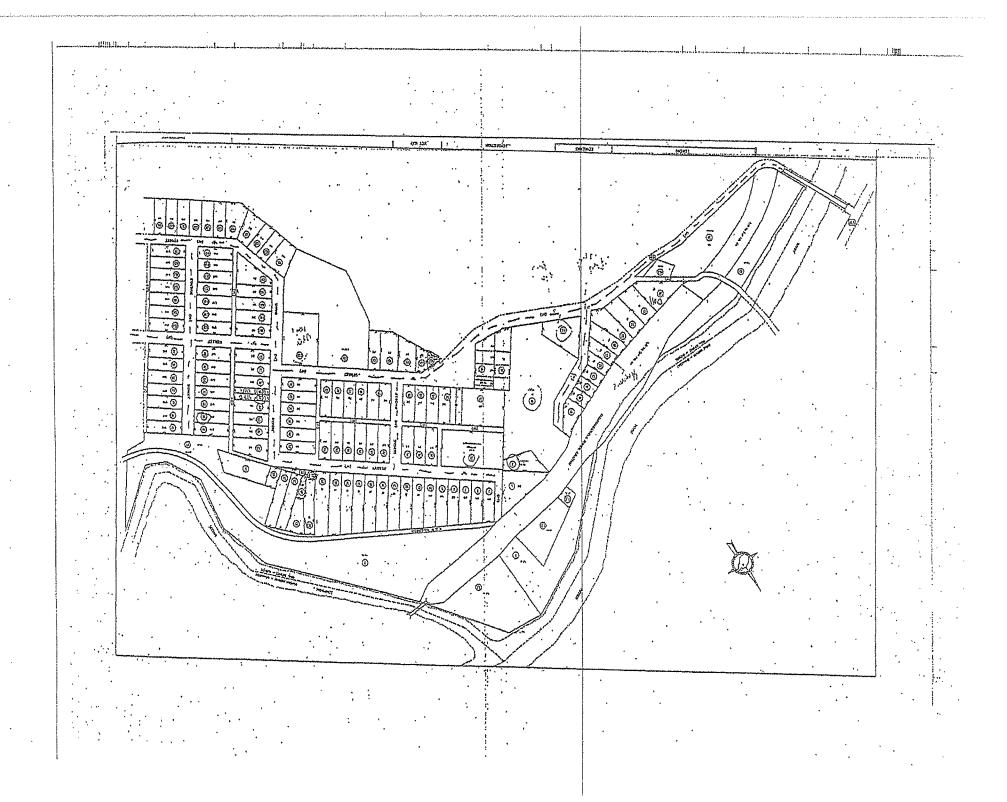
Notes

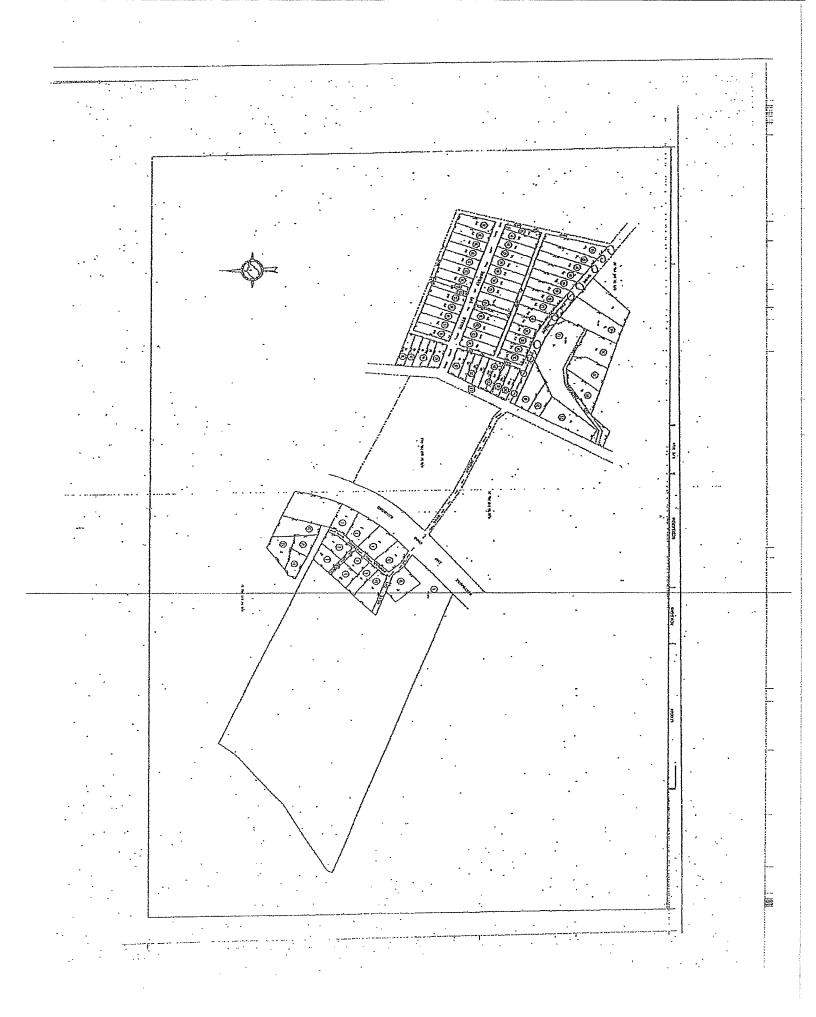
Erie, WY − Roads to be repaired/resurfaced











EXHIBIL B LO OKDEK:

BOYD BE-BAINCIBERIE FOR TON OF THE ROAD REPAIR AND IMPROVEMENT

Road Repair Program Bidder List

				. "	:		
Company Name	Contact Name	Email Address.	Phone Number	Street Address 1	. Citý	State	Zlp
			:' :				
North Central Paving, Inc.	Patty Johnson			5750 Saltwell Road .	Bridgeport ·	WV.	26330
J F Allen Company	Chris Dean · ·	cdean@ifallenco.com	(304) 472-8890		Buckhannon	-	26201
Dodd Paving		•	(304) 622-1083		Bridgeport:	WV	26330
West Virginia Department of Highways	Larry Weaver	larry.b.weaver@wv.gov	(304)-842-1500		'		<u> </u>
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EXHIBIT C TO ORDER:

SETTERMENT ROAD REPAIR AND IMPROVEMENT ROAD RE-PAVING/REPAIR PORTION OF THE PROGRAM REQUEST FOR PROPOSALS

Issued: February 22, 2016

REQUEST FOR PROPOSALS (RFP) FOR THE ROAD REPAIR PROGRAM IN THE PERRINE DUPONT SETTLEMENT

The Perrine DuPont Settlement Road Repair Program Project Title: . 1. Edgar C. Gentle, III, Esq. Contact Person: Special Master and Claims Administrator 2. Perrine DuPont Settlement Remediation Administration ATTN: Edgar C. Gentle, Claims Administrator C/O Spelter Volunteer Fire Department Office 55 B Street P. O. BOX 257 Spelter, West Virginia 26438 (304) 622-7443 (800) 345-0837 Website: www.perrinedupont.com perfinedupont@gtandslaw.com One (1) paper copy and one electronic disc or USB flash drive. Format: Budget will be negotiated upon selection. Proposed Budget: The roads to be repaired, resurfaced and paved are shown in the Maps in Repair Repair 6. Attachment 1 (the "Road Repair List"), and are listed as follows: Area: Spelter Roads: County Road ("CR") 19/90 1) 1st Street -CR 19/91 2) 2nd Street -CR 119/10 3) 3rd Street -4) 4th Street -. CR 119/9. CR 119/10 5) 5th Street -CR 24/12 6) 6th Street -CR 119/11 7) A Street -CR 19/33 (From Spelter side of bridge to the top of hill) 8) B Street - . CR 119/10 9) C Street -Erie Roads: 10) Maple Ave -CR 19/32 11) Rose Street/Poplar Street - CR 19/34 February 22, 2016 Issuance Date: Bidder Questions March 7, 2016 Conference Call:

	~. ~	na.	0076
Issued:	February	LL	TOTO.

9.	Bid Submission Deadline:	March 14, 2016 - delivered no later than 5:00 PM CST.	
10.	Bidder Interview Date:	March 22, 2016	
- 11.	· Award(s) Date:	March 29, 2016	
12.	Project Start Date:	April 11, 2016	

.

REPAIR, RESURFACING AND PAVING OF ELIGIBLE ROADS

A. Introduction

The Perrine DuPont Settlement (the "Settlement"), involves, in part, the remediation (clean-up) of property in and around Spelter, West Virginia, because of heavy metals contamination. To implement the clean-up process, the use of heavy trucks and other equipment was required, which subsequently may have caused damage to the roads named in the "Road Repair List" provided above and shown in the Maps in Attachment 1 (the "Eligible Roads").

Under the Settlement, the Honorable Thomas A. Bedell, Circuit Judge of Harrison County, West Virginia, by Order dated ______ in Attachment 2, has approved the Road Repair Program to repair, resurface and pave the Eligible Roads.

In an effort to improve road conditions, the Eligible Roads need to resurfaced and paved, as more fully described below in the Scope of Work. (See, Section I, Part C).

B. Key Components of the Request for Proposals (RFP)

All bids shall: .

- Include a Price Proposal for the repair, resurface, and paving of the Eligible Roads, and milling of joints (as needed to tie new asphalt into existing pavement) for the Scope of Work, as defined in Part C below.
- Respond directly showing your ability to conduct the Scope of Work, within a timeframe acceptable to the Claims Administrator.
- 3. Be delivered to Edgar C. Gentle, III, Esq., Claims Administrator, the Perrine DuPont Settlement Remediation Administration, 55 B Street, P. O. BOX 257, Spelter, West Virginia 26438. All documents should be delivered no later than March 14, 2016 @ 5:00 PM CST.

C. Scope of Work

The Scope of Work for the proposal encompasses road repair, resurfacing and paving of the Eligible Roads.

Eligible Roads are to be overlaid with two (2) inches of <u>TYPE-1 Wear Surface</u>. Prior to resurfacing the overlay, all existing pot holes and other defects are to be filled and repaired. Once all existing potholes are filled and other defects repaired, the Eligible Roads are to be resurfaced and paved with two (2) inches of <u>TYPE-1 Wear Surface</u>. The new surface on the Eligible Roads will then be graded and blended with all connecting right-of-ways, including roads, streets, alleys, driveways, and the like.

Issued: February 22, 2016

n: PRICE PROPOSAL

A Price Proposal must be submitted and accompany the bid. The name of the bidding firm and the date of submission shall be clearly marked at the upper right hand corner of the bid.

III. . ADDITIONAL NECESSARY ITEMS

- 1. Please provide a list of all current applicable insurance policies.
- Please state whether you are certified/licensed by the West Virginia Department of Transportation ("WVDOT"), Division of Highways ("DOH") (Collectively, referred to as the "WVDOH") as an approved subcontractor/vendor.
- Please provide your experience in complying with the Americans with Disabilities Act
 ("ADA"), and please state how the job will comply with ADA.
- 4. Identify any exceptions or special conditions applicable to the proposed scope of work
- 5. List the last three road repair and resurfacing/paving jobs you performed, and the contact person details.
- 6. Only bidders who provide their own traffic control and flag personnel will be considered. Also, bidders must be able to provide due notice, such as adequate signage and notification to proper authorities, including the WVDOH, before any and all road closores and throughout the entire road repair and improvement program.
- Completion of Appendix A Mandatory Terms, is mandatory.
- 8. Bidders must be in compliance with all applicable state and federal-laws governing the project, including, but not limited to, any state and federal environmental laws, and equal protection laws, such as the Americans with Disabilities Act ("ADA").
- 9. The project is to be commenced no later than May 2016 and completed no later than November 2016.

IV. BIDDER REVIEW PROCESS

Based upon bidder presentations during the interview process and review of the RFP submissions, the Claims Administrator will determine one or more preferred candidate(s). The preferred candidate(s) will be chosen based upon the following:

- 1. Estimated total cost, fixed costs, unit costs, and contract terms and conditions;
- 2. Responsiveness to all aspects of this solicitation;
- 3. Technical merit (i.e., approach detail, appropriateness of approach, experience & depth of risk assessment, staff, probability of method success, plan with regard to community outreach);

d

Issued: February 22, 2016

- 4. Ability to meet the determined schedule; and
- 5. Bidders ability to meet all mandatory terms, including the form contract.

If a negotiated contract is not achievable or funds are not available, the Claims Administrator has the option to award no contract, or to award multiple contracts, or to award a contract to bidder(s) who are not the preferred candidate(s).

Upon request, there may be an opportunity for an optional site visit to the Eligible Roads subject to this project. A conference call shall be held on March 7, 2016, at 2:00 PM Eastern Time with the Claims Administrator to allow for any questions that you may have regarding this solicitation.

APPENDIX A TO RFP: MANDATORY TERMS

REQUEST FOR PROPOSALS (RFP) FOR THE ROAD REPAIR PROGRAM IN THE PERRINE DUPONT SETTLEMENT

ACCEPTANCE OF MANDATORY TERMS

The following are the mandatory terms and RFP requirements that shall be met by the successful bidder(s):

General

- Bidder agrees that the response to the RFP and any subsequent documentation (best and final offer, and interview responses) shall be considered part of the final agreement and contract.
- 2. Bidder understands that the contract with the Settlement will be substantially in the form of Attachment 3. Please list your exceptions (if any) to the contract below:

Account Management

- 3. Bidder will provide a representative to attend meetings as necessary at the job site.
- 4. Bidder will maintain a database regarding the road repair services for all Eligible Roads.
- 5. Bidder will assign a main contact person to interface with the Claims Administrator throughout the road repair program and as long as any executed contract is in effect. This person will be charged with providing requested information and documentation within a twenty four (24) hour period.

Data, Systems, and Reporting

- Bidder will accept electronic data transfer and administer information regarding the road repair program in a confidential manner.
- Bidder will provide road repair data for all Eligible Roads to the Claims Administrator in electronic format.

Financial Proposal

8. Bidder guarantees the financial elements of its proposal throughout the term of the contract.

Americans with Disability Act Compliance

9. The successful bidder will comply with all applicable Americans with Disabilities Act ("ADA") terms and provisions as determined by the bidder and the West Virginia Department of Transportation, Division of Highways. For example, compliance may include the installation of wheel chair ramps for two (2) sidewalks, totaling approximately 900 feet, at intersections on I Street and B Street.

Additionally, the successful bidder will comply with all other applicable federal and state laws and regulations, such as the Equal Employment Opportunity laws and regulations as set out on the WVDOH website (http://www.transportation.wv.gov/eeo/Pages/default.aspx), and demonstrate any and all related certification(s) and licenses demonstrating compliance where required.

Consent to Jurisdiction and Waiver of Objections

10. Bidder, by its execution of the Agreement (to be substantially in the form of Attachment 3), submits to the jurisdiction of the Circuit Court of Harrison County, West Virginia in Perrine, et al., v. E. I. DuPont De Nemours and Company. et al., Case No. 04-C-296-2, (the "DuPont Case") for all purposes related to or arising out of Bidder's proposal to provide road repair services for all Eligible Roads. In addition, Bidder hereby waives any and all objections it might otherwise assert to the aforesaid jurisdiction, venue, or authority of the Court in the <u>DuPont</u> Case to hear and determine any and all disputes that might arise out of or be related to the services described herein, reserving its rights to be heard in connection therewith and to appeal, it may be advised, from any adverse determination of the Court in the <u>DuPont</u> Case.

Confidentiality Agreement

11. Bidder understands that the Court in the <u>DuPont</u> Case has ordered that the data be maintained in a confidential manner; and state that Bidder will not reveal this information to anyone outside of authorized personnel in the bidder company unless Bidder has express permission to do so from the Honorable Thomas A. Beddell or the Claims Administrator. Bidder further understands that if Bidder violates this pledge of confidentiality, Bidder is subject to being brought before the Honorable Thomas A. Beddell for investigation and possible sanctions for this breach.

Other

- 12. Only hidders who provide their own traffic control and flag personnel will be considered. Also, bidders must be able to provide due notice, such as adequate signage and notification to proper authorities, including the WVDOT and the DOH, before any and all road closures and throughout the entire road repair program.
- 13. The West Virginia Department of Transportation, Division of Highways, Standard Specifications Roads and Bridges, adopted 2010 and amended by the West Virginia Department of Transportation, Division of Highways, Supplemental Specifications, dated January 1, 2016, "the Contract Documents and the Contract Plans" are the governing provisions applicable to this road repair project.
- 14. The West Virginia Department of Transportation, Division of Highways, Standard Details Book, Volume I, dated January 1, 2000 and Volume II, dated January 1, 1994 shall apply to this road repair project. The following revised standard drawings (also available at http://www.transportation.wv.gov/highways/engineering/Pages/publications.aspx) supersede the aforementioned Standard Details: (1) Typical Pavement Markings TEM-2; Revised on January 29, 2010, and (2) Channelization, Word and Symbol Markings TEM-3; Revised on January 29, 2010
- The Manual on Temporary Traffic Control for Streets and Highways, 2006 Edition, dated May 1, 2006 shall apply to this project.

- 16. The bidder shall be responsible for coordination of contract work with utilities when they are involved or in conflict. The bidder has full responsibility for any damage to any utility or lighting system caused by contract activities.
- 17. Bidders must be in compliance with all state and federal laws related to and governing the project, including but not limited to, any state and federal environmental laws and equal protection laws.

By signing the below, I, to bind	hereby re (company name), and th	hereby represent that I have the authority and power (company name), and that I will comply with all of the terms as se		
forth hereinabove. '				
Company Name:		•		
Ву:	(Sign name)	Date		
	(Print name)	•		
	(Title with the Company)			

ATTACHMENT 1 TO RFP:

LIST AND MAPS OF ROAD REPAIR PROGRAM

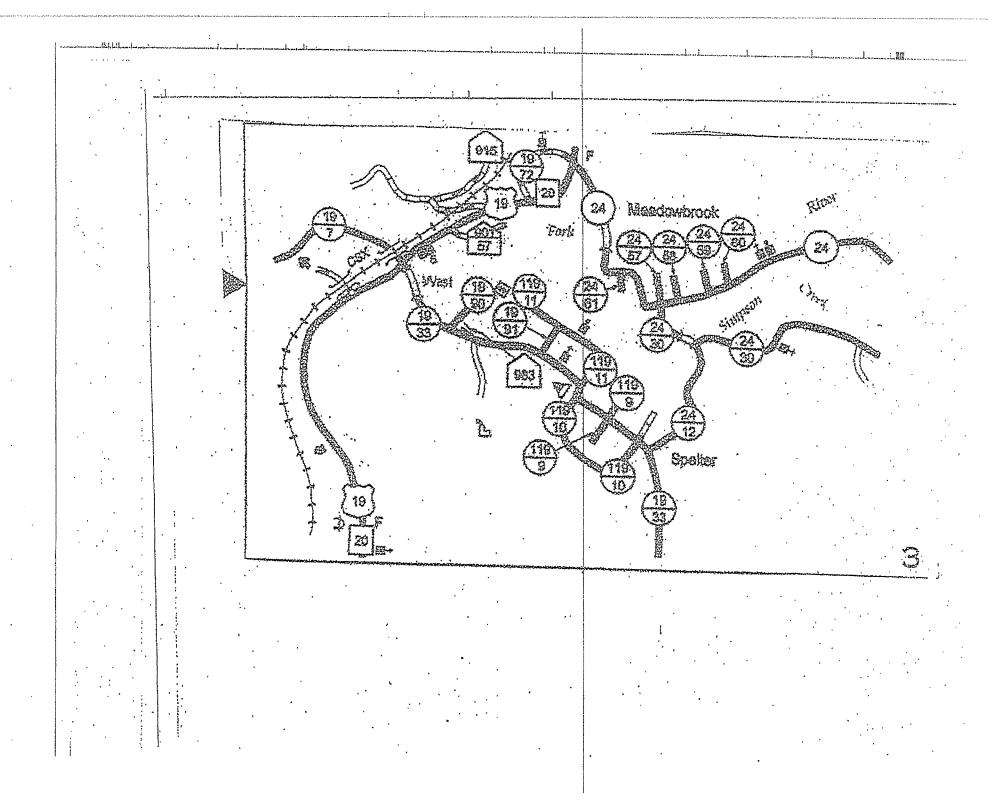
ROAD REPAIR LIST

I. Spelter Roads

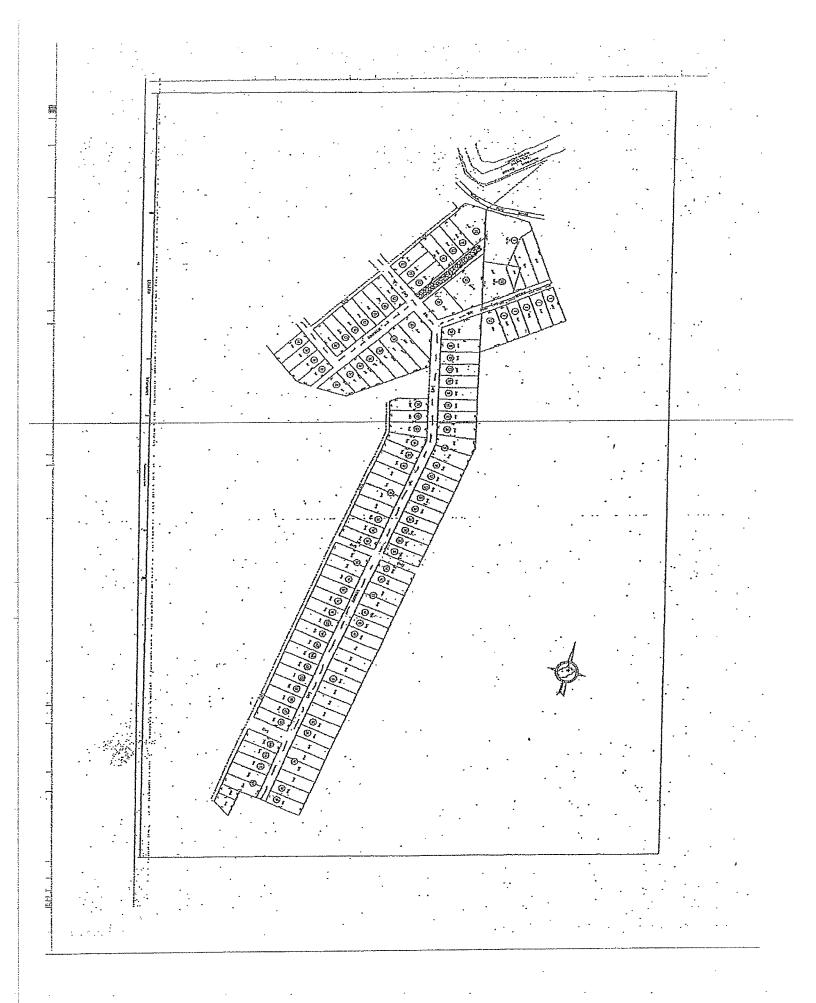
- 1) 1st Street County Road ("CR") 19/90
- 2) 2nd Street CR 19/91
- 3) 3rd Street CR 119/10
- 4) 4th Street CR 119/9 ·
- 5) 5th Street CR 119/10
- 6) 6th Street CR 24/12
- 7) A Street CR 119/11
- 8) B Street CR 19/33 (from Spelter side of bridge to the top of hill)
- 9) C Street CR 119/10

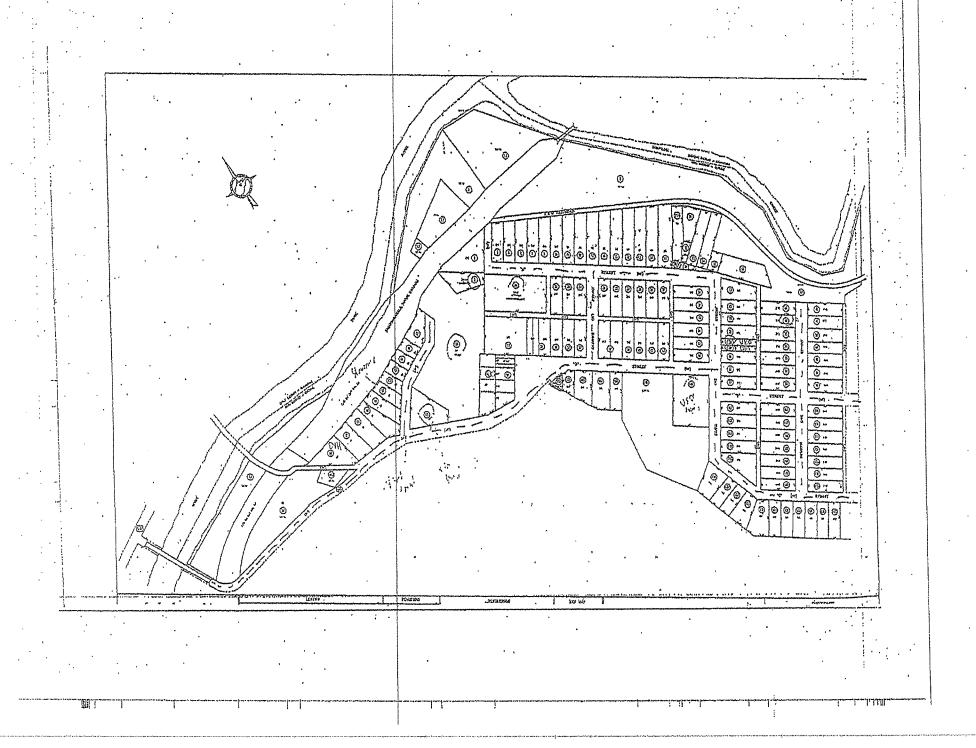
U. Eric Roads

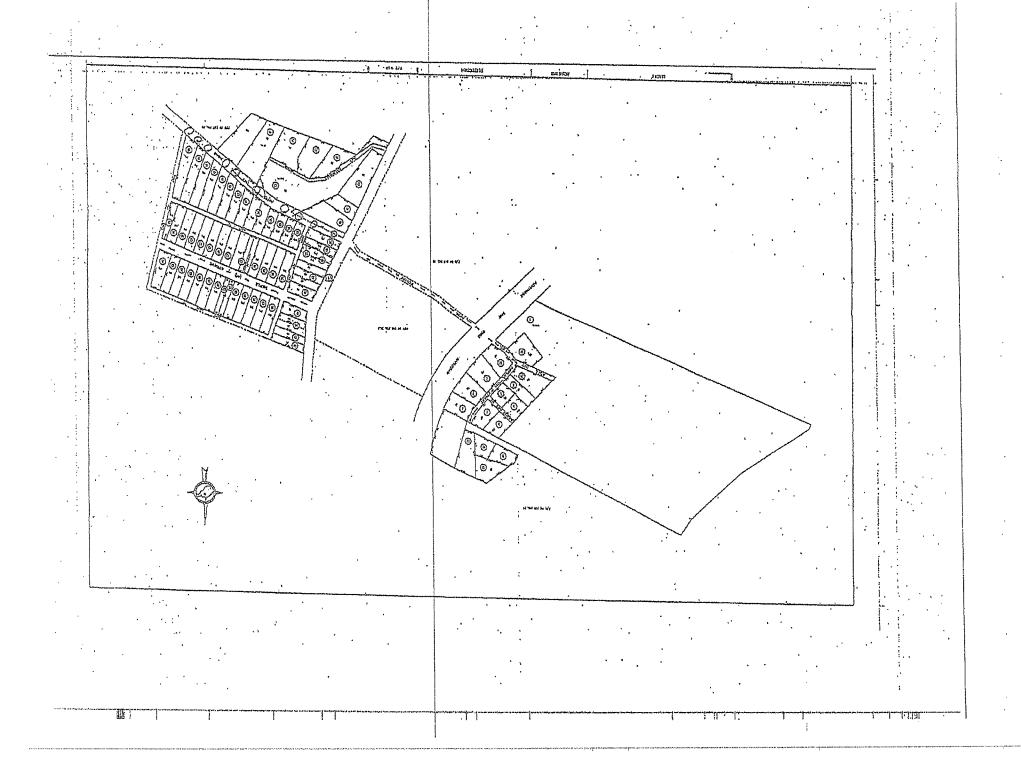
- 10) Maple Ave CR 19/32
- :11) Rose Street/Poplar Street CR 19/34



b bing maps Notes Etie, WV - Roads to be repaired/resurfaced







ATTACHMENT 2 TO RFP: COURT ORDER APPROVING THE ROAD REPAIR PROGRAM

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

LENORA PERRINE, et al.,

Plaintiffs,

Case No. 04-C-296-2 Judge Thomas A. Bedell

E. I. DUPONT DE NEMOURS & COMPANY, et al.,

Defendants.

FINAL ORDER APPROVING (i) THE DESCRIPTION AND MAPS OF THE ROADS SUBJECT TO THE ROAD RE-PAVING/REPAIR PORTION OF THE SETTLEMENT ROAD IMPROVEMENT PROGRAM; (ii) THE ROAD RE-PAVING/REPAIR BIDDER LIST; (iii) THE ROAD RE-PAVING/REPAIR REQUEST FOR PROPOSALS; AND (iv) THE ROAD RE-PAVING/REPAIR AGREEMENT

Presently before the Court is the Claims Administrator's February 11, 2016 Report (the "Claims Administrator's Report"), submitted for review and consideration in connection with the Settlement Property Remediation (Clean-Up) Program approved by the Court's June 27, 2011 Order, regarding the implementation of a portion of the Court's April 15, 2014 Order approved Settlement Road Repair and Improvement Program ("Road Repair Program"). The Road Repair Program has three parts: (i) road re-paving/repairs; (ii) alleys; and (iii) drainage. The portion of the Road Repair Program subject to this Order is the first step of the program, road re-paving repairs. The roads subject to the road re-paving portion of the program are illustrated in the Maps in Exhibit A, and are listed below:

I. Spelter Roads

- 1) 1" Street County Road ("CR") 19/90
- 2) 2nd Street CR 19/91
- 3) 3rd Street CR 119/10

- 4) 4th Street CR 119/9
- 5) 5th Street CR 1,19/10
- 6) 6th Street CR 24/12
- 7) A Street CR 119/11
- 8) B Street CR 19/33 (from Spelter side of bridge to the top of hill)
- 9) C Street CR 119/10

II. Erie Roads

- 10). Maple Ave CR 19/32
- 11) Rose Street/Poplar Street CR 19/34

To begin this portion of the program, the Claims Administrator's Report requests that the Court consider: (i) finalizing of the roads to be so re-paved/repaired, as described above and depicted in Exhibit A; (ii) approving the Bidder List of qualified bidders for this portion of the program in Exhibit B; (iii) approving the Request for Proposals form to be used to obtain the lowest qualified bid in Exhibit C; and (iv) approving the form of Agreement with the successful bidder in Exhibit D.

After a careful review of the Claims Administrator's Report, along with the list of maps of the roads to be re-paved/repaired, the Bidder List, the Request for Proposals and the Agreement, and in consideration of the applicable law, the Court ORDERS AND APPROVES: (i) the map and description of the roads subject to the road re-paving/repair portion of the Road Improvement Program depicted in Exhibit A: (ii) the Bidder List of qualified bidders for the work contained in Exhibit B; (iii) the Request for Proposals form to be used in obtaining the lowest qualified bidder in Exhibit C; and (iv) the form of the Agreement with the successful bidder in Exhibit D, with the resulting Agreement with the lowest qualified bidder to be substantially in the form of Exhibit D, but subject to negotiations.

IT IS SO ORDERED.

The Clerk of this Court shall provide certified copies of this Order to the following:

James S. Amold, Esq.
Thomas Combs & Spann, PLLC
P. O. Box 3824
Charleston, WV 25338
—DuPont's Finance Committee Representative

Meredith H. McCarthy, Esq. Guardian Ad Litem for Children 901 W. Main St. Bridgeport, WV 26330

Virginia Buchanan, Esq.
Levin, Papantonio, Thomas, Mitchell,
Rafferty & Proctor, P.A.
P.O. Box 12308
Pensacola, FL 32591
Plaintiffs' Finance Committee Representative

Edgar C. Gentle, III, Claims Administrator Gentle, Turner, Sexton & Harbison. P. O. Box 257 Spelter, WV 26438

Order Prepared By:

Edgar C. Gentle, III, Claims Administrator Gentle, Turner, Sexton & Harbison P. O. Box 257 Spelter, WV 26438

Michael A. Jacks, Esq.
Jacks Legal Group, P.L.L.C.
W Va. Bar No 11044
United Federal Credit Union Building
3467 University Ave, Suite 200
Morgantown, WV 26505

ENTER.

Thomas A. Bedell, Circuit Judge

ATTACHMENT 3 TO RFP:

AGREEMENT

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ROAD REPAIR PROGRAM AGREEMENT

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THIS AGREEMENT is entered into on	a corporation with its headquarters at
annioval ("Effective Date"), being between	and the Perrine DuPont
	Court of Barrison County, West Virginia,
Settlement (hereinafter "Sponsor") which was approved by	the Circuit Court of Harrison Coopy, and through the
Settlement (hereinafter "Sponsor") which was approved by to Case No. 04-C-296-2 (the "Court"), by Orders dated January appointed Special Master and Claims Administrator, Edgar	ary 4; 2011, and June 27, 2011, of Gentle, Turner,
appointed Special Master and Claims Administrator, Edgar	C. Genne, III., Log, Ortho
Sexton, & Harbison, LLC (hereinafter confectively rotative)	
The principal place of business of the Sponsor,	as administered by the Claims Administrator, is
The principal place of business of the sponsor,	as activities and of
.55 B Street, P.O. Box 257, Spetter, West Vilginia, 20-750.	•
	ministrator issued the Request for Proposals for the
WHEREAS, on February 22, 2016, the Claims Add Road Re-paving/Repair portion of the Settlement Road	Repair and Improvement Program in the Perrine
Road Re-paving/Repair portion of the Sentement Road	(FP"),
DuPont Settlement, attached hereto as Exhibit A (the "I	
WHEREAS, the Claims Administrator recommer	ids to the Court that the Contractor be awarded the
whereas, the Clams Administrates recontract to provide the Road Repair Services described in this	s Agreement;
confract to provide the Abad Repair Bot video del	and the second s
WHEREAS, by entering into this Agreement, the C	Contractor agrees to provide Road Repair Services,
WHEREAS, by entering into this Agreement, the Cincluding, the repair, resurfacing and paving of the Eligible	Roads as listed in the RFP and mcorporated necessity
by reference (See, Exhibit A).	
DA Letergines (nee) commons 131	Lat. Contractor degires to
WHEREAS, the Claims Administrator desires to we	ork with the Contractor and the Contractor decision
work with the Claims Administrator to implement the Road I	Repair Program, and
	have agreed that
WHEREAS, the Claims Administrator and the Contractor shall exclusively provide the Road Repair	express for the Claims Administrator for the roads.
the Contractor shall exclusively provide the Road Repair	2016, in Exhibit A, for the duration of this
described in the Order of the Court dated	
Agreement	
NOW, THEREFORE, in consideration of the mutu	al covenants set forth herein, and for other good and
NOW, THEREFORE, in consideration of the mutu- substantial consideration, the receipt and sufficiency of	of which are hereby acknowledged, the Parties agree
substantial consideration, the receipt and sext	
as follows:	•
I. <u>DEFINITIONS</u>	
•	•
All words and phrases defined below shall have the followin	g meaning:
All Molds and burges correct	a The said womant
A. "RFP" collectively means the Claims Administrator	s February 22, 2016 Request for Proposals with respect
to the Road Revair Services defined below (bee, bec	tion I.B. below), a copy of which is attached hereto as
Exhibit A and is incorporated by reference;	a second at Work? for the
	geoment to (i) perform the Scope of work for the
B. "Road Repair Services" includes the Contractor's ag designated "Road Repair List" as described in the Ri	FP and incorporated nerein by relicionice luce, Lamber
designated "Road Repair List" as described in the Ro A); and (ii) an implementation plan to be prepared	for the Claims Administrator and of the Contractor and
A); and (ii) an implementation plan to be prepared during a reasonable editing cycle that identifies the	e full scope of work required of the common of
A Chaima Administrator and the Divideos was me	Conductor
the Road Repair Services, as described in Section IV.	B. below.

PERIOD OF PERFORMANCE II.

This Agreement shall become effective following Court approval, and shall continue in full force through . December 31, 2016, or until such time as all conditions and obligations are met and satisfied herein, which the Claims Administrator estimates is sufficient time to complete all Road Repair Services in accordance with the terms of this Agreement.

COMPENSATION AND TERMS OF PAYMENT m.

- The Contractor agrees to provide the Road Repair Services as described herein at a cost agreed to by the Claims Administrator, with total compensation not to exceed \$ A. "capped amount"). Within seven (7) days following Court approval of this Agreement, the Contractor shall (the "5% down payment"). receive an amount equal to 5% of the capped amount, or \$
 - Payment Terms for Road Repair Services. To be negotiated and included herein prior to the
 - Disposition of 5% Down Payment. The 5% down payment shall be utilized in ratebly reducing the payments to the Contractor. If the down payment is fully utilized, then future payments to the . ii. Contractor shall no longer be reduced by the 5% down payment. But, if the 5% down payment is not so utilized in full, then, following completion of the Road Repair Services, the remaining portion of the 5% down payment shall be refunded by the Contractor to the Claims Administrator.
- The Contractor shall be responsible for the payment of all excise, sales, or use taxes and all taxes required by law on all labor, materials, tools, apparatus, equipment, fixtures, and incidentals which purchases or uses for the purpose of conducting, facilitating and/or supervising the Road Repair Services contemplated herein. The Contractor represents that all amounts required for such taxes are included and are part and parcel of the compensation as set out in the Price Proposal submitted by the Contractor.
- The Contractor will take the risk of diesel fuel cost fluctuations up to a ceiling of \$3.00 per gallon per http://www.eia.gov/petroleum/gasdiesel/(the "fuel cap"). Upon the Contractor providing reasonable proof C. that it purchased diesel fuel for the project and only used it for the project at a price above the fuel cap at a time that the fuel cap was exceeded per http://www.eia.gov/petroleum/gasdiesel/, the Settlement shall reimburse the Contractor, dollar for dollar for the amount above the fuel cap so paid by the Contractor, for diesel fuel.

OBLIGATIONS OF: THE CONTRACTOR IV.

- Good Faith: The Contractor commits to act in good faith in working with the Claims Administrator to complete all of the tasks and obligations identified herein, and to perform all actions required to A. effectuate the items identified herein in a reasonable and responsible manner consistent with industry practices. The Contractor represents and warrants that all services performed in accordance with this Agreement shall be performed in accordance with all applicable federal, state and local rules and regulations. The Contractor further warrants that it has or will have examined and familiarized itself with the services and the laws, rules and regulations relating to this Agreement and that all employees and any subcontractors authorized hereunder shall possess such expertise and skill and such training and certifications as may be necessary to perform the tasks and. responsibilities to which they are assigned.
- Road Repair Services: The Contractor shall provide Road Repair Services for the Eligible Roads listed in the RFP, as follows:

- Incorporation of the RFP: The Parties hereby agree that the RPF in Exhibit A is incorporated herein and, together with this Agreement, define the scope of the work for the Road Repair Services. Nonetheless, if any terms set forth in Exhibit A conflicts with any term contained in this Agreement, the Agreement shall govern.
- b. Exclusion of Response Assumptions, Exceptions, and Caveats: Claims Administrator and the Contractor specifically exclude any exclusions, limitations, assumptions, or other statements of reservation that are not in this Agreement. This Agreement, with its Exhibits, represents the complete, entire and sole agreement between the Parties, and any and all previous statements of "reservation" made by the Contractor are not a final part of this Agreement unless specifically stated and agreed to by the Claims Administrator herein.

Project Planning:

The Contractor shall prepare an Implementation Plan and provide to the Claims Administrator for review and approval that encompasses the full scope of work and identifies the protocols for the completion of the Road Repair Services.

ii. The Contractor shall carry out and perform any and all duties pursuant to and in compliance with all state and federal laws, including but not limited to any and all state and federal environmental

laws, along with any applicable healthy and safety regulations.

iii. Permits: The Contractor shall ensure that all required permits are secured prior to commencing Road Repair Services. The Contractor shall file permits or notify the appropriate permitting agencies, as necessary, in order to limit potential delays in the commencement of road repair activities. The Commetter shall also obtain any other local authorizations that may be necessary for the completion of work. The Contractor 's activities include, but are not limited to, obtaining all permits required by Harrison County, the State of West Virginia, the United States Government; and/or any municipality within the Class Area that require permits related to the work described herein.

iv. Access Agreements: The Contractor shall secure from the Claims Administrator copies of all available access agreements prior to commencing Road Repair Services, and shall ensure that copies of said agreements are uploaded and maintained outo an electronic data management system. All necessary and relevant access agreements have been produced by the Claims Administrator and shall be provided upon request to The Contractor by the Claims Administrator. Said data management system shall maintain the ongoing status of Road Repair Services activities at each location where an access agreement has been obtained with weekly updated reports submitted by the Contractor to the Claims Administrator for tracking the work. The Contractor shall also provide reports as requested by the Claims Administrator within forty-eight (48) hours of written request.

Site Preparation and Mobilization

Pre-Road Repair Program Meeting: The Contractor shall conduct a pre-Road Repair Program conference to introduce key personnel, define authorities and responsibilities, discuss details related to project implementation and a detailed schedule for the Road Repair Services, with a teleconference option for those participants electing to meet via telephone, including, but not limited to Claims Administrator representatives, the Pinance Committee and the Claimant Advisory Committee.

Weekly Meetings: During the execution of the Road Repair Services, the Contractor will conduct weekly project meetings to inform the Claims Administrator of the progress of the work, any problems and/or corrective actions implemented, and updates on the construction schedule. A teleconference option for those participants electing to meet via telephone, and including, but not limited to Claims Administrator representatives, if so requested, shall be provided.

Daily Safety Meetings: Safety meetings will be conducted by the Contractor daily as part of the Contractor's duty to fulfill its obligations under any and all federal and state as contemplated in Section IV(c)(ii) above.

Monthly Reports: During the execution of the Road Repair Services, the Contractor shall provide the Claims Administrator monthly written reports identifying, at a minimum, the progress of repairing the Eligible Roads, including, if any, significant damage caused to areas surrounding the road repair area, such as yards, structures, or personal property, caused by the Contractor or its subcontractors; and any complaints received from Claimants or other persons effected by the damage. The report shall be provided to the Claims Administrator office via hand or overnight delivery and

Complaints: The Contractor shall notify the Claims Administrator immediately in writing, to the extent practicable, when it becomes aware of any Claimant's complaint related to the Road Repair Services, and the Contractor shall cooperate with the Claims Administrator in undertaking reasonable

measures to resolve such complaints.

Problem Resolution Meetings: A special meeting shall be held when and if a problem or deficiency is present or likely to occur. At a minimum, the meeting shall be attended by the Claims Administrator, the Contractor team members, and any affected third party subcontractors and/or Claimants. The purpose of the meeting shall be to define and resolve the problem or work deficiency. The meeting shall be documented by the Contractor and minutes shall be prepared and distributed to. all parties attending or participating. A teleconference option for those participants electing to meet via telephone, and including, but not limited to Claims Administrator representatives, if so requested, shall be provided. The meeting shall occur promptly but no later than seventy-two (72) hours after written request of the Contractor or Claims Administrator. The request shall identify the condition or event to be discussed.

Logistics: The Contractor shall facilitate all logistical support, and any and all logistical planning necessary to effectuate an efficient start-up and continuation of Road Repair Services.

Utility Identification: Prior to initiating Road Repair Services activities, the Contractor shall locate

and mark all underground utilities. Access Road Construction: The Contractor shall construct access roadways, as necessary, utilizing crushed stone or other materials, to facilitate work activities. The Contractor shall establish suitable facilities for parking.

Personnel and Equipment Decontamination: As required, the Contractor shall ensure X.

decontamination of personnel and excavation equipment.

Mobilization: Upon completion of logistical preparation activities, the Contractor shall mobilize personnel, equipment, materials, and other resources to the site to initiate road repair activities. Mobilization activities are anticipated to include, but are not limited to, the delivery, installation, hookup, and maintenance of temporary offices and construction facilities. Temporary offices and construction facilities are expected to include field offices, support facilities, utilities, dust and pollution control facilities, personnel protection and work areas, and creation and maintenance of access roads and parking areas, as required.

Site Security: The Contractor shall be responsible for access control and security at all staging areas and at the individual work areas. Security shall include at least one of the following: use of existing fencing, snow fencing, at a minimum caution tape, and signage warning of restricted areas and hazards to control access, protect equipment and support facilities, and prevent unauthorized entry and exposure to Eligible Roads and to control access to other dangerous conditions.

Documentation: The Contractor shall be responsible for documenting all field activities during the Road Repair Program. Records of field activities shall be legible, identifiable, retrievable, and protected against damage, deterioration, and loss. The Contractor shall record all documentation in waterproof, non-erasable ink. If an error in any of these documents is made, shall make corrections by crossing a single line through the error and entering the correct

information adjacent to it. The corrections shall then be initialed and dated. All data and documentation shall also be uploaded and maintained onto an electronic data management system. The data management system shall be in a format that is easily readable and exportable, and access to said data and documentation, and/or reports generated from said data and documentation, shall be provided to the Claims Administrator within five (5) days of written request.

C. Reporting Requirements:

a. The reports to be submitted by the Contractor pursuant to the terms of this Agreement shall be provided to the Claims Administrator's office via hand or overnight delivery and electronic mail.

b. The Contractor shall work with the Claims Administrator to determine which reports shall be necessary to fully perform the services contained herein.

D. Insurance and Bond Requirements:

a. The Contractor shall maintain Workers' Compensation benefits within the State of West Virginia throughout all periods relevant to the execution of duties and obligations under this Agreement with waiver of subrogation in favor of the Perrine DuPont Settlement (which is the Perrine DuPont Property Remediation Qualified Settlement Fund, an IRC §468B Qualified Settlement Fund domiciled in West Virginia), E.I. DuPont De NeMours and Company ("DuPont"), and the law firm of Gentle, Turner, Sexton & Harbison, ILC.

b. The Contractor shall maintain an Employer's Liability insurance policy throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of One-Million Dollars (\$1,000,000.00) per incident, with waiver of subrogation in favor of the Perrine DuPont Settlement, DuPont, and Gentle, Turner, Sexton & Harbison, LLC. The Contractor shall maintain a Commercial General Liability insurance policy throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of Two Million Dollars (\$2,000,000.00) per occurrence.

c. The Contractor shall maintain Professional Liability insurance throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of One Million Dollars (\$1,000,000.00) per claim with maintenance of coverage for two (2) years following the completion of the Project

d. The Contractor shall maintain an Excess Liability policy throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of One Million Dollars (\$1,000,000.00) per claim.

e. The Contractor shall maintain an Environmental Impairment insurance policy or Pollution Liability insurance policy throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of Two Million Dollars (\$2,000,000.00) per claim.

f. The Contractor shall maintain comprehensive or commercial automobile liability for bodily injury and property damage throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of One Million Dollars (\$1,000,000.00) per claim.

g. The insurance required herein shall be primary to any other valid and collectible insurance.

The Contractor must ensure that the Perrine DuPont Settlement, DuPont and the law firm of Gentle,
Turner, Sexton & Harbison, LLC, are listed as additional insureds on the above policies, as evidenced by
a Certificate of Insurance verifying coverage limits.

Bonds: The Contractor shall furnish bonds covering the faithful performance of this Agreement and the payment of all obligations arising in connection therewith, said bonds to be in such form Claims. Administrator approves, and with sureties that Claims Administrator approves. Approval of the bond form shall not be unreasonably denied, reasons for denial shall be stated in writing. Each bond shall

contain a provision to the effect that changes in the Road Repair Services and/or modifications to this Agreement shall in no way relieve the surety of its obligations. Bonding provided by the Contractor shall equal the total contract value of this Agreement. Bonds may be furnished for different phases of the work so long as the penal value of each bond is commensurate with the value of each phase.

Sub-Contracts: E.

The Contractor may sublet to Sub-contractors acceptable to the Claims Administrator any portions of the Road Repair Services. Claims Administrator reserves the right to review and approve or a. disapprove all subcontracts as to scope of the Road Repair Services to be performed or for any reasonable basis. If Claims Administrator rejects a proposed subcontractor, it must state all bases in writing and allow Contractor to respond and request a reconsideration with a reasonable period of time.

Such Claims Administrator's acceptance, review or approval, or the failure to accept, review, or approve a subcontractor, shall not be construed as relieving the Contractor of any responsibilities under this b.

The Contractor shall have full directing authority over and responsibility for the performance of all Road Repair Services which the Contractor subcontracts and shall not be relieved of its .C. responsibility for the proper performance of the services contemplated herein due to subcontracting.

The Contractor agrees to bind each and every Sub-contractor by the terms, conditions and provisions of this Agreement applicable to Road Repair Services, unless otherwise specifically agreed to in writing đ.

Nothing contained in this Agreement is intended to or shall the same create any contractual or privity relation between any Sub-contractor and the Claims Administrator or any obligation on the part of the e. Claims Administrator to pay or to see to the payment of any moneys due any Sub-contractor.

OBLIGATIONS OF THE CLAIMS ADMINISTRATOR ٧.

Fiduciary Duties: The Claims Administrator shall be responsible for the interpretation of Court Orders and Road Repair Program documents, and any communications to the Claimants, the Finance A. Committee, the Claimants Advisory Committee, and the Court.

Amendments to the Road Repair Program: The Claims Administrator shall provide written notification to the Contractor of any modifications or amendments to the Road Repair Program. Modifications to B. the Road Repair Program that have a cost impact upon the Contractor shall, result in written,

reasonable pricing revisions effective as of the date of the modification or amendment.

Response Time: The Claims Administrator shall provide any written response required herein or otherwise reasonably required by the Contractor no later than five (5) working days after request. In instances where C. a response is needed faster in order to avoid delay, such response shall be provided sooner so as to avoid delay.

PROPERTY RIGHTS AND CONFIDENTIALITY VI.

Computer Equipment and Confidential Information: All computer equipment owned by the Contractor, programs, drawings, diagrams, specifications, manuals, forms, procedures, data files A. (but not the data therein belonging to the Claims Administrator), and all other information and materials of any nature existing before the commencement of the Road Repair Program and furnished, revealed or otherwise made available to the Claims Administrator by the Contractor, whether the Gontractor's premises or the Claims Administrator's premises (the "Confidential Information"), shall remain the sole and exclusive property of the Contractor. All other Information, records, and documentation generated in carrying out the Road Repair Services contemplated herein are hereby designated the "Claims Administrator's Information." The Claims Administrator's Information shall be and remain the sole and exclusive property of the Claims Administrator. The Contractor shall return the Claims Administrator's Information to the Claims Administrator within thirty (30) days from the date of termination of this Agreement, while being able to maintain a copy on a confidential basis and also to be used to enforce the Contractor's rights'

- Storage and Inspection: All documents, books, and records furnished to the Contractor by the Claims Administrator provided in accordance with this Agreement shall remain the property of the Claims B. Agreement pertaining to any individual insurance, group insurance, or services, whether original records of the Contractor or furnished by the Claims Administrator, shall be open for inspection at the Contractor's West Virginia location, unless otherwise agreed, at all reasonable times. The Contractor may store any or all of such documents, books, and records in microfilm, magnetic tape, or other electronic
- Disposition upon Termination of this Agreement: To the extent feasible, upon termination of this agreement, the Contractor shall return to the Claims Administrator all Claims Administrator Information received or created by the Contractor on behalf of the Road Repair Road Repair Program within ten (10) business days; however if it is not reasonably feasible, the protections of this Agreement shall continue to apply to such information after the termination of this Agreement. the majorean entre action of the

MANDATORY TERMS VII.

The Mandatory Terms in Appendix A to the RFP and attached hereto as Exhibit B are a part of this Agreement, and are incorporated herein by reference.

INDEMINIFICATION VIII.

- Indemnification of the Contractor. Claims Administrator agrees to indemnify and hold harmless the Contractor or any of its officers, or employees from any and all losses, liability, damages, expenses or other cost or obligation, resulting from or arising out of claims, demands, lawsuits or judgments brought against Claims Administrator and/or the Contractor as a result or arising out of Claims Administrator's Α. performance of its responsibilities pursuant to the provisions of this Agreement, except any such claims, losses, liabilities, damages, or expense which arise out of or in connection with the Contractor's negligence,
- Indemnification of the Claims Administrator. The Contractor agrees to indemnify and hold harmless the Claims Administrator or any of its officers, or employees from any and all losses, liability, damages, expenses or other cost or obligation, resulting from or arising out of claims, demands, lawsuits or judgments brought against the Contractor and/or the Claims Administrator as a result or B. arising out of the Contractor's performance of its responsibilities pursuant to the provisions of this Agreement, except any such claims, losses; liabilities, damages, or expense which arise out of or in connection with the Claims Administrator's negligence, willful misconduct, or criminal misconduct.

IX. TERMINATION

Material Breach: If either party materially breaches this Agreement, the other party may terminate the Agreement provided that it notifies, in writing, the breaching party of the specific breach and allows the A. breaching party the opportunity to cure the breach within fifteen (15) days of the date of the notice. If reasonable and substantial steps to cure the breach have not been corrected in fifteen (15) days, the Agreement may be terminated upon five (5) days further written notice. If a notice and opportunity to cure is generated by the Contractor for non-payment and not cured by Claims Administrator, the Contractor may, at its sole discretion, suspend performance upon expiration of the fifteen (15) days the Contractor shall be entitled to an equitable adjustment to this Agreement.

Termination for Insolvency: If either party applies for or consents to the appointment of a receiver, В. trustee, or liquidator of itself or of all, or a substantial part, of its assets; files a voluntary petition in bankruptcy; admits in writing to its inability to pay its debts as they become due; makes a general assignment for the benefit of creditors; files a petition or an answer seeking reorganization or rearrangement with creditors; or, as a debtor, invokes or takes advantage of any insolvency law; or if an order, judgment, or decree is entered by a court of competent jurisdiction upon application of a creditor adjudicating such party bankrupt or insolvent or approving a petition seeking reorganization of such party of all, or a substantial part, of its assets, and such order, judgment, or decree continues unstayed for thirty (30) days, then the other party may, by written

notice, terminate this Agreement effective on any future date specified in such notice.

Termination for Convenience: The Claims Administrator reserves the right to terminate this Agreement and all rights and obligations hereunder without cause, or for convenience, at its sole discretion, at any time after five (5) days written notice. In the event Claims Administrator terminates this Agreement without cause then Claims Administrator shall reimburse the Contractor for any reasonable out-of-pocket costs and expenses incurred for the actual preparation and/or performance of Work and for reasonable lost profit and overhead.

Effect of Termination: In the event of a termination, this Agreement shall be of no further force or Ď. effect except that each party hereto shall remain liable for any debts and/or liabilities arising from

activities under this Agreement occurring prior to the effective date of termination.

Continuation of Services: Except for termination due to Claims Administrator's breach, the Contractor agrees that upon completion of the work, at Claims Administrator's request for continuation of services, it shall continue to provide services hereunder, provided Claims Administrator complies with all the terms and provisions of this Agreement in effect prior to the termination. The fees for such continuation period shall be equitably adjusted.

Information Transfer: In the event of termination of this Agreement, the Contractor agrees to provide Claims Administrator all Information in the Contractor's possession pertaining to all services, records, and efforts related to this Agreement, consistent with reasonable industry norms, are within five (5) business days. The Contractor may provide the data by electronic or wire communication or a media

type such as disk, tape, or CD.

F.

В.

CHOICE OF LAW AND RESOLUTION OF ALL DISPUTES Х.,

Choice of Law: This Agreement shall be governed by and construed in accordance with the laws of the

State of West Virginia. Resolution of All Disputes: In accordance with the Mandatory Terms in Appendix A to the RFP and attached hereto as Exhibit B, the Circuit Court in Harrison County, West Virginia, retains continuous and exclusive jurisdiction and supervision over the Property Remediation Plan and over this Agreement, and any agreements related thereto. Any judicial proceeding arising out of or relating to this Agreement may be brought only before the Circuit Court of Harrison County West Virginia, and any judgment against a party may be enforced only by a proceeding before the Circuit Court of Harrison

County West Virginia. The Parties irrevocably and expressly submit to the jurisdiction of the Court over any such proceeding. The Parties irrevocably and expressly waive any objection that they might now or hereafter have to the laying of venue for such proceeding in the Circuit Court of Harrison County West Virginia and any claim that any such proceeding in the Circuit Court of Harrison County West Virginia has been brought in an inconvenient forum.

C. Mediation: Prior to litigation or juridical proceeding, the Parties must first subject the dispute to mediation as a condition precedent. Mediation shall be administered by a mediator to be agreed upon by the parties.

XI. MISCELLANEOUS

A. Prompt Notification of any and all Complaints: The Contractor and Claims Administrator both mutually agree that each shall both promptly notify in writing the other of any and all complaints and/or issues which relate to or arise from this Agreement contemplated herein, and the Contractor and Claims Administrator shall work in tandem to resolve any and all claims and/or complaints which may arise.

B. Correlation of Documents: The Agreement documents are complementary and what is called for by any one of the documents described herein and attached hereto are binding as if called by all. There are certain operations, labor, equipment, materials and things reasonably inferable from the Agreement as being necessary to produce the intended results; even though no mention thereof is made in said Agreement, such omission shall not relieve the Contractor from its obligation to provide all such operations, labor, equipment, materials and things reasonably required. Parts of the Road Repair Services described in words which, when applied, have a well-known technical or trade meaning shall be furnished or performed in accordance with the recognized standards applicable to such meaning.

Rorce Majeure: Notwithstanding anything herein or otherwise which may appear to be to the contrary, neither party shall be responsible for delays or failures in performance under this Agreement resulting from any force majeure or acts beyond the reasonable control of the party. Such acts shall include, without limitation, acts of God, strikes, blackouts, riots, acts of war, epidemics, governmental regulations, fire, communication line failure, power failures, mechanical failures, storms or other disasters. Notwithstanding any other provision, the Contractor shall be entitled to an equitable adjustment to this Agreement for delays due to weather.

D. Notice: Any notice or demand desired or required to be given hereunder shall be in writing and deemed given when personally hand delivered or, if sent via overnight mail upon receipt, or three (3) days after deposit in the United States Mail, postage prepaid, sent certified or registered, addressed as follows:

a. If to the Claims Administrator, to:
The Penine DuPont Property Remediation Road Repair Program
Spelter Volunteer Fire Department Office
55 B Street
PO BOX 257
Spelter, West Virginia 26438
Attention: Edgar C. Gentle, III, Esq.
Claims Administrator
With an email copy to escrowagen@aol.com

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•••		Attention:		onlicable narty
or to s	uch o	other address or person as her	reafter shall be designated in writing by the a	bhucaosó bard.

Entire Agreement: This Agreement and all exhibits and schedules hereto constitute the entire agreement between the Parties hereto pertaining to the subject matters hereof and supersede all negotiations, preliminary agreements and all prior or contemporaneous discussions and understandings of the Parties hereto in connection with the subject matters hereof. All exhibits and schedules are incorporated. into this Agreement as if set forth in their entirety and constitute a part hereof. Any exceptions or reservations set forth by the Contractor in any responses to the RFP shall not be part and parcel of this Agreement, excepting those that are explicitly acknowledged herein.

E.

H.

I.

Modifications in Writing: No failure or delay on the part of any party in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or F. partial exercise of any such right, power or remedy, preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies provided for herein are cumulative and are not exclusive of any remedies that may be available at law or in equity or otherwise. No amendment, modification, supplement, termination or waiver of or to any provision of this Agreement, nor consent to any departure therefrom, shall be effective unless the same shall be in writing and signed by or on behalf of the party subject to the enforcement thereof. Any amendment, modification or supplement of or to any provision of the Agreement, any waiver of any provision of this Agreement, and any consent to any departure from the terms of any provisions of this Agreement, shall be effective only in the specific instance and for the specific purpose for which made or given.

Conflicting Terms: In the event that any term shall conflict with any of the terms contained in any of the documents which are part and parcel of this Agreement, including but not limited to, Claims. Administrator's RFP, the Contractor's Response to RFP, and/or any other Exhibits attached hereto,

and/or any other documents identified in this Agreement, this Agreement shall control.

Severability: In the event any provision of this Agreement is held invalid, illegal or unenforceable, in whole or in part, the remaining provisions of this Agreement shall not be affected thereby and shall continue to be valid and enforceable. In the event any provision of this Agreement is held to be unenforceable as written, but enforceable if modified, then such provision shall be deemed to be amended to such extent as shall be necessary for such provision to be enforceable and shall be enforced to that extent.

Nothing contained in this Agreement and no action taken by Relationship: Parties pursuant hereto shall be deemed to constitute the Parties as a partnership, an association, a joint venture or other entity. It is expressly agreed that neither Party for any purpose shall be deemed to be an agent,

ostensible or apparent agent, employee, or servant of the other Party.

Headings and Captions: The titles or captions of sections and paragraphs in this Agreement are J. provided for convenience of reference only, and shall not be considered a part hereof for purposes of interpreting or applying this Agreement, and such titles or captions do not define, limit, extend, explain or

describe the scope or extent of this Agreement or any of its terms or conditions.

Binding Effect on Successors and Assigns: This Agreement shall be binding K. upon and shall inure to the benefit of the Parties hereto and their respective heirs, legal representatives, successors and assigns. In the event of assignment, all of the terms, covenants and conditions of this Agreement shall remain in full force and effect and the party making the assignment shall remain liable and responsible for the due performance of all of the terms, covenants and conditions of this Agreement that it is obligated to observe and perform. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the Parties hereto (and their respective heirs, successors, legal representatives and permitted assigns) any rights, remedies, liabilities or obligations under or by reason of this Agreement. However, neither the Claims Administrator, nor the Contractor may assign the rights and obligations provided hereunder without the prior written express permission of the other party, which shall not be unreasonably denied. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and in making proof hereof, it shall not be necessary to produce or account for more than one such counterpart.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first written. The undersigned certifies that he has legal authority to bind By: Name: Title: Date: WITNESS:	
The undersigned certifies that he has legal authority to bind By: Name: Title: Date:	
Title: —Date:	
Title: —Date:	
The undersigned certifies that he has legal authority to bind Claims Administrator upon approval of this Ag by the Court in the DuPont Case.	reement
The Perrine DuPont Settlement By:	
Edgar C. Gentle, III Title: Claims Administrator Date:	

WITNESS:

EXHIBIT D TO ORDER:

ROAD RE-PAVING/REPAIR PORTION OF THE
SETTLEMENT ROAD REPAIR AND IMPROVEMENT

PROGRAM AGREEMENT

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ROAD REPAIR PROGRAM AGREEMENT

	AGIODIA I
-	THIS AGREEMENT is entered into on, 2016, and is effective upon Court approval ("Effective Date"), being between, a corporation with its headquarters at approval ("Contractor") and the Perrine DuPont of Harrison County, West Virginia,
	Settlement (hereinafter "Sponsor") which was approved by the Circuit Court of Harrison County, West Virginia, Case No. 04-C-296-2 (the "Court"), by Orders dated January 4, 2011, and June 27, 201, by and through the appointed Special Master and Claims Administrator, Edgar C. Gentle, HI., Esq.; of the firm of Gentle, Turner, Sexton, & Harbison, LLC (hereinafter collectively referred to as "Claims Administrator").
	The principal place of business of the Sponsor, as administered by the Claims Administrator, is 55 B Street P.O. Box 257, Spelter, West Virginia, 26438.
	WHEREAS, on February 22, 2016, the Claims Administrator issued the Request for Proposals for the Road Re-paving/Repair portion of the Settlement Road Repair and Improvement Program in the Perrine DuPont Settlement, attached hereto as Exhibit A (the "RFP").
	WHEREAS, the Claims Administrator recommends to the Court that the Contractor be awarded me
	WHEREAS, by entering into this Agreement, the Contractor agrees to provide Road Repair Services, including, the repair, resurfacing and paving of the Eligible Roads as listed in the RFP and incorporated herein by reference (See Exhibit A).
	WHEREAS, the Claims Administrator desires to work with the Contractor and the Contractor desires to
	nationally the "Parties" have agreed man
	the Contractor shall exclusively provide the Road Topan 2016, in Exhibit A, for the duration of this described in the Order of the Court dated
	NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and for other good and substantial consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree substantial consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree
	as follows:
	I. <u>DEFINITIONS</u>
	All words and phrases defined below shall have the following meaning:
	A. "RFP" collectively means the Claims Administrator's February 22, 2016 Request for Proposals with respect to the Road Repair Services defined below (See, Section I.B. below), a copy of which is attached hereto as
	Exhibit A and is incorporated by reference; B. "Road Repair Services" includes the Contractor's agreement to (i) perform the "Scope of Work" for the designated "Road Repair List" as described in the RFP and incorporated herein by reference (See, Exhibit designated "Road Repair List" as described in the RFP and incorporated herein by reference (See, Exhibit designated "Road Repair List" as described in the RFP and incorporated herein by reference (See, Exhibit designated "Road Repair Contractor plan to be prepared for the Claims Administrator's review and approval during a reasonable editing cycle that identifies the full scope of work required of the Contractor and the Claims Administrator, and the protocols that the Contractor shall perform and rely upon in carrying out the Road Repair Services, as described in Section IV.B. below:
	the Road Repair Services, as described in Section 1.

II. PERIOD OF PERFORMANCE

This Agreement shall become effective following Court approval, and shall continue in full force through December 31, 2016, or until such time as all conditions and obligations are met and satisfied herein, which the Claims Administrator estimates is sufficient time to complete all Road Repair Services in accordance with the terms of this Agreement.

III. COMPENSATION AND TERMS OF PAYMENT

- A. The Contractor agrees to provide the Road Repair Services as described herein at a cost agreed to by the Claims Administrator, with total compensation not to exceed \$ (the "capped amount"). Within seven (7) days following Court approval of this Agreement, the Contractor shall receive an amount equal to 5% of the capped amount, or \$ (the "5% down payment").
 - Payment Terms for Road Repair Services. To be negotiated and included herein prior to the execution of this agreement.
 - Disposition of 5% Down Payment. The 5% down payment shall be utilized in ratably reducing Disposition of 5% Down Payment. The 5% down payment is fully utilized, then future payments to the the payments to the Contractor. If the down payment is fully utilized, then future payment is Contractor shall no longer be reduced by the 5% down payment. But, if the 5% down payment is not so utilized in full, then, following completion of the Road Repair Services, the remaining portion of the 5% down payment shall be refunded by the Contractor to the Claims Administrator.
- B. The Contractor shall be responsible for the payment of all excise, sales, or use taxes and all taxes required by law on all labor, materials, tools, apparatus, equipment, fixtures, and incidentals which purchases or uses for the purpose of conducting, facilitating and/or supervising the Road Repair Services contemplated herein. The Contractor represents that all amounts required for such taxes are included and are part and parcel of the compensation as set out in the Price Proposal submitted by the Contractor.
- C. The Contractor will take the risk of diesel fuel cost fluctuations up to a ceiling of \$3.00 per gallon per http://www.cia.gov/petroleum/gasdiesel/ (the "fuel cap"). Upon the Contractor providing reasonable proof that it purchased diesel fuel for the project and only used it for the project at a price above the fuel cap at a time that the fuel cap was exceeded per http://www.cia.gov/petroleum/gasdiesel/, the Settlement shall reimburse the Contractor, dollar for dollar for the amount above the fuel cap so paid by the Contractor, for diesel fuel.

IV. OBLIGATIONS OF: THE CONTRACTOR

- A. Good Faith: The Contractor commits to act in good faith in working with the Claims Administrator to complete all of the tasks and obligations identified herein, and to perform all actions required to effectuate the items identified herein in a reasonable and responsible manner consistent with industry practices. The Contractor represents and warrants that all services performed in accordance with this Agreement shall be performed in accordance with all applicable federal, state and local rules and regulations. The Contractor further warrants that it has or will have examined and familiarized itself with the services and the laws, rules and regulations relating to this Agreement and that all employees and any subcontractors authorized hereunder shall possess such expertise and skill and such training and certifications as may be necessary to perform the tasks and responsibilities to which they are assigned.
- B. Road Repair Services: The Contractor shall provide Road Repair Services for the Eligible Roads
 listed in the RFP, as follows:

- Incorporation of the RFP: The Parties hereby agree that the RPF in Exhibit A is incorporated hereinand, together with this Agreement, define the scope of the work for the Road Repair Services. Nonetheless, if any terms set forth in Exhibit A conflicts with any term contained in this Agreement, the Agreement shall govern.
- Exclusion of Response Assumptions, Exceptions, and Caveats: Claims Administrator and the Contractor specifically exclude any exclusions, limitations, assumptions, or other statements of reservation that are not in this Agreement. This Agreement, with its Exhibits, represents the complete, entire and sole agreement between the Parties, and any and all previous statements of "reservation" made by the Contractor are not a final part of this Agreement unless specifically stated and agreed to by the Claims Administrator herein.

Project Planning:

The Contractor shall prepare an Implementation Plan and provide to the Claims Administrator for review and approval that encompasses the full scope of work and identifies the protocols for the completion of the Road Repair Services.

The Contractor shall carry out and perform any and all duties pursuant to and in compliance with all state and federal laws, including but not limited to any and all state and federal environmental.

laws, along with any applicable healthy and safety regulations.

iii. Permits: The Contractor shall ensure that all required permits are secured prior to commencing Road Repair Services: The Contractor shall file permits or notify the appropriate permitting agencies, as necessary, in order to limit potential delays in the commencement of road repair activities. The Contractor shall also obtain any other local authorizations that may be necessary for the completion of work. The Contractor 's activities include, but are not limited to, obtaining all permits required by Harrison County, the State of West Virginia, the United States Government, and/or any municipality within the Class Area that require permits related to the work described herein.

iv. Access Agreements: The Contractor shall secure from the Claims Administrator copies of all available access agreements prior to commencing Road Repair Services, and shall ensure that copies of said agreements are uploaded and maintained onto an electronic data management system. All necessary and relevant access agreements have been procured by the Claims Administrator and shall be provided upon request to The Contractor by the Claims Administrator. Said data management system shall maintain the ongoing status of Road Repair Services activities at each location where an access agreement has been obtained with weekly updated reports submitted by the Contractor to the Claims Administrator for tracking the work. The Contractor shall also provide reports as requested by the Claims Administrator within forty-eight (48) hours of written request.

d. Site Preparation and Mobilization

Pre-Road Repair Program Meeting: The Contractor shall conduct a pre-Road Repair Program conference to introduce key personnel, define authorities and responsibilities, discuss details related to project ī. implementation and a detailed schedule for the Road Repair Services, with a teleconference option for those participants electing to meet via telephone, including, but not limited to Claims Administrator representatives, the Finance Committee and the Claimant Advisory Committee.

Weekly Meetings: During the execution of the Road Repair Services, the Contractor will conduct weekly project meetings to inform the Claims Administrator of the progress of the work, any problems and/or corrective actions implemented, and updates on the construction schedule. A teleconference option for those participants electing to meet via telephone, and including, but not limited to Claims Administrator representatives, if so requested, shall be provided.

Daily Safety Meetings: Safety meetings will be conducted by the Contractor daily as part of the Contractor's duty to fulfill its obligations under any and all federal and state as contemplated in Section IV(c)(ii) above.

Monthly Reports: During the execution of the Road Repair Services, the Contractor shall provide the Claims Administrator monthly written reports identifying, at a minimum, the progress of repairing the Eligible Roads, including, if any, significant damage caused to areas surrounding the road repair area, such as yards, structures, or personal property, caused by the Contractor or its subcontractors; and any complaints received from Claimants or other persons effected by the damage. The report shall be provided to the Claims Administrator office via hand or overnight delivery and

Complaints: The Contractor shall notify the Claims Administrator immediately in writing, to the extent practicable, when it becomes aware of any Claimant's complaint related to the Road Repair. Services, and the Contractor shall cooperate with the Claims Administrator in undertaking reasonable

measures to resolve such complaints.

Problem Resolution Meetings: A special meeting shall be held when and if a problem or deficiency is present or likely to occur. At a minimum, the meeting shall be attended by the Claims Administrator, the Contractor team members, and any affected third party subcontractors and/or Claimants. The purpose of the meeting shall be to define and resolve the problem or work deficiency. The meeting shall be documented by the Contractor and minutes shall be prepared and distributed to all parties attending or participating. A teleconference option for those participants electing to meet via telephone, and including, but not limited to Claims Administrator representatives, if so requested, shall be provided. The meeting shall occur promptly but no later than seventy-two (72) hours after written request of the Contractor or Claims Administrator. The request shall identify the condition or event to be discussed.

Logistics: The Contractor shall facilitate all logistical support, and any and all logistical planning necessary to effectuate an efficient start-up and continuation of Road Repair Services.

Utility Identification: Prior to initiating Road Repair Services activities, the Contractor shall locate

and mark all underground utilities. Access Road Construction: The Contractor shall construct access roadways, as necessary, utilizing crushed stone or other materials, to facilitate work activities. The Contractor shall establish suitable

facilities for parking. Personnel and Equipment Decontamination: As required, the Contractor shall ensure X.

decontamination of personnel and excavation equipment.

Mobilization: Upon completion of logistical preparation activities, the Contractor shall mobilize personnel, equipment, materials, and other resources to the site to initiate road repair activities. xi. Mobilization activities are anticipated to include, but are not limited to, the delivery, installation, hookup, and maintenance of temporary offices and construction facilities. Temporary offices and construction facilities are expected to include field offices, support facilities, utilities, dust and pollution control facilities, personnel protection and work areas, and creation and maintenance of access roads and parking areas, as required.

Site Security: The Contractor shall be responsible for access control and security at all staging areas and at the individual work areas. Security shall include at least one of the following: use of existing feneing, snow fencing, at a minimum caution tape, and signage warning of restricted areas and hazards to control access, protect equipment and support facilities, and prevent unauthorized entry

and exposure to Eligible Roads and to control access to other dangerous conditions.

Documentation: The Contractor shall be responsible for documenting all field activities during the Road Repair Program. Records of field activities shall be legible, identifiable, retrievable, and protected against damage, deterioration, and loss. The Contractor shall record all documentation in waterproof, non-erasable ink. If an error in any of these documents is made, shall make corrections by crossing a single line through the error and entering the correct information adjacent to it. The corrections shall then be initialed and dated, All data and documentation shall also be uploaded and maintained onto an electronic data management system. The data management system shall be in a format that is easily readable and exportable, and access to said data and documentation, and/or reports generated from said data and documentation, shall be provided to the Claims Administrator within five (5) days of written request.

C. Reporting Requirements:

a. The reports to be submitted by the Contractor pursuant to the terms of this Agreement shall be provided to the Claims Administrator's office via hand or overnight delivery and electronic mail.

b. The Contractor shall work with the Claims Administrator to determine which reports shall be necessary to fully perform the services contained herein.

D. Insurance and Bond Requirements:

a. The Contractor shall maintain Workers' Compensation benefits within the State of West Virginia throughout all periods relevant to the execution of duties and obligations under this Agreement with waiver of subrogation in favor of the Perrine DuPont Settlement (which is the Perrine DuPont Property Remediation Qualified Settlement Fund, an IRC §468B Qualified Settlement Fund domiciled in West Virginia), B.I.-DuPont De NeMours and Company ("DuPont"), and the law firm of Gentle, Turner, Sexton & Harbison, I.I.C.

The Contractor shall maintain an Employer's Liability insurance policy throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of One Million Dollars (\$1,000,000.00) per incident, with waiver of subrogation in favor of the Perrine DuPont Settlement, DuPont, and Gentle, Turner, Sexton & Harbison, LLC. The Contractor shall maintain a Commercial General Liability insurance policy throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of Two Million Dollars (\$2,000,000.00) per occurrence.

The Contractor shall-maintain Professional Liability insurance throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of One Million Dollars (\$1,000,000.00) per claim with maintenance of coverage for two (2) years following the completion of the Project.

d. The Contractor shall maintain an Excess Liability policy throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of One Million Dollars (\$1,000,000.00) per claim.

The Contractor shall maintain an Environmental Impairment insurance policy or Pollution Liability insurance policy throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of Two Million Dollars (\$2,000,000.00) per claim.

f. The Contractor shall maintain comprehensive or commercial automobile liability for bodily injury and property damage throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of One Million Dollars (\$1,000,000.00) per claim.

g. The insurance required herein shall be primary to any other valid and collectible insurance.

h. The Contractor must ensure that the Perrine DuPont Settlement, DuPont and the law firm of Gentle,
Turner, Sexton & Harbison, LLC, are listed as additional insureds on the above policies, as evidenced by
a Certificate of Insurance verifying coverage limits.

Bonds: The Contractor shall furnish bonds covering the faithful performance of this Agreement and the payment of all obligations arising in connection therewith, said bonds to be in such form Claims Administrator approves, and with sureties that Claims Administrator approves. Approval of the bond form shall not be unreasonably denied; reasons for denial shall be stated in writing. Each bond shall

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contain a provision to the effect that changes in the Road Repair Services and/or modifications to this Agreement shall in no way relieve the surety of its obligations. Bonding provided by the Contractor shall equal the total contract value of this Agreement. Bonds may be furnished for different phases of the work so long as the penal value of each bond is commensurate with the value of each phase.

E. Sub-Contracts:

- The Contractor may sublet to Sub-contractors acceptable to the Claims Administrator any portions of the Road Repair Services. Claims Administrator reserves the right to review and approve or disapprove all subcontracts as to scope of the Road Repair Services to be performed or for any reasonable basis. If Claims Administrator rejects a proposed subcontractor, it must state all bases in writing and allow Contractor to respond and request a reconsideration with a reasonable period of time.
- b. Such Claims Administrator's acceptance, review or approval, or the failure to accept, review, or approve a subcontractor shall not be construed as relieving the Contractor of any responsibilities under this Agreement.
- c. The Contractor shall have full directing authority over and responsibility for the performance of all Road Repair Services which the Contractor subcontracts and shall not be relieved of its responsibility for the proper performance of the services contemplated herein due to subcontracting.
- d. The Contractor agrees to bind each and every Sub-contractor by the terms, conditions and provisions of this Agreement applicable to Road Repair Services, unless otherwise specifically agreed to in writing by the Claims Administrator.
- e. Nothing contained in this Agreement is intended to or shall the same create any contractual or privity relation between any Sub-contractor and the Claims Administrator or any obligation on the part of the Claims Administrator to pay or to see to the payment of any moneys due any Sub-contractor.

V. OBLIGATIONS OF THE CLAIMS ADMINISTRATOR

- A. <u>Fiduciary Duties:</u> The Claims Administrator shall be responsible for the interpretation of Gourt-Orders and Road Repair Program documents, and any communications to the Claimants, the Finance Committee, the Claimants Advisory Committee, and the Court.
- B. <u>Amendments to the Road Repair Program:</u> The Claims Administrator shall provide written notification to the Contractor of any modifications or amendments to the Road Repair Program. Modifications to the Road Repair Program that have a cost impact upon the Contractor shall, result in written, reasonable pricing revisions effective as of the date of the modification or amendment.
- C. Response Time: The Claims Administrator shall provide any written response required herein or otherwise reasonably required by the Contractor no later than five (5) working days after request. In instances where a response is needed faster in order to avoid delay, such response shall be provided sconer so as to avoid delay.

VI. PROPERTY RIGHTS AND CONFIDENTIALITY

Computer Equipment and Confidential Information: All computer equipment owned by the Contractor, programs, drawings, diagrams, specifications, manuals, forms, procedures, data files (but not the data therein belonging to the Claims Administrator), and all other information and materials of any nature existing before the commencement of the Road Repair Program and furnished, revealed or otherwise made available to the Claims Administrator by the Contractor, whether on the Contractor's premises or the Claims Administrator's premises (the "Confidential

Information"), shall remain the sole and exclusive property of the Contractor. All other Information, records, and documentation generated in carrying out the Road Repair Services contemplated herein are hereby designated the "Claims Administrator's Information." The Claims Administrator's Information shall be and remain the sole and exclusive property of the Claims Administrator. The Contractor shall return the Claims Administrator's Information to the Claims Administrator within thirty (30) days from the date of termination of this Agreement, while being able to maintain a copy on a confidential basis and also to be used to enforce the Contractor's rights under this agreement.

- B. Storage and Inspection: All documents, books, and records furnished to the Contractor by the Claims Administrator provided in accordance with this Agreement shall remain the property of the Claims Administrator, and all documents, books, and records of the Contractor provided in accordance with this Agreement pertaining to any individual insurance, group insurance, or services, whether original records of the Contractor or furnished by the Claims Administrator, shall be open for inspection at the Contractor's West Virginia location, unless otherwise agreed, at all reasonable times. The Contractor may store any or all of such documents, books, and records in microfilm, magnetic tape, or other electronic medium.
- C. <u>Disposition upon Termination of this Agreement:</u> To the extent feasible, upon termination of this agreement; the Contractor shall return to the Claims Administrator all Claims Administrator Information received or created by the Contractor on behalf of the Road Repair Road Repair Program within ten (10) business days; however if it is not reasonably feasible, the protections of this Agreement shall continue to apply to such information after the termination of this Agreement.

VII. MANDATORY TERMS

The Mandatory Terms in Appendix A to the RFP and attached hereto as Exhibit B are a part of this . Agreement, and are incorporated herein by reference.

VIII. INDEMINIFICATION

A. Indemnification of the Contractor. Claims Administrator agrees to indemnify and hold hamless the Contractor or any of its officers, or employees from any and all losses, liability, damages, expenses or other cost or obligation, resulting from or arising out of claims, demands, lawsuits or judgments brought against Claims Administrator and/or the Contractor as a result or arising out of Claims Administrator's performance of its responsibilities pursuant to the provisions of this Agreement, except any such claims, losses, liabilities, damages, or expense which arise out of or in connection with the Contractor's negligence, willful misconduct, or criminal misconduct.

B. Indemnification of the Claims Administrator. The Contractor agrees to indemnify and hold harmless the Claims Administrator or any of its officers, or employees from any and all losses, liability, damages, expenses or other cost or obligation, resulting from or arising out of claims, demands, lawsuits or judgments brought against the Contractor and/or the Claims Administrator as a result or arising out of the Contractor's performance of its responsibilities pursuant to the provisions of this Agreement, except any such claims, losses, liabilities, damages, or expense which arise out of or in connection with the Claims Administrator's negligence, willful misconduct, or criminal misconduct.

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IX. TERMINATION

A. Material Breach: If either party materially breaches this Agreement, the other party may terminate the Agreement provided that it notifies, in writing, the breaching party of the specific breach and allows the breaching party the opportunity to cure the breach within fifteen (15) days of the date of the notice. If reasonable and substantial steps to cure the breach have not been corrected in fifteen (15) days, the Agreement may be terminated upon five (5) days further written notice. If a notice and opportunity to cure is generated by the Contractor for non-payment and not cured by Claims Administrator, the Contractor may, at its sole discretion, suspend performance upon expiration of the fifteen (15) days the Contractor shall be entitled to an equitable adjustment to this Agreement.

B. Termination for Insolvency: If either party applies for or consents to the appointment of a receiver, trustee, or liquidator of itself or of all, or a substantial part, of its assets; files a voluntary petition in bankruptcy; admits in writing to its inability to pay its debts as they become due; makes a general assignment for the benefit of creditors; files a petition or an answer seeking reorganization or rearrangement with creditors; or, as a debtor, invokes or takes advantage of any insolvency law; or if an order, judgment, or decree is entered by a court of competent jurisdiction upon application of a creditor adjudicating such party bankrupt or insolvent or approving a petition seeking reorganization of such party of all, or a substantial part, of its assets, and such order, judgment, or decree continues unstayed for thirty (30) days, then the other party may, by written notice, terminate this Agreement effective on any future date specified in such notice.

Termination for Convenience: The Claims Administrator reserves the right to terminate this Agreement and all rights and obligations hereunder without cause, or for convenience, at its sole discretion, at any time after five (5) days written notice. In the event Claims Administrator terminates this Agreement without cause then Claims Administrator shall reimburse the Contractor for any reasonable out-of-pocket costs and expenses incurred for the actual preparation and/or performance of Work and for reasonable lost profit and overhead.

D. <u>Effect of Termination:</u> In the event of a termination, this Agreement shall be of no further force or effect except that each party hereto shall remain liable for any debts and/or liabilities arising from activities under this Agreement occurring prior to the effective date of termination.

E. Continuation of Services: Except for termination due to Claims Administrator's breach, the Contractor agrees that upon completion of the work, at Claims Administrator's request for continuation of services, it shall continue to provide services hereunder, provided Claims Administrator complies with all the terms and provisions of this Agreement in effect prior to the termination. The fees for such continuation period shall be equitably adjusted.

F. Information Transfer: In the event of termination of this Agreement, the Contractor agrees to provide Claims Administrator all Information in the Contractor's possession pertaining to all services, records, and efforts related to this Agreement, consistent with reasonable industry norms, are within five (5) business days. The Contractor may provide the data by electronic or wire communication or a media type such as disk, tape, or CD.

X. CHOICE OF LAW AND RESOLUTION OF ALL DISPUTES

- A. Choice of Law: This Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia.
- B. Resolution of All Disputes: In accordance with the Mandatory Terms in Appendix A to the RFP and attached hereto as Exhibit B, the Circuit Court in Harrison County, West Virginia, retains continuous and exclusive jurisdiction and supervision over the Property Remediation Plan and over this Agreement, and any agreements related thereto. Any judicial proceeding arising out of or relating to this Agreement may be brought only before the Circuit Court of Harrison County West Virginia, and any judgment against a party may be enforced only by a proceeding before the Circuit Court of Harrison

County West Virginia. The Parties irrevocably and expressly submit to the jurisdiction of the Court over any such proceeding. The Parties irrevocably and expressly waive any objection that they might now or hereafter have to the laying of venue for such proceeding in the Circuit Court of Harrison County West Virginia and any claim that any such proceeding in the Circuit Court of Harrison County West Virginia has been brought in an inconvenient forum.

C. Mediation: Prior to litigation or juridical proceeding, the Parties must first subject the dispute to mediation as a condition precedent. Mediation shall be administered by a mediator to be agreed upon by the parties.

XI. MISCELLANEOUS

B.

A. Prompt Notification of any and all Complaints: The Contractor and Claims Administrator both mutually agree that each shall both promptly notify in writing the other of any and all complaints and/or issues which relate to or arise from this Agreement contemplated herein, and the Contractor and Claims Administrator shall work in tandem to resolve any and all claims and/or complaints which may arise.

Correlation of Documents: The Agreement documents are complementary and what is called for by any one of the documents described herein and attached hereto are binding as if called by all. There are certain operations, labor, equipment, materials and things reasonably inferable from the Agreement as being necessary to produce the intended results; even though no mention thereof is made in said Agreement, such omission shall not relieve the Contractor from its obligation to provide all such operations, alabor, equipment, materials and things reasonably required. Parts of the Road Repair Services described in words which, when applied, have a well-known technical or trade meaning shall be furnished or performed in accordance with the recognized standards applicable to such meaning:

C. Force Majeure: Notwithstanding anything herein or otherwise which may appear to be to the contrary, neither party shall be responsible for delays or failures in performance under this Agreement resulting from any force majeure or acts beyond the reasonable control of the party. Such acts shall include, without limitation, acts of God, strikes, blackouts, riots, acts of war, epidemics, governmental regulations, fire, communication line failure, power failures, mechanical failures, storms or other disasters. Notwithstanding any other provision, the Contractor shall be entitled to an equitable adjustment to this Agreement for delays due to weather.

D. <u>Notice</u>: Any notice or demand desired or required to be given hereunder shall be in writing and deemed given when personally <u>hand delivered</u> or, if sent via overnight mail upon receipt, or three (3) days after deposit in the United States Mail, postage prepaid, sent certified or registered, addressed as follows:

a. If to the Claims Administrator, to:
The Perrine DuPont Property Remediation Road Repair Program
Spelter Volunteer Fire Department Office
55 B Street
PO BOX 257
Spelter, West Virginia 26438
Attention: Edgar C. Gentle, III, Esq.
Claims Administrator
With an email copy to escrowagen@aol.com

b.	If to the Contractor, to		·
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Attention:
or to such other address or person as hereafter shall be designated in writing by the applicable party

Entire Agreement: This Agreement and all exhibits and schedules hereto constitute the entire agreement between the Parties hereto pertaining to the subject matters hereof and supersede all negotiations, preliminary agreements and all prior or contemporaneous discussions and understandings of the Parties hereto in connection with the subject matters hereof. All exhibits and schedules are incorporated into this Agreement as if set forth in their entirety and constitute a part hereof. Any exceptions or reservations set forth by the Contractor in any responses to the RFP shall not be part and parcel of this Agreement, excepting those that are explicitly acknowledged herein.

Modifications in Writing: No failure or delay on the part of any party in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy, preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies provided for herein are cumulative and are not exclusive of any remedies that may be available at law or in equity or otherwise. No amendment, modification, supplement, termination or waiver of or to any provision of this Agreement, nor consent to any departure therefrom, shall be effective unless the same shall be in writing and signed by or on behalf of the party subject to the enforcement thereof. Any amendment, modification or supplement of or to any provision of the Agreement, any waiver of any provision of this Agreement, and any consent to any departure from the terms of any provisions of this Agreement, shall be effective only in the specific instance and for the specific purpose for which made or given.

Conflicting Terms: In the event that any term shall conflict with any of the terms contained in any of G. the documents which are part and parcel of this Agreement, including but not limited to, Claims Administrator's RFP, the Contractor's Response to RFP, and/or any other Exhibits attached hereto,

and/or any other documents identified in this Agreement, this Agreement shall control.

Severability: In the event any provision of this Agreement is held invalid, illegal or unenforceable, in whole or in part, the remaining provisions of this Agreement shall not be affected H. thereby and shall continue to be valid and enforceable. In the event any provision of this Agreement is held to be unenforceable as written, but enforceable if modified, then such provision shall be deemed to be amended to such extent as shall be necessary for such provision to be enforceable and shall be enforced to that extent.

Nothing contained in this Agreement and no action taken by the Relationship: Parties pursuant hereto shall be deemed to constitute the Parties as a partnership, an association, a joint venture or other entity. It is expressly agreed that neither Party for any purpose shall be deemed to be an agent,

ostensible or apparent agent, employee, or servant of the other Party.

F.

I.

Headings and Captions: The titles or captions of sections and paragraphs in this Agreement are J. provided for convenience of reference only, and shall not be considered a part hereof for purposes of interpreting or applying this Agreement, and such titles or captions do not define, limit, extend, explain or describe the scope or extent of this Agreement or any of its terms or conditions.

This Agreement shall be binding Binding Effect on Successors and Assigns: K. upon and shall inure to the benefit of the Parties hereto and their respective heirs, legal representatives, successors and assigns. In the event of assignment, all of the terms, covenants and conditions of this Agreement shall remain in full force and effect and the party making the assignment shall remain liable and responsible for the due performance of all of the terms, covenants and conditions of this Agreement that it is obligated to observe and perform. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the Parties hereto (and their respective heirs, successors, legal representatives and permitted assigns) any rights, remedies, liabilities or obligations under or by reason of this Agreement. However, neither the Claims Administrator, nor the Contractor may assign the rights and obligations provided hereunder without the prior written express permission of the other party, which shall not be unreasonably denied. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and in making proof hereof, it shall not be necessary to produce or account for more

	•		
	L.	Changes in Law: If changes in the laws materially affect a party's rights and obligations under this Agreement or render any portion illegal or unenforceable, then the Parties agree to negotiate modifications to the terms of this Agreement in good faith. If the Parties cannot agree to modify terms that comply with the changes in laws, then either party may terminate this Agreement upon thirty (30) days prior written	
	M.	Advertising, Promotion, and Trade Name: The Contractor may not list Claims Administrator as one of the Contractor's clients in proposals and responses to proposals for the development of new business, without Claims Administrator's prior written permission. Claims Administrator may use the Contractor's name, in any form other than its logo, in marketing materials, in a form acceptable to the Contractor Claims Administrator may not use the Contractor's name or logo, or any form thereof, in such a way as to convey that the Contractor is an administrator and/or fiduciary with regards to Claimants, or the Road Ropair Program.	
	N.	Exclusivity: Claims Administrator agrees that, during the term of this Agreement, it shall	
•		not utilize the services of another entity to provide the services the Contractor has agreed to perform	
	0.	under this Agreement. Third Party Beneficiaries: The Contractor and Claims Administrator specifically state, acknowledge, and agree that it is their intent that no other party, person or entity, including, but not limited to, Claimants, shall be third-party beneficiaries to this Agreement.	
		IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above	
٠.	written	IN WALLACIOE, the lattice have excented into regionalities of the day and you does not	
	The unc	lersigned certifies that he has legal authority to bind	
	Ву:		
	ъу.		
	Name:		
	Title:		
	Date:		
	WITNE	SS:	
	,		
	The wid	exsigned certifies that he has legal authority to bind Claims Administrator upon approval of this Agreement	
		ourt in the DuPont Case.	
	-,		
		ine DuPont Settlement	
	By:		
	Edgar C	Gentle, III	
		aims Administrator	
	Date:		
	11111111111111111111111111111111111111	90.	
•	WITNES		
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STATE OF WEST VIRGINIA COUNTY OF HARRISON, TO-WIT

I, Donald L, Kopp,II, Clerk of the Fifteenth Judicial Circuit and the 18th Family Court Circuit of Harrison County, West Virginia, hereby certify the foregoing to be a true copy of the ORDER entered in the above styled action on the

12 day of February 32016

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the Seal of the Court this 12 day of Lebrary 2016.

Fifteenth Judicial Circuit & 18th Family Court Grount Clerk

Harrison County, West Virginia

EXHIBIT B TO AGREEMENT: REQUEST FOR PROPOSALS (RFP)

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REQUEST FOR PROPOSALS (REP) FOR THE ROAD RE-PAYING/REPAIR PROGRAM IN THE PERRINE DUPONT SETTLEMENT

b. Project Title:

The Perrine DuPont Settlement Road Re-Paving/Repair Program

2. Contact Person:

Edgar C. Gentle, III, Esq.

Special Master and Claims Administrator

Perrine DuPont Settlement Remediation Administration

ATTN: Edgar C. Gentle, Claims Administrator C/O Spelter Volunteer Fire Department Office

55 B Street P. O. BOX 257

Spelter, West Virginia 26438

(304) 622-7443 (800) 345-0837

Website: www.perrinedupont.com perrinedupont@gtandslaw.com

3. Format:

One (1) paper copy and one electronic disc or USB flash drive.

4. Proposed Budget:

Budget will be negotiated upon selection.

Re-Paving/Repair Area:

The roads to be repaired, resurfaced and paved are shown in the Maps in Attachment 1 (the "Road Repair List"), and are listed as follows:

Spelter Roads:

1) 1st Street - County Road ("CR") 19/90

2) 2nd Street - CR 19/91 3) 3rd Street - CR 119/10

4) 4th Street - CR 119/9 5) 5th Street - CR 119/10

6) 6th Street - CR 24/12 7) A Street - CR 119/11

8) B Street - CR 19/33 (From Spelter side of bridge to the top of hill)

9) C Street - CR 119/10

Erie Roads:

10) Maple Ave -CR 19/32

11) Rose Street/Poplar Street - CR 19/34

7. Issuance Date:

February 24, 2016

8, Bidder Questions

Conference Call:

March 9, 2016

Issued: February 24, 2016

9,	Bid Submission Deadline;	March 16, 2016 - delivered no later than 5:00 PM CST.				
10.	Bidder Interview Date:	March 22, 2010 March 25 8:00+9:00				
11.	Award(s) Date:	April 1, 2016				
12.	Project Start Date:	April 18, 2016				

I. REPAIR RESURFACING AND PAVING OF ELIGIBLE ROADS

A. Introduction

The Perrine DuPont Settlement (the "Settlement"), involves, in part, the remediation (clean-up) of property in and around Spelter, West Virginia, because of heavy metals contamination. To implement the clean-up process, the use of heavy trucks and other equipment was required, which subsequently may have caused damage to the roads named in the "Road Repair List" provided above and shown in the Maps in Attachment 1 (the "Bligible Roads").

Under the Settlement, the Honorable Thomas A. Bedell, Circuit Judge of Harrison County, West Virginia, by Order dated February 12, 2016, in Attachment 2, has approved the Road Repair Program to repair, resurface and pave the Eligible Roads.

In an effort to improve road conditions, the Eligible Roads need to resurfaced and paved, as more fully described below in the Scope of Work. (See, Section I, Part C).

B. Key Components of the Request for Proposals (RCP).

All bids shall:

- Include a Price Proposal for the repair, resurface, and paving of the Eligible Roads, and milling of joints (as needed to tie new asphalt into existing pavement) for the Scope of Work, as defined in Part C below.
- Respond directly showing your ability to conduct the Scope of Work, within a timeframe acceptable to the Claims Administrator.
- 3. Be delivered to Edgar C. Gentle, III, Esq., Claims Administrator, the Perrine DuPont Settlement Remediation Administration, 55 B Street, P. O. BOX 257, Spelter, West Virginia 26438. All documents should be delivered no later than March 16, 2016 @ 5:00 PM CST.

C. Scope of Work

The Scope of Work for the proposal encompasses road repair, resurfacing and paving of the Eligible Roads.

Eligible Roads are to be overlaid with two (2) inches of TYPE Wear Surface. Prior to resurfacing the overlay, all existing pot holes and other defects are to be filled and repaired. Once all existing potholes are filled and other defects repaired, the Eligible Roads are to be resurfaced and paved with two (2) inches of TYPE | Wear Surface. The new surface on the Eligible Roads will then be graded and blended with all connecting right-of-ways, including roads, streets, alleys, driveways, and the like.

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II. PRICE PROPOSAL

A Price Proposal must be submitted and accompany the bid. The name of the bidding firm and the date of submission shall be clearly marked at the upper right hand corner of the bid.

III. ADDITIONAL NECESSARY FIEMS

- 1. Please provide a list of all current applicable insurance policies.
- 2. Please state whether you are certified/licensed by the West Virginia Department of Transportation ("WVDOT"), Division of Highways ("DOH") (Collectively, referred to as the "WVDOH") as an approved subcontractor/vendor.
- 3. Please provide your experience in complying with the Americans with Disabilities Act ("ADA"), and please state how the job will comply with ADA.
- 4. Identify any exceptions or special conditions applicable to the proposed scope of work.
- 5. List the last three road repair and resurfacing/paving jobs you performed, and the contact person details.
- 6. Only bidders who provide their own traffic control and flag personnel will be considered. Also, bidders must be able to provide due notice, such as adequate signage and notification to proper authorities, including the WVDOH, before any and all road closures and throughout the entire road repair and improvement program.
- · 7. Completion of Appendix A Mandatory Terms, is mandatory.
- Bidders must be in compliance with all applicable state and federal laws governing the
 project, including, but not limited to, any state and federal environmental laws, and equal
 protection laws, such as the Americans with Disabilities Act ("ADA").
- The project is to be commenced no later than May 2016 and completed no later than November 2016.

IV. BIDDER REVIEW PROCESS.

Based upon bidder presentations during the interview process and review of the RFP submissions, the Claims Administrator will determine one or more preferred candidate(s). The preferred candidate(s) will be chosen based upon the following:

- 1. Estimated total cost, fixed costs, unit costs, and contract terms and conditions;
- 2. Responsiveness to all aspects of this solicitation;
- Technical merit (i.e., approach detail, appropriateness of approach, experience & depth of risk assessment, staff, probability of method success, plan with regard to community outreach);

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- 4. Ability to meet the determined schedule; and
- 5. Bidders ability to meet all mandatory terms, including the form contract.

If a negotiated contract is not achievable or funds are not available, the Claims Administrator has the option to award no contract, or to award multiple contracts, or to award a contract to bidder(s) who are not the preferred candidate(s).

Upon request, there may be an apportunity for an optional site visitio the Eligible Roads subject to this project. A conference call shall be held in March 9, 2016, at 2:00 PM Eastern Time syith the Claims Administrator to allow for any questions that you may have regarding this solicitation.

APPENDIX A TO RFP: MANDATORY TERMS

REQUEST FOR PROPOSALS (REP) FOR THE ROAD RE-PAVING/REPAIR PROGRAM IN THE PERRINE DUPONT SETTLEMENT

<u>APPENDIX A</u> ACCEPTÁNCE OF MANDATORY TERMS

The following are the mandatory terms and RFP requirements that shall be met by the successful bidder(s):

General

1. Bidder agrees that the response to the RFP and any subsequent documentation (best and final offer, and interview responses) shall be considered part of the final agreement and contract.

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2. Bidder understands that the contract with the Settlement will be substantially in the form of Attachment 3. Please list your exceptions (if any) to the contract below:

Account Management

- 3. Bidder will provide a representative to attend meetings as necessary at the job site.
- 4. Bidder will maintain a database regarding the road repair services for all Eligible Roads.
- 5. Bidder will assign a main contact person to interface with the Claims Administrator throughout the road repair program and as long as any executed contract is in effect. This person will be charged with providing requested information and documentation within a twenty four (24) hour period.

Data, Systems, and Reporting

- Bidder will accept electronic data transfer and administer information regarding the road repair program in a confidential manner.
- Bidder will provide road repair data for all Eligible Roads to the Claims Administrator in electronic format.

Financial Proposal

8. Bidder guarantees the financial elements of its proposal throughout the term of the contract.

Americans with Disability Act Compliance

9. The successful bidder will comply with all applicable Americans with Disabilities Act ("ADA") terms and provisions as determined by the bidder and the West Virginia Department of Transportation, Division of Highways. For example, compliance may include the installation of wheel chair ramps for two (2) sidewalks, totaling approximately 900 feet, at intersections on 1st Street and B Street.

Additionally, the successful bidder will comply with all other applicable federal and state laws and regulations, such as the Equal Employment Opportunity laws and regulations as set out on the WVDOH website (http://www.teansportution.tvv.tov/euo/Payes/defaulf.uspx), and demonstrate any and all related certification(s) and licenses demonstrating compliance where required.

Consent to Jurisdiction and Waiver of Objections

10. Bidder, by its execution of the Agreement (to be substantially in the form of Attachment 3), submits to the jurisdiction of the Circuit Court of Flarrison County, West Virginia in Perrine, etails, w.B. I. DuPont De Nemours and Company, et all., Case No. 04-C-296-2, (the "DuPont Case") for all purposes related to or arising out of Bidder's proposal to provide road repair services for all Eligible Roads. In addition, Bidder hereby waives any and all objections it might otherwise assert to the aforesaid jurisdiction, venue, or authority of the Court in the <u>DuPont</u> Case to hear and determine any and all disputes that might arise out of or be related to the services described herein, reserving its rights to be heard in connection therewith and to appeal, it may be advised, from any adverse determination of the Court in the <u>DuPont</u> Case,

Confidentiality Agreement

11. Bidder understands that the Court in the <u>DuPont</u> Case has ordered that the data be maintained in a confidential manner, and state that Bidder will not reveal this information to anyone outside of authorized personnel in the bidder company unless Bidder has express permission to do so from the Honorable Thomas A. Beddell or the Claims Administrator. Bidder further understands that if Bidder violates this pledge of confidentiality, Bidder is subject to being brought before the Honorable Thomas A. Beddell for investigation and possible sanctions for this breach.

Other

- 12. Only bidders who provide their own traffic control and flag personnel will be considered. Also, bidders must be able to provide due notice, such as adequate signage and notification to proper authorities, including the WVDOT and the DOH, before any and all road closures and throughout the entire road repair program.
- 13. The West Virginia Department of Transportation, Division of Highways, Standard Specifications Roads and Bridges, adopted 2010 and amended by the West Virginia Department of Transportation, Division of Highways, Supplemental Specifications, dated January 1, 2016, "the Contract Documents and the Contract Plans" are the governing provisions applicable to this road repair project.
- 14. The West Virginia Department of Transportation, Division of Highways, Standard Details Book, Volume I, dated January 1, 2000 and Volume II, dated January 1, 1994 shall apply to this road repair project. The following revised standard drawings (also available at http://www.transportation.wv.gov/highways/engineering/Pages/publications.aspx) supersede the aforementioned Standard Details: (1) Typical Pavement Markings TEM-2; Revised on January 29, 2010, and (2) Channelization, Word and Symbol Markings TEM-3; Revised on January 29, 2010
- The Manual on Temporary Traffic Control for Streets and Highways, 2006 Edition, dated May 1, 2006 shall apply to this project.

- 16. The bidder shall be responsible for coordination of contract work with utilities when they are involved or in conflict. The bidder has full responsibility for any damage to any utility or lighting system caused by contract activities.
- 17. Bidders must be in compliance with all state and federal laws related to and governing the project, including but not limited to, any state and federal environmental laws and equal protection laws.

By signing the below, I,	hereby represent that I have the authority and power				
to bind((company name), and t	hat I will comply with all of the terms as set			
forth hereinabove.					
Company Name:	has a shipping to the same of				
Ву:	(Sign name)	Date			
	(Print name)	Date			
(Titl	e with the Company)				

ATTACHMENT 1 TO REP:

LIST AND MAPS OF ROAD RE-PAVING/REPAIR PROGRAM

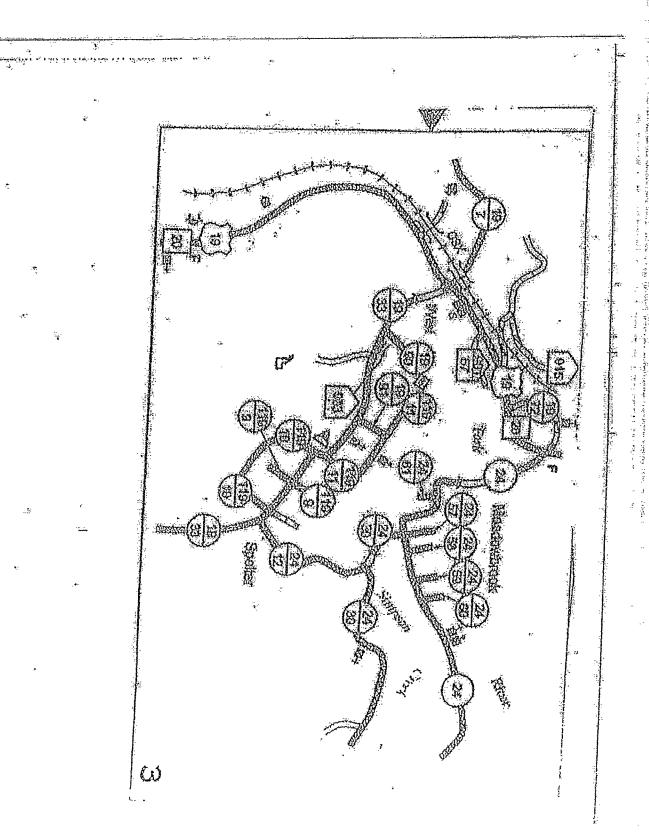
ROAD RE-PAVING/REPAIR LIST

I. Spelter Roads

- 1) 1st Street County Road ("CR") 19/90
- 2) 2nd Street CR 19/91
- 3) 3rd Street CR 119/10
- 4) 4th Street CR 119/9
- 5) 5th Street CR 119/10
- 6) 6th Street CR 24/12
- 7) A Street CR 119/11
- 8) B Street CR 19/33 (from Spelter side of bridge to the top of hill)
- 9) C Street CR 119/10

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- 10) Maple Ave CR 19/32
- 11) Rose Street/Poplar Street CR 19/34

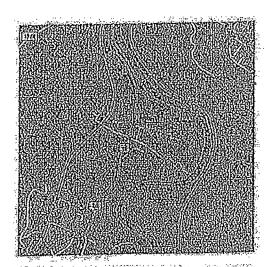


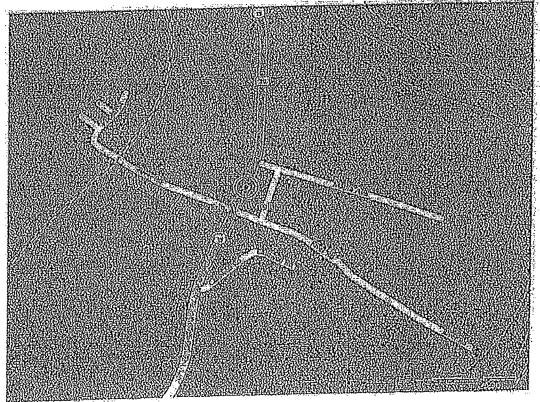
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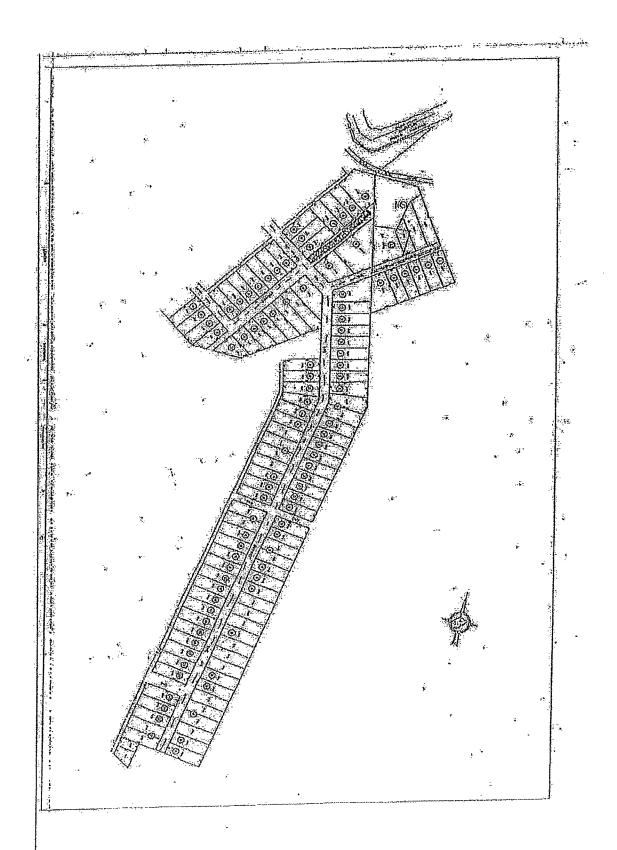
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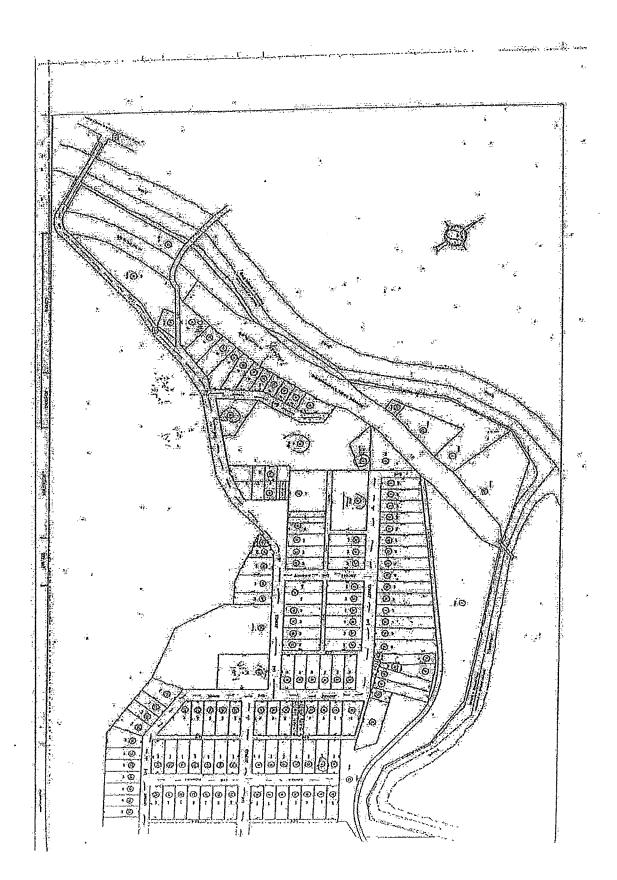
Erie, WV - Roads to be repaired/resurfaced







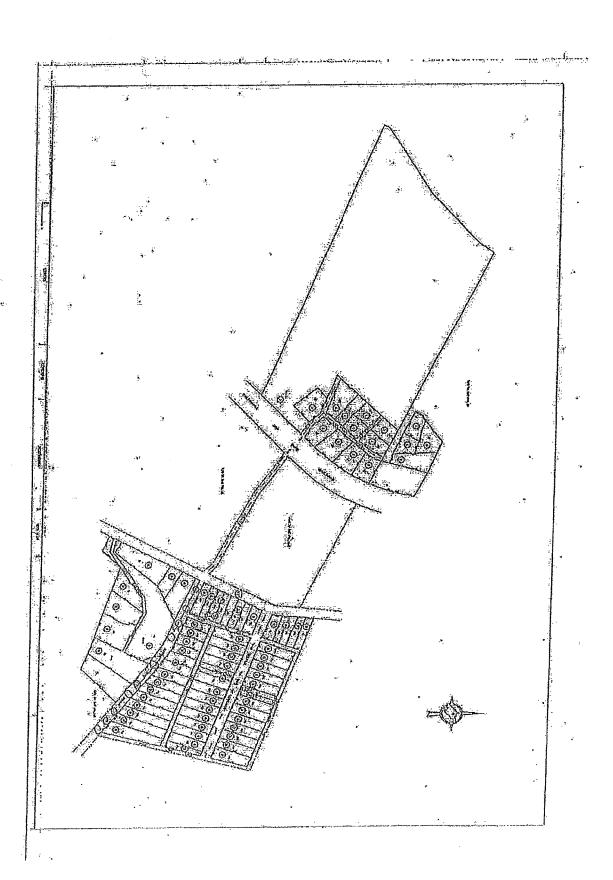
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MIRT ORDER APPROVENCE THE ン 民国-アAVING(REP)

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IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

Plaintiffs,

Case No. 04-C-296-2 Judge Thomas A. Bedell

E. I. DUPONT DE NEMOURS & COMPANY, et al.,

y.

.Defendants:

FINAL ORDER APPROVING (I) THE DESCRIPTION AND MAPS OF THE ROADS SCHEECE TO THE ROAD EGNAVING KEIPARE PORTION OF THE SETTLEMENT ROAD ROBER FOR PROVING REPAY INTO REPAY INTO PROPERTY OF PROPERTY.

(III) THE ROAD REPAYING REPAYING PREPAYERS FOR PROPERTY.

AND GOOD THE MOAD REPAYING PROVING AGREGIENT.

Presently before the Court is the Claims Administrator's February 11, 2016 Report (the "Claims Administrator's Report"), submitted for review and consideration in connection with the Settlement Property Remediation (Clean-Up) Program approved by the Court's June 27, 2011 Order, regarding the implementation of a portion of the Court's April 15, 2014 Order approved Settlement Road Repair and Improvement Program ("Road Repair Program"). The Road Repair Program has three parts: (i) road re-paving/repairs; (ii) alleys; and (iii) drainage. The portion of the Road Repair Program subject to this Order is the first step of the program, road re-paving repairs. The roads subject to the road re-paving portion of the program are illustrated in the Maps in Exhibit A, and are listed below:

I. Spelter Roads

- 1) 1st Street County Road ("CR") 19/90
- 2) 2nd Street CR 19/91
- 3) 3rd Street CR 119/10

- 4) 4th Street CR 119/9
- 5) 5th Street CR 119/10
- 6) 6th Street CR 24/12
- 7) A Street CR 119/11
- 8) B Street CR 19/33 (from Spelter side of bridge to the top of hill)
- 9) C Street CR 119/10

II. Eric Roads

- 10) Maple Ave CR 19/32
- 11) Rose Street/Poplar Street CR 19/34

To begin this portion of the program, the Claims Administrator's Report requests that the Court consider. (i) finalizing of the roads to be so re-paved/repaired, as described above and depicted in Religit A: (ii) approving the Bidder List of qualified bidders for this portion of the program in Exhibit D; (iii) approving the Request for Proposals form to be used to obtain the lowest qualified bid in Exhibit C; and (iv) approving the form of Agreement with the successful bidder in Exhibit D.

After a careful review of the Claims Administrator's Report, along with the list of maps of the roads to be re-paved/repaired, the Bidder List, the Request for Proposals and the Agreement, and in consideration of the applicable law, the Court ORDERS AND APPROVES: (i) the map and description of the roads subject to the road re-paving/repair portion of the Road Improvement Program depicted in Exhibit A; (ii) the Bidder List of qualified bidders for the work contained in Exhibit B; (iii) the Request for Proposals form to be used in obtaining the lowest qualified bidder in Exhibit C; and (iv) the form of the Agreement with the successful bidder in Exhibit D; with the resulting Agreement with the lowest qualified bidder to be substantially in the form of Exhibit D; but subject to negotiations.

IT IS SO ORDERED.

The Clerk of this Court shall provide certified copies of this Order to the following:

James S. Arnold, Esq.
Thomas Combs & Spann, PLLC
P. O. Box 3824
Charleston, WV 25338
DuPont's Finance Committee Representative

Meredith H. McCarthy, Esq. Guardian Ad Litem for Children 901 W. Main St. Bridgeport, WV 26330

Virginia Buchanan, Esq.
Levin, Papantonio, Thomas, Mitchell,
Rafforty & Proctor, P.A.
P.O. Box 12308
Pensacola, FL 32591
Plaintiffs' Finance Committee Representative

Edgar C. Gentle, III, Claims Administrator Gentle, Turner, Sexton & Harbison P. O. Box 257 Spelter, WV 26438

Dicken Pysikared By

Edgir C. Gentle, III, Claims Administrator Gentle, Turner, Sexton & Harbison

P. O. Box 257

Speller, WV 26438

Michiel A. Jacks, Esq.//

Jacks Legal Group, P.E.L.C.

W. Va. Bar No 11044

United Federal Credit Union Building

3467 University Ave, Suite 200

Morgantown, WV 26505

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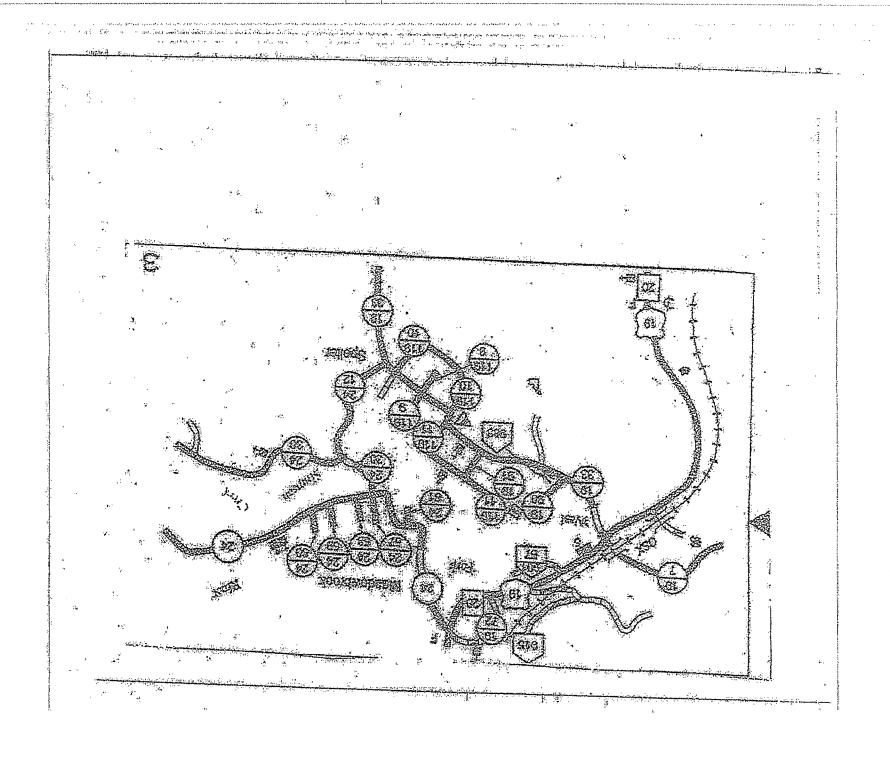
Thomas A. Bedell, Circuit Judge

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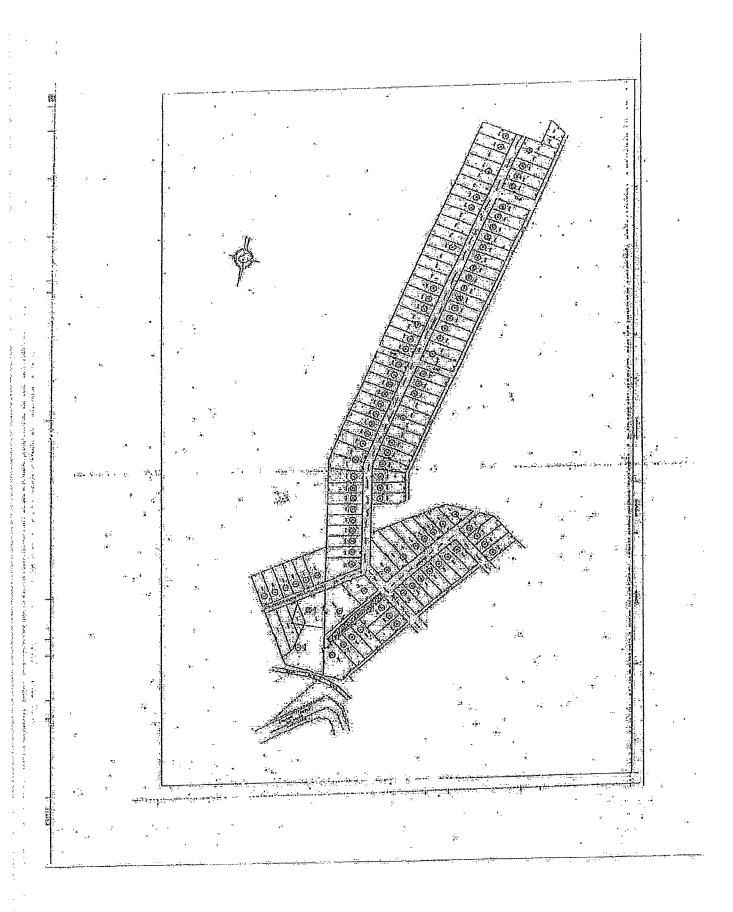
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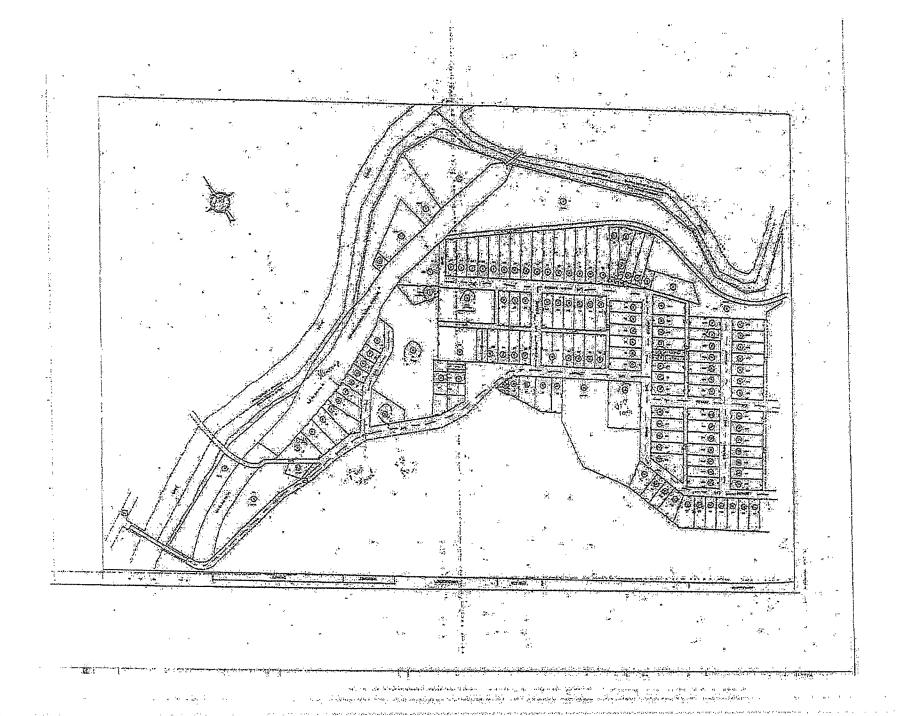
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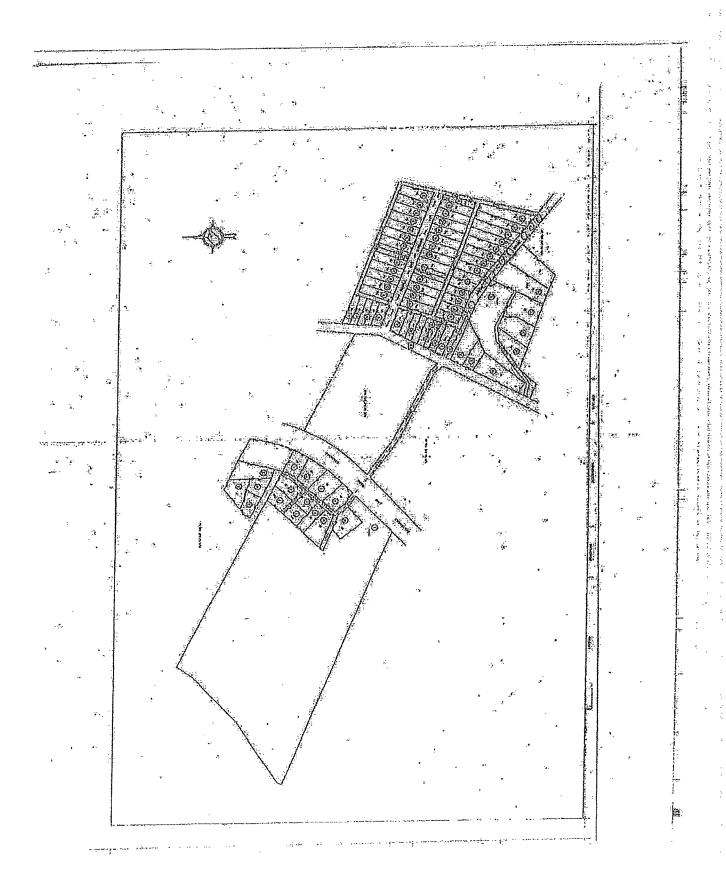
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Road Repair Program Bidder List

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North Central Paving, Inc.	Patty Johnson	ncoavingwv@aol:com	(304) 592-1861	5750 Saltwell Road .	Bridgeport (WV:	26330
J F Allen Company	Chris Dean	cdean@ifallenco.com	(304) 472-8890	PÔ Box 2049	Buckhannòn	WV	26201
Dodd Paving	TO A STATE OF THE		(804) 622-1083.	1 Dodd Lh	Bridgeport.	WV	26330
West Virginia Department of Highways	Larry Weaver	larry.b.weaver@wv.gov	(304)-842-1500-	an yang sepangan pendagan dan kelalah dan dan kelalah dan			
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OR THE ROAD REPAIR PROCESSM

Project Title: 1.

The Perrine DuPont Settlement Road Repair Program

Contact Person: 2.

Edgar C. Gentle, III, Esq.: Special Master and Claims Administrator Penrine DuPont Saillement Remediation Administration ATTN: Edgar C. Contle, Claims Administrator CIO Spellor Voluniber Fire Department Office 55 B Street P. O. BOX 257 Spelter, West Virginia 26438 (304) 622-7443 (800) 345-0837 Websitei www.perrinedupont.com perfinedupont@glandslaw.com

One (1) paper copy and one electronic disc or USB flash drive.

Proposed Budget:

Budget will be negotiated upon selection.

Repair Repair 6. Area:

The roads to be repaired, resurfaced and paved are shown in the Maps in Attachment I (the "Road Repair List"), and are listed as follows:

Spelter Roads:

County Road ("CR") 19/90 1) 1st Street -

CR 19/91 2) 2nd Street -3) 3rd Street -4) 4th Street -CR 119/10 CR 119/9 5) 5th Street -CR 119/10 6) 6th Street -CR 24/12

CR 119/11 7) A Street -

CR 19/33 (From Spelter side of bridge to the top of hill) 8) B Street -

CR 119/10 9) Ç Street -

Erie Roads:

10) Maple Ave CR 19/32

11) Rose Sircel/Poplar Street - CR 19/34

Issuance Date:

February 22, 2016

Bidder Questions 8. Conference Call:

March 7, 2016

Issued: February 22, 2016

Bid Submission Deadline:

March 14, 2016 - delivered no later than 5:00 PM CST.

Bidder Interview Date: 10.

March 22, 2016

Award(s) Date: 11.

March 29, 2016

Project Start Date: 12. •

April 11, 2016

A DEPAIR PESURFACING AND PAYING OF ELIGIBLE ROAD.

a. Introduction

The Pertine DuPout Settlement (the "Sattlement"), involves, in part the temediation (clean-up) of property in and around Spotler, West Virginia, because of heavy metals contamination. To implement the clean-up process, the use of heavy trucke and other equipment was required, which subsequently may have caused durings to the roads named in the "Road Repair List" provided above and shown in the phys in Affinciant I (the "Rigible Roads"):

Under the Sautement, the Honorable Thomas A. Bedell, Chanit Judge of Hairison County, West Virginia, by Order dated he Attachment 2, has approved the Road Repair Program to repully remiribles and pave the Bligible Roads.

In an effort to improve roud conditions, the Eligible Roads need to resurfaced and paved, as more fully described below in the Subject of Work (See, Section I, Part C).

B. Kay Components of the Raquest for Proposals (RVP)

All bids shall: ."

- Include a Price Proposal for the repair, resurface, and priving of the Eligible Réads, and milling of joints (as needed to the new asphalt into existing parament) for the Score of Work, as defined in Part C below.
- 2. Respond directly shawing your ability to conduct the Scope of Work, within a time-frame acceptable to the Claims Administrator.
- 3. Be delivered to Edgar C. Santic, III, Esq., Claims Administrator, the Farrice Dukont Septembel Remediation Administration, 55 B Street R. Q. BOX 257, Spoller, Wast Virginia 25/138. All documents should be delivered no later than March. 14, 2016 @ 5:00 PM CST.

C. Scope of Work

The Scope of Work for the proposal encompasses road repair, resurfacing and paving of the Eligible Roads.

Eligible Roads are to be overlaid with two (2) linehes of TYPE-1 Wear Surface. Prior to resurfacing the overlay, all existing put heles and other defects are to be filled and repaired. Once all existing potholes are filled and other defects repaired, the Bligble Roads are to be resurfaced and paved with two (2) inches of TYPE-1 Wear Surface. The new surface on the Bligble Roads will then be graded and blended with all connecting right-of-ways, including roads, affects, alleys, driveways, and the like.

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Issued: February 22, 2016

II: PRICEPROPOSAL

A Price Proposal must be submitted and accompany the bid. The name of the bidding firm and the date of submission shall be clearly marked at the upper right hand corner of the bid.

III. ADDITIONAL NECESSARY HEAVE

- 1. Please provide a list of all ourrent applicable insurance policies.
- Please state whether you are certified/licensed by the West Virginia Department of Transportation ("WVDOT"), Division of Highways ("DOH") (Collectively, referred to as the "WVDOH") as an approved subcontractor/vendor.
- Please provide your experience in complying with the Americans with Disabilities Act
 ("ADA"), and please state how the lob will comply with ADA.
- A. Identify any exceptions or special conditions applicable to the proposed scope of work.
- List the last lived road repair and resurfacing/paving jobs you performed, and the contact person decalls.
- 6. Chily hidders who provide their own traffic control and flag personnel will be considered. Also, bidders must be able to provide due notice, such as adequate signage and notification to proper sufficients, including the WVINGH, before any and all road closures and throughout the satter and topoly and improvement projects.
- Completion of Appendix A Mandatory Terms, is mandatory.
- Bidders must be in compliance with all applicable state and federal lays governing the
 project, including, but not limited to, any state and federal environmental laws, and equal
 protection laws, such as the Americans with Disabilities Act ("ADA").
- 9. The project is to be commenced no later than May 2016 and completed no later than November 2016.

IV. BIDDER REVIEW PROCESS

Based upon bidder presentations during the interview process and review of the RFP submissions, the Claims Administrator will determine one or more preferred candidate(s) will be chosen based upon the following:

- 1. Estimated total cost, fixed costs, unit costs, and contract terms and conditions;
- Responsiveness to all aspects of this solicitation;
- Technical merit (i.e., approach detail, appropriateness of approach, experience & depth of risk assessment, staff, probability of method success, plan with regard to community outreach);

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Issued: February 22, 2016

- 4. Ability to meet the determined schedule; and
- 5. Bidders ability to meet all mandatory terms, including the form contract.

If a negotiated contract is not achievable or funds are not available, the Claims Administrator has the option to award no contract, or to award no contract to bidder(s) who are not the preferred condidate(s).

Upon remiest. Rives may be an apportunity for an optional site visit to the pilgible Roads subject to this project. A conference call shall be held on March 7, 2016, at \$100 kW conference with the Claims Administrator to bilow for any questions that you may piece regarding this solidateith.

APPENDIX A TORES

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REOUEST FOR PROPOSALS TRUPA FOR THE ROAD REPAIR PROGRAM IN THE PERRINE DUPONT SETTLEMENT

ACCUPATION OF MANDATORY TURMS

The following are the mandatory terms and RPP requirements that shall be met by the successful bidder(s):

General

- 1. Biddar agrees that the response to the RPP and any subsequent decomposition (best and final offer, and interview responses) shall be considered pair of the final agreement and contract.
- Bidder understands that the contract with the Settlement will be substantially in the form of Attachment 3. Please list your exceptions (if any) to the contract below:

Account Monngement

- 3. Bidder will provide a representative to attend meetings as necessary at the job site.
- 4. Bidder will maintain a database regarding the road repair services for all Eligible Roads.
- 5. Bidder will assign a maily contact parson to interface with the Claims Administrator throughout the road repult program and as long as any executed contract to in effect. This person will be charged with providing requested information and documentation within a liventy four (24) how period.

Dain, Systems, and Reporting

- Bidder will accept electronic data transfer and administer information regarding the road repair program in a confidential manner.
- 7. Bidder will provide road repair data for all Eligible Roads to the Claims Administrator in electronic format.

Financial Proposal

8. Bidder guarantees the financial elements of its proposal throughout the term of the contract.

Americans with Disability Acr Complianco

9. The succeasful bidder will comply with all applicable Americans with Disabilities Act ("MDA") terms and provisions as determined by the bidder and the West Virginia Department of Transportation, Divinion of Highways, For example, compliance may include the installation of wheel chair camps for two (2) sidewalks, totaling approximately 200 feet, at Intersections on 1" Street and B Street.

Additionally, the successful bidder will comply with all other applicable federal and state laws and regulations, such as the Equal Employment Opportunity laws and regulations as set out on the WVDOH website (http://www.femsportation.vvv.cov/eco/Eanes/default.esps), and demonstrate any and all related certification(s) and licenses demonstrating compliance where required

Consent to Jurisdiction and Walver of Objections.

10. Bidder, by its execution of the Agreement (to be substantially in the form of Attachment 3), submits to the jurisdiction of the Circuit Court of Harrison County, West Virginia in Perflucit Int. AVB. I. ENPORT Do Nemous and Company of al., Case No. 64 G-296-2, (the "DuPont Case") for all purposes related to or arising out of Bidder's proposal to provide road repair services for all Eligible Roads. In addition, Bidder hereby waives any and all objections it might otherwise assert to the aforesaid jurisdiction, venue, or authority of the Court in the DuPont Case in hereby, resurving its and all disputes that might pulse out of the related to the services described hereby, resurving its nights to be heard in connected thereby that do appeals language in advised, from any adverse delation has for the Court in the DuPont Case.

Confidentiality Asserbed

It. Bidder understands that the Court in the DuPont Case has ordered that the data be maintained in a confidential manner; and state that Hidder will not reveal this information to anyone outside of authorized personnel in the bidder company unless Bidder has expense personnel in the bidder company unless Bidder has expense personnel in the bidder company unless Bidder has expense personnel in the bidder company unless Bidder bidder finisher understands that if Bidder violates this pledge of confidentiality, Bidder is subject to being brought before the Honorable Thomas A. Beddell for investigation and possible sanctions for this breach.

Other.

- 12. Only bidders who provide their own traffic control and flag personnel will be considered. Also, bidders must be able to provide due notice, such as adequate algange and natification to proper authorities, like hulling the WYDOT and the DOT, before any and all road closures and throughout the entire road repair program.
- 13. The West Virginia Department of Transportation, Division of Highways, Standard Specifications. Roads and Bridges, adopted 2010 and amended by the West Physicia Department of Transportation, Division of Highways, Supplemental Specifications, dated January, 1, 2016, "the Contract Decuments and the Contract Plans" are the governing provisions applicable to this road repair project.
- 14. The West Virginia Department of Transportation, Division of Highways, Standard Details Book, Volume I, dated January 1, 2000 and Volume II, dated January 1, 1994 shall apply to this road repair project: The following revised standard drawings (also available at http://www.transportation.wv.gov/highways/engineering/Pages/publications.aspx) superscale the aforementioned Standard Details: (1) Typical Pavement Markings TEM-2; Revised on January 29, 2010, and (2) Channelization, Word and Symbol Markings TEM-3; Revised on January 29; 2010
- 15. The Manual on Temporary Traffic Control for Streets and Highways, 2006 Edition, dated May 1, 2006 shall apply to this project.

16.	The bidder shall be responsible involved or in conflict. The bidd	o for coordi	notion of con	iraci work	with utilities when the	ighting
	involved or in conflict. The bidd	er has full re lies:	ghonarom, x.s.	i.		

17. Bidders must be in compliance with all state and federal laws related to and governing the project, including but not limited to, any state and federal environmental laws and equal protection laws.

By signing the below, it (company forth hereinabove.	hereby represent the name), and that I will o	nt I have life authority and power comply with all of the terms as se
forth hereinabove.	. .	
Company Name:	<u></u>	
By(Sign 1	Date.	A STATE OF THE PARTY OF THE PAR
(Print r	ame)	;
(Title with t	he Company) *	• 1

ATTACEMENT 1 TO RFP:

LIST AND MAPS OF ROAD REPAIR PROGRAM

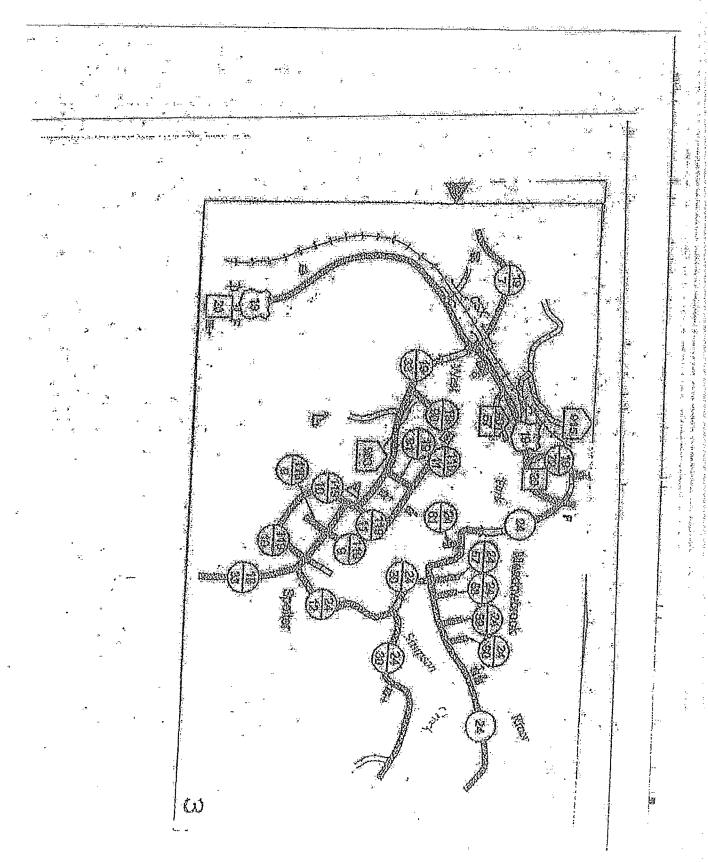
ROAD REPAIR LIST

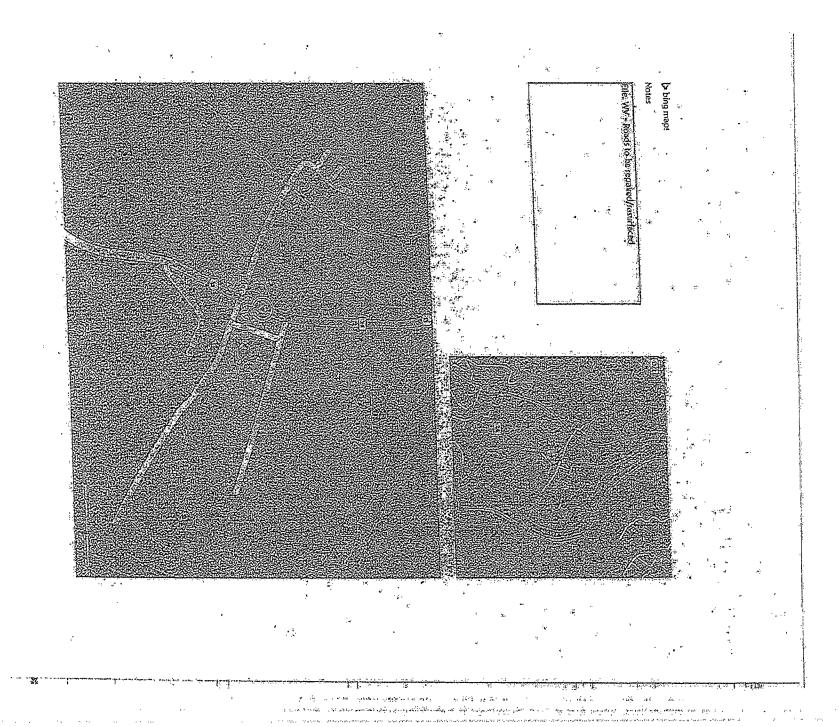
I. Spelter-Rönds

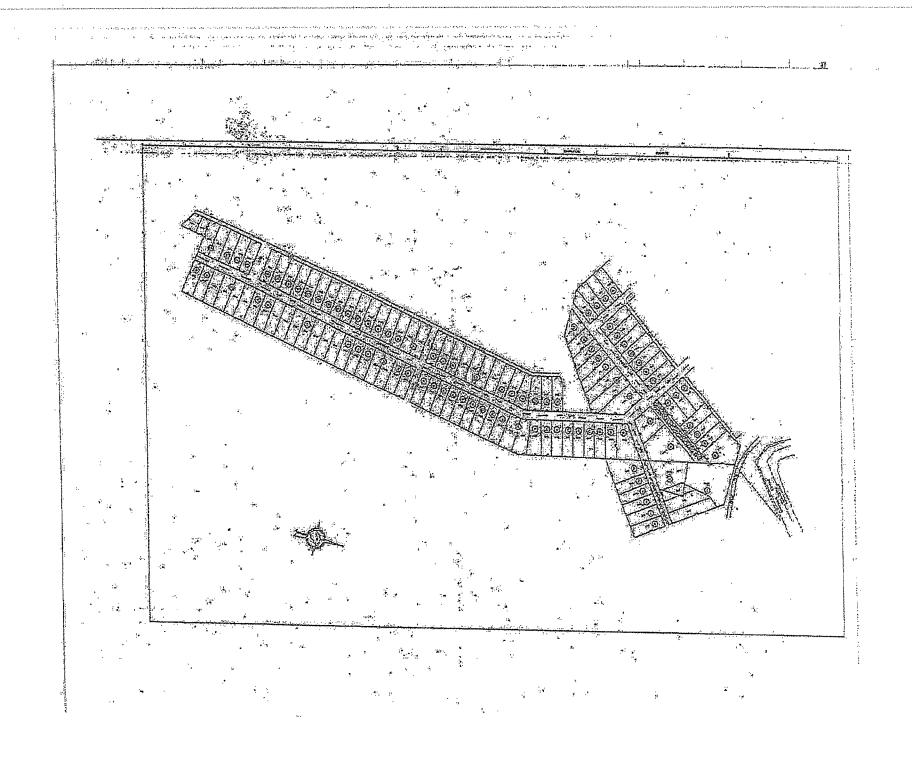
- 1) ' 1st Street County Road ("CR") 19/90
- 2) 2nd Street CR 19/91
- 3) -3rd Street CR 119/10
- 4) 4th Street CR 119/9 ·
- 5) 5th Street CR 119/10
- 6) 6th Street CR 24/12
 - 7) A Street CR 119/11
 - 8) B Street CR 19/33 (from Spelter side of bridge to the top of hill)
- 9) C Street CR 119/10

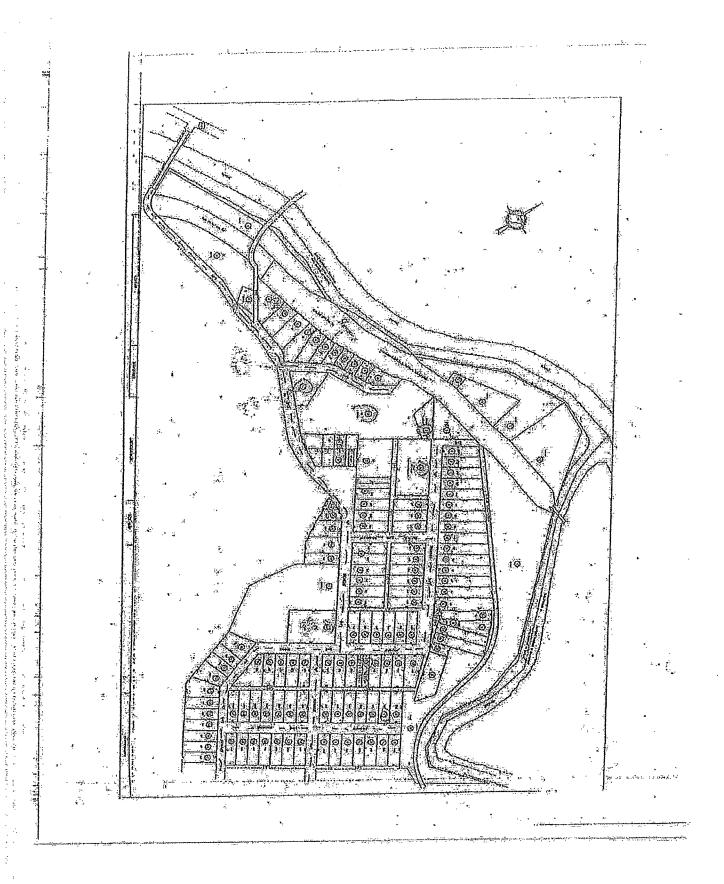
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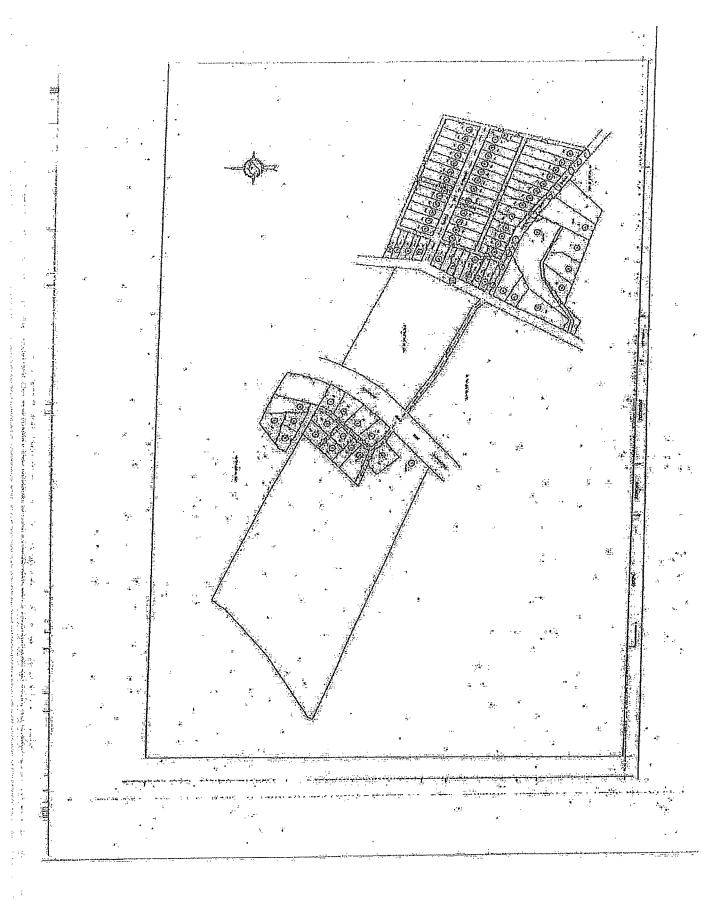
- · 10) Maple Ave CR 19/32
- ;11) Rose Street/Poplar Street CR 19/34











VALLY CHARLET TO REED ROUTE TO REED TO

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

LENORA PERRINE, et al.,

Plaintiffs,

Case No. 04-C-296-2 Judge Thomas A. Bedell

E. I. DUPONT DE NEMOURS & COMPANY, et al.,

Defendants.

FOIAL ORDER APPROVING (I) THE DESCRIPTION AND MAPS OF THE ROADS SUBJECT TO THE ROAD REPAYING/REPAIR PORTION OF THE ROAD REPAYING/REPAIR BIDDER GIST;

IMPROVIMENT PROGRAMS (II) THE ROAD REPAYING/REPAIR BIDDER GIST;

(II) THE ROAD RE PAYING/REPAIR AGRESSMENT

AND (IV) THE ROAD REPAYING/REPAIR AGRESSMENT.

Presently before the Court is the Claims Administrator's February 11, 2016 Report (the "Claims Administrator's Report"), submitted for review and consideration in connection with the Settlement Property Remediation (Clean-Up) Program approved by the Court's June 27, 2011 Order, regarding the implementation of a portion of the Court's April 15, 2014 Order approved Settlement Road Repair and Improvement Program ("Road Repair Program"). The Road Repair Program has three parts: (i) road re-paving/repairs; (ii) alleys; and (iii) drainage. The portion of the Road Repair Program subject to this Order is the first step of the program, road re-paving repairs. The roads subject to the road re-paving portion of the program are illustrated in the Maps in Exhibit A, and are listed below:

L Spelter Roads

- 1) 1" Street County Road ("CR") 19/90
- 2) 2nd Street CR 19/91
- 3) 3rd Street CR 119/10

- 4) 4th Street CR 119/9
- 5) Sh Street CR 119/10
- 6) 6th Street CR 24/12
- 7) A Street CR 119/11
- 8) B Street CR 19/33 (from Spelter side of bridge to the top of hill)
- 9) C Street -- CR 119/10

II. Pere Roads

- 10). Maple Ave CR 19/32
- 11) Rose Street/Poplar Street CR 19/34

To begin this portion of the program, the Claims Administrator's Report requests that the Court consider: (i) finalizing of the roads to be so re-paved/repaired, as described above and depicted in Exhibit A: (ii) approving the Bidder List of qualified bidders for this portion of the program in Exhibit B: (iii) approving the Request for Proposals form to be used to obtain the lowest qualified bid in Exhibit C: and (iv) approving the form of Agreement with the successful bidder in Exhibit D.

After a careful review of the Claims Administrator's Report, along with the list of maps of the roads to be re-paved/repaired, the Bidder List, the Request for Proposals and the Agreement, and in consideration of the applicable law, the Court ORDERS AND APPROVES: (i) the map and description of the roads subject to the road re-paving/repair portion of the Road Improvement Program depicted in Exhibit A; (ii) the Bidder List of qualified bidders for the work contained in Exhibit B; (iii) the Request for Proposals form to be used in obtaining the lowest qualified bidder in Exhibit D; and (iv) the form of the Agreement with the successful bidder in Exhibit D; with the resulting Agreement with the lowest qualified bidder to be substantially in the form of Exhibit D; but subject to negotiations.

IT IS SO ORDERED.

The Clerk of this Court shall provide certified copies of this Order to the following:

James S. Amold, Esq.
Thomas Combs & Spann, PLLC
P. O. Box 3824
Charleston, WY 25338
DuPont's Finance Committee Representative

Meredith H. McCarthy, Esq. Guardian Ad Litem for Children 901 W. Main St. Bridgeport, WV 26330

Virginia Euchanan, Esq.
Levin, Popultonia, Themas, Mitchell,
Rationy & Proctor, P.A.
P.O. Box 12308
Pensacola, It. 32591
Planinffs' Fmance Committee Representative

Edgar C. Gentle, III, Claims Administrator Gentle, Turner, Sexton & Harbison P. O. Box 257 Spelter, WV 26438

Order Prepared By:

Rdgar C. Gentle, III, Claims Administrator Gentle, Turner, Sexton & Harbison P. O. Box 257 Spelter, WV 26438

Michael A. Jacks, Esq.
Jacks Legal Group, P.L.L.C.
W.Va. Bar No 11044
United Federal Credit Union Building
3467 University Ave, Suite 200
Morgantown, WV 26505

FNTER.

Thomas A. Bedell, Circuit Judge

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ROAD REPAIR PROGRAM AGREEMENT

THIS AGREDITATIVE is integral into on ONE AGREGATION AND ACCORDANCE OF THE AGREEMENT	jo affactiva upon Coor
approved "Brigging and A work comments of the approved and the	e Perrine Dullon
The state of the s	County, West Virginia
Case No. 04-6-296-2 (the "Golfit"), by Oracan date index? appointed Special Master and Claims Administrator, Edgar C. Gentle, III., Esq., of the appointed Special Master and Claims Administrator.	film of Goule, Tumer
appointed Special Master and Charles Administrator, and "Glaims Administrator") Section & Harbison, T.J.C. (theroinafter collectively referred to an "Glaims Administrator")	
Sex tour William Property and P	74

The principal place of business of the Spensor, as administered by the Claims Administrator, is 55 B Street P.O. Box 257, Spelter, West Vilginia, 26428.

WHIRBAS, on February 22, 2016; the Claims Administrator issued the Regiest for Proposals for the Road Re-paying/Repoir portion of the Sattlement Road Repair and improvement Program in the Perrine DuPont Sattlement, attached hereto as Exhibit & (the "RPP").

WIBITEAS, the Claims Administrator recommends to the Court that the Contractor be awarded the contract to provide the Road Repair Services described in this Agreement;

WHINKEAS, by onlying into this Agreement, the Caphactor agreed to provide Rout Ropalr Services, including, the reliable resultability and paving of the Bligible Roads in Betal in the RPP and incorporated herein by reference (Sec. Exhibit A).

WHEREAS, the Claims Administrator desires to work with the Contractor and the Contractor desires to work with the Claims Administrator to implement the Road Repair Programs and

WHERBAS, the Claims Administrator and the Contractor (collectively, the "Parlies") have agreed that the Contractor shall exclusively provide the Road Repair Services for the Claims Administrator for the roads described in the Order of the Court dated _______, 2016, in Exhibit A, for the duration of this Agreement;

NOW, HITERISTORIE, in consideration of the mutual covenants set forth herein, and for other good and substantial consideration, the receipt and sufficiency of which are hereby acknowledged, the Parlianagues as follows:

i. <u>Devinitions</u>

All words and phrases defined below shall have the following meaning:

A. "RIP" collectively means the Claims Administrator's February 22, 2016 Request for Proposals with respect to the Road Repair Services defined below (See, Section I.B. below), a copy of which is attached horeto as Exhibit A and is incorporated by reference;

B. Road Repair Services includes the Contractor's agreement to (i) perform the "Scope of Work" for the designated "Road Repair List" as described in the RIT and incorporated herein by reference (see, Exhibit A); and (ii) an implementation plan to be prepared for the Chims Administrator's review and approval during a reasonable editing cycle that identifies the full scope of work required of the Contractor and the Chims Administrator, and the protocols that the Contractor shall perform and rely upon in carrying out the Road Repair Services, as described in Section IV.B. below.

PERIOD OF PERFORMANCE 11.

170

This Apiconisht shall become effective following Countapproval, and shall continue in full foreign through December 31, 2016, or until such thus as all conditions and obligations are met and sulfated bersin, which the Claims Administrator estimates is sufficient time to complete all Road Repair Services in accurdance with the terms of this Agreement.

COMPUNSATION AND TERMS OF PAYMENT III.

Die Contractor igrees to provide the Road Repair Services as described herein at a cost agroed to by the Chiling Administrator, with total compensation not to exceed \$ Α. "capped mount"). Within seven (1) days tellowing Court approval of this Agreement, the Contractor shall capped amount of return to the capped smount, of a the days down paying the the capped smount, of a the days down paying the the payment Terms for Road Repair Services. To be negotiated and included herein prior to the payment Terms for Road Repair Services.

Excension of the interestion of Payment. The 5% down payment shall be nullized in relably reducing Disposition of 5%. Down Payment, The 5% down payment to the illustration of the Contractor If this down payment is fully utilized, then future payments to the Contractor shall no longur be reduced by the 5% down payment. But, if the 5% down payment is not so utilized in full, thus, following completion of the Rond Repair Services. The standing portion of the South of the Contractor to the Contractor to the Contractor. The Contractor shall be responsible for the phymontof all excise values or use unaspired fill accessed in a

py law on all labor materials tools, apparaiss, equipment, fixtures, and incidentals which py law on all labor materials of conducting living and or expersion that the furpose of conducting living and or expersion that the furpose of conducting living and or expersion that the furpose of conducting living and or expersion that the first services in the first services. $\mathbf{B}_{\mathbf{r}}$ concumplated herein. The Contractor represents that all amounts required for such fuxes are included and my part and parest of the companeation as act out in the Price Proposal submitted by the Contrador. C.

The Contractor will take the risk of diesel fuel cost fluctuations up to a calling of \$3.00 per gallon per http://www.ein.gov/periodenni/gaschesel/ (the "first cap"). Upon the Contractor providing resonable proof that if proclassed closel fuel for the project and only used in for the project at a pince absent the first limit if proclassed closel fuel for the project and only used in for the project at a pince absent to first limit if proclassed closel fuel for the project at a pince absent to first limit if proclassed closel fuel for the project at a pince absent to first limit if proclassed closel fuel for the project at a pince absent to first limit it proclassed closel fuel for the project and only used in for the project at a pince absent limit is the first limit in the project at a pince absent limit is provided to the project at a pince absent limit is provided to the project at a pince absent limit is provided to the project limit in the project limit is provided to the project limit in the project limit is provided to the project limit in the project limit is provided to the project limit in the project limit is provided to the project limit in the project limit is provided to the project limit in the project limit is provided to the project limit in the project limit is provided to the project limit in the project limit is provided to the project limit in the project limit is project limit in the project limit in the project limit is project limit in the project limit in the project limit is provided to the project limit in the project limit is project limit in the project limit in the project limit is project limit in the project on at a time that the fuel cap was exceeded you hat their now hat referent pastice of the Settlement abili reignburge the Contractor, dollar for dellar for the amount above his first cap so paid by the Contractor, for dissel firel

OBLIGATIONS OF THE CONTRACTOR IV:

- Good Within The Contractor committe to act in good faith in working with the Claims Administrator to complete all of the toaks and obligations identified herein, and to perform all actions required to A., officentatio the items identified herein in a reasonable and responsible manner consistent with industry practices. The Contractor represents and warming that all services performed in accordance with this Agreement shall be performed in accordance with all applicable faderal, state and local rules and regulations. The Contractor further warrants that it has or will have examined and familiarized liself with the services and the laws, rules and regulations relating to this Agreement and that all employees and any subcontractors authorized heraunder shall possess such expertise and skill and such training and certifications as may be necessary to perform the tasks and responsibilities to which they are assigned.
- Road Ropali Services: The Contractor shall provide Road Repair Services for the Eligible Roads B. listed in the RTP, as follows:

- Incorporation of the REP: The Parties hereby agree that the RPF in Exhibit A is incorporated herein and, together with this Agreement, define the scope of the work for the Road Repair Services. Nonetheless, if any terms set forth in Exhibit A conflicts with any term contained in this Agreement, the Agreement shall
- b. Exchision of Response Assumptions, Oxecutions, and Cavents; Claims Administrator and the Contractor, specifically exclude any exclusions, limitations, assumptions, or other statements of reservation that are not in this Agreement. This Agreement, with its Exhibits, represents the complete, entire and sole agreement between the Parties, and any and all previous statements of "reservation" made by the Contractor are not a final part of this Agreement unless, specifically stated and agreed to by the Claims Administrator herein.

c. Project Plannings

The Contractor shall prepare an implementation Plan and provide to the Claims Administrator for review and approval that encompasses the full scope of work and identifies the protocols for the completion of the Road Repair Selvices.

The Contractor shall parry out and perform any and all duties pursuant to and in compliance with all state and federal laws, including but not limited to any and all state and federal environmental laws, along with any applicable healthy and adeey regulations:

Remnitar The Contractor shall ensure that all required permits are secured prior to commencing Road Repair Services: The Confessor shall file posmits or notify the appropriate psimilting agencies as necessary, in order to their posmits delays in the commencement of road repair selfvides. The Confessor that also obtain any other bond authorizations that may be necessary for the completion of work. The Continuity is most vitles include, but are not limited to, obtaining all penalts required by Flarrison County, the State of West Virginia, the United States Government, and/or any municipality within

the Class Area that require permits related to the work described herein.

Access Asilosicality: The Commetter thall seems from the Claims Administrator copies of all available access agreements prior to commencing Road Repair Services; and shall ensure that copies of said agreements are uploaded and maintained outs an electronic data management system. All necessary mid relevant necess agreements have been procued by the Chilms Administrator and shall be provided upon request to The Contractor by the Claims Administrator, Said data management system shall-maintain the ongoing status of Road Repair Sarvices activities at each localism where an access agreeinent has been ablamed with weekly updated reports submitted by the Contractor to the Chimos Administrator for tracking the work. The Contractor shall also provide reports as requested by the Claims Administrator within forty-eight (48) hours of written request.

d. Site Proparation and Emphilization

Fre-Roud Repair Program Meeting: The Contractor shall conduct a pro-Road Repair Program conference to introduce key personnel, define authorities and responsibilities, discuss details related to project implementation and a detailed schedule for the Road Repair Services, with a teleconference option for those participants electing to meet via telephone, including, but not limited to Claims Administrator representatives, the Finance Committee and the Claimant Advisory Committee.

Weekly Meetings: During the execution of the Road Repair Services, the Contractor will conduct weeldy project meetings to inform the Claims Administrator of the progress of the work, any problems and/or corrective actions implemented, and updates on the construction schedule. A teleconference option for those participants electing to meet via telephone, and including, but not limited to Claims Administrator representatives, if so requested, shall be provided.

Dolly Salety Mentings: Safety meetings will be conducted by the Contractor daily as part of the Contractor's duty to fulfill its obligations under any and all federal and state as contemplated in iii.

Monthly Reports. During the execution of the Road Repair Nervices, the Contactor shall proxide the Claims Administrator mouthly write his ports identifying or a infulmum, the progress of repairing the Highle Reads, inclining, thany, alguirieant damage caused thereas aurounding inc road repair area, such as yards, attuetures, or personal property, caused by the Contractor or 18 subcontractors; and any complaints received from Claimants or offier persons effected by the dampage. The report shall be provided to the Claims Administrator office via hand or evenight delivery and electronic mail.

Complaints: The Contractor shall notify the Claims Administrator immediately in writing, to the extent proffcable, when it becomes aware of any Claimants complaint stated to the Read Repair Sorvices, and the Controctor shall ecoperate with the Claims Administrator in undertaking reasonable

meanifes to resolve such complaints.

Provious Resolution Meatings: A special meeting shall be hold when and if a problem of deflotency is present or likely to occur. Aka minimum, the meeting shall be musically the claims. Administrator, the Concretor tono mumbers, and any affected third pury subspictualities mallor Chalmings. The purpose of the meating shall be to define and resolve the problem of work definition. The mosting shall be decomented by the Controller and minutes shall be prepared and distributed to. all parties attending or participating. A teleconference option for those participants electing to meet all parties attending or participants of continued to Chalins Administrator representatives, it so requested. shalling provided. The meeting shall occur promptly but no this client severity two (12) hours after written request of the Contractor or Claims Administrator. The request shall identify the condition or event to be discussed.

Logistics: The Contractor shall facilitate all logistical support, and any and all logistical planning necessary to effectuate an efficient start-up and continuation of Road Repair Services. viii: Utility Identification, Prior to initiating Road Repair Services activities, the Contractor shall locate

unilmark all underground utilities. Access Road Construction: The Contractor shall construct access roadways, as necessary, utilizing crushed stone or other materials, to facilitate work activities. The Contractor shall establish suitable ix.

facilities for parking. Personnel and Boulement Decementaringtion: As required, the Contractor shall ensure

x. decontamination of personnel and exervation equipment.

Mobilization: Upon completion of logistical preparation activities; the Contractor shall mobilize personnel, equipment, materials, and other resources to the site to mitiate road repair activities, Mobilization notivities are unticipated to moludu, but are not limited to the delivery, installation, hookup, and maintonatee of temporary offices and communities facilities. Temporary offices and construction facilities are expected to include field offices, support facilities, utilities, dust und pollution control facilities, personnel protection and work areas, and creation and minuspense of access roads and parking areas, as required.

Site Security. The Confractor shall be responsible for access control and security at all steging. areas and at the individual work areas. Security shall include at least one of the following: use of existing fencing, snow foncing, at a minimum contion tape, and signage warning of restricted mass and hozards to control access, protest equipment and support facilities, and prevent unauthorized cutiv and expensive to Eligible Reads and to control access to other dangerous conditions.

Documentation: The Contractor shall be responsible for documenting all field activities during the Road Repair Program. Records of field activities shall be legible, identifiable, retrievable, and producted against damage, deterioration; and loss. The Contractor shall record all documentation in materproof, non-orasable ink. If an error in any of these documents is made, shall make corrections by crossing a single line through the error and entering the correct

information adjacent to it. The corrections shall then be initialed and dated. All data and documentation shall also be uploaded and maintained outo an electronic data management system. The data management system shall be in a format that is could readable and expertable, and access to said data and documentation, and/or reports generated from salt data and documentation, shall be provided to the Claims Administrator within five (5) days of written request.

Reporting Regularments:

The reports to be submitted by the Contractor pursuant to the terms of this Agreement shall be provided to the cilaims Administrator's office via hand or evernight delivery and ... electronic mail.

The Contractor shall work with the Claims Administrator to determine which reports b, shall be necessary to fully perform the services contained herein.

Insurance and Hand Regulrements. D.

The Contractor shall maintain Workers' Compensation benefits within the State of West Vinginia throughout all perfects relevant to the execution of duties and obligations under this Agreement with a. throughout all periods relevant to the execution of duties and obligations under this Agreement with water of subregationals favor of the Persine Dukent Scriftenant (which is the Persine Dukent Scriftenant (which is the Persine Dukent Water of subregation of the Persine Dukent Scriftenant (which is the Persine Dukent Wind, as IRC 5463B Qualified Settement Fund domically from the Company ("Dukent"), and the law from a Gentle, in West Winghield, II. Dukent De Newtons and Company ("Dukent"), and the law from a Gentle, This Company ("Dukent"), and the law from a Gentle, This Company ("Dukent of the law from a Gentle, This Company ("Dukent of Settement with subminion had set of Queen Million Dellard (\$1,000,000,00) per incident, with reliver of subregation in favor of the Pourse Million Dellard (\$1,000,000,00) per incident, with reliver of subregation in favor of the Pourse Million Dellard (\$1,000,000,00) per incident. Throw Section & Machine Left. The Continuous about

b. DuPont Schlement, DuPont, and Gentle, Turner, Soxton & Narbison, LLG. The Contractor shall maintain a Commercial General Liability insurance policy throughout all net ods rabbant to like execution of duties and obligations under this Agreement with minimum limits of Two Million Delkins. (\$2,000,000.00) per occurrence.

The Contractor shall maintain Professional Liability insumoce throughout all perfoils relevant to the execution of dulies and obligations under this Agreement with playming limits of Ope William Dollars (\$1,000,000.00) per claim with maintenance of neverage for two (2) years following the completion

The Contractor shall maintain on Excess Liability policy throughout all periods colorant to the execution of duties and obligations under this Agreement with minimum limits of One Million Dollars d;

(\$1,000,000.00) per claim. The Contractor shall maintain an Environmental Impahment mentanco policy or Pollotion Liability insurance policy throughout all periods relevant to the execution of things and obligations e. under this Agreement with minimum limits of Two William Dollars (\$2,000,000,000) per claim.

The Contractor shall maintain comprehensive or commercial automobile hability for bodily injury and property damage throughout all periods relevant to the execution of duties and abligations under ſ. ihia Agreement with minimum limits of One Million Dollars (\$1,000,000:00) per staim.

The insurance required herein shall be primary to any other valid and collectible insurance. The Contractor must ensure that the Pearing DuPont Settlement, DuPont and the law fun of Gentle, Turner, Sexton & Harbison, LLC, are listed as additional insureds on the above pollules, as cylideneal by h. a Certificate of Insurance varifying coverage limits.

Hands: The Contractor shall furnish bonds covering the faithful performance of this Agreement and the payment of all obligations arising in connection therewith, said bonds to be in such form Claims Administrator approves, and with surelies that Chains Administrator approves. Approval of the bond form shall not be unreasonably demed; reasons for flerial shall be stated in writing. Each bond shall

contain a provision to the affect that changes in the Road Repair Services and/or medifications to this Agreement shall in no way relieve the mucty of he obligations. Bonding provided by the Contractor shall equal the total contract value of this Agreement. Bonds may be lumished for different pluges of the work so long as the peopl value of each bond is commensurate with the value of each phase.

3.

Sub-Contracts: E.

The Contractor may sublok to Sub-contractors accoptable to the Clotins Administrator my portions of the Roud Repair Services. Claims Administrator reserves the right to review and approve or disapprove all subscrittants as to scope af the Road Repair Survices to be performed or for any reasonable besis. If Claims Administrator relacts a proposed subscription, it must state all bases in writing and allow Contractor to respond and requester resonant and or the contractor with a responding period of this Such Claims Administrators acceptance, review or approval, or the failure to resupt years or approve

a subcontinuor shall not be construct as raticyling the Continuor of any responsibilities under this b.

The Contributor shall have full directing audiority over and responsibility for the performance of All Read Ropair Services which the Contractor subscottacts and thall not be religical of its responsibility for the proper performance of the services contemplated herein due to subcontracting.

The Contractor nurses to hind each and every Salv contractor by the terms, conditions and provisions of this Agreement applicable to floud Reputy Socyless, unless supervision peoliteally agreed to in willing. d.

Nothing commission in this representative intended to or shall the sums create has estimated or plivity relation between any Sub-conference and the Clause Administrator or any abligation on the part of the e. Claims Administrator to pay or to see to the payment of unit moneys the day Sub-contrater.

obligations of the claims administration ٧.

Tiduiding Duties: The Chine Administrator shall be responsible for the interpretation of Court Orders and Road Repair Program documents, and any communications to the Chamants, the Finance ۸. Committee, the Claimants Advisory Committee, and the Court.

Amendments to the Road Remar Programs The Claims Administrator shall provide written notification to the Contractor of any modifications or innendments to the Road Topoly Program, Medifications to B. the Road Repair Program that have a cost impact upon the Contractor shall, result in written, reasonable pricing revisions effective as of the date of the modification or amendment.

Response Time: The Claims Administrator shall provide my wiltim responser control herotic protherwise reasonably required by the Contractor no later than live (5) working days after reguest. In instance, where C. a response is needed faster in order to avoid delay, such response shall be provided seoner so as to avoid delay.

PROPERTY RIGHTS AND CONFIDENTIALITY γĮ.

Committee Equipment and Confidential Information All computer equipment owned by the Contractor, programs, drawings, diagrams, specifications, manuals, forms, procedures, data files (but not the data therein belonging to the Claims Administrator), and all other information and materials of any mature existing before the commencement of the Read Repair Program and A. fumished, revenled or otherwise minde available to the Claims Administrator by the Contractor, whether on the Contractor's premises or the Claims Administrator's premises (the "Confidential" Information"), shall remain the sole and exclusive property of the Contractor. All other information, records, and documentation generated in earlying out the Road Ropall Services contemplated herein are hereby designated the Claims Administrator's Information, The Claims Administrator's Information shall be and remain the sole and exclusive property of the Claims Administrator. The Contractor shall return the Claims Administrator's Information to the Claims Administrator within thirty (30) days from the date of termination of this Agreement, while being able to maintain a copy on a confidential basis and also to be used to enforce the Contractor's rights under this agreement.

- B. Storage and Riebschiote All documents, books, and records furnished to this Contractor by the Claims Administrator provided in accordance with this Agreement shall remain the property of the Claims Administrator, and all documents, books, and records of the Contractor provided in accordance with this Agreement pertaining to any individual insurance, group bisurance, or services, whether original records of the Contractor or Initialized by the Claims Administrator, shall be upon for hispection at the of the Contractor or Initialized by the Claims Administrator, shall be upon for hispection at the Contractor west Virginia location, unless otherwise agreed, at all reasonable lines. The Contractor may store any or all of such documents, higher, and records in microfilm, anguate inpa, or other electronic medium.
- C. Disposition upon Termination of this Agreement: To the exicit finsible, upon temporation of this agreement: To the exicit finsible, upon temporation agreement, the Committee and require to the Committee of the Read Repair Read Repair Program within our received or of exited by the Committee or bishall of the Read Repair Read Repair Program within our (10) business days; however if it is not reasonably feasible, the protections of this Agreement shall continue to highly to each information after the termination of this Agreement.

VII. WANDATORY TERMS

The Mandatory Terms in Appendix A to the RFP and attached hereto as Exhibit B are a part of this Agreement, and are incorporated herein by reference.

VIII. INDEMINIPICATION

A. Intermiffication of the Contractor. Claims Administrator agrees to indemnify and hold harmless the Contractor or any of its officers, or employees from any and all leases, liability, damages, expenses or officers or obligation, resulting from or arising out of claims, demands, laysuits or judgments brought against Claims Administrator and/or the Contractor as a result or arising out of Claims Administrator performance of its responsibilities pursuant to the provisions of this Agreement, exactly any such olding, performance of its responsibilities pursuant to the provisions of this Agreement, exactly any such olding, losses, Habilities, damages, or expense which arise out of or in connection with the Cantractor's negligance.

willful misconduct, or criminal misconduct.

B. Indemulfication of the Claims Administrator. The Contractor agrees to hidennify and hold hamiless the Claims Administrator or any of its officers, or employees from any and all losses, liability. Claims Administrator or any of its officers, or employees from any and all losses, liability, damages, expenses or other cost or obligation, resulting from or arising out of claims brought against the Contractor and/or the Claims Administrator as a result or arising out of the Contractor's performance of its responsibilities pursuant to the provisions of his Agreement, except any such claims, losses, liabilities, damages, or expense which arise out of or in connection with the Claims Administrator's negligence, willful misconduct, or criminal misconduct.

IX. TERMINATION

A. Ministrial Brancht. If either party materially breaches this Agreement, the other party may terminate the Agreement provided that it notifies, in writing, the breaching party of the specific breach and allows the breaching party the opportunity to cure the breach within fifteen (15) days of the date of the notice. If reasonable and substantial steps to cure the breach have not been corrected in fifteen (15) days, the Agreement may be terminated upon five (5) days further written notice. If a notice and opportunity to cure is, generated by the Contractor for non-payment and not cured by Claims Administrator, the Contractor may, at its sole discretion, suspend performance upon expiration of the filteen (15) days the Contractor shall be entitled to an equilable adjustment to this Agreement.

B. Termination for Insolvency: If either party applies for or consents to the appointment of a reserver, inspec, or liquidator of itself or of all, or a substantial part, of its ussets; fles a voluntary polition in bankrupley, admits in writing to its hability to pay its debts as they become due, make a general assignment for the benefit of creditors; files a petition or an answer scaking reorganization or rearrangement with creditors; or, as a debtor, invokes or takes advantage of any insolvency law; or it an order, judgment, or decree is entered by a court of competent jurisdiction upon application of a creditor adjudicating such party bankrupt or insolvent or appropriate a petition scaking reorganization of such party of all, or a substantial part, of its assets, and such order, judgment, or decree continues unstayed for theiry (30) days, then the other party may, by written notice, terminate this appropriate freather on any future date specified in such notice.

Tarinination for Convenience: The Claims Administrator reserves the right to terminate this Agreement and all rights and all first less hereduces without cause, or for convenience, at he sole discretion, at any time after five (5), days written police. In the event Claims Administrator for any reasonable out of pooler costs cause then Claims Administrator shall remaining the Contractor for any reasonable out of pooler costs and opposes inclured for the administrator propagation and/or performance of Work and for reasonable to profit and overhead.

D. <u>Effect of Terminations</u> in the event of a termination, this Agreement shall be of no further force or effect except that each party hereto shall remain liable for any debts and/or liabilities arising from

activities under this Agreement occurring prior to the effective date of termination.

E. Continuation of Sorvicest. Except for termination due to Claims Administrator's breach, the Contractor agrees that upon completion of the work, at Claims Administrator's request for continuation of services, it shall continue to provide gervices because, provided Claims Administrator complies with all the terms and provisions of this Agraement in effect prior to the termination. The fees for such continuation period shall be equitably adjusted.

F. Information Transfer: In the event of termination of this Agreement, the Contractor agrees to provide Claims Administrator all Information in the Contractor's possession pertaining to all services, records, and efforts related to this Agreement, consistent with reasonable industry norms, are within five (5) business days. The Contractor may provide the data by electronic or wire communication or a media

type such as disk, tape, or CD.

X. CHOICE OF LAW AND RESOLUTION OF ALL DISPUTES

Choice of Liny: This Agreement shall be governed by and construed in accordance with the laws of the

State of West Virginia.

B. Resolution of All Disputes: In accordance with the Mandatory Terms in Appendix A to the RFP and annucled hisrard as Exhibit B. the Circuit Court in Harrison County, West Virginia, retains continuous and exclusive purisdiction and supervision over the Property Remediation Plan and over this Agreement, and any agreements related thereta. Any judicial proceeding arising out of or relating to this Agreement may be brought only before the Circuit Court of Harrison County West Virginia, and any judgment against a party may be enforced only by a proceeding before the Circuit Court of Harrison

County West Virginia. The Parties irrevocably and expressly submit to the jurisdistion of the Court over any such proceeding. The Parties irrevocably und expressly unive any objection that they might now or hereafter have to the laying of venue for such proceeding in the Circuit Court of Harrison County West Virginia and ship claim that any such proceeding in the Circuit Court of Entrison County West Virginialias been brought in an inconvenient forum.

Medilation: Prior to litigation or juridical proceeding, the Parties must first subject the dispute to medicine as a condition precedent. Mediation shall be administered by a mediator to be agreed upon by the paring. C.

MISCRULANIZOUS XI.

C.

Prompt Notification of any and all Complaints. The Contractor and Claims Administrator both mutually agree that each shall both promptly notify in writing the other of any and all complaints and/or issues which relate to or arise from this Agreement contemplated begin. А. and the Contractor and Chains Administrator shall your in marlom to resolve any and all claims and/or

complaints which may arke.

Correlation of Documents: The Agreement documents are complementery and what is called for by any one of the documents described herein and attached hereto are binding as if called by all. There are sotially operations, labor, continued, authorists and things reasonably inforable from the Agreement as being operations, labor, contents the light described in the continued the state of the contents of the contents. Not with the recognized atministration of otherwise which may appear to be to the contents, correct majours. Not withstanding anything herein or otherwise which may appear to be to the contents, contents of the party shall be responsible for delays or follows in performance made the Agreement resulting neither party shall be responsible for delays or follows in performance made the follows, without from any force majoure or cost hayond the reproductive and of var, epidents, governmental regulators, first initiation acts of God, stakes blackours ricts and of var, epidents, governmental regulators, first communication line fallows, power failures, mechanical fullures, atomics of the deatery Notwithstanding any other provision, the Contractor shall be entitled to an equitable adjustment to this Agreement for delays due to veether. Correlation of Doguments: The Agreement documents are complementary and what is called for by any В.

ucinys are to weather.

Notice: Any nodice or demand desired or required to be given hareunder shall be in writing and desired given when personally hand delivered or, it sent the overnight mult upon receipt, or three (3) days after D. doposit in the United States Mail, postage propaid, sent certified or registered, addressed as follows:

a. If to the Claims Administrator, to:

The Perrine DuPont Property Remediation Road Repair Program Spelter Volunteer Fire Department Office 55 B Street PO BOX 257 Spelter, West Virginia 26438 Attention: Edgar C. Gentle, III, Esq.

Claims Administrator With an email copy to ascrowagen@aol.com

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b.	If to the Contractor, to
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Billie Agreement: This Agreement and all exhibits and schodules hereto constitute the entire agreement between the Parlies hereto pertaining to the subject matters hereof and supersule all negotiations, preliminary agreements and all prior or contemporarisous discussions and moderate different the Parties hereto in connection with the subject matters hereof. All exhibits and schedulog are incorporated into this Agreement as if, set forth in their entirely and constitute a part hereof. Any exceptions of resentations set forth by the Contractor in any responses to the RPP shall not be part and parcel of this

Agreement, excepting those that are explicitly acknowledged herein.

Modifications in Writing No failure or delay on the part of any party in exercising any right, power or romedy hereunder shall operate as a watver thereof, nor shall any angle or partial exercise of any such right, power or remedly, preclude any other or further exercise thereof or the exercise of my ether right, polyer or remody. The remodics provided for herein are compilative and are not exchange of any pamelics that may be available at law or in equity or otherwise. No ancadatent, modification, supplement, learningtion or valvel abor to any provision of this Agreement for consent to any departure discretions, shall be effective upless the same shall be in writing and signed by or on behalf of the party subject to the enterconsent Merkor. Atty amoughput, modification or supplement of or my provision of the Agreement, any waiver of any provision of this Agreement, and any consent to any departure. From the faints of any provisions of this Agreement, shall be effective only in the specific instance and for

the specific purpose for which made or given.
Conflicting Towns: In the execut that any term shall conflict with any of the terms contained in any of connecting terms; in the exent mat any term such counter with any of the terms commercially of the documents which are put and parest of this Agreement, including but not limited to. Glaims. Administrator's RFP, the Contractor's Response to RFP; and/or any other Exhibits alleaded hereto, and/or any other documents identified in this Agreement, this Agreement is held missaid, illegal Severability. In the event may provident of this Agreement is held missaid, illegal inconferential, in whole or in part the raphanting previous of this Agreement alian not be affected in montorcoable, in whole or in part the raphanting previous of this Agreement and the contractor of the con

theighy and shall continue to be valid and enforceable. In the event any provision of this Agreement is hald to be unenforceable as written, but enforceable if modified, then such provision shall be deemed to be amended to such extent as shall be necessary for such provision to be enforceable and shall be enforced to that extent.

Relationship. Nothing contained in this Agreement and no action taken by the Parlies not a parlies and herelo shall be desired to constitute the Parlies as a parlies thin, an association, a joint venture. or other culty. It is expressly agreed that neither Party for any purpose shall be deemed to be an agent,

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or other unity, to in expressly agreement annual party.

osforsible or applicant agent, employed, or servant of the other Party.

Hendings and Captions: The titles or septious of seetings and paragraphs in this agreement are provided for convenience of reference only, and shall not be considered a part hereof for purposes of provided for convenience of reference only, and shall not be considered a part hereof for purposes of interpreting or applying this Agreement, and such titles or captions do not define. Jimit, extend, explain or

describe the scope or extent of this Agreement or any of its terms or conditions,

Bhidling Lifeal on Auccessous and Assigns: This Agreement shall be blinding upon and shall have to the lieuefit of the Partles bereto and their respective heirs; legal representatives, K. nuccessors and assigns. In the event of assignment, all of the terms, covening and conditions of this Agreement shall remain in full force and effect and the party making the assignment shall remain liable. and responsible for the due performance of all of the terms, covenants and conditions of this Agreement that it is obligated to observe and perform. Nothing in this Agreement, express or implied, is intelled to confer upon any juinty other than the Parties Lercto (and their respective hear, successors, legal representatives and permitted assigns) any rights, remedies, limitities or obligations and are by reason of this Agreement. However, norther the Glaims Administrator, nor the Contractor may assign the rights and obligations provided hereunder without the prior Written express permission of the other party, which shall not he unreasonably denied. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and in making proof hereof, it shall not be necessary to produce or account for more than one such counterpart.

L.	Changes in Lawe If class Agreement or render any p to the terms of this Agreem the changes in laws, then notice. Advartaint, Promotion, a	ortion mega putlingood to either party m	lib.ICiba Portie ay terminato di	s cannot agree lo la Agreement Vi	modify tomes that con thirty (30) days i	omply with proportinen
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ROAD REPAIR PROGRAM <u>ACKNEMENT</u>

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· · · · · · · · · · · · · · · · · · ·	THIS AGREEMENT is entered into on 2016, and is effective upon Court in corporation with its headquarters at val ("Effective Date"), being between ("Contractor") until the Perrine DuPont ("Contractor") which was approved by the Circuit Court of Hightson County, West Virginia, and the Court of Hightson County, West Virginia, and the Circuit Court of Hightson County, west Virginia, and the Circuit Court of Hightson County, west Virginia, and the Circuit Court of Hightson County, west Virginia, and the Circuit Court of Hightson County, west Virginia, and the Circuit Court of Hightson County, west Virginia, and the Circuit Court of Hightson County, west Virginia, and the Circuit Court of Hightson County, west Virginia, and the Circuit Court of Hightson County, which was approved by the Circuit Court of Hightson County, which was approved by the Circuit Court of Hightson County, which was approved by the Circuit Court of Hightson County, which was approved by the Circuit Court of Hightson County, which was approved by the Circuit Court of Hightson County, which was approved by the Circuit Court of Hightson County, we can be considered to the Circuit Court of Hightson County, which was approved by the Circuit Court of Hightson County, which was approved by the Circuit Court of Hightson County, which was approved by the Circuit Court of Hightson County, which was approved by the Circuit Court of Hightson County, which was approved by the Circuit Court of Hightson County (County).
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No. of Year	WHEREAS, by entering into this Agreement, the Contractor agrees to provide the contractor beading into this Agreement, the Contractor agrees to provide the contractor and interior ported heading the contractor and proving of the Eligible Reads as lightly in the RFP and incorporated heading the contractor.
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the C	ontractor shall exclusively provide the Road Repair Services for the County for the duration of this bed in the Order of the Court dated
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1.	DEMINITIONS
Allw	ords and phrases defined below shall have the following meaning:
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	A); and (ii) an implementation plan to be prepared for the Chims Administrated of the Contractor and during a reasonable editing cycle that identifies the Juli scope of work required of the Contractor and during a reasonable editing cycle that identifies the Contractor shall perform and rely upon in corrying out
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	the Claims Administrator, and the presented in Section IV. B. below. the Road Repair Services, as described in Section IV. B. below.
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PERIOD OF PERFORMANCE. II.

This Agreement shall become effective following Court approval, and shall continue in full force through Decamber 91, 2016, or until such time as all conditions and obligations are met and satisfied bernin, which, the Claus Administrator estimates is sufficient time to complete all Road Repair Services in accordance with the terms of this Agreement.

COMPLNBATION AND TERMS OF PAYMENT III,

The Contractor agrees to provide the Rual Repair Survices as described herein at a cost agreed to by the A. Chims Administrator, with rotal compensation notic occased \$ "sapped sincount"). Within seven (7) days following Court approval of this Agreement, the Contractor shall receive in amount equal to 5% of the capped amount, or 1. (the 1% down proment).

Rayment Terms for Road Repub Services. To be negotiated and included herein prior to the

oxecution of this agreement. The 5% down payment shill be utilized in tatably reducing Disposition of 5% Down Payment. The 5% down payment shill be utilized in tatably reducing the payments to the the down payments is fully utilized, their future payments to the ii. Contributor shall no longer be reduced by the 3% down payment. But, if the 5% down payment is not so builted in full, then, following completion of the Road Repair Services, the remaining position of the 5% shown paymont shall be refunded by the Contractor to the Claims Administrator. The Contractor shall be responsible for the payment of all excise, unles, or use texes and all inserved

by law on all-labors materials, tools, apparatus, equipment, fixtures, and medentals, which purchases or uses for the purpose of conducting, facilities and/or supervising the Road Repair Services B. contemplated herein. The Contractor represents that all amounts required for such juxes are included and are part and parcel of the compensation as secout in the Price Proposal submitted by the Contractor.

The Contractor will take the fisk of diesal fuel cost fluctuations up to a celling of \$3.00 per gallon per fully//www.nela.gay/petrolcum/gas/tiesel/(the "fuel cap"). Upon the Contractor providing reasonable proof Ċ. the figure has diesel fuel for the project and only used it for the project at a price above the field oup that the that the field can was excauded par http://www.esin.co//ietrolouh/gusdiese// the Settlementshall reimburse the Contractor, Igilar for dollar for the consum above the tiel esp so pull by the Contractor, for diesel fuel.

OBLIGATIONS OF THE CONTRACTOR IV.

- Good Builths The Contractor commits to not in good both to working with the Claims Allministrator to complete all of the tasks and obligations identified herein, and its perform all actions required to A., effectuate the items identified herein in a reasonable and responsible manner consistent with industry practious. The Contractor represents and partants that all services performed in accordance wilk this Agreement shall be performed in accordance with all applicable federal, attic and local rules and regulations. The Contractor further warrants that it has or will have examined and familiarized liself with the services and the lays, rules and regulations relating to this Agreement and that fill suppleyees and any subcontractors authorized herepuder shall possess such expertise and skill and such training and cordifications as may be necessary to perform the tasks and responsibilities to which they are assigned.
- Road Repair Sorvices: The Contractor shall provide Road Repair Services for the Eligible Roads listed in the RPP, as follows:

- Incorporation of the REPA The Parties horeby agree that the RPF in Exhibit A is incorporated hereinand, together with this Agreement, define the scope of the work for the Road Reputy Sorvices. Monettickes, if any terms socioth in Exhibit A conflicts with any term contained in this Agreement, the Agreement shall
- Exclusion of Response Assumptions, Exceptions, and Envents: Claims Administrator and the Contractor specifically exchide any exclusions, limitations, assumptions, or ellegistations of research to the exclusions that are not in this Agreement. This Agreement, with its Exhibits, represents the complete, entire and sole agreement between the Parties, and any and all previous statements of "pearvation" made by the Contractor are not a final part of this Agreement unless specifically stated and agreed to by the Claims Administrator herein.

Profest Plannings

i. The Contractor shall prepare an Implementation Plan and provide to the Civiline Administrator for review and approval that cheenpasses the full scope of work and identifies the protectle for the

review and approval that encompasses the full scope of work and identifies the professis for the completion of the Road Repair Scrivices.

The Confrictor shall carry out and perform any and all dutles pursuant to and in compliance with all state and federal any manufactured british to any and all state and federal share invisonmental laws, along with any applicable healthy and safety regulations.

If the Controlor shall answe that all regular permits are secured prior to commencing Road Repair Services. The Controlor shall answe that all regular description appropriate permitting agencies, as Repair Services. The Controlor shall all permits or notify the appropriate permitting agencies, as necessary in drifer to limit potential delays in the commencement of road repair and which is a few with the state of the control of the permits of the control of Shalkulao chiain any other local authorizations that that he recessing for the configure Contractor's activities include, but are not limited to, obtaining all permits required by Marison Contractor's activities include, but are not limited to, obtaining all permits required by Marison County, the State of West Virginia, the Bulted States Government, and/or any municipality within

the Class Area that require permits related to the work described heroin. Aroves Aprochionis: The Contractor shall secure from the Claims Administrator copies of all available access agreements prior to commencing Road Ropair Services, and shall misure that copies of sald agreements are upleated and incidialned onto an electronic data management system. All necessary and relevant necess appearments have been produced by the Claims Administrator and abail be provided upon request to The Contractor by the Claims Administrator. Sold data management aystent abuil majorata the ongoing status of Road Repair Spryices artivities at each besitten where an access agreement his been obtained with wooldy applied reports submitted by the Contractor to the Culms Administrator for tracking the work. The Confractor shall also provide reports as requested by the Claims Administrator within forty-eight (48) hours of written requests

d. Sits Preparation and Mobilization

Pre Road Repair Program Meeting. The Contractor shall conduct a pre-Road Repair Program conformac to introduce low personnel, define authorities and responsibilities, discuss dutable related to project í, implementation and a detailed schodule for the Road Repair Services, with a teleconference option for chose participants electing to meet via telephone, including, but not limited to Claims Administrator representatives; the Finance Committee and the Claimon Advisory Committee.

Wookly Meetings During the execution of the Road Repair Services, the Contractor will conduct weekly project meetings to inform the Claims Administrator of the progress of the work, my problems und/or corrective actions implemented, and updates on the construction schedule. A teleconference option for those porticipants electing to meet via telephone, and including, but not limited to Claims Administrator representatives, if so requested, shall be provided.

iii. Daily Safely Mostings: Safety meetings will be conducted by the Contractor daily as part of the Continuous duly to foldill its obligations under any and all federal and state as contemplated in

Monthly Roports: During the execution of the Road Repair Services, the Contractor shall provide the Claims Administrator monthly written reports identifying, at aminimum, the progress of epublicative aligible Reads, including, if any, significant domage consect to sees surphidding the road repair ores, such as yards, strictures, or personal property, caused by the Contractor or its subspirituation; mill any complaints received from Claimants or other possons offsated by the damage. The report shall be provided to the Claims Administrator office via limit or avernight delivery and

Complaints The Contrators hall notify the Claims Administrator immediately in writing, to this extent programme, when it becomes aware of any Claimants complaint clinical first reading pair. Spirites, and the Cohicactor shall cooperate with the Claims Administrator in undertaking reasonable

mentages to rescive auch complaints

monages recessive auch complaints,
<u>Problem: Resolution Meatings:</u> A special meeting shall be held when and if a problem of
<u>Problem: Resolution Meatings:</u> A special meeting shall be necting shall be uttailed by the Claims
deficiency is present or likely to occur. At a minimum, the meeting shall be uttailed by the Claims
Administrator, the Contractor team members, shall not affected third party subcontractors and/or
Administrator, the Contractor team members, shall be to define and resolve the problem or work deficiency,
Claimants. The purpose of the meeting shall be to define and minites shall be deconficulted by the Contractor and minites shall be deconficulted to
the integring shall be deconficulted by the Contractor and minites shall be problem. the meaning snatt re-commenced by the conference option for the apprincipants also in the meaning of the conference option for the apprincipants also in the conference option for the apprincipants also in the conference option for the apprincipants also in the conference of the conference option for the appropriate of the conference option of the conference of the conference option of the conference of the conference of the conference of the conference option of the conference of the conferenc

vii. Logistics: The Commerce shall facilitate all logistics: support and envined all logistics planting accessive collection efficients and continuation of Road Repair Services planting become to office to initiating Road Repair Services tells from the Contractor shall locate viii. Utility Identication Pitor to initiating Road Repair Services tells from the Contractor shall locate

and mode all underground utilities.

Accept Road Construction: The Confractor shall construct access readynys, as necessary, utilizing grushed stone or other materials, to facilitate work negatives. The Contractor shall establish suitable

Tersonnel and Equipment Decementarination: As required, the Contractor shall ensure decentarition of personnel and excavation equipment.

Χ. Mobilization: Upon completion of logistical preparation activities, the Contractor shall mobilize potsonnol, equipment, materials, and other resources to the site to instruct road repair activities. Mobilization activities are enticipated to include, but are not limited to, the delivery, installation, hookup, and maintenance of temporary offices and construction facilities. Temporary offices and construction facilities are expected to include field offices, support facilities, utilities, dust and pollution control facilities, personnel protection and work areas, and creation and maintenance of access) pads and parking areas, as required.

Site Scourity: The Contractor shall be responsible for access control and accuraty at all staging areas and at the individual work areas. Scenelly shall include at least one of the following: use of existing fouching, show fencing at a minimum condition tape, and signing warning of restricted more and hazards to control across, protect equipment and support hellities, and prevent unauthorized entry

and exposure to Higible Roads and to control access to other dangerous conditions.

Documentation. The Contractor shall be responsible for documenting all field activities during the Road Repair Program. Records of field activities shall be legible, identifiable, retrievable, and protected against duringe, deterioration, and loss. The Contractor shall record all documentation in waterproof, non-unsable ink II an error in any of these documents is made, shall make corrections by crossing a single line through the error and outering the correct

Information adjacent to it. The confections shall then be initiated and three All data and thousand the confection shall also be uploaded and manifeld conformed the confection of the confection, and/or reports generated from said data and documentation, and/or reports generated from said data and documentation, and/or reports generated from said data and documentation, shall be provided to the Claims Administrator within five (5) days of written request.

C. Reporting Requirements;

a. The reports to be submitted by the Contractor pursuant to the terms of this Agreement shall be provided for the Claims Administrator's office via hand or overlight delivery and classes on the contractor will.

The Contractor shall work with the Claims Administrator to determine which reports shall be necessary to fully perform the services contained herein.

D. Inguinacound Bond Registromonisi

The Contractor shall maintain Workers' Compensation benefits within the State of West Virginia throughout all periods relevant to the execution of duties and obligations under this Agreement within the perfine Duront Settlement (which is the Perfine Duront varyer of subtogetion in flyer of the Perfine Duront Settlement (which is the Perfine Duront varyer of subtogetion (period Settlement Duront Duront Duront Duront Duront Duront Duront Duront (Population Company (Population and the law line of Settlement Duront Dur

Tuner, Sexton & Employer, LLC.

The Contractor shall maintain an Employer's Liability incurance policy throughout all periods relevant for the execution of duties and obligations under this Agreement will minimum limits of One willion Dollars (\$1,000,000,00) per incident, with waiver of subrogation in favor of the Period willion Dollars (\$1,000,000,00) per incident, with waiver of subrogation in favor of the Period Dution Settlement, Dution, and Gentle, Thruck, Sexton & Harbison, LLC. The Contractor shall nution of Settlement, Dution, and Gentle, Thruck, Sexton & Harbison, LLC. The Contractor shall maintain as Commercial General Liability insurence policy throughout all periods relevant to the exemition of duties and obligations podewthis Agreement with minimum limits of Two Million Dollars (\$2,000,000.00) per occurrence.

. The Contractor shall maintain Professional Liability insurance throughout all periods relevant to the oxecution of fulfes and obligations under this Agreement with minimum kinds of One Million Dellars execution of fulfes and obligations under this Agreement with minimum kinds of One Million Dellars (\$1,500,000,000) per claim with maintenance of coverings for two (2) years following the completion

d. The Contractor shall maintain an Excess Liability policy throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of One Million Dollars in a normal of the claim.

(17,000,000,000) per claim.
The Contractor shall maintain an Havirgumental Impairment insurance policy or Pollution
Lindhilly maintaine policy throughout all periods relevant to the execution of duties and obligations
Lindhilly maintaine policy throughout all periods relevant to the execution of duties and obligations
under this Agreement with minimum limits of Two Million Dollars (12,000,000,00) per claim.

f. The Contractor shall maintain comprehensive or commercial automobile liability for bodily injury and property damage throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of One Million Dollars (\$1,000,000.00) per chilin.

g. The insurance required herein shall be priming to any other valid and collectible insurance.

In Contractor must ensure flat the Perrine Duponi Scattement, Dupont and the law firm of Centle.

Therein, Sexton & Harbison, L.L.C., are listed as additional insureds on the above policies; an evidenced by a Certificate of Insurance verifying coverage limits.

1. Bonds: The Contractor shall fornish bonds covering the faithful performance of this Agreement and the payment of all obligations arising in connection therewith, said bonds to be in such form Claims. Administrator approves: Approval of the bond Administrator approves: Approval of the bond form shall not be unreasonably itenied; reasons for denial shall be stated in writing. Each bond shall

contains provision to the offect that changes in the Road Repair Services and or modifications to this Agreement shall in no way relieve the surety of its obligations. Boading provided by the Contractor shall equal the total contract value of this Agreement. Bonds may be durnated for different phases of the work so long as the penal value of each bond is commensurate with the value of each. phase.

Sub-Contracts:

c.

The Contractor may sublet to Sub-contractors neceptable to the Claims Administrator any portions of the Road Repair Services. Claims Administrator reserves the right to review and approve or я. disapprovo all subcontracts as to scope of the Road Repair Services to be performed or for any reasonable basis. If Claims Administrator rejects a proposed subscharator, it must state all bases in willing and allow Contractor to respond and require a reconsideration with a reasonable period of time. Such Claritis Administrator's acceptance, review or approval, or the full rate accept, review, or approve b.

a subscribing the line be construed as relieving the Contractor of any responsibilities under this

The Contractor shall have full directing authority over and responsibility for the performance of all Road Republic Survices which the Contractor subscattants and shall not be pelleved of its jespanalbility for the proper perfordinges of the sorvices contempialed become due to subsentrasting.

The Coulthefor agrees to bind such and avoly Sub-contractor by the teems, conditions and provisions of this Agreement applicable to Road Repair Services, unless otherwise specifically agreed to the Writing by the Claims Administrator.

Nothing contained in this Agreement is intended to or shall the same oreate any contractual or privity relation between my Subjection and the Chine Administrator or any obligation on the part of the Claims Administrator to pay or to see to the payment of any moneys due any Sub-contractor.

DELIGATIONS OF THE CLARKS ADMINISTRATION

Mandany Buttes: The Claims Administrator shall be responsible for the interprotation of Court Orders suit Road Ropale Program documents, and any communications to the Claimants, the Phanca A. Completes, the Chalmants Advisory Committee, and the Court.

Amendmenterto the Road Repeter Programs. The Claims Administrator shall provide written notification to the Contractor of any modifications or amoudinguis to the Rond Ropair Program. Modifications to B. the Road Ropair Program that have a cost impact upon the Contractor shall, result in written, reasonable pricing revisions effective as of the date of the modification or amendment.

Response Thus: The Claims Administrator shall provide any written response required herein or otherwise reasonably regulred by the Contractor no later than fave (5) working days after request. In instances where C. a response is peaded foster in order to avoid delay, such response shall be provided aconer so as to avoid

PROPERTY RIGHTS AND CONFIDENTIALITY VI.

Computer Equipment and Confidential Information, All computer equipment owned by the Contractor, programs, drawings, diagrams, specifications, manuals, forms, procedures, data files (but not the data therein belonging to the Chaims Administrator), and all other information and materials of any nature existing before the commencement of the Road Repair Program and A. Iumished, revealed or otherwise made available to the Claims Administrator by the Contractor, whether the Contractor's premises or the Chains Administrator's premises (the "Confidential

Information"), shall remain the sole and exclusive property of the Commeter. All other information, records, and documentation repeated in carrying out the Road Ropeir Services contemplated begins are hereby designated the "Claims Administrator's Information." The Claims Administrator's Information shall be and remain the sole and exclusive property of the Claims Administrator's Information to the Claims Administrator The Contractor shall return the Claims Administrator's Information to the Claims Administrator within thirty (30) days from the date of termination of this Agreement, while being able to maintain a copy on a confidential basis and also to be used to enforce the Commetors rights under this agreement.

- B. Storage and Inspections All documents, books, and records furnished to the Contractor by the Claims Administrator provided in accordance with this Agreement shall remain the property of the Chains Administrator, and all documents, books, and records of the Contractor provided in accordance with this Agreement pertaining towns individual incorpace, group insurance, or services, whether original records of the Contractor or furnished by the Chains Administrator, shall be open for inspection at the Contractor. West Virginia location, indeed otherwise agreed, at all reasonable three. The Contractor may store any or all of such documents, books, and records in microtilm, magnetic tape, or other electronic medium.
- C. <u>Disposition upon Termination of this Agreement</u>. To the extent foisible, mon termination of this aprenient the Contractor shall retain to the Claims Administrator all Claims Administrator Information received for created by the Contractor on helial set the Road Repair Road Repair Road region within ten (10) business days; however if it is not reasonably feasible, the protections of this Agreement shall continue to apply to such information after the termination of this Agreement.

VII. MANDATORY TERMS

The Mandatory Terms in Appendix A to the RFP and attached hereto as Exhibit B are a part of this . Agreement, and are incorporated herein by reference.

VIII. INDUMINITATION

A. <u>Hidemoffication of the Contractor</u>, Claims Administrator agrees to indemnify and hold hamiless the Contractor or may of its officers, or employees from any and all losses, liability, damages, expenses or other cost or obligation, resulting from or arising out of claims, demands, lawsuits or judgments brought against Claims Administrator and/or the Contractor as a result or arising out of Claims Administrator performance of his responsibilities pursuant to the provisions of this agreement, except any such claims, losses, liabilities, damages, or expense which arise out of or in connection with the Contractor's negligence, willful misconduct, or criminal misconduct.

B. Indemnification of the Claims Administrator. The Contractor agrees to indemnify and hold harmless the Claims Administrator or any of its officers, or employees from any and all losses, liability, claims Administrator or any of its officers, or employees from any and all losses, liability, claims Administrator or other cost or obligation, resulting from or rising out of claims, identified lawsuits or judgments brought against the Contractor and/or the Claims Administrator as a result or mising out of the Contractor's parformance of its responsibilities pursuant to the provisions of this Agreement, except any such claims, losses, liabilities, damages, or expense which mise out of or in connection with the Claims Administrator's negligence, willful misconduct, or criminal misconduct.

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TERMINATION IX.

Material Breach: It either party materially breaches this Agreement, the other party may terminate the Aigreement provided that it notifies, in writing, the breaching party of the specific breach and allows the A. breaching party the opportunity to cure the breach within fifteen (15) days of the date of the notice. If reasonable and substantial steps to oure the breach have not been corrected in fifteen (15) days, the Agreement may be terminated upon five (5) days further written notice. If a notice and opportunity to cure is generated by the Contractor for monephyment and not cured by Claims Administrator, the Contractor may, at its sole discretion, auspend performance upon expiration of the fifteen (15) days the Contractor slight be entitled to an equitable adjustment to this Agreement.

Termination for Incolveners If either party applies for or consums to the appointment of a receiver, trustee, or liquidator of itself or of all, or a substantial part, of its assets; files a voluntary petition in bank suprey, В. admits in writing to its ambility to pay its debts as they become due; makes a general assignment for the baneuit of eraditors; files a position or an answer sacking reorganization of rearrangement with croditors; or, as a debtor, invokes or takes advantage of any insolvency lays or if an order, judgment, or decree is entered by a control component jurisdiction upon application of a creditor adjudicating such party backrupt or insolvent control component personation upon approacion of a creation activations and party packrupt or insolved or approving a polition seeking reorganization of such party of all, or a substantial part, of its assets, and enchanging a polition of the party of all, or a substantial part, of its assets, and enchanging or decrease continues that appropriately for thing (20) days; then the other party may, by written produce, fluctuate this Appropriate fractive on any functions date specified in such notice.

The chains Administrator reserves the right to terminate this Appropriate and all rights and obligations it in any fine and all rights and obligations it is solved as a such control of a such and the solved and all rights and obligations it is a such as a such as

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nfor the (3) days withen before. In the syent Claims Administrator terminates this Agreement without cause then Claims Administrator slight religiouse the Contractor for any reasonable out of pocket costs and exponess managed for the actual preparation and/or performance of Work and for the actual preparation and/or performance of Work and for

profit and overliead. Effect of Tentalnstion: In the event of a termination, this Agreement shall be of no further force of effect except that each party hereto shall ramain hable for any debts and/or liabilities arising from D. .

activities under this Agreement occurring prior to the effective date of termination. Confinuation of Sorvices: Except for technination due to Claims Administrator's breach, the Collination agrees that upon completion of the work, at Claims Administrator's request for continuation È. of services, it shall continue to provide services hereunder, provided Chins Administrator compiles, with all the terms and provisions of this Agreement in offect prior to the termination. The fees for such

continuation period shall be equitably adjusted. Information Transfor: In the event of termination of this Agreement, the Contractor agrees to provide Claims Administrator all Information in the Contractor's possession pertaining to all survices, records, F. and efforts related to this Agreement, consistent with reasonable industry norms, are within five (5) business days. The Contractor may provide the data by electronic or wire communication or a media type such as disk, tape, or CD.

CHOIGE OF LAW AND RESOLUTION OF ALL DISPUTES X.

Choice of Law: This Agreement shall be governed by and construed in accordance with the laws of the A. State of West Virginia.

Resolution of All Disputes: In accordance with the Mandatory Terms in Appendix A to the RFP and attached hereto as Exhibit B, the Circuit Court in Harrison County, West Virginia, retains continuous B. and exclusive jurisdiction and supervision over the Property Remediation Plan and over this Agreements and any agreements related thereto. Any Indicial proceeding urising out of or relating to this Agreement may be brought only before the Circuit Court of Harrison County West Virginia, and any judgment against a party may be enforced only by a proceeding before the Circuit Court of Harrison

County West Virginia. The Parties irrevocably and expressly submit to the jurisdiction of the Court over any such proceeding. The Parties irrevocably and expressly waive any objection that they might now or hereafter have to the laying of venue for such proceeding in the Choult Court of Harrison County West Virginia and any claim that any such proceeding in the Choult Court of Harrison County West Virginia and any claim that any such proceeding in the Choult Court of Harrison County West Virginia has been brought in an inconvenient forum.

C. Mediation: Prior to litigation or juridical proceeding, the Parties must first subject the dispute to mediation as a condition precedent. Mediation shall be administered by a mediator to be agreed upon by the parties.

XI. MISCELLANEOUS

В,

A. Prompt Modification of any and all Complaints: The Contractor and Claims Administrator both mutually agree that each shall both promptly notify in writing the other of any and all complaints and/or issues which relate to or arise from this Agreement contemplated herein, and the Contractor and Claims Administrator shall work in tandem to resolve any and all claims and/or complaints which may arise.

Consolation of Departments. The Agreement documents are complementary and what is called for by any Consolation of Departments. The Agreement documents are complementary and what is called by all. There are certain one of the documents described herein duitationed use being the documents described in alterials and things reasonably interable from the Agreement as being operations, inher, equipment in produces and interact, such massion shall not relieve the Contractor from its obligation to "provide" all such operations, dator equipment, materials and things reasonably required. Parts of the Road Repair Services described in words which, when applied, have a well-known technical or trade meaning shall be familiated or performed in accordance with the recognized findands applicable to such meaning:

in accordance with the recognized similards applicable to such meaning:

Note Majorite. Notwithstanding anything herein or otherwise which may appear to be to the centrary, neither party shall be responsible for delays or fallures in performance under this Agreement resulting neither party shall be responsible for delays or fallures in performance under this Agreement resulting from any force majorite or acts beyond the reasonable control of the party. Such acts shall helide, without limitation, acts of God, shrikes, blackouts, riots, acts of war, epidemics, governmental regulations, majoritation line failure, power failures, mechanical failures, storms or other disasters. Notwithstanding any other provision, the Contractor shall be entitled to an equilible adjustment to this Agreement for delays due to weather.

D. Notice: Any notice or demand desired or required to be given hereunder shall be in writing and deemed given when personally hand delivered or, if sent via overnight mail upon receipt, or three (3) days after deposit in the United States Mail, postage prepaid, sent certified or registered, addressed as follows:

a. If to the Claims Administrator, to:
The Perrine DuPont Property Remediation Road Repair Program
Spelter Volunteer Fire Department Office
55 B Street
PO BOX 257
Spelter, West Virginia 26438
Attention: Edgar C. Gentle, III, Esq.
Claims Administrator
With an email copy to assrowing and com

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	- The state of the
	سينواه وريمه وسنته و بريد مدينة السنو مستمير بريد أنداث وبوج ويطوعها فه مستميد سيمينه وجود محسوب السنط بالمستمدة سنوع

Attention:
or to such other address or person as hereafter shall be designated in writing by the applicable party.

Multie Appreciately This Agreement and all exhibits and schedules hereto-constitute the entire egregations between the Parties berefo pertaining to the subject matters hereof and autorated all according and understanding of according to the subject matters have and understanding of the Parities ligrate in competiton with the subject matters hereof, All exhibits and schedules are meorperated into this Agreement as if set forth in their entirety and constitution part hereof. Any exceptions or reservations set forth by the Contractor in any responses to the RMP shall not be part and partial of this Agreement, excepting those that are explicitly acknowledged herein.

Agreement excepting those that are explicitly asknowledged hachin.

Modifications in Writing: No failure or dollay on the part of any party in exacelying any right, power extensive hereunder shall operate as a waiver thereof, herein the party in a secretary right, power extensive hereunder shall operate as a waiver thereof, her about any shall not partial exercise of any such right, power or remedy, preclude any office or further exercise thereof or the exercise of any such right, power or remedy. The coincides provided for herein are obtained ye and any exercise of any other right, power or remedy. The coincides provided for herein are obtained ye and any exercises of any remedies that may be available at low-or in equity or otherwise. No amendments not exclusive of any remedies that may be available at low-or in equity or otherwise. No amendment not equipment, and the examination or waiver of or to any provision of this Agreement not equal to any departure therefrom, shall be effective unless the same shall be in wilting and argical by or on behalf of the party subject to the enforcement thereof. Any amendment, modification or supplement of or to any provision of the Aproament any varies of my provision of this Aproprient, and any consent to my departure From the terms of any provinces of this Agreement, shall be effective only in the specific instance and for

the specific purpose for which made or given. Couldefine Toxins: In the executifiat any starm shall conflict with may of the terms combined in any of

Continuing Leonis: in the event interpretation, compared with any of the terms consider many of this designated which me part and pared of this Agreement, including, but not limited to Claims this designated which me part and pared of this Agreement, including the Exhibits attached hereto, additionated of the Contractor's Response to RIM, include many other Exhibits attached hereto, additionary other decorated identified in this Agreement, this Agreement shall control.

Severalizably in the Avent any provides of this Agreement is held invalid, illegal or interfercements, in whole of in part, the remaining providing of this Agreement shall not be affected or interfercements. In whole of in part, the remaining providing the control of the Agreement is a first than the control of the part of the remaining providing the control of the control of the part of the remaining providing the control of the part of t H. thousby and aball southous to be will and enforceable. In the event any provision of this Apresinent is high to be uncollored blogg written, but enforceable if modified, then such provision shall be deemed to be arresided to such extent as shall be necessary for such provision to be enforceable and shall be

entoness to una extensive sociation in this Agreement and no action taken by the Raintonships. Nothing contained in this Agreement and no action taken by the Raintonships an association, additiventum English pursuant herein shall be decided to constitute the Parties as a partial ships an association, additiventum or office entity. It is expressly spreed that noting Party for any purpose shall be decented to be an agent,

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oriensible or apparent agent, employes, or servant of the other Party.

Healthare and Captions: The titles or captions of sections and paragraphs in this Agreement are provided for convenience of reference only, and shall not be considered a part becoffor purposes of provided for convenience of reference only, and shall not be considered a part becoffor purposes of intorthisting ocubulding thin Agreement, and such titles or captions do not define, limit extend, explain or

describe the scope or extent of this Agreement or any of its terms of conditions.

Bhilling littlest on Successors and Assigns: This Agreement shall be binding upon and shall large to the benefit of the Parties hereta and their respective lieits, legal representatives. K. successors and assigns. In the event of assignment, all of the turns, cuvenents and conditions of this Agreement shall remain in full force and effect and the party making the essignment shall remain liable and responsible for the due performance of all of the terms, coverants and conditions of the Agreement that it is obligated to observe and perform. Nothing in this Agreement, express or implied is intended to confer upon any party other than the Paylies hereto (and their respective heirs; successors, legalrepresentatives and permitted pasigns) any rights, comedies, Unbillifies or obligations and or by reason of this Agricomont. However, noither the Claims Administrator, nor the Contractor may assign the righternal obligations provided hereinder without the prior written express permission of the other party, which shall not be unreasonably denicd. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and in making proof hereof, it shall not be necessary to produce or account for more than one such counterpart.

L.	Changes in Law! If cha	inges in the laws mater	ially affect a party's ri	ghts and obligations under thi gree to negotiete modification
	Agreement of fetice any p	ent in anod foith. If the	Parties connot some to	nodify terms that comply will
. 4	the changes in laws then	either party may termin	te this Agreement upon	thirty (30) days prior writter
	notice:	· e		of the state of th
M.	Advertible Promotion in	nd Trade Name: The Co	ntractor may not lis	st Claims Administrator
2,004	as one of the Contractor's	plients in proposals and	responses to proposal	s for the development of new
	business without Claims	Administratora prior v	aritten bermission. Clai	ms Administrator may use the
	Contractor's name: in any	form other that its lone	. in marketing material	s, in a forth acceptable to the
	Contractor Claims Adminis	dinior may not use the C	antrators name or log	of or any form literact, in such
	a way as to convoy that th	e Contractor is an admi	olsubit golbus rotsrikin	ry with regards to Claimants,
	or the Road Ropair Program			
N.	Exclusivity: Claims Ad	ministrator agrees tl	eat, during the term	of this Agreement, it shall
	not utilize the services of a	nother entity to provide	the services the Contra	actor has agreed to perform
	under this Agreement.	gan a	¥ ₉	26 - 15
O	Third Party Deneficiaries:	The Contractor and Cl	aims Administrator spe	ecifically state, acknowledge,
**	and agree that it is their	intent that no other pa	rty, person or entity, is	neluding, but not limited to,
	Claimants, shall be third-par	rty beneficiaries to this A	igreement.	-
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	IN WITNESS WHEREOF,	the Parties have execut	ed this Agreement as of	the day and year first above
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	ersigned certifies that he has le	egal authority to bind Cla	ims Administrator upon	approval of this Agreement
by the C	Court in the DuPont Case.			- 4
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	rine DuPont Settlement	•		
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STATE OF WEST VIRGINIA COUNTY OF HARRISON, TO-WIT

L Donald'L. Kopp, II, Glerk of the Fifteenth Judicial Circuit and the 18th Family Court Circuit of Flatylson County, West Virginia, hereby certify the Paregoing to be a true copy of the ORDER entered in the above styled action on the

the day of The Live any in 2014.

IN TREMMONY WHEREOF I bereunto set my hand and affix the Seal Office

Fifteenth Judlétal Circuit & 180 Family Court Gireult Clerk
Harrison County, West Virginia

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ROAD RE-PAVING/REPAIR PROGRAM AGREEMENT

THIS AGREEMENT is entered into on, 2016, and is effective upon Co	urt
1 (IV) Continue Datally being between a COIDOIRLION WILL IS IICAUQUALOIS	, ar
("Contractor") and the Perrine DuPo	ont
Settlement (hereinafter "Sponsor") which was approved by the Circuit Court of Harrison County, West Virgin	na,
Case No. 04.C. 206-2 (the "Court") by Orders dated January 4, 2011, and Julie 27, 2011, by and unough	1410
appointed Special Master and Claims Administrator, Edgar C. Gentle, III., Esq., of the tirm of Gentle, Turn	er,
Sexton. & Harbison, LLC (hereinafter collectively referred to as "Claims Administrator").	

The principal place of business of the Sponsor, as administered by the Claims Administrator, is 55 B Street, P.O. Box 257, Spelter, West Virginia, 26438.

WHEREAS, on February 24, 2016, the Claims Administrator issued the Request for Proposals for the Road Re-paving/Repair portion of the Settlement Road Repair and Improvement Program in the Perrine DuPont Settlement, attached hereto as Exhibit A (the "RFP").

WHEREAS, the Claims Administrator recommends to the Court that the Contractor be awarded the contract to provide the Road Repair Services described in this Agreement;

WHEREAS, by entering into this Agreement, the Contractor agrees to provide Road Repair Services, including, the repair, resurfacing and paving of the Eligible Roads as listed in the RFP and incorporated herein by reference (See, Exhibit A).

WHEREAS, the Claims Administrator desires to work with the Contractor and the Contractor desires to work with the Claims Administrator to implement the Road Repair Program; and

WHEREAS, the Claims Administrator and the Contractor (collectively, the "Parties") have agreed that the Contractor shall exclusively provide the Road Repair Services for the Claims Administrator for the roads described in the Order of the Court dated February 12, 2016, in Exhibit A, for the duration of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and for other good and substantial consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

I. DEFINITIONS

All words and phrases defined below shall have the following meaning:

- A. "RFP" collectively means the Claims Administrator's February 24, 2016 Request for Proposals with respect to the Road Repair Services defined below (See, Section I.B. below), a copy of which is attached hereto as Exhibit A and is incorporated by reference;
- B. "Road Repair Services" includes the Contractor's agreement to (i) perform the "Scope of Work" for the designated "Road Repair List" as described in the RFP and incorporated herein by reference (See, Exhibit A); and (ii) an implementation plan to be prepared for the Claims Administrator's review and approval during a reasonable editing cycle that identifies the full scope of work required of the Contractor and the Claims Administrator, and the protocols that the Contractor shall perform and rely upon in carrying out the Road Repair Services, as described in Section IV.B. below.

II. PERIOD OF PERFORMANCE

This Agreement shall become effective following Court approval, and shall continue in full force through December 31, 2016, or until such time as all conditions and obligations are met and satisfied herein, which the Claims Administrator estimates is sufficient time to complete all Road Repair Services in accordance with the terms of this Agreement.

III. COMPENSATION AND TERMS OF PAYMENT

- A. The Contractor agrees to provide the Road Repair Services as described herein at a cost agreed to by the Claims Administrator, with total compensation not inextend?

 (the "capped amount"). Within seven (7) days following Court approval of this Agreement, the Contractor shall receive an amount equal to 5% of the capped amount, or (the "5% down payment").
 - Payment Terms for Road Repair Services. To be negotiated and included herein prior to the execution of this agreement.
 - Disposition of 5% Down Payment. The 5% down payment shall be utilized in ratably reducing the payments to the Contractor. If the down payment is fully utilized, then future payments to the Contractor shall no longer be reduced by the 5% down payment. But, if the 5% down payment is not so utilized in full, then, following completion of the Road Repair Services, the remaining portion of the 5% down payment shall be refunded by the Contractor to the Claims Administrator.
- B. The Contractor shall be responsible for the payment of all excise, sales, or use taxes and all faxes required by law on all labor, materials, tools, apparatus, equipment, fixtures, and incidentals which purchases or uses for the purpose of conducting, facilitating and/or supervising the Road Repair Services contemplated herein. The Contractor represents that all amounts required for such taxes are included and are part and parcel of the compensation as set out in the Price Proposal submitted by the Contractor.
- C. The Contractor will take the risk of diesel fuel cost fluctuations up to a celling of \$3.00 per gallon per http://www.cia.gov/petroleum/gasdlesel/ (the "fuel cap"). Upon the Contractor providing reasonable proof that it purchased diesel fuel for the project and only used it for the project at a price above the fuel cap at a time that the fuel cap was exceeded per http://www.cia.gov/petroleum/gasdlesel/, the Southeantshall reimburse the Contractor, dollar for dollar for the amount above the fuel cap so paid by the Contractor, dellar for dollar for the amount above the fuel cap so paid by the Contractor diesel fuel

IV. OBLIGATIONS OF: THE CONTRACTOR

- A. Cood Faith: The Contractor commits to act in good faith in working with the Claims Administrator to complete all of the tasks and obligations identified herein, and to perform all actions required to effectuate the items identified herein in a reasonable and responsible manner consistent with industry practices. The Contractor represents and warrants that all services performed in accordance with this Agreement shall be performed in accordance with all applicable federal, state and local rules and regulations. The Contractor further warrants that it has or will have examined and familiarized itself with the services and the laws, rules and regulations relating to this Agreement and that all employees and any subcontractors authorized hereunder shall possess such expertise and skill and such training and certifications as may be necessary to perform the tasks and responsibilities to which they are assigned.
- B. Road Repair Services: The Contractor shall provide Road Repair Services for the Eligible Roads listed in the RFP, as follows:

Incorporation of the REP: The Parties hereby agree that the RPF in Exhibit A is incorporated herein and, together with this Agreement, define the scope of the work for the Road Repair Services. Nonetheless, if any terms set forth in Exhibit A conflicts with any term contained in this Agreement, the Agreement shall govern.

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b. Oxemsion of Response Assumptions, Exceptions, and Cavents: Claims Administrator and the Contractor specifically exclude any exclusions, limitations, assumptions, or other statements of reservation that are not in this Agreement. This Agreement, with its Exhibits, represents the complete, entire and sole agreement between the Parties, and any and all previous statements of "reservation" made by the Contractor are not a final part of this Agreement unless specifically stated and agreed to by the Claims Administrator herein.

Project Clambing

i. The Contractor shall prepare an Implementation Plan and provide to the Claims Administrator for review and approval that encompasses the full scope of work and identifies the protocols for the completion of the Road Repair Services.

ii. The Contractor shall carry out and perform any and all duties pursuant to and in compliance with all state and federal laws, including but not limited to any and all state and federal environmental

laws, along with any applicable healthy and safety regulations.

iii. Permits: The Contractor shall ensure that all required permits are secured prior to commencing Road Repair Services. The Contractor shall file permits or notify the appropriate permitting agencies, as necessary, in order to limit potential delays in the commencement of road repair activities. The Contractor shall also obtain any other local authorizations that may be necessary for the completion of work. The Contractor's activities include, but are not limited to, obtaining all permits required by Harrison County, the State of West Virginia, the United States Government, and/or any municipality within the Class Area that require permits related to the work described herein.

iv. Aboves Addition rentist. The Contractor shall secure from the Claims Administrator copies of all available access agreements prior to commencing Road Repair Services, and shall ensure that copies of said agreements are uploaded and maintained onto an electronic data management system. All necessary and relevant access agreements have been procured by the Claims Administrator and shall be provided upon request to The Contractor by the Claims Administrator. Said data management system shall maintain the ongoing status of Road Repair Services activities at each location where an access agreement has been obtained with weekly updated reports submitted by the Contractor to the Claims Administrator for tracking the work. The Contractor shall also provide reports as requested by the Claims Administrator within forty-eight (48) hours of written request.

d. Site Preparation and Mobilization

Pre-Road Reprire Program Meeting: The Contractor shall conduct a pre-Road Repair Program conference ì. to introduce key personnel, define authorities and responsibilities, discuss details related to project implementation and a detailed schedule for the Road Repair Services, with a teleconference option for those participants electing to meet via telephone, including, but not limited to Claims Administrator representatives, the Finance Committee and the Claimant Advisory Committee.

Weekly Meetings: During the execution of the Road Repair Services, the Contractor will conduct ü. weekly project meetings to inform the Claims Administrator of the progress of the work, any problems and/or corrective actions implemented, and updates on the construction schedule. A teleconference option for those participants electing to meet via telephone, and including, but not

limited to Claims Administrator representatives, if so requested, shall be provided.

- iii. <u>Daily Safety Meetings:</u> Safety meetings will be conducted by the Contractor daily as part of the Contractor's duty to fulfill its obligations under any and all federal and state as contemplated in Section IV(c)(ii) above.
- iv. Monthly Reports: During the execution of the Road Repair Services, the Contractor shall provide the Claims Administrator monthly written reports identifying, at a minimum, the progress of repairing the Eligible Roads, including, if any, significant damage caused to areas surrounding the road repair area, such as yards, structures, or personal property, caused by the Contractor or its subcontractors; and any complaints received from Claimants or other persons effected by the damage. The report shall be provided to the Claims Administrator office via hand or overnight delivery and electronic mail.

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- v. Complaints: The Contractor shall notify the Claims Administrator immediately in writing, to the extent practicable, when it becomes aware of any Claimant's complaint related to the Road Repair Services, and the Contractor shall cooperate with the Claims Administrator in undertaking reasonable measures to resolve such complaints.
- Vi. <u>Problem Resolution Meetlines</u>: A special meeting shall be held when and if a problem or deficiency is present or likely to occur. At a minimum, the meeting shall be attended by the Claims Administrator, the Contractor team members, and any affected third party subcontractors and/or Claimants. The purpose of the meeting shall be to define and resolve the problem or work deficiency. The meeting shall be documented by the Contractor and minutes shall be prepared and distributed to all parties attending or participating. A teleconference option for those participants electing to meet via telephone, and including, but not limited to Claims Administrator representatives, if so requested, shall be provided. The meeting shall occur promptly but no later than seventy-two (72) hours after written request of the Contractor or Claims Administrator. The request shall identify the condition or event to be discussed.
- vii. Logistics: The Contractor shall facilitate all logistical support, and any and all logistical planning necessary to effectuate an efficient start-up and continuation of Road Repair Services.
- viii. <u>Utility Identification:</u> Prior to initiating Road Repair Services activities, the Contractor shall locate and mark all underground utilities.
- ix. Access Road Construction: The Contractor shall construct access roadways, as necessary, utilizing crushed stone or other materials, to facilitate work activities. The Contractor shall establish suitable facilities for parking.
- x. <u>Personnel and Equipment Decontaminations</u> As required, the Contractor shall ensure decontamination of personnel and excavation equipment.
- xi. Mobilization: Upon completion of logistical preparation activities, the Contractor shall mobilize personnel, equipment, materials, and other resources to the site to initiate road repair activities. Mobilization activities are anticipated to include, but are not limited to, the delivery, installation, hookup, and maintenance of temporary offices and construction facilities. Temporary offices and construction facilities are expected to include field offices, support facilities, utilities, dust and pollution control facilities, personnel protection and work areas, and creation and maintenance of access roads and parking areas, as required.
- xii. Site Security: The Contractor shall be responsible for access control and security at all staging areas and at the individual work areas. Security shall include at least one of the following: use of existing fencing, snow fencing, at a minimum caution tape, and signage warning of restricted areas and hazards to control access, protect equipment and support facilities, and prevent unauthorized entry and exposure to Eligible Roads and to control access to other dangerous conditions.
- xiii. Documentations The Contractor shall be responsible for documenting all field activities during the Road Repair Program. Records of field activities shall be legible, identifiable, retrievable, and protected against damage, deterioration, and loss. The Contractor shall record all documentation in waterproof, non-erasable ink. If an error in any of these documents is made, shall make corrections by crossing a single line through the error and entering the correct

information adjacent to it. The corrections shall then be initialed and dated. All data and documentation shall also be uploaded and maintained onto an electronic data management system. The data management system shall be in a format that is easily readable and exportable, and access to said data and documentation, and/or reports generated from said data and documentation, shall be provided to the Claims Administrator within five (5) days of written request.

C. Reporting Regultements:

- a. The reports to be submitted by the Contractor pursuant to the terms of this Agreement shall be provided to the Claims Administrator's office via hand or overnight delivery and electronic mail.
- b. The Contractor shall work with the Claims Administrator to determine which reports shall be necessary to fully perform the services contained herein.

D. Insurance and Bond Requirements:

- a. The Contractor shall maintain Workers' Compensation benefits within the State of West Virginia throughout all periods relevant to the execution of duties and obligations under this Agreement with waiver of subrogation in favor of the Perrine DuPont Settlement (which is the Perrine DuPont Property Remediation Qualified Settlement Fund, an IRC §468B Qualified Settlement Fund domiciled in West Virginia), E.I. DuPont De NeMours and Company ("DuPont"), and the law firm of Gentle, Turner, Sexton & Harbison, LLC.
- b. The Contractor shall maintain an Employer's Liability insurance policy throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of One Million Dollars (\$1,000,000.00) per incident, with waiver of subrogation in favor of the Perrine DuPont Settlement, DuPont, and Gentle, Turner, Sexton & Harbison, LLC. The Contractor shall maintain a Commercial General Liability insurance policy throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of Two Million Dollars (\$2,000,000.00) per occurrence.

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- c. The Contractor shall maintain Professional Liability insurance throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of One Million Dollars (\$1,000,000.00) per claim with maintenance of coverage for two (2) years following the completion of the Project.
- d. The Contractor shall maintain an Excess Liability policy throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of One Million Dollars (\$1,000,000.00) per claim.
- e. The Contractor shall maintain an Environmental Impairment insurance policy or Pollution Liability insurance policy throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of Two Million Dollars (\$2,000,000.00) per claim.
- f. The Contractor shall maintain comprehensive or commercial automobile liability for bodily injury and property damage throughout all periods relevant to the execution of duties and obligations under this Agreement with minimum limits of One Million Dollars (\$1,000,000.00) per claim.
- g. The insurance required herein shall be primary to any other valid and collectible insurance.
- h. The Contractor must ensure that the Perrine DuPont Settlement, DuPont and the law firm of Gentle, Turner, Sexton & Harbison, LLC, are listed as additional insureds on the above policies, as evidenced by a Certificate of Insurance verifying coverage limits.
- i. Bonds: The Contractor shall furnish bonds covering the faithful performance of this Agreement and the payment of all obligations arising in connection therewith, said bonds to be in such form Claims Administrator approves, and with sureties that Claims Administrator approves. Approval of the bond form shall not be unreasonably denied; reasons for denial shall be stated in writing. Each bond shall

contain a provision to the effect that changes in the Road Repair Services and/or modifications to this Agreement shall in no way relieve the surety of its obligations. Bonding provided by the Contractor shall equal the total contract value of this Agreement. Bonds may be furnished for different phases of the work so long as the penal value of each bond is commensurate with the value of each phase.

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E. Sub-Contracts:

- The Contractor may sublet to Sub-contractors acceptable to the Claims Administrator any portions of the Road Repair Services. Claims Administrator reserves the right to review and approve or disapprove all subcontracts as to scope of the Road Repair Services to be performed or for any reasonable basis. If Claims Administrator rejects a proposed subcontractor, it must state all bases in writing and allow Contractor to respond and request a reconsideration with a reasonable period of time.
- b. Such Claims Administrator's acceptance, review or approval, or the failure to accept, review, or approve a subcontractor shall not be construed as relieving the Contractor of any responsibilities under this Agreement.
- c. The Contractor shall have full directing authority over and responsibility for the performance of all Road Repair Services which the Contractor subcontracts and shall not be relieved of its responsibility for the proper performance of the services contemplated herein due to subcontracting.
- d. The Contractor agrees to bind each and every Sub-contractor by the terms, conditions and provisions of this Agreement applicable to Road Repair Services, unless otherwise specifically agreed to in writing by the Claims Administrator.
- e. Nothing contained in this Agreement is intended to or shall the same create any contractual or privity relation between any Sub-contractor and the Claims Administrator or any obligation on the part of the Claims Administrator to pay or to see to the payment of any moneys due any Sub-contractor.

V. OBLIGATIONS OF THE CLAIMS ADMINISTRATOR

- A. Riducinary Duties: The Claims Administrator shall be responsible for the interpretation of Court Orders and Road Repair Program documents, and any communications to the Claimants, the Finance Committee, the Claimants Advisory Committee, and the Court.
- B. Amendments to the Road Repair Program: The Claims Administrator shall provide written notification to the Contractor of any modifications or amendments to the Road Repair Program. Modifications to the Road Repair Program that have a cost impact upon the Contractor shall, result in written, reasonable pricing revisions effective as of the date of the modification or amendment.
- C. Response Time: The Claims Administrator shall provide any written response required herein or otherwise reasonably required by the Contractor no later than five (5) working days after request. In instances where a response is needed faster in order to avoid delay, such response shall be provided sooner so as to avoid delay.

VI. PROPERTY RIGHTS AND CONFIDENTIALITY

A. Computer Equipment and Confidential Information: All computer equipment owned by the Contractor, programs, drawings, diagrams, specifications, manuals, forms, procedures, data files (but not the data therein belonging to the Claims Administrator), and all other information and materials of any nature existing before the commencement of the Road Repair Program and furnished, revealed or otherwise made available to the Claims Administrator by the Contractor, whether on the Contractor's premises or the Claims Administrator's premises (the "Confidential").

Information"), shall remain the sole and exclusive property of the Contractor. All other Information, records, and documentation generated in carrying out the Road Repair Services contemplated herein are hereby designated the "Claims Administrator's Information." The Claims Administrator's Information shall be and remain the sole and exclusive property of the Claims Administrator. The Contractor shall return the Claims Administrator's Information to the Claims Administrator within thirty (30) days from the date of termination of this Agreement, while being able to maintain a copy on a confidential basis and also to be used to enforce the Contractor's rights under this agreement.

- B. Storage and Inspection: All documents, books, and records furnished to the Contractor by the Claims Administrator provided in accordance with this Agreement shall remain the property of the Claims Administrator, and all documents, books, and records of the Contractor provided in accordance with this Agreement pertaining to any individual insurance, group insurance, or services, whether original records of the Contractor or furnished by the Claims Administrator, shall be open for inspection at the Contractor's West Virginia location, unless otherwise agreed, at all reasonable times. The Contractor may store any or all of such documents, books, and records in microfilm, magnetic tape, or other electronic medium.
- C. <u>Disposition upon Termination of this Agreement</u>: To the extent feasible, upon termination of this agreement, the Contractor shall return to the Claims Administrator all Claims Administrator Information received or created by the Contractor on behalf of the Road Repair Road Repair Program within ten (10) business days; however if it is not reasonably feasible, the protections of this Agreement shall continue to apply to such information after the termination of this Agreement.

VII. MANDATORY TERMS

The Mandatory Terms in Appendix A to the RFP and attached hereto as Exhibit B are a part of this Agreement, and are incorporated herein by reference.

VIII. INDEMINIFICATION

- A. <u>Tridemuffication of the Contractor</u>. Claims Administrator agrees to indemnify and hold hamless the Contractor or any of its officers, or employees from any and all losses, liability, damages, expenses or other cost or obligation, resulting from or arising out of claims, demands, lawsuits or judgments brought against Claims Administrator and/or the Contractor as a result or arising out of Claims Administrator's performance of its responsibilities pursuant to the provisions of this Agreement, except any such claims, losses, liabilities, damages, or expense which arise out of or in connection with the Contractor's negligence, willful misconduct, or criminal misconduct.
- B. Intermification of the Claims Administrator. The Contractor agrees to indemnify and hold harmless the Claims Administrator or any of its officers, or employees from any and all losses, liability, damages, expenses or other cost or obligation, resulting from or arising out of claims, demands, lawsuits or judgments brought against the Contractor and/or the Claims Administrator as a result or arising out of the Contractor's performance of its responsibilities pursuant to the provisions of this Agreement, except any such claims, losses, liabilities, damages, or expense which arise out of or in connection with the Claims Administrator's negligence, willful misconduct, or criminal misconduct.

IX. TERMINATION

A. Material Brenett: If either party materially breaches this Agreement, the other party may terminate the Agreement provided that it notifies, in writing, the breaching party of the specific breach and allows the breaching party the opportunity to cure the breach within fifteen (15) days of the date of the notice. If reasonable and substantial steps to cure the breach have not been corrected in fifteen (15) days, the Agreement may be terminated upon five (5) days further written notice. If a notice and opportunity to cure is generated by the Contractor for non-payment and not cured by Claims Administrator, the Contractor may, at its sole discretion, suspend performance upon expiration of the fifteen (15) days the Contractor shall be entitled to an equitable adjustment to this Agreement.

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- B. Termination for Insolvency: If either party applies for or consents to the appointment of a receiver, trustee, or liquidator of itself or of all, or a substantial part, of its assets; files a voluntary petition in bankruptcy; admits in writing to its inability to pay its debts as they become due; makes a general assignment for the benefit of creditors; files a petition or an answer seeking reorganization or rearrangement with creditors; or, as a debtor, invokes or takes advantage of any insolvency law; or if an order, judgment, or decree is entered by a court of competent jurisdiction upon application of a creditor adjudicating such party bankrupt or insolvent or approving a petition seeking reorganization of such party of all, or a substantial part, of its assets, and such order, judgment, or decree continues unstayed for thirty (30) days, then the other party may, by written notice, terminate this Agreement effective on any future date specified in such notice.
- C. Termination for Convenience: The Claims Administrator reserves the right to terminate this Agreement and all rights and obligations hereunder without cause, or for convenience, at its sole discretion, at any time after five (5) days written notice. In the event Claims Administrator terminates this Agreement without cause then Claims Administrator shall reimburse the Contractor for any reasonable out-of-pocket costs and expenses incurred for the actual preparation and/or performance of Work and for reasonable lost profit and overhead.
- D. Effect of Termination. In the event of a termination, this Agreement shall be of no further force or effect except that each party hereto shall remain liable for any debts and/or liabilities arising from activities under this Agreement occurring prior to the effective date of termination.
- E. <u>Continuation of Services</u>: Except for termination due to Claims Administrator's breach, the Contractor agrees that upon completion of the work, at Claims Administrator's request for continuation of services, it shall continue to provide services hereunder, provided Claims Administrator complies with all the terms and provisions of this Agreement in effect prior to the termination. The fees for such continuation period shall be equitably adjusted.
- F. Information Transfer: In the event of termination of this Agreement, the Contractor agrees to provide Claims Administrator all Information in the Contractor's possession pertaining to all services, records, and efforts related to this Agreement, consistent with reasonable industry norms, are within five (5) business days. The Contractor may provide the data by electronic or wire communication or a media type such as disk, tape, or CD.

X. CHOICE OF LAW AND RESOLUTION OF ALL DISPUTES

- A. <u>Chaire of Law:</u> This Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia.
- B. Resolution of All Disputes: In accordance with the Mandatory Terms in Appendix A to the RFP and attached hereto as Exhibit B, the Circuit Court in Harrison County, West Virginia, retains continuous and exclusive jurisdiction and supervision over the Property Remediation Plan and over this Agreement, and any agreements related thereto. Any judicial proceeding arising out of or relating to this Agreement may be brought only before the Circuit Court of Harrison County West Virginia, and any judgment against a party may be enforced only by a proceeding before the Circuit Court of Harrison

County West Virginia. The Parties irrevocably and expressly submit to the jurisdiction of the Court over any such proceeding. The Parties irrevocably and expressly waive any objection that they might now or hereafter have to the laying of venue for such proceeding in the Circuit Court of Harrison County West Virginia and any claim that any such proceeding in the Circuit Court of Harrison County West Virginia has been brought in an inconvenient forum.

C. Mediation: Prior to litigation or juridical proceeding, the Parties must first subject the dispute to mediation as a condition precedent. Mediation shall be administered by a mediator to be agreed upon by the parties.

XI. MISCELLANEOUS

A. Prompt Notification of any and all Complaints. The Contractor and Claims Administrator both mutually agree that each shall both promptly notify in writing the other of any and all complaints and/or issues which relate to or arise from this Agreement contemplated herein, and the Contractor and Claims Administrator shall work in tandem to resolve any and all claims and/or complaints which may arise.

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B. Carrelational Foculations: The Agreement documents are complementary and what is called for by any one of the documents described herein and attached hereto are binding as if called by all. There are certain operations, labor, equipment, materials and things reasonably inferable from the Agreement as being necessary to produce the intended results; even though no mention thereof is made in said Agreement, such omission shall not relieve the Contractor from its obligation to provide all such operations, labor, equipment, materials and things reasonably required. Parts of the Road Repair Services described in words which, when applied, have a well-known technical or trade meaning shall be furnished or performed

in accordance with the recognized standards applicable to such meaning.

C. Ronce Maleure: Notwithstanding anything herein or otherwise which may appear to be to the contrary, neither party shall be responsible for delays or failures in performance under this Agreement resulting from any force majeure or acts beyond the reasonable control of the party. Such acts shall include, without limitation, acts of God, strikes, blackouts, riots, acts of war, epidemics, governmental regulations, fire, communication line failure, power failures, mechanical failures, storms or other disasters. Notwithstanding any other provision, the Contractor shall be entitled to an equitable adjustment to this Agreement for delays due to weather.

D. Notice: Any notice or demand desired or required to be given hereunder shall be in writing and deemed given when personally hand delivered or, if sent via overnight mail upon receipt, or three (3) days after deposit in the United States Mail, postage prepaid, sent certified or registered, addressed as follows:

a. If to the Claims Administrator, to:
The Perrine DuPont Property Remediation Road Repair Program
Spelter Volunteer Fire Department Office
55 B Street
PO BOX 257
Spelter, West Virginia 26438
Attention: Edgar C. Gentle, III, Esq.
Claims Administrator
With an email copy to escrowagen@aquecom

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or to such other address or person as hereafter shall be designated in writing by the applicable party.

Entire Agreement: This Agreement and all exhibits and schedules hereto constitute the entire agreement between the Parties hereto pertaining to the subject matters hereof and supersede all negotiations, preliminary agreements and all prior or contemporaneous discussions and understandings of the Parties hereto in connection with the subject matters hereof. All exhibits and schedules are incorporated into this Agreement as if set forth in their entirety and constitute a part hereof. Any exceptions or reservations set forth by the Contractor in any responses to the RFP shall not be part and parcel of this Agreement, excepting those that are explicitly acknowledged herein.

1.4.1.

विकास क्षेत्रक विकास प्रतिकार के किंद्र के दिन्द्र की कार्या के किंद्र का अपने के किंद्र का कार्या के किंद्र क जा करते हैं जिस के किंद्र के क

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F. Modifications in Writing: No failure or delay on the part of any party in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy, preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies provided for herein are cumulative and are not exclusive of any remedies that may be available at law or in equity or otherwise. No amendment, modification, supplement, termination or waiver of or to any provision of this Agreement, nor consent to any departure therefrom, shall be effective unless the same shall be in writing and signed by or on behalf of the party subject to the enforcement thereof. Any amendment, modification or supplement of or to any provision of the Agreement, any waiver of any provision of this Agreement, and any consent to any departure from the terms of any provisions of this Agreement, shall be effective only in the specific instance and for the specific purpose for which made or given.

G. Conflicting Toring In the event that any term shall conflict with any of the terms contained in any of the documents which are part and parcel of this Agreement, including but not limited to, Claims Administrator's RFP, the Contractor's Response to RFP, and/or any other Exhibits attached hereto,

and/or any other documents identified in this Agreement, this Agreement shall control.

H. Severability: In the event any provision of this Agreement is held invalid, illegal or unenforceable, in whole or in part, the remaining provisions of this Agreement shall not be affected thereby and shall continue to be valid and enforceable. In the event any provision of this Agreement is held to be unenforceable as written, but enforceable if modified, then such provision shall be deemed to be amended to such extent as shall be necessary for such provision to be enforceable and shall be enforced to that extent.

Relationship: Nothing contained in this Agreement and no action taken by the Parties pursuant hereto shall be deemed to constitute the Parties as a partnership, an association, a joint venture or other entity. It is expressly agreed that neither Party for any purpose shall be deemed to be an agent,

ostensible or apparent agent, employee, or servant of the other Party.

1.

J. Headings and Captions: The titles or captions of sections and paragraphs in this Agreement are provided for convenience of reference only, and shall not be considered a part hereof for purposes of interpreting or applying this Agreement, and such titles or captions do not define, limit, extend, explain or describe the scope or extent of this Agreement or any of its terms or conditions.

This Agreement shall be binding Binding Effect on Successors and Assigns: K. upon and shall inure to the benefit of the Parties hereto and their respective heirs, legal representatives, successors and assigns. In the event of assignment, all of the terms, covenants and conditions of this Agreement shall remain in full force and effect and the party making the assignment shall remain liable and responsible for the due performance of all of the terms, covenants and conditions of this Agreement that it is obligated to observe and perform. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the Parties hereto (and their respective heirs, successors, legal representatives and permitted assigns) any rights, remedies, liabilities or obligations under or by reason of this Agreement. However, neither the Claims Administrator, nor the Contractor may assign the rights and obligations provided hereunder without the prior written express permission of the other party, which shall not be unreasonably denied. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and in making proof hereof, it shall not be necessary to produce or account for more than one such counterpart.

- L. Changes in Law: If changes in the laws materially affect a party's rights and obligations under this Agreement or render any portion illegal or unenforceable, then the Parties agree to negotiate modifications to the terms of this Agreement in good faith. If the Parties cannot agree to modify terms that comply with the changes in laws, then either party may terminate this Agreement upon thirty (30) days prior written notice.
- M. Advertising Promotion and Trade Names The Contractor may not list Claims Administrator as one of the Contractor's clients in proposals and responses to proposals for the development of new business, without Claims Administrator's prior written pennission. Claims Administrator may use the Contractor's name, in any form other than its logo, in marketing materials, in a form acceptable to the Contractor Claims Administrator may not use the Contractor's name or logo, or any form thereof, in such a way as to convey that the Contractor is an administrator and/or fiduciary with regards to Claimants, or the Road Repair Program.

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- N. Exclusivity: Claims Administrator agrees that, during the term of this Agreement, it shall not utilize the services of another entity to provide the services the Contractor has agreed to perform under this Agreement.
- O. <u>Third Party Beneficiaries</u>: The Contractor and Claims Administrator specifically state, acknowledge, and agree that it is their intent that no other party, person or entity, including, but not limited to, Claimants, shall be third-party beneficiaries to this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

written.		
The undersigned certifies that he has legal	I authority to bind	Marianian da mari
By:		
Name:		
Title:		
Date:		
WITNESS:		
Andrew Control of the		
The undersigned certifies that he has legal by the Court in the DuPont Case.	authority to bind Claims Administrator upo	on approval of this Agreement
The Perrine DuPont Settlement By:		
Edgar C. Gentle, III		
Fitle: Claims Administrator		
Date:		A
VITNESS:		

EXHIBIT C TO AGREEMENT: MARCH 16, 2016 RESPONSE TO RFP BY CONTRACTOR, J.F. ALLEN COMPANY

REQUEST FOR PROPOSALS (PRE) FOR THE ROAD RE-PAYING/REPAIR PROGRAM IN THE PERRINE DURONT SETTLEMENT

APPENDIXA ACCEPTANCE OF MANDATORY TERMS

The following are the mandatory terms and RFP requirements that shall be met by the successful bidder(s):

General.

- 1. Bidder agrees that the response to the RFP and any subsequent documentation (best and final offer, and interview responses) shall be considered part of the final agreement and contract.
- 2. Bidder understands that the contract with the Settlement will be substantially in the form of Attachment 3. Please list your exceptions (if any) to the dontract below:

Account Management

4

- 3. Bidder will provide a representative to attend meetings as necessary at the job site.
- 4. Bidder will maintain a database regarding the road repair services for all Bligible Roads.
- 5. Bidder will assign a main contact person to interface with the Claims Administrator throughout the road repair program and as long as any executed contract is in effect. This person will be charged with providing requested information and documentation within a twenty four (24) hour period.

Data, Systems, and Reputting

- Bidder will accept electronic data transfer and administer information regarding the road repair program in a confidential manner.
- 7. Bidder will provide road repair data for all Eligible Roads to the Claims Administrator in electronic formal.

Financial Proposal

8. Bidder guarantees the financial elements of its proposal throughout the term of the contract.

Amoricans with Disability Act Compliance

9. The successful bidder will comply with all applicable Americans with Disabilities Act ("ADA") terms and provisions as determined by the bidder and the West Virginia Department of Transportation, Division of Highways, For example, compliance may include the installation of wheel chair ramps for two (2) sidewalks, totaling approximately 900 feet, at intersections on 1" Street and B Street.

Additionally, the successful bidder will comply with all other applicable federal and state laws and regulations, such as the Equal Employment Opportunity laws and regulations as set out on the WVDOH website (http://www.transnormale.com/vv.gts//eno/Pares/deffaultaspx), and demonstrate any and all related certification(s) and theorem demonstrating compiliance where required.

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Consent to Jurisdiction and Walver of Objections

10. Bidder, by its execution of the Agreement (to be substantially in the form of Attachment 3), submits to the jurisdiction of the Circuit Court of Harrison County, West Virginia in Ferring: et al., v. E. 1. DuPont De Numours and Company, et al., Case No. 04-C-296-2, (the "DuPont Case") for all purposes related to on addition, bidder be proposed to provide read repair services for all Eligible Roads. In addition, Bidder hereby waives my and all objections it might otherwise assert to the aforesaid jurisdiction, venue, or authority of the Court in the DuPont Case to hean and determine any and all disputes that might arise out of or be related to the services described herein, reserving its rights to be heard in connection therewith and to appeal, it may be advised, from any adverse determination of the Court in the DuPont Case.

Confidentiality Agreement

11. Bidder understands that the Court in the DoRont Case has ordered that the data be maintained in a confidential manner, and state that Bidder will not reveal this information to anyone outside of authorized personnel in the bidder company unless Bidder has express permission to do so from the Honorable Thomas A. Beddell or the Claims Administrator. Bidder higher understands that if Bidder violates dits pledge of confidentiality, Bidder is subject to being brought before the Honorable Thomas A. Beddell for investigation and possible sanctions for this breach.

Other

...

- 12. Only bidders who provide their own traffic control and flag personnel will be considered. Also, bidders must be able to provide due notice, such as adequate signage and notification to proper authorities, including the WVDOT and the DOH, before any and all road closures and throughout the entire road repair program.
- 13. The West Virginia Department of Transportation, Division of Highways, Standard Specifications Roads and Bridges, adopted 2010 and amended by the West Virginia Department of Transportation, Division of Highways; Supplemental Specifications, dated January 1, 2016, "the Contract Documents and the Contract Plans" are the governing provisions applicable to this road repair project.
- 14. The West Virginia Department of Transportation, Division of Highways, Standard Details Book, Yolume I, dated January 1, 2000 and Volume II, dated January 1, 1994 shall apply to this road repair project. The following revised standard drawings (also available at http://www.transportation.wv.gov/highways/engineering/Pages/publications.aspx) supersede the aforementioned Standard Details: (1) Typical Pavement Markings TEM-2; Revised on January 29, 2010, and (2) Channelization, Word and Symbol Markings TEM-3; Revised on January 29, 2010
- The Manual on Temporary Traffic Control for Streets and Highways, 2006 Edition, dated May 1, 2006 shall apply to this project.

- 16. The hidder shall be responsible for coordination of contract work with utilities when they are involved or in conflict. The bidder has full responsibility for any damage to any utility or lighting system caused by contract activities.
- 17. Bidders must be in compliance with all state and federal laws related to and governing the project, including but not limited to, any state and federal environmental laws and equal protection laws.

By signing the below, I, Delbert E. Leatherman	hereby represent that I have the authority and power
to bind J.F. Allen Company (company) forth hereinabove:	name), and that I will comply with all of the terms as set
Company Vainey J.F. Allen Company 7 By:	Date
Vice President: (Title with the	

PROPOSAL J F ALLEN GOMPANY P O BOX 2049 BUCKHANNON, WEST VIRGINIA 26201 WV000376 CONTACT: ED. PHARES PHONE: 304-472-8890 DIRECT: 304-460-7426 CELL: 304-814-2484 FAX: 304-472-6007

· EMAIL: EPHARES@JEALLENCO.COM

PROJECT: THE PERRINE DUPONT SETTLEMENT ROAD RE-PAYING / REPAIR PROGRAM

SUBMITTED TO: SDEMITTED 10: EDGAR G. GENTLE, III, ESQ. / PAULEMERSON SPECIAL MARTER AND CLAIMS ADMINISTRATION / REMEDIATION MANAGER PERRINE DUPONT SETTLEMENT REMEDIATION ADMINISTRATION C/O SPELTER VOLUNTEER FIRE DEPARTMENT OFFICE 55 B STREET PO BOX 267 PO BOX 207
SPELTER, WEST VIRGINIA 26438
PHONE: 205-718-3000
PHONE: 304-822-7443
FAX: 205-718-3010
EMAIL: gsalwayan@adj.com
EMAIL: psalaron@gsalaw.com

16-Mar-18

43

DESCRIPTION	•.	APPROX. QUANTITY	UNIT	PRICE	AMOUNT	
MOBILIZATION TRAFFIC CONTROL DEVICE FRAGER FRAGER MILLING (500' X 2500 00') REMOVE EXISTING SIDEWALK AND STEPS AS DETAILED IN ADDENOUN CONGRETE SIDEWALK (51.00' X 5.00') CURB RAMP DETECTABLE WARNING SURFACE BITUMINOUS MATERIAL FOR TACK AT ,03 GALISY ON 22,727.00 SY MARSHALL HOT MIX ASPHALT WEARING TYBE 11 PLACED AT 2.00"		1.00 1.00 120.00 500.00 1.00 29.00 4.00 4.00 4.00 082.00	HR LS SY EA GAL	\$ 135,00 \$3,242,26 \$ 260.00 \$ 3,35	\$ 4,800.00 \$ 2,950.00 \$ 1,776.00 \$ 3,016.00 \$ 12,969.00	

\$243,348,70

ADJUSTMENT OF UTILITIES IF REQUIRED TO BE PETUDRIMED BY OTHERS

J F ALLEN WILL NOT BE HELD RESPONSIBLE FOR SOFT SUBGRADE OR EXISTING ROAD CONDITIONS

J F ALLEN WILL NOT BE HELD RESPONSIBLE FOR DAMAGE TO UNDERGROUND UTILITIES PAVEMENT MARKINGS BY OTHERS
DAYIS BACON) PREVAILING WAGES DO NOT APPLY
APPROX QUANTITY IS FOR INFORMATION ONLY, THIS IS A UNIT PRICE BID

PAYMENT: NET 30 DAYS, 11/24/MQ ON PAST DUE AMOUNTS (18.00%)/ANNUM

AUTHORIZED SIGNATURE:

THIS PROPOSAL MAY BE WITHDRAWN BY US IF NOT ACCEPTED WITHIN 30 DAYS

ACCEPTANCE OF PROPOSAL: THE ABOVE PRICES, SPECIFICATIONS AND CONDITIONS ARE SATISFACTORY AND ARE HEREBY

SIGNATURE:

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CERTIFICATE OF LIABILITY INSURANCE

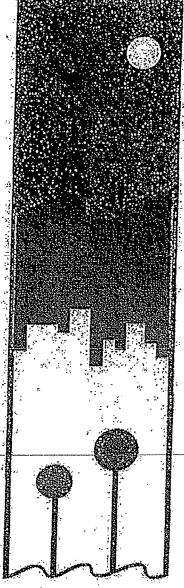
DATE (MM/DOXYYY)

03/09/2016 THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER. IMPORTANT: If the contilicate holder is an ADDITIONAL INSURED, the policy(les) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not conferrights to the certificate helder in fleu of such endorsement(s). FRODUCER
MARSH USA INC
ATTIN LINDA M. MCCCLL
ONE TOWNE SQUARE
PHONE: 248-345-5559
LINDA MIMCCOLL MARSH COM email Address: INSURERIS) AFFORDING COVERAGE NAIGH msurer A : Zuich American Insulance Co 16535. 00372-00372-RAFF-10-17 MEGREEL J.F. ALLEN COMPANY, INC. 32 WEST AT RED ROOK ROAD: P.O. BOX 2049 BUCKHANNON, WV 25201 INSURER B : INSURER C: MSURER D : INSURER E: INSURER F GHJ-008295814-19 COVERAGES CERTIFICATE NUMBER: REVISION NUMBER 18 THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE DEEN ISSUED TO THE INSURED MAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS SERVICE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH FOLICIES; LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. ADDL SUBIR POLICY FFE POLICY EXP TYPE OF INSURANCE UMITS POLICÝ NUMBER COMMERCIAL GENERAL LIABILITY CLO5098869 04/01/2016 04/01/2017 EVCH OCCOUNENCE DYNVCE-10 LEATER BURNISES LES OCCUUNOS 1,000,000 CLAIMS-MADE X OCCUR-500,000 10,00 MED EXP (Ady one points) 1,000,000 PERSONAL & ADV INJURY 2,000,000 GENERAL AGGREDATE GEN'LAGGREGATE LIMIT APPLIES PER! POLICY X FEG. 2,000,000 PRODUCTS COMPION AGG OTHER: COMBINED SINGLE UMIT Q4/01/2016 03/01/2017 BAP5098870.(WV) AUTOMOBILE LIABILITY 1,000,000 GOCILY INJURY (Pacperson) OTUA YNA ALL CAMED еснедицео. BOOLLY INJURY (Per accident) AUTOS NOVEOVAJED AUTOS PROPERTY DAMAGE HIRED AUTÓS UMBRELLA LIAB EACH OCCURRENCE EXCESS LIAB CLAIMS MADE AGGREGATE DED RETENTIONS.

WORKERS COMPENSATION.
AND EMPLOYERS LIABILITY

ANY PROPRIETORIZATIONEXECUTIVE
OPPOCEMENDER EVOLUDED?

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DESCRIPTION OF OPERATIONS uslow. 04/01/2017 01/01/2016 WG5098868 (WV) X STATUTE | STAT 1,000,000 EL EACH ACCIDENT NINIA 1,000,000 EL DISEASE : EA EMPLOYEE 1,000,000 EL DISEASE POLICY LÌMIT DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES . (ACORD 101, Additional Rémarks Schaduls, may be attached if more space la required) Workers' Compensation does not apply to Monopolistic States (ND, OH, WA, and WY). Puerto Rico, or the Virgin Islands. CANCELLATION CERTIFICATE HOLDER J.F. ALLEN COMPANY, INC. SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE ACCORDANCE WITH THE POLICY PROVISIONS. U.S. 33 WEST AT RED ROCK ROAD WILL BE DELIVERED IN P.O. BOX 2049 BUCKHANNON, WV 26201 AUTHORIZED REPRESENTATIVE of Marsh USA Inc. Lotte the John C Hurley



WEST VIRGINIA CONTRACTOR LICENSING BOARD

PAAAAAAAA

CONTRACTOR LICENSE

Authorized by the

West Virginia Contractor Licensing Board

Number:

WV000376

Classification:

GENERAL ENGINEERING

J F ALLEN COMPANY DBA J F ALLEN COMPANY PO BOX 2049 BUCKHANNON; WV 26201-7049

Date Issued

Expiration Date



Arce or a Makein

Chair, West Virginia Contractor

Chair, West Virginia Contr Licensing Board

This license, or a copy thereof, must be posted in a conspicuous place at every construction site where work is being performed. This license number must appear in all advertisements, on all bid submissions and on all fully executed and binding contracts. This license cannot be assigned or transferred by licensee. Issued under provisions of West Virginia Code, Chapter 21, Article 11.



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Division of Highways

1900 Kanawha Boulevard East Building Five Room 110
Charleston, West Virginia 25305-0430 304/558-3505

Earl Ray Tomblin Covernor.

Paul A. Mattox, Jr., P.B. Secretary of Transportation/ Commissioner of Highways

April 14, 2015

J. F. ALLEN COMPANY PO BOX 2049. BÜCKHANNON, WV 26201-7049

To Whom It May Concern:

After analyzing your Contractor's Prequalification Statement filed with this Department, it has been determined that you should be issued a Continctor's Certificate of Qualification in the amount of \$338,817,000 covering Item(s) category A,B,C,D,E,F,R.

Certificate Number 24359 is enclosed. This Certificate expires on April 30, 2016.

Very truly yours,

Jason M. Boyd, P.E., Director, Contract Administration Division

JMB:pj Enclosure



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AULEA MANTEON SIESTER

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COUNTY OF _	JPSHUR		,т	o-Wit:
****		J.F., ALLEN COMPA (Name of Comp	ŊŸ.	
4		(Name of Comp	any) ^r	
the contractor.	×	subcontractor	suppliei	<u></u>
••	••	RINE DUPONT SETTEMENT RO	AD RE-PAVING / REP	AIR PROGRAM County(s), West Virginia,
and the second of the second o				
in HARRISO by 17 of 1	Part L	Title:	VIČE PRESIDENT	

FREE COMPETITIVE BIDDING AFFIDAVIT

Final said person, firm, Association or Corporation, has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid or contract.

CERTIFICATION WITH REGARD TO THE PERFORMANCE OF PREVIOUS CONTRACTS OR SUBCONTRACTS SUBJECT TO THE EQUAL OPPORTUNITY CLAUSE AND THE PHING OF REQUIRED REPORTS (FEDERAL AND ONLY)

That said person, firm, Association or Corporation has X, has not ___, participated in a previous contract or subcontract subject to the equal apportunity clause, as required by Executive Orders 10923, 11/14, or 11246, and that said person, firm, Association or Corporation has X __, has not ___, filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filling requirements.

NOTE: The above conflication is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.76) (1)), and must be submitted by bidders and proposed subconfracts which are subject to the equal opportunity clause, Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of \$10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b) (1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U. S. Department of Labor.



State of West Virginia DRUG FREE WORKPLAGE CONFORMANCE AFFIDAVIT West Virginia Code §21-1D-5

STATE OF WEST VIRGINIA,
COUNTY OF UPSHUR TO-WIT:
SOURT FOIL TOWARD
I, DELBERT E. LEATHERMAN, after being first duly sworn, depose and state as follows:
1. I am an employee of J.F. ALLEN COMPANY ; and, (Company Name)
LE ALLENI COMBANY
2. I do hereby attest that Will ALLEN COMM ANY (Company Name)
maintains a valid written drug free workplace policy and that such policy is in compliance with West Virginia Code §21-1D.
The above statements are sworn to under the penalty of perjury. By:
Title DELBERT E. LEATHERMAN, VIGE PRESIDENT
Company Name: J.F. ALLEN COMPANY
Date: MARCH 16, 2016
Taken, subscribed and sworm to before me this 16 day of MARCH 2016
SEPTEMBER 11 2020
By Commission expires SEPTEMBER 11, 2020
(Seal) Notary Fubby: Utalty of West Virginia Alignala Boyles Bill Boyles Bill Boyles Bill Boyles Polity Wy 60888 Aliy commission maters september 11, 1899 (Nöffer Public)
THIS AFFIDAVIT MUST BE SUBMITTED WITH THE BED IN ORDER TO COMPLY
WITH WV CODE PROVISIONS. FAILURE TO INCLUDE THE AFFIDAVIT WITH THE
BID SHALL RESULT IN DISQUALIFICATION OF THE BID.

ADA Experience

Project: Weston – Jane Lew Lewis County Owner: West Virginia Division of Highways District 7 Contract: August 4, 2015

Project: Harrison Avenue
Randolph County
Owner: West Virginia Division of Highways
District 8
Contract: September 10, 2013-

Project: Weston—Jackson's Mill Road
Lewis County
Owner: West Virginia Division of Highways
District.7
Contract: March 20, 2012

EXHIBIT D TO AGREEMENT: RFP Q/A's

PERRINE DUPONT SETTLMENT CLIAMS OFFICE ATTN: EDGAR C. GENTLE, CLAIMS ADMINISTRATOR C/O SPELTER VOLUNTEER FIRE DEPARTMENT OFFICE

55 B STREET
P.O. BOX 257
SPELTER, WV 26438
(304) 622-7443
(800) 345-0837
www.perfiredupont.com
perfinedupont@gtandslaw.com

March 10, 2016

The Perrine DuPont Settlement Road Repair Program RFP

Mr. Chris Dean, J. F. Allen Company (cdean@ifallenco.com)

Mr. Ed Phares, J.F. Allen Company (ephares@fallenco.com)

Ms. Patty Johnson, North Central Paving, Inc. (ncpavingwv@aol.com)

Mr. Larry Weaver, WV Department of Highways (larry, h:weaver@wv.gov)

Mr. Craig Conaway, Dodd Paving (gd3775@aol.com)

Dear Prospective Bidders,

Thank you to the 3 of you for attending yesterday's bidder orientation call. Below, are the Questions and Answers based on the call. If there are any more questions, please send them to us by Friday, March 11, 2016, at Noon, and we will provide written answers by Monday, March 14, 2016, at Noon.

We are looking forward to your bids, which are due March 16, 2016, at 5:00 p.m. by hand

delivery or email.

Settlement Administrator

205-716-3000

egendle@gkindslaw.com

Paul Emerson, Project Manager 304-622-7443

pemerson@gtandslaw.com

Potential Bidder Questions and Answers Raised or Resulting from RFP and conference call.

Q1: I may not have seen the RFP and the Order approving it. Where is it?

A1: It is attached.

Q2: When will you interview the bidders?

A2: Scheduled interviews:

March 25.

8:00 am - NCWV Paving- Patty Johnson

8:30 am - J.F. Allen Co - Chris Dean/Ed Pharus

9:00 am - Dodd Paving - Craig Conaway

9:30 am - WV Department of Highways - Larry Weaver

Q3: Are all bids being put in on the same number of tonnage?

A3: There were two (2) pre-bids summitted by current bidders which assumed laying 2500 tons of asphalt. This is the tonnage that all bids for the RFP should be based upon.

Q4: Are there any base failures which need to be addressed before paving?

A4: None have been noted by either of the pre-bidders, however, you are welcome to drive the streets on the map yourself or take a tour with a Settlement representative to look for yourself.

Q5: Is there a B&O tax for the town of Spelter?

A5: No

Q6: When are the start, end, and award dates?

A6: As stated on pages 1 and 2 of the RFP they are April 18, 2016, no later than November 2016, and April 1, 2016, respectively.

Q7: Will a tack coat be necessary?

A7: No, that is not a requirement of the paving project.

Q8: What about traffic control, flaggers, and safety?

A8: As stated in the RFP in section III number 6 (page 4) "Only bidders who provide their own traffic control and flag personnel will be considered. Also, bidders must be able to provide due notice, such as adequate signage and notification to proper authorities, including the WVDOH, before any and all road closures and throughout the entire road repair and improvement program".

Q9: Is there any accounting for overages or additional areas?

A9: Yes we understand there could be some potential overages or additional areas, however, that amount should not exceed 10% of the bid amount.

Q10: Is there a bid bond or insurance requirements?

A10: Yes, please see Attachment 3.IV.D to the RFP for a full rundown of insurance and bond requirements.

Q11: What are the payment terms?

A11: Attachment 3, III.A.i. of the proposed Agreement in the RFP package includes a provision that payment terms are "to be negotiated and included herein prior to the execution of this Agreement" with the successful bidder. If any modifications need to be made to the payment terms, the Agreement has a modification provision (See, Agreement, Part XI.F., page 10) to allow for modifications in writing.

Q12: Is this project subject to Davis-Bacon wages/are there any federal or government funds involved?

A12: No

Q13: How does the fluctuation of diesel and fuel cost affect the bid?

A13: If you are referring to how it will impact your cost of asphalt/tar production there are no terms in the agreement referring to that, however, if you're referring to how it will impact your fueling costs that issue is addressed in Part III.C. of the proposed Agreement in the RFP package (page 2).

Q14: Can I object to any of the proposed Agreement terms?

A14: If there are any exceptions to the proposed Agreement in the RFP package you would like to make please see Item 2 of Appendix A of the RFP "Acceptance of Mandatory Terms," where you can make a list of them.

Attachment: RFP with Approval Order as Attachment 2 Thereto

PERRINE DUPONT SETTLMENT CLIAMS OFFICE ATTN: EDGAR C. GENTLE, CLAIMS ADMINISTRATOR C/O SPELTER VOLUNTEER FIRE DEPARTMENT OFFICE

> **55 B STREET** P.O. BOX 257 SPELTER, WV 26438 (304) 622-7443 (800) 345-0837 www.perrinedupont.com perrinedupont@gtandslaw.com

> > March 14, 2016

The Perrine DuPont Settlement Road Repair Program RFP

Mr. Chris Dean, J. F. Allen Company (edean@ifallenco.com)

Mr. Ed Phares, J.F. Allen Company (ephares@ifallenco.com)

Ms. Patty Johnson, North Central Paving, Inc. (nepavingwv@aol.com)

Mr. Craig Conaway, Dodd Paving (gd3775@aol.com)

Dear Prospective Bidders,

Please find below a set of supplemental Questions and Answers based on a few additional questions we received today.

We are looking forward to your bids, which are due March 16, 2016, at 5:00 p.m. by hand delivery or email.

Sincere

Settlement Administrator

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205-710-3000 egentle@gtands@ws.com

Paul Emerson, Project Manager 304-622-7443

pemerson@gtandslaw.com

(via e-mail) cc:

Mr. Larry Weaver, WV Department of Highways (larry.b.weaver@wv.gov)

Supplemental Potential Bidder Questions and Answers

Q1: At least 2 valves in the roadway were noticed. Will the Town of Spelter supply and install the risers for these and if any other risers are needed?

A1: Hepzibah PSD has been told of the pending paving project so that they can place orders for all the necessary risers needed. The Settlement will confirm their readiness.

Q2: Will towing cars that refuse to move with advanced notice be an option?

A2: Yes, but only as a last resort.

Q3: Would you like 100% compaction, or will roller pass compaction be enough?

A3: Compaction should comply with WVDOH standards for this type of road.

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Dear Prospective Bidders,

Please find below a second supplemental Question and Answer based on information we received today from the WVDOH.

We are looking forward to your bids, which are due March 16, 2016, at 5:00 p.m. by

hand delivery or email.

Sincerely,

Ed Gentle, Settlement Administrator

205-716-3000

efentie@gtandslaw.com

Project Manager 304-622-7443

pemerson@gtandslaw.com

Attachment

cc: (via e-mail)(w/attachment)

Mr. Larry Weaver, WV Department of Highways (larry.b.weaver@wv.gov)

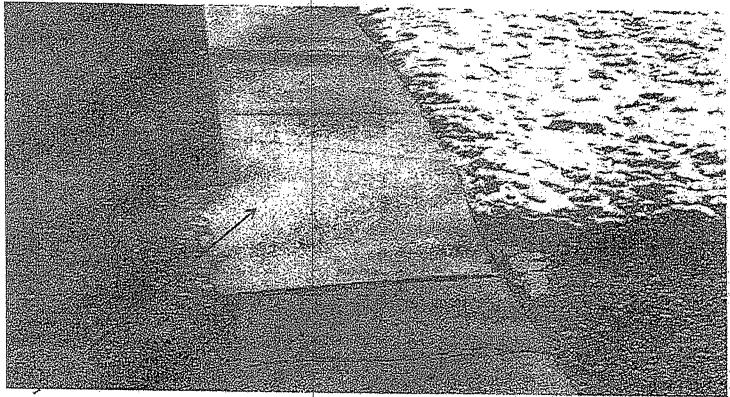
Second Supplemental Potential Bidder Questions and Answers

Q1: Must curb heights and smooth transitions at driveway drop curbs be maintained along the sidewalks?

A1: Yes. To comply with ADA requirements, milling of the existing pavement along sidewalks must be done prior to paving in order to maintain the existing curb height and provide smooth transitions at drop curb approaches while also reducing the propensity of water ponding. The WVDOH recommends about 5 feet wide from the face of the curb along the entire length of the sidewalk areas. Please also find attached the ADA compliance information provided by the WVDOH.

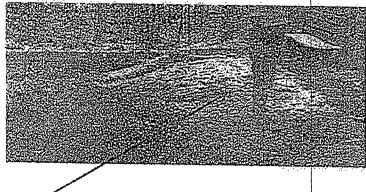
Spelter Community sidewalks for ADA compliance prior to paving





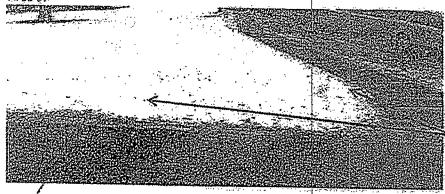
remove 5 feet of existing sidewalk and replace using Type III B as shown on attached typicals.

Area 2:



Remove steps and place 10 feet of new sidewalk using $R_{\rm amp}^{\parallel}$ III as shown on the attached typicals

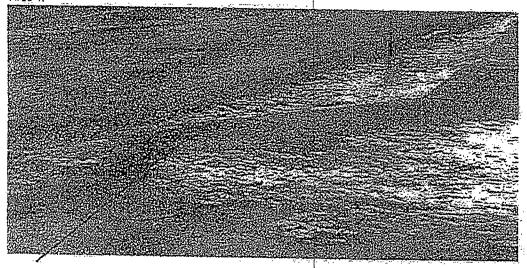
Area 3:



Place approximately 14 feet of new 5 feet sidewalk to connect to the existing walk and the new Type III A ramp.

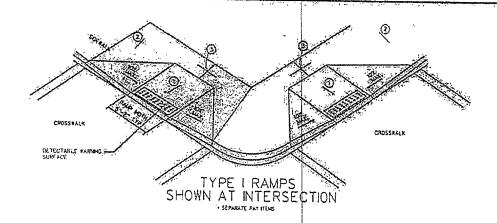
Place approximately 8 Feet of new sidewalk using Type III A

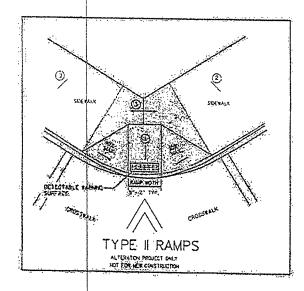
Area 4:



Remove existing sidewalk and replace using Type III B from the attached typicals, continue and replace a total of 14 feet of sidewalk

Total new sidewalk is 51 feet
Total remove existing sidewalk/steps is 34 feet
Total of 4 detectable warning surfaces





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THE TYPE OF RAMP TO BE USED SHALL BE AS SPECIFIED ON THE PLANE. THE POLLOWING CAN BE CONSORRED SUDBELIES IN SELECTIVE RAMP IN TPES, BUT ARE INCLUDED HERE FOR INFORMATION DRILY.

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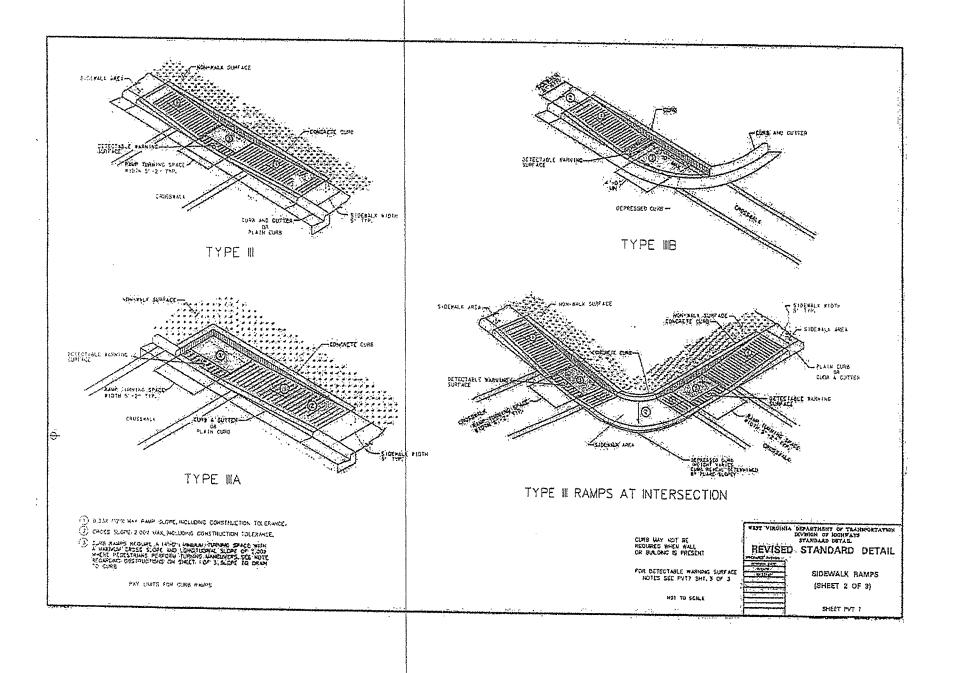
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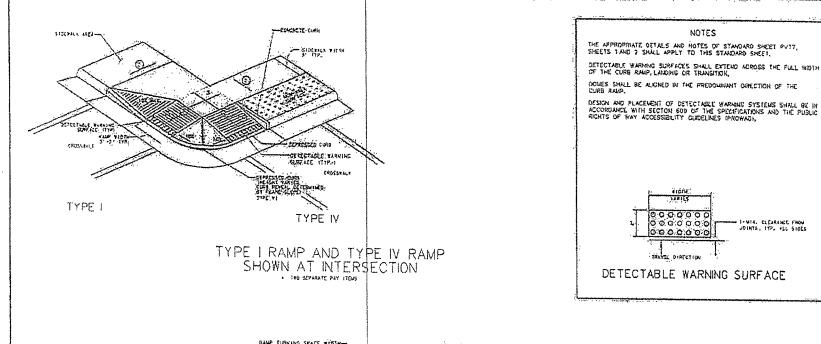
SIDEWALK RAMPS

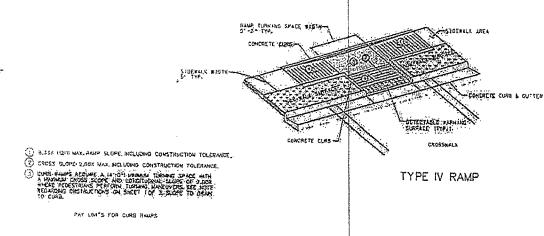
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March 15, 2016

The Perrine DuPont Settlement Road Repair Program RFP

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Mr. Ed Phares, J.F. Allen Company (ephares@ifallenco.com)

Ms. Patty Johnson, North Central Paving, Inc. (ncpavingwv@aol.com)

Mr. Craig Conaway, Dodd Paving (gd3775@aol.com)

Dear Prospective Bidders,

cc:

Please find below a third supplemental Question and Answer based on information received today regarding the WVDOH portion of the Q & A about ADA ramps.

We are looking forward to your bids, which are due March 16, 2016, at 5:00 p.m. by hand delivery or email.

Sincerely

Ed Gentle,
Settlement Administrator

205-716-3000

egentle@etandslaw.com

Project Manager

304-622-7443

pemerson@gtandslaw.com

Third Supplemental Potential Bidder Question and Answers

Q1: Who will be doing the ADA repairs?

A1: The winning bidder will be responsible for doing the ADA repairs.

Q2: Does this need to be submitted along with the paving bid?

A2: Yes, complying with current ADA standards are part of the project.

Q3: Was this is the original scope of work?

A3: Yes, this was addressed under Section III, number 8 as well as appendix A, under Americans with Disability Act Compliance. Yesterday's additional information was received from the WVDOH to help the expand upon the requirements in the town of Spelter.