

MCCOURT & SON CONSTRUCTION, INC.
 2790 CENTRALIA ROAD
 SUTTON, WV 26601
 VOICE: 304-765-5288
 FAX: 304-765-5293

RECEIVED

2010 JAN -6 PM 12:06

WV PURCHASING DIVISION

FAX TRANSMISSION

TO: State of WV - Purchasing Division - Chuck Bowman

FAX NUMBER: 304-552-3970 DATE: 1/6/10

FROM: Tommy McCourt

NUMBER OF PAGES TO FOLLOW: 21

REMARKS: **Sealed Bid Enclosed**

RFQ Number:	<u>DEP14810</u>
Buyer:	<u>CB-83</u>
Bid Opening Date:	<u>1/6/10</u>
Bid Opening Time:	<u>1:30</u>

Mail To:

WV PURCHASING DIVISION
 2019 WASHINGTON ST E
 PO BOX 50130
 CHARLESTON WV 25305-0130



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

Request for Quotation

RFQ NUMBER
DEP14810

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1

ADDRESS CORRESPONDENCE TO ATTENTION OF
CHUCK BOWMAN 304-558-2157

*709052008 304 765 5288
 MCCOURT & SON CONSTRUCTION INC
 2790 CENTRALIA ROAD

SUTTON WV 26601

ENVIRONMENTAL PROTECTION
 DEPT. OF
 OFFICE OF SPECIAL RECLAMATION
 105 S. RAILROAD STREET
 PHILIPPI, WV
 26416-9998 304-457-3219

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
11/05/2009				

BID OPENING DATE: 01/06/2010 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	JB		962-73		\$274,208.00
<p>RECLAMATION: RESTORATION OF LAND</p> <p>THE WEST VIRGINIA PURCHASING DIVISION, FOR THE AGENCY, THE WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION'S OFFICE OF SPECIAL RECLAMATION, IS SOLICITING QUALIFIED CONTRACTORS TO BID FOR A CONTRACT TO PROVIDE ALL LABOR AND MATERIALS TO PERFORM RECLAMATION ON THE MINING OPERATION OF LOYAL G. FORMAN AND SONS, NOW UNDER REVOKED PERMIT NUMBER(S) S-1002-99. THIS SITE CONSISTS OF APPROXIMATELY 18 ACRES AND IS LOCATED NEAR ALBRIGHT, WV IN PRESTON COUNTY.</p> <p>THE RECLAMATION SHALL BE PERFORMED UNDER THE GUIDANCE AND GENERAL SUPERVISION OF THE AGENT ASSIGNED TO THE PROJECT FOR THE STATE OF WEST VIRGINIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION.</p> <p>A MANDATORY ON-SITE PREBID CONFERENCE SHALL BE HELD ON 12/02/2009 @ 1:00 PM. ALL INTERESTED PARTIES ARE REQUIRED TO ATTEND THIS MEETING. FAILURE TO ATTEND THE MANDATORY PRE-BID SHALL RESULT IN DISQUALIFICATION OF THE BID. NO ONE PERSON MAY REPRESENT MORE THAN ONE BIDDER.</p> <p>AN ATTENDANCE SHEET WILL BE MADE AVAILABLE FOR ALL POTENTIAL BIDDERS TO COMPLETE. THIS WILL SERVE AS THE OFFICIAL DOCUMENT VERIFYING ATTENDANCE AT THE MANDATORY PRE-BID. FAILURE TO PROVIDE YOUR COMPANY AND REPRESENTATIVE NAME ON THE ATTENDANCE SHEET WILL RESULT IN DISQUALIFICATION OF THE BID. THE STATE WILL NOT ACCEPT ANY OTHER DOCUMENTATION TO VERIFY ATTENDANCE. THE BIDDER IS RESPONSIBLE FOR ENSURING THEY HAVE COMPLETED THE INFOR</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE	<i>Donny McCourt</i>	TELEPHONE	304-765-5288	DATE	1/6/2010
TITLE	President	FAX	55-062-4840	ADDRESS CHANGES TO BE NOTED ABOVE	

WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'



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				<p>MATION REQUIRED ON THE ATTENDANCE SHEET. THE PURCHASING DIVISION AND THE STATE AGENCY WILL NOT ASSUME ANY RESPONSIBILITY FOR A BIDDER'S FAILURE TO COMPLETE THE PRE-BID ATTENDANCE SHEET. IN ADDITION, WE REQUEST THAT ALL POTENTIAL BIDDERS INCLUDE THEIR E-MAIL ADDRESS AND FAX NUMBER.</p> <p>ALL POTENTIAL BIDDERS ARE REQUESTED TO ARRIVE PRIOR TO THE STARTING TIME FOR THE PRE-BID. BIDDERS WHO ARRIVE LATE, BUT PRIOR TO THE DISMISSAL OF THE TECHNICAL PORTION OF THE PRE-BID WILL BE PERMITTED TO SIGN IN. BIDDERS WHO ARRIVE AFTER CONCLUSION OF THE TECHNICAL PORTION OF THE PRE-BID, BUT DURING ANY SUBSEQUENT PART OF THE PRE-BID WILL NOT BE PERMITTED TO SIGN THE ATTENDANCE SHEET.</p> <p>DIRECTIONS TO PRE-BID: IN PRESTON COUNTY, AT THE BRUCETON MILLS EXIT OF INTERSTATE I-68, TURN SOUTH ON COUNTY ROUTE 26 AND GO 8.0 MILES. TURN LEFT ON COUNTY ROUTE 17 (WOOLEN MILL ROAD) AND THEN TURN RIGHT IMMEDIATELY ON COUNTY ROUTE 26/21 AND GO 0.5 MILE. TURN LEFT TO THE HAULROAD AND SITE.</p> <p>ALL WORK MUST BE COMPLETED IN ACCORDANCE WITH THE PLANS AND SPECIFICATIONS PREPARED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND PURCHASE ORDER ISSUED BY THE DEPARTMENT OF ADMINISTRATION, DIVISION OF PURCHASING.</p> <p>EXHIBIT 5</p> <p>WEST VIRGINIA CODE 21-1D-5 PROVIDES THAT: ANY SOLICITATION FOR A PUBLIC IMPROVEMENT CONSTRUCTION CONTRACT REQUIRES EACH VENDOR THAT SUBMITS A BID FOR THE WORK TO SUBMIT AT THE SAME TIME AN AFFIDAVIT OF COMPLIANCE WITH THE BID. THE ENCLOSED PURCHASING AFFIDAVIT MUST BE SIGNED AND SUBMITTED WITH THE BID AS EVIDENCE OF THE VENDOR'S COMPLIANCE WITH THE PROVISIONS OF ARTICLE 1D,</p>		

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CHAPTER 21 OF THE WEST VIRGINIA CODE. FAILURE TO SUBMIT THE SIGNED PURCHASING AFFIDAVIT WITH THE BID SHALL RESULT IN DISQUALIFICATION OF SUCH BID. NOTICE TO PROCEED: THIS CONTRACT IS TO BE PERFORMED WITH 365 CALENDAR DAYS AFTER THE NOTICE TO PROCEED IS RECEIVED. UNLESS OTHERWISE SPECIFIED, THE FULLY EXECUTED PURCHASE ORDER WILL BE CONSIDERED NOTICE TO PROCEED. CANCELLATION: THE DIRECTOR OF PURCHASING RESERVES THE RIGHT TO CANCEL THIS CONTRACT IMMEDIATELY UPON WRITTEN NOTICE TO THE VENDOR IF THE MATERIALS OR WORKMANSHIP SUPPLIED ARE OF AN INFERIOR QUALITY OR DO NOT CONFORM WITH THE SPECIFICATIONS OF THE THE BID AND CONTRACT HERE IN. WAGE RATES: THE CONTRACTOR OR SUBCONTRACTOR SHALL PAY THE HIGHER OF THE U.S. DEPARTMENT OF LABOR MINIMUM WAGE RATES AS ESTABLISHED FOR PRESTON COUNTY, PURSUANT TO WEST VIRGINIA CODE 21-5A, ET, SEQ. (PREVAILING WAGE RATES APPLY TO THIS PROJECT) ARBITRATION: ANY REFERENCES MADE TO ARBITRATION OR INTEREST FOR PAYMENTS DUE (EXCEPT FOR ANY INTEREST REQUIRED BY STATE LAW) CONTAINED IN THIS CONTRACT OR IN ANY AMERICAN INSTITUTE OF ARCHITECTS DOCUMENTS PERTAINING TO THIS CONTRACT ARE HEREBY DELETED. WORKERS' COMPENSATION: VENDOR IS REQUIRED TO PROVIDE A CERTIFICATE FROM WORKERS' COMPENSATION IF SUCCESSFUL. ALL OF THE ITEMS CHECKED BELOW WILL BE A REQUIREMENT OF THIS CONTRACT: (XX) INSURANCE: SUCCESSFUL VENDOR SHALL FURNISH PROOF						

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BIDDER

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<p>LICENSE. APPLICATIONS FOR A CONTRACTORS LICENSE MAY BE MADE BY CONTACTING THE WEST VIRGINIA DIVISION OF LABOR CAPITOL COMPLEX, BUILDING 3, ROOM 319, CHARLESTON, WV 25305. TELEPHONE: (304) 558-7890.</p> <p>WEST VIRGINIA STATE CODE 21-11-11 REQUIRES ANY PROSPECTIVE BIDDER TO INCLUDE THE CONTRACTORS LICENSE NUMBER ON THEIR BID.</p> <p>BIDDER TO COMPLETE: McCourt & Son Construction Inc. CONTRACTORS NAME:</p> <p>CONTRACTORS LICENSE NO.: WV001913</p> <p>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FURNISH A COPY OF THEIR CONTRACTORS LICENSE PRIOR TO ISSUANCE OF A PURCHASE ORDER/CONTRACT.</p> <p style="text-align: center;">APPLICABLE LAW</p> <p>THE WEST VIRGINIA STATE CODE, PURCHASING DIVISION RULES AND REGULATIONS, AND THE INFORMATION PROVIDED IN THE "REQUEST FOR QUOTATION" ISSUED BY THE PURCHASING DIVISION IS THE SOLE AUTHORITY GOVERNING THIS PROCUREMENT.</p> <p>ANY INFORMATION PROVIDED IN SPECIFICATION MANUALS, OR ANY OTHER SOURCE, VERBAL OR WRITTEN, WHICH CONTRADICTS OR ALTERS THE INFORMATION PROVIDED FROM THE SOURCES AS DESCRIBED IN THE ABOVE PARAGRAPH IS VOID AND OF NO EFFECT.</p> <p>BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THE STATE MAY DEEM THIS CONTRACT NULL AND VOID AND TERMINATE SUCH CONTRACT WITHOUT FURTHER ORDER.</p>						

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SIGNATURE	TELEPHONE	DATE	
<i>[Signature]</i>	304-765-5288	1/6/2010	
TITLE	FAX	ADDRESS CHANGES TO BE NOTED ABOVE	
President	55-062-4840		

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PROPERTY

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<p>PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS</p> <p>1. EXCEPT WHEN AUTHORIZED BY THE DIRECTOR OF THE PURCHASING DIVISION PURSUANT TO SUBSECTION 2 BELOW, NO CONTRACTOR MAY USE OR SUPPLY STEEL PRODUCTS FOR A STATE CONTRACT PROJECT OTHER THAN THOSE STEEL PRODUCTS MADE IN THE UNITED STATES. AS USED IN THIS CONTRACT,</p> <p>A. "STATE CONTRACT PROJECT" MEANS ANY ERECTION OR CONSTRUCTION OF, OR ANY ADDITION TO, ALTERATION OF OR OTHER IMPROVEMENT TO ANY BUILDING OR STRUCTURE, INCLUDING, BUT NOT LIMITED TO, ROADS OR HIGHWAYS, OR THE INSTALLATION OF ANY HEATING OR COOLING OR VENTILATING PLANTS OR OTHER EQUIPMENT, OR THE SUPPLY OF AND MATERIALS FOR SUCH PROJECTS, PURSUANT TO A CONTRACT WITH THE STATE OF WEST VIRGINIA FOR WHICH BIDS WERE SOLICITED ON OR AFTER JUNE 6, 2001.</p> <p>B. "STEEL PRODUCTS" MEANS PRODUCTS ROLLED, FORMED, SHAPED, DRAWN, EXTRUDED, FORGED, CAST, FABRICATED OR OTHERWISE SIMILARLY PROCESSED, OR PROCESSED BY A COMBINATION OF TWO OR MORE OF SUCH OPERATIONS, FROM STEEL MADE BY THE OPEN HEARTH, BASIC OXYGEN, ELECTRIC FURNACE, BESSEMER OR OTHER STEEL MAKING PROCESS.</p> <p>C. "UNITED STATES" MEANS THE UNITED STATES OF AMERICA AND INCLUDES ALL TERRITORY, CONTINENTAL OR INSULAR, SUBJECT TO THE JURISDICTION OF THE UNITED STATES.</p> <p>2. THE DIRECTOR OF THE PURCHASING DIVISION MAY, IN WRITING, AUTHORIZE THE USE OF FOREIGN STEEL</p>						

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<p>PRODUCTS IF:</p> <p>A. THE COST FOR EACH CONTRACT ITEM USED DOES NOT EXCEED ONE TENTH OF ONE PERCENT (.1%) OF THE TOTAL CONTRACT COST OR TWO THOUSAND FIVE HUNDRED DOLLARS (2,500.00), WHICHEVER IS GREATER. FOR THE PURPOSES OF THIS SECTION, THE COST IS THE VALUE OF THE STEEL PRODUCT AS DELIVERED TO THE PROJECT OR,</p> <p>B. THE DIRECTOR OF THE PURCHASING DIVISION DETERMINES THAT SPECIFIED STEEL MATERIALS ARE NOT PRODUCED IN THE UNITED STATES IN SUFFICIENT QUANTITY OR OTHERWISE ARE NOT REASONABLY AVAILABLE TO MEET CONTRACT REQUIREMENTS.</p> <p>3. A CONTRACTOR WHO USES STEEL PRODUCTS IN VIOLATION OF THIS SECTION MAY BE SUBJECT TO CIVIL PENALTIES PURSUANT TO WV CODE SECTION 5A-3-56.</p> <p>REV. 10/01/01</p> <p>EXHIBIT 7</p> <p>DOMESTIC ALUMINUM, GLASS & STEEL IN PUBLIC WORKS PROJECTS</p> <p>IN ACCORDANCE WITH WEST VIRGINIA CODE 5-19-1.ET., SEQ., EVERY CONTRACT FOR CONSTRUCTION, RECONSTRUCTION, ALTERATION, REPAIR, IMPROVEMENT OR MAINTENANCE OF PUBLIC WORKS, WHERE THE COST IS MORE THAN \$50,000 AND, IN THE CASE OF STEEL ONLY, WHERE THE COST OF STEEL IS MORE THAN \$50,000 OR WHERE MORE THAN 10,000 POUNDS OF STEEL ARE REQUIRED, THE STATE WILL ACCEPT ONLY ALUMINUM GLASS, OR STEEL PRODUCTS PRODUCED IN THE UNITED STATES</p>						

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<p>IN ADDITION, ITEMS OF MACHINERY OR EQUIPMENT PURCHASED FOR USE AT THE SITE OF PUBLIC WORKS SHALL BE MADE OF DOMESTIC ALUMINUM, GLASS OR STEEL, UNLESS THE COST OF THE PRODUCT IS LESS THAN \$50,000 OR LESS THAN 10,000 POUNDS OF STEEL ARE USED IN PUBLIC WORKS PROJECTS.</p> <p>FOREIGN MADE ALUMINUM, GLASS OR STEEL PRODUCTS MAY BE ACCEPTED ONLY IF THE COST OF DOMESTIC PRODUCTS IS FOUND TO BE UNREASONABLE. SUCH COST IS UNREASONABLE IF IT IS 20% OR MORE HIGHER THAN THE BID PRICE FOR FOREIGN MADE PRODUCTS. IF THE DOMESTIC ALUMINUM, GLASS OR STEEL PRODUCTS TO BE SUPPLIED OR PRODUCED IN A "SUBSTANTIAL LABOR SURPLUS AREA", AS DEFINED BY THE UNITED STATES DEPARTMENT OF LABOR, FOREIGN PRODUCTS MAY BE SUPPLIED ONLY IF DOMESTIC PRODUCTS ARE 30% OR MORE HIGHER IN PRICE THAN THE FOREIGN MADE PRODUCTS.</p> <p>IF, PRIOR TO THE AWARD OF A CONTRACT UNDER THE ABOVE PROVISIONS, THE SPENDING OFFICER OF THE SPENDING UNIT DETERMINES THAT THERE EXISTS A BID FOR LIKE FOREIGN ALUMINUM, GLASS OR STEEL THAT IS REASONABLE AND LOWER THAN THE LOWEST BID DOMESTIC PRODUCTS, THE SPENDING OFFICE MAY REQUEST, IN WRITING, A REEVALUATION AND REDUCTION IN THE LOWEST BID FOR SUCH DOMESTIC PRODUCTS ALL VENDORS MUST INDICATE IN THEIR BID IF THEY ARE SUPPLYING FOREIGN ALUMINUM, GLASS OR STEEL.</p> <p>REV. 3/88</p> <p>EXHIBIT 9</p> <p>NOTICE FOR ISSUANCE & ACKNOWLEDGEMENT OF CONSTRUCTION PROJECT ADDENDA</p> <p>THE ARCHITECT/ENGINEER AND/OR AGENCY SHALL BE REQUIRED TO ABIDE BY THE FOLLOWING SCHEDULE IN ISSUING</p>						

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LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>CONSTRUCTION PROJECT ADDENDA FOR STATE AGENCIES:</p> <p>(1) THE ARCHITECT/ENGINEER SHALL PREPARE THE ADDENDUM AND A LIST OF ALL PARTIES THAT HAVE PROCURED DRAWINGS AND SPECIFICATIONS FOR THE PROJECT. THE ADDENDUM AND LIST SHALL BE FORWARDED TO THE BUYER IN THE STATE PURCHASING DIVISION. THE ARCHITECT/ENGINEER SHALL ALSO SEND A COPY OF THE ADDENDUM TO THE STATE AGENCY FOR WHICH THE CONTRACT IS ISSUED.</p> <p>(2) THE BUYER SHALL SEND THE ADDENDUM TO ALL INTERESTED PARTIES AND, IF NECESSARY, EXTEND THE BID OPENING DATE. ANY ADDENDUM SHOULD BE RECEIVED BY THE BUYER WITHIN FOURTEEN (14) DAYS PRIOR TO THE BID OPENING DATE.</p> <p>(3) ALL ADDENDA SHOULD BE FORMALLY ACKNOWLEDGED BY ALL BIDDERS AND SUBMITTED TO THE STATE PURCHASING DIVISION. THE SAME RULES AND REGULATIONS THAT APPLY TO THE ORIGINAL BIDDING DOCUMENT SHALL ALSO APPLY TO AN ADDENDUM DOCUMENT. THE ONLY EXCEPTION MAY BE FOR AN ADDENDUM THAT IS ISSUED FOR THE SOLE PURPOSE OF CHANGING A BID OPENING TIME AND/OR DATE.</p> <p>REV. 11/96</p> <p>EXHIBIT 10 ADDENDUM ACKNOWLEDGEMENT</p> <p>I HEREBY ACKNOWLEDGE RECEIPT OF THE FOLLOWING CHECKED ADDENDUM(S) AND HAVE MADE THE NECESSARY REVISIONS TO MY PROPOSAL, PLANS AND/OR SPECIFICATION, ETC.</p> <p>ADDENDUM NOS. :</p>						

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PROPERTY OF STATE OF WEST VIRGINIA

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NO. 1		X				
NO. 2						
NO. 3						
NO. 4						
NO. 5						

I UNDERSTAND THAT FAILURE TO CONFIRM THE RECEIPT OF TH
 ADDENDUM(S) MAY BE CAUSE FOR REJECTION OF THE BIDS.

VENDOR MUST CLEARLY UNDERSTAND THAT ANY VERBAL
 REPRESENTATION MADE OR ASSUMED TO BE MADE DURING ANY
 ORAL DISCUSSION HELD BETWEEN VENDOR'S REPRESENTATIVES
 AND ANY STATE PERSONNEL IS NOT BINDING. ONLY THE
 INFORMATION ISSUED IN WRITING AND ADDED TO THE
 SPECIFICATIONS BY AN OFFICIAL ADDENDUM IS BINDING.

.....*James M. ...*.....SIGNATURE
 . McCourt. & Son Construction. Inc.....COMPANY
 1/6/2010DATE
 REV. 11/96

NOTICE

A SIGNED BID MUST BE SUBMITTED TO:
 DEPARTMENT OF ADMINISTRATION
 PURCHASING DIVISION

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<i>James M. ...</i>	304-765-5288	1/6/2010
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President	55-062-4840	

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SUBJECT

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***** ADDENDUM NO. 1 *****						
ADDENDUM ISSUED FOR THE LOYAL G FORMAN & SONS PROJECT (REVOKED PERMIT# S-1002-99) TO DISTRIBUTE THE PRE-BID SIGN-IN SHEETS, THE Q&A, THE REVISED SCOPE OF WORK, AN REVISED PURCHASING CONTINUATION SHEET #15 RESULTING FROM THE MANDATORY PRE-BID MEETING OF 12/02/09.						
BID OPENING DATE & TIME REMAIN UNCHANGED AS 01/06/2010 AT 1:30 PM.						
***** NO OTHER CHANGES *****						
0001		JB		962-73		
RECLAMATION: RESTORATION OF LAND						
***** THIS IS THE END OF RFQ DEP14810 ***** TOTAL:						\$274,208.00

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>[Signature]</i>	PHONE 304-765-5288	DATE 1/6/2010
TITLE President	FAX 55-062-4840	ADDRESS CHANGES TO BE NOTED ABOVE

WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'

BUYER CB-23	PAGE	REQ. OR PO NO. DEP 14810
SPENDING UNIT WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION/SPECIAL RECLAMATION		

WY-36a STATE OF WEST VIRGINIA
REV. 5-26-09 PURCHASING CONTINUATION SHEET
VENDOR:

SCOPE OF WORK

The successful bidder shall provide appropriate equipment, materials, labor and any technical services needed for the successful reclamation of Loyal G. Forman & Son, Permit S-1002-99, and any disturbance associated with such operation. The General Performance Standards (GPS) shall apply to all items in Scope of Work.

Work necessary on this site will include the following items, but is not limited to these:

1. Upon mobilization to the site, which will be directed in a written Notice to Proceed, the access road shall be developed in accordance with bid item # 3.0. If, fuel and lubricants are to be stored on site, bid item # 2.0 shall be in place before fuel is delivered. Project sign shall be constructed and erected in accordance with attached specifications. The sign shall be maintained during construction activities and through the life of the warranty period. Sign cost is a No Bid Item and is included with mobilization cost. No work shall be authorized or allowed at the site until sign is constructed and erected on site and approved by DEP.
2. Storm water management, as necessary, in the form as described, in the National Pollutant Discharge Elimination System, Water Pollution Control Permit Number WV0115924, existing sediment control ponds and in additional bid item # 9.0 & 10.0 shall be installed. See Water Quality Control under the General Performance Standards.
3. Concurrent and continuous reclamation shall be maintained throughout the life of the project. Backfill is required for all areas. Regrading and topsoiling is required for all areas. Revegetation and soil improvements are required for all areas. Reclamation is to be according to the attached specifications, plans, and clarifying discussions at the Pre-Bid Conference.
4. Construction stakeout as necessary to carry out work. (Bid Item # 7.0)
5. Check for and locate all utilities within the work area to provide and maintain a safe working area in addition to preventing damage to the utility.
6. Remove any and all debris from site. Contractor must provide documentation of proper disposal. Debris disposal shall be incidental to and included in Mobilization/Demobilization.
7. Backfill to eliminate approximately 1,800 linear feet of highwall and/or open pit. All existing spoil piles shall be used for backfill material and shall be regraded to establish a uniform slope from the top of the highwall to the upslope edge of Sediment Ditch 1. Note: Contractor shall backfill up over disturbed portions of fieldstones above the highwall or bring the fieldstones down and incorporate them into the backfill. The disturbed large stones on the outslope of Sediment Ditch 1 shall be brought back and incorporated into the backfill. This may required a hammer and/or drilling and blasting due to the size of the stones. All backfilled and regraded surfaces shall be no steeper than 2 horizontal to 1 vertical.

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 REV. 5-26-09 PURCHASING CONTINUATION SHEET
 VENDOR:

REVISED 12/02/09

8. Any water impounded in pits shall be pumped out prior to backfilling. The water shall be pumped to Sediment Ditch 1. Water quality parameters of less than 35 mg/l total suspended solids and pH of between 6.0 and 9.0 shall be maintained prior to water entering the existing pond. Any time a pump is running on site, responsible personnel shall be provided to ensure water quality. The cost of pumping and any necessary water treatment shall be incidental to and included in backfilling.
9. Uniformly spread and incorporate 44 tons of agricultural lime into all the black/ coal/ potentially toxic material located in the coal stockpile area. This material shall then be gathered up and buried within the coal stockpile area. A minimum of 2 feet of topsoil material shall be placed over the black/ coal / potentially toxic material.
10. Lime entire permit area evenly and uniformly with an additional 165 tons of agricultural lime. Lime shall be spread by using a lime spreader or hydroseeder.
11. Eliminate approximately 2075 linear feet of haulroad by regrading to establish a sheetflow drainage pattern. The total haulroad between the county road and the coal pit/highwall area shall be removed and regraded. The regraded haulroad shall be blended into the mined or meadow area on both sides. All pipes beneath the haulroad shall be removed and properly disposed of.
12. Sediment Ditch 1 shall be cleaned as necessary during construction and prior to demobilization to maintain waterflow to the existing pond and eliminate any areas or pooled water within Sediment Ditch 1. Payment for this item shall be made upon final cleaning prior to demobilization.
13. Install 200 linear feet of haybale dike for sediment control during and after construction.
14. Install 3,000 linear feet of silt fence for control during and after construction. Approximately 2,100 linear feet of the silt fence shall be placed on the upslope side of Sediment Ditch 1.
15. Regrade and revegetate approximately 20 acres of disturbance. This shall include the regrading and revegetating of gullies and areas of deficient vegetation within the previously regraded areas of the permit.

I, David L. Martin, Sr., the undersigned, hereby certify¹ that this Reclamation Plan is correct and shows to the best of my knowledge and belief all the information required by the surface mining laws of the State of West Virginia. The source of information was the approved mining and reclamation plan contained in the forfeited surface mine permit, existing site conditions and information contained in the WV DEP, Inspection and Enforcement files.

David L. Martin, Sr.
 Registered Professional Engineer



Date: 12/02/09

¹ The term "certify" as used hereon is defined as follows: An engineer's certification of conditions is a declaration of professional judgment. It does not constitute a warranty or guarantee, either expressed or implied.

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SPENDING UNIT WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION/SPECIAL RECLAMATION		

WV-36a STATE OF WEST VIRGINIA
 REV. 5-26-09 PURCHASING CONTINUATION SHEET
 VENDOR **McCourt & Son Construction, Inc.**

ITEM NO.	QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
BID SCHEDULE				
PERMIT NAME: <u>Loyal G. Forman & Son</u>				
PERMIT NUMBER(S): <u>S-1002-99</u>				
The DEP reserves the right to request additional information and supporting documentation regarding unit prices when the unit price appears to be unreasonable.				
1.0	LUMP SUM	<u>MOBILIZATION/DEMOBILIZATION/PROJECT SIGN</u> (5% Total Bid Maximum for this permit)	LUMP SUM	\$ 7,800.00
2.0	LUMP SUM	<u>SPILL CONTAINMENT AREA (S.C.A.)</u> (\$1,000.00 Maximum Bid for this permit)	LUMP SUM	\$ 500.00
3.0	LUMP SUM	<u>HAULROAD/ACCESS ROAD</u> (5% Total Bid Maximum for this permit)	LUMP SUM	\$ 500.00
4.0	LUMP SUM	<u>BACKFILLING</u>	LUMP SUM	\$ 207,000.00
5.0	LUMP SUM	<u>REGRADING AND TOPSOILING</u>	LUMP SUM	\$ 31,000.00
6.0		<u>REVEGETATION</u>		
6.1	LUMP SUM	<u>AGRICULTURAL LIME</u>	LUMP SUM	\$ 1,000.00
6.2	LUMP SUM	<u>FERTILIZER</u>	LUMP SUM	\$ 6,200.00
6.3	LUMP SUM	<u>MULCH</u>	LUMP SUM	\$ 5,500.00
6.4	LUMP SUM	<u>VEGETATIVE SPECIES</u>	LUMP SUM	\$ 7,500.00
7.0	LUMP SUM	<u>CONSTRUCTION STAKEOUT</u> (5% Total Bid Maximum for this permit)	LUMP SUM	\$ 500.00
8.0	LUMP SUM	<u>CLEAN SEDIMENT DITCH 1</u>	LUMP SUM	\$ 500.00
9.0	<u>200 LF</u>	<u>HAYBALE DIKE</u>	\$ 3.50 PER LF	\$ 700.00

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SPENDING UNIT WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION/SPECIAL RECLAMATION		

WV-36a STATE OF WEST VIRGINIA
 REV. 5-26-09 PURCHASING CONTINUATION SHEET
 VENDOR: McCourt & Son Construction, Inc.

ITEM NO.	QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
10.0	<u>3,000</u> LF	<u>SILT FENCE</u>	\$ <u>1.00</u> PER LF	\$ <u>3,000.00</u>
11.0	NO BID ITEM	<u>UTILITIES</u>	NO BID ITEM	NO BID ITEM
12.0	<u>209</u> TON	<u>LIMING</u>	\$ <u>12.00</u> PER TON	\$ <u>2,508.00</u>
TOTAL FOR PERMIT <u>S-1002-99</u>				\$ <u>274,208.00</u>

Agency Purchasing Division
REQ. P.O.# DEP 14810

BID BOND

KNOW ALL MEN BY THESE PRESENTS, That we, the undersigned, McCourt & Son Construction, Inc.
of 2790 Centralia Road Sutton, WV 26601 as Principal, and Merchants Bonding Company
of 2100 Fleur Drive, Des Moines, Iowa 50321, a corporation organized and existing under the laws of the State of Iowa
with its principal office in the City of Des Moines as Surety, are held and firmly bound unto the State
of West Virginia, as Obligee, in the penal sum of Five Percent of the Amount Bid (5%) for the payment of which,
well and truly to be made, we jointly and severally bind ourselves, our heirs, administrators, executors, successors and assigns

The Condition of the above obligation is such that whereas the Principal has submitted to the Purchasing Section of the
Department of Administration a certain bid or proposal, attached hereto and made a part hereof, to enter into a contract in writing for
DEP 14810 - Preston County

NOW THEREFORE,

- (a) If said bid shall be rejected, or
- (b) If said bid shall be accepted and the Principal shall enter into a contract in accordance with the bid or proposal attached
hereto and shall furnish any other bonds and insurance required by the bid or proposal, and shall in all other respects perform the
agreement created by the acceptance of said bid, then this obligation shall be null and void, otherwise this obligation shall remain in full
force and effect. It is expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event,
exceed the penal amount of this obligation as herein stated.

The Surety, for the value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no
way impaired or affected by any extension of the time within which the Obligee may accept such bid, and said Surety does hereby
waive notice of any such extension.

IN WITNESS WHEREOF, Principal and Surety have hereunto set their hands and seals, and such of them as are corporations
have caused their corporate seals to be affixed hereunto and these presents to be signed by their proper officers, this
6th day of January, 20 10.

Principal Corporate Seal

McCourt & Son Construction, Inc.
(Name of Principal)

By [Signature]
(Must be President or
Vice President)
President

(Title)

Surety Corporate Seal

Merchants Bonding Company
(Name of Surety)

[Signature]
Attorney-In-Fact Karen Hutson

IMPORTANT - Surety executing bonds must be licensed in West Virginia to transact surety insurance. Raised corporate seals
must be affixed, a power of attorney must be attached.

MERCHANTS BONDING COMPANY POWER OF ATTORNEY

Know All Persons By These Presents, that the MERCHANTS BONDING COMPANY (MUTUAL), a corporation duly organized under the laws of the State of Iowa, and having its principal office in the City of Des Moines, County of Polk, State of Iowa, hath made, constituted and appointed, and does by these presents make, constitute and appoint

Charles C. Martin, James F. Oakes, Lavonne Sherrod, Karen Hutson

of Knoxville and State of Tennessee its true and lawful Attorney-in-Fact, with full power and authority hereby conferred in its name, place and stead, to sign, execute, acknowledge and deliver in its behalf as surety any and all bonds, undertakings, recognizances or other written obligations in the nature thereof, subject to the limitation that any such instrument shall not exceed the amount of:

TWO MILLION FIVE HUNDRED THOUSAND (\$2,500,000.00) DOLLARS

and to bind the MERCHANTS BONDING COMPANY (MUTUAL) thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officers of the MERCHANTS BONDING COMPANY (MUTUAL), and all the acts of said Attorney-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This Power-of-Attorney is made and executed pursuant to and by authority of the following Amended Substituted and Restated By-Laws adopted by the Board of Directors of the MERCHANTS BONDING COMPANY (MUTUAL) on November 16, 2002.

ARTICLE II, SECTION 8 - The Chairman of the Board or President or any Vice President or Secretary shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the Seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof.

ARTICLE II, SECTION 9 - The signature of any authorized officer and the Seal of the Company may be affixed by facsimile to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed.

In Witness Whereof, MERCHANTS BONDING COMPANY (MUTUAL) has caused these presents to be signed by its President and its corporate seal to be hereto affixed, this 17th day of July, 2009.



MERCHANTS BONDING COMPANY (MUTUAL)

By *Larry Taylor*
President

STATE OF IOWA
COUNTY OF POLK ss.

On this 17th day of July, 2009, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of the MERCHANTS BONDING COMPANY (MUTUAL), the corporation described in the foregoing instrument, and that the Seal affixed to the said instrument is the Corporate Seal of the said Corporation and that the said instrument was signed and sealed in behalf of said Corporation by authority of its Board of Directors.

In Testimony Whereof, I have hereunto set my hand and affixed my Official Seal at the City of Des Moines, Iowa, the day and year first above written.

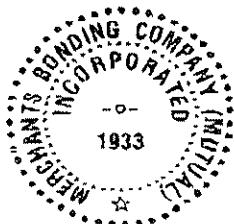


Cindy Smyth
Notary Public, Polk County, Iowa

STATE OF IOWA
COUNTY OF POLK ss.

I, William Warner, Jr., Secretary of the MERCHANTS BONDING COMPANY (MUTUAL), do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said MERCHANTS BONDING COMPANY (MUTUAL), which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Company on this 6th day of January, 2010.



William Warner Jr.
Secretary

072



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

STATE OF WEST VIRGINIA,

COUNTY OF Braxton, TO-WIT:

I, Tommy McCourt, after being first duly sworn, depose and state as follows:

- 1. I am an employee of McCourt & Son Construction Inc.; and,
(Company Name)
- 2. I do hereby attest that McCourt & Son Construction Inc.
(Company Name)

maintains a valid written drug free workplace policy and that such policy is in compliance with **West Virginia Code §21-1D-5**.

The above statements are sworn to under the penalty of perjury.

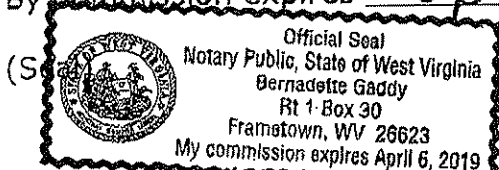
McCourt & Son Construction Inc.

(Company Name)

By: *Tommy McCourt*
 Title: President
 Date: 1/6/2010

Taken, subscribed and sworn to before me this 6 day of January 2010.

By Commission expires April 6, 2019



Bernadette Gaddy
(Notary Public)

THIS AFFIDAVIT MUST BE SUBMITTED WITH THE BID IN ORDER TO COMPLY WITH WV CODE PROVISIONS. FAILURE TO INCLUDE THE AFFIDAVIT WITH THE BID SHALL RESULT IN DISQUALIFICATION OF THE BID.

RFQ No. DEP14810STATE OF WEST VIRGINIA
Purchasing Division**PURCHASING AFFIDAVIT**

West Virginia Code §5A-3-10a states: No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and the debt owed is an amount greater than one thousand dollars in the aggregate

DEFINITIONS:

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

"Debtor" means any individual, corporation, partnership, association, limited liability company or any other form or business association owing a debt to the state or any of its political subdivisions. "Political subdivision" means any county commission; municipality; county board of education; any instrumentality established by a county or municipality; any separate corporation or instrumentality established by one or more counties or municipalities, as permitted by law; or any public body charged by law with the performance of a government function or whose jurisdiction is coextensive with one or more counties or municipalities. "Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

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

LICENSING: Vendors must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agencies or political subdivision. Furthermore, the vendor must provide all necessary releases to obtain information to enable the Director or spending unit to verify that the vendor is licensed and in good standing with the above entities.

CONFIDENTIALITY: The vendor agrees that he or she will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the agency's policies, procedures and rules. Vendors should visit www.state.wv.us/admin/purchase/privacy for the Notice of Agency Confidentiality Policies.

Under penalty of law for false swearing (West Virginia Code, §61-5-3), it is hereby certified that the vendor acknowledges the information in this said affidavit and are in compliance with the requirements as stated.

Vendor's Name: McCourt & Son Construction Inc.

Authorized Signature:  Date: 1/6/2010