



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
RMA10017

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF:
FRANK WHITTAKER 804-558-2316

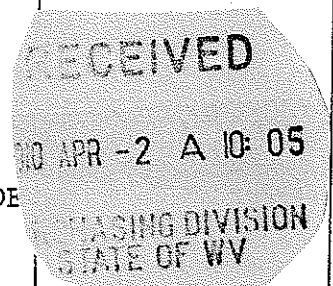
RFQ COPY  
TYPE NAME/ADDRESS HERE

FRANK TARTAGLIA, INC.  
5867 East Molloy Rd.  
Syracuse, NY 13211-2099

WV STATE RAIL AUTHORITY  
(DBA) SOUTH BRANCH VALLEY  
RAILROAD  
120 WATER PLANT DRIVE  
MOOREFIELD, WV  
26836 304-538-2305

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS		
01/29/2010						
ID OPENING DATE: 03/11/2010		BID OPENING TIME 01:30PM				
LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
001	1	LS		968-55		
TRACK SURFACING FOR SOUTH BRANCH VALLEY RAILROAD						
THE WEST VIRGINIA PURCHASING DIVISION, FOR THE AGENCY, THE WEST VIRGINIA STATE RAIL AUTHORITY (SRA) IS SOLICITING BIDS FOR TRACK SURFACING ON THE SOUTH BRANCH VALLEY RAILROAD (SBVR) PER THE ATTACHED SPECIFICATIONS.						
MANDATORY PRE-BID						
A MANDATORY PRE-BID WILL BE HELD ON 02/23/10 AT 10:00 AM AT THE SOUTH BRANCH VALLEY RAILROAD OFFICE. OFFICE, 120 WATER PLANT RD, MOOREFIELD, WV 26836. 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.						
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 INFORMATION 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.						
SEE REVERSE SIDE FOR TERMS AND CONDITIONS						
NATURE		TELEPHONE		DATE		
FEIN		ADDRESS CHANGES TO BE NOTED ABOVE				

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





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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.

## TECHNICAL QUESTIONS

ALL TECHNICAL QUESTIONS MUST BE SUBMITTED IN WRITING TO FRANK WHITTAKER IN THE PURCHASING DIVISION VIA EMAIL A FRANK.M.WHITTAKER@WV.GOV, OR VIA FAX AT 304-558-4115. DEADLINE FOR TECHNICAL QUESTIONS IS 02/26/10 AT 4:00 PM. ALL TECHNICAL QUESTIONS WILL BE ADDRESSED BY ADDENDUM AFTER THE DEADLINE.

## EXHIBIT 5

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 DRUG-FREE WORKPLACE AFFIDAVIT MUST BE SIGNED AND SUBMITTED WITH THE BID AS EVIDENCE OF THE VENDOR'S COMPLIANCE WITH THE PROVISIONS OF ARTICLE 1D, CHAPTER 21 OF THE WEST VIRGINIA CODE. FAILURE TO SUBMIT THE SIGNED DRUG-FREE WORKPLACE AFFIDAVIT WITH THE BID SHALL RESULT IN DISQUALIFICATION OF SUCH BID.

NOTICE TO PROCEED: THIS CONTRACT IS TO BE COMPLETED ON OR BEFORE 06/18/2010. UNLESS OTHERWISE SPECIFIED, THE FULLY EXECUTED PURCHASE ORDER WILL BE CONSIDERED NOTICE TO PROCEED.

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

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<p>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 BID AND CONTRACT HERE IN.</p> <p>WAGE RATES: THE CONTRACTOR OR SUBCONTRACTOR SHALL PAY THE HIGHER OF THE U.S. DEPARTMENT OF LABOR MINIMUM WAGE RATES AS ESTABLISHED FOR THE COUNTIES WHERE THE WORK WILL TAKE PLACE PURSUANT TO WEST VIRGINIA CODE 21-5A, ET, SEQ (PREVAILING WAGE RATES APPLY TO THIS PROJECT)</p> <p>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.</p> <p>WORKERS' COMPENSATION: VENDOR IS REQUIRED TO PROVIDE A CERTIFICATE FROM WORKERS' COMPENSATION IF SUCCESSFUL</p> <p>ALL OF THE ITEMS CHECKED BELOW WILL BE A REQUIREMENT OF THIS CONTRACT:</p> <p>(XX) INSURANCE: SUCCESSFUL VENDOR SHALL FURNISH PROOF OF COMMERCIAL GENERAL LIABILITY INSURANCE PRIOR TO ISSUANCE OF CONTRACT. UNLESS OTHERWISE SPECIFIED IN THE BID DOCUMENTS, THE MINIMUM AMOUNT OF INSURANCE COVERAGE REQUIRED IS \$250,000.</p> <p>( ) BUILDERS RISK INSURANCE: SUCCESSFUL VENDOR SHALL FURNISH PROOF OF BUILDERS RISK - ALL RISK INSURANCE IN AN AMOUNT EQUAL TO 100% OF THE AMOUNT OF THE CONTRACT.</p>						
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V E N D O R	RFQ COPY
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	FRANK TARTAGLIA, INC.
	5867 East Molloy Rd. Syracuse, NY 13211-2099

S H I P T O	WV STATE RAIL AUTHORITY (DBA) SOUTH BRANCH VALLEY RAILROAD 120 WATER PLANT DRIVE MOOREFIELD, WV 26836	304-538-2305
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(XX) BONDS: FIVE PERCENT (5%) OF THE TOTAL AMOUNT OF THE BID PAYABLE TO THE STATE OF WEST VIRGINIA, SHALL BE SUBMITTED WITH EACH BID AS A BID BOND THE SUCCESSFUL BIDDER SHALL ALSO FURNISH A PERFORMANCE BOND AND LABOR/MATERIAL BOND FOR 100% OF THE AMOUNT OF THE CONTRACT. BONDS MAY BE PROVIDED IN THE FORM OF A CERTIFIED CHECK IRREVOCABLE LETTER OF CREDIT, OR BOND FURNISHED BY A SOLVENT SURETY COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE OF WEST VIRGINIA. A LETTER OF CREDIT SUBMITTED IN LIEU OF A BOND WILL ONLY BE ALLOWED FOR PROJECTS UNDER \$100,000. PERSONAL OR BUSINESS CHECKS ARE NOT ACCEPTEABLE IN LIEU OF THE 5% BID BOND, PERFORMANCE BOND, OR LABOR AND MATERIAL BOND.						
( ) MAINTENANCE BOND: A TWO (2) YEAR MAINTENANCE BOND COVERING THE ROOFING SYSTEM WILL BE A REQUIREMENT OF THE SUCCESSFUL VENDOR.						
REV. 11/00						
EXHIBIT 7						
DOMESTIC ALUMINUM, GLASS & STEEL IN PUBLIC WORKS PROJECTS						
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 IN ADDITION, ITEMS OF MACHINERY OR EQUIPMENT PURCHASED FOR USE AT THE SITE OF PUBLIC WORKS SHALL BE MADE OF						
SEE REVERSE SIDE FOR TERMS AND CONDITIONS						
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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.						
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.						
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.						
REV. 3/88						
EXHIBIT 9						
NOTICE FOR ISSUANCE & ACKNOWLEDGEMENT OF CONSTRUCTION PROJECT ADDENDA						
THE ARCHITECT/ENGINEER AND/OR AGENCY SHALL BE REQUIRED TO ABIDE BY THE FOLLOWING SCHEDULE IN ISSUING CONSTRUCTION PROJECT ADDENDA FOR STATE AGENCIES:						

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PAGE
6

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SHIP TO  
WV STATE RAIL AUTHORITY  
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<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</p> <p>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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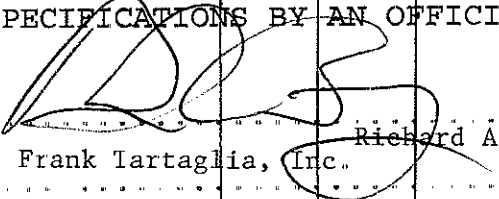
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NO. 1		2/19/2010				
NO. 2		3/25/2010				
NO. 3						
NO. 4						
NO. 5						
I UNDERSTAND THAT FAILURE TO CONFIRM THE RECEIPT OF TH ADDENDUM(S) MAY BE CAUSE FOR REJECTION OF THE BIDS.						
VENDOR MUST CLEARLY UNDERSTAND THAT ANY VERBAL REPRESENTATION 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						
				SIGNATURE		
Frank Tartaglia, Inc.				Richard A. Barry, President		
				COMPANY		
March 29, 2010				DATE		
REV. 11/96						
CONTRACTORS LICENSE						
WEST VIRGINIA STATE CODE 21-11-2 REQUIRES THAT ALL PERSONS DESIRING TO PERFORM CONTRACTING WORK IN THIS STATE MUST BE LICENSED. THE WEST VIRGINIA CONTRACTORS						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

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LICENSING BOARD IS EMPOWERED TO ISSUE THE CONTRACTORS 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.						
WEST VIRGINIA STATE CODE 21-11-11 REQUIRES ANY PROSPECTIVE BIDDER TO INCLUDE THE CONTRACTORS LICENSE NUMBER ON THEIR BID.						
BIDDER TO COMPLETE:						
CONTRACTORS NAME: Frank Tartaglia, Inc.						
CONTRACTORS LICENSE NO.: WV034176						
THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FURNISH A COPY OF THEIR CONTRACTORS LICENSE PRIOR TO ISSUANCE OF A PURCHASE ORDER/CONTRACT						
APPLICABLE LAW						
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.						
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.						
BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THE STATE MAY DEEM THE						

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CONTRACT NULL AND VOID, AND TERMINATE SUCH CONTRACT WITHOUT FURTHER ORDER.						
REV. 5/2009						
NOTICE						
A SIGNED BID MUST BE SUBMITTED TO:						
DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION BUILDING 15 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25305-0130						
THE BID SHOULD CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPE OR THE BID MAY NOT BE CONSIDERED:						
SEALED BID						
BUYER: 44						
REQ. NO.: RMA10017						
BID OPENING DATE: <del>03/11/2010</del> 4/7/2010						
BID OPENING TIME: 1:30 PM						
PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID:						
315-455-6008						
-----						
PLEASE PRINT OR TYPE NAME OF PERSON TO CONTACT						
SEE REVERSE SIDE FOR TERMS AND CONDITIONS						
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CONCERNING THIS QUOTE:						
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***** THIS IS THE END OF RFQ RMA10017 ***** TOTAL:						171,520.00

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Agency \_\_\_\_\_  
 REQ P O# \_\_\_\_\_

### BID BOND

KNOW ALL MEN BY THESE PRESENTS, That we, the undersigned, Frank Tartaglia, Inc.  
 of 5867 East Molloy Road, Syracuse, NY 13211, as Principal, and Western Surety Company  
 of 94 New Karner Road, Suite 205, Albany, NY 12203, a corporation organized and existing under the laws of the State of South Dakota  
 with its principal office in the City of Sioux Falls, as Surety, are held and firmly bound unto the State  
 of West Virginia, as Obligee, in the penal sum of Five percent of 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  
Track Surfacing MP17-MP47

#### 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  
24th day of March, 20 10

Principal Corporate Seal

Frank Tartaglia, Inc.  
 (Name of Principal)  
 By [Signature]  
 (Must be President or  
 Vice President)  
Richard A. Barry  
President  
 (Title)

Surety Corporate Seal

Western Surety Company  
 (Name of Surety)

[Signature]  
 Attorney-in-Fact  
Teresa A. Cator

**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.

**NOTARIAL JURAT**

**INDIVIDUAL ACKNOWLEDGMENT**

State of            New York            }

County of            Ontario            }

On this            day of           ,           , before me personally came           , to me known and known to me to be the individual(s) who executed the foregoing instrument and acknowledge to me that he/she/they executed the same.

\_\_\_\_\_  
Notary Public

**PARTNERSHIP ACKNOWLEDGMENT**

State of            }

County of            }

On this            day of           ,           , before me personally came           ,

to me known and known to me to be a member of the partnership of           ,            acknowledged that he/she executed the foregoing instrument as the act of the said partnership.

\_\_\_\_\_  
Notary Public

**CORPORATION ACKNOWLEDGMENT**

State of   N Y   }

County of   Onondaga   }

On this   24<sup>th</sup>   day of   March  ,   2010  , before me personally came   Richard A. Barry  

  Richard A. Barry   to me known, who, being by me duly sworn, did depose and say that he/she resides in   Manlius, N.Y.  ; that he/she is the   President   of the   Frank Tortaglia Inc.   the corporation which executed the foregoing instrument; that he/she knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of the said corporation, and that he/she signed his/her name to the instrument by like order.

  Judy A. Coomes    
Notary Public

**JUDY A. COOMES**  
Notary Public, State of New York  
No. 01C06030609  
Qualified in Onondaga County  
Commission Expires Sept. 20, 2013

**SURETY ACKNOWLEDGMENT**

State of   New York   }

County of   Ontario   }

On this   24th   day of   March     2010  , before me personally came   Teresa A Cator   to me known, who being by me duly sworn, did depose and say: that she resides in the   Town   of   Canandaigua   that he/she is   Attorney-in-Fact   of the above signed surety, the corporation described in and which executed the foregoing instrument; that he/she knows the corporate seal of said corporate

ion; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he/she signed his/her name thereto by like order

  Vicki L. Manko    
Notary Public

**VICKI L. MANKO**  
Notary Public, State of New York  
Wayne County Reg. #01MA6171633  
Commission Expires 07/30/   11

# Western Surety Company

## POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

**Teresa A Cator, Christopher T Hubler, Sandra J Reynolds, Individually**

of Canandaigua, NY, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

### - In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted as indicated, by the shareholders of the corporation

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Senior Vice President and its corporate seal to be hereto affixed on this 18th day of June, 2009



WESTERN SURETY COMPANY

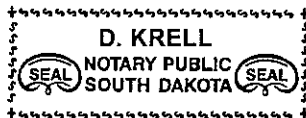
Paul T. Bruflat, Senior Vice President

State of South Dakota }  
County of Minnehaha } ss

On this 18th day of June, 2009, before me personally came Paul T Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Senior Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority and acknowledges same to be the act and deed of said corporation

My commission expires

November 30, 2012



D. Krell, Notary Public

### CERTIFICATE

I, I. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 24th day of March, 2010



WESTERN SURETY COMPANY

I. Nelson, Assistant Secretary

**WESTERN SURETY COMPANY**  
**Sioux Falls, South Dakota**  
**Statement of Condition and Affairs**  
**December 31, 2009**

**ASSETS**

Bonds	\$1,193,435,614
Stocks	22,759,271
Cash and short-term investments	29,157,255
Uncollected premiums and agents' balances	33,002,353
Amounts recoverable from reinsurers	(3,057,290)
Funds held by or deposited with reinsured companies	26,355,884
Net deferred tax asset	19,445,837
Electronic data processing equipment and software	3,117,199
Investment income due and accrued	15,587,378
Other assets	<u>2,217,560</u>
Total Assets	<u><u>\$1,342,021,061</u></u>

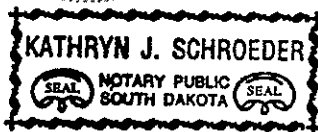
**LIABILITIES AND SURPLUS**

Losses	\$269,022,299
Loss adjustment expense	70,589,857
Contingent and other commissions payable	5,229,781
Other expense	29,445,697
Taxes, licenses and fees	2,337,499
Federal and foreign income taxes payable	13,593,490
Unearned premiums	241,078,902
Retroactive reinsurance reserve assumed	11,093,043
Other liabilities	<u>20,328,654</u>
Total Liabilities	662,719,222

Surplus Account:

Capital paid up	\$4,000,000
Gross paid in and contributed surplus	176,435,232
Unassigned funds	<u>498,866,607</u>
Surplus as regards policyholders	\$679,301,839
Total Liabilities and Capital	<u><u>\$1,342,021,061</u></u>

I, Philip E. Lundy, Vice President and Treasurer of Western Surety Company hereby certify that the above is an exact copy of the financial statement of the Company dated December 31, 2009, as filed with the various Insurance Departments and is a true and correct statement of the condition of Western Surety Company as of that date.



Western Surety Company

By Philip E. Lundy  
Vice President, Treasurer

Subscribed and sworn to me this 10th day of March, 2010.

My commission expires:

KATHRYN J. SCHROEDER  
My Commission Expires 7-21-2015

Kathryn J. Schroeder  
Notary Public

### NOTICE

In accordance with the Terrorism Risk Insurance Act of 2002, we are providing this disclosure notice for bonds and certain insurance policies on which one or more of the Writing Companies identified below is the surety or insurer

To principals on bonds and insureds on certain insurance policies written by any one or more of the following companies (collectively the "Writing Companies") as surety or insurer: Western Surety Company, Universal Surety of America, Surety Bonding Company of America, Continental Casualty Company, National Fire Insurance Company of Hartford, American Casualty Company of Reading, PA, The Firemen's Insurance Company of Newark, NJ, and The Continental Insurance Company.

### DISCLOSURE OF PREMIUM

The premium attributable to coverage for terrorist acts certified under the Act was Zero Dollars (\$0.00).

### DISCLOSURE OF FEDERAL PARTICIPATION IN PAYMENT OF TERRORISM LOSSES

The United States will pay *ninety* percent (90%) of covered terrorism losses exceeding the applicable surety/insurer deductible



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

STATE OF New York

COUNTY OF Onondaga, TO-WIT:

I, Richard A. Barry, after being first duly sworn, depose and state as follows:

1 I am an employee of Frank Tartaglia, Inc.; and,  
(Company Name)

2 I do hereby attest that Frank Tartaglia, 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

Frank Tartaglia, Inc.  
(Company Name)  
By: [Signature]  
Richard A. Barry  
President  
Title: \_\_\_\_\_  
Date: March 29, 2010

Taken, subscribed and sworn to before me this 29th day of March, 2010

By Commission expires Sept 20, 2013

(Seal) JUDY A. COOMES  
Notary Public, State of New York  
No. 01CO6030609  
Qualified in Onondaga County  
Commission Expires Sept. 20, 2013

[Signature]  
(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.**



STATE 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

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

**WITNESS THE FOLLOWING SIGNATURE**

Vendor's Name: Frank Tartaglia, Inc

Authorized Signature: [Signature] Date: March 29, 2010

Richard A. Barry, President

State of New York

County of Onondaga, to-wit:

Taken, subscribed, and sworn to before me this 29 day of March, 2010

My Commission expires Sept 20, 2013

**AFFIX SEAL HERE**

**NOTARY PUBLIC**

[Signature: Judy A. Coomes]

**JUDY A. COOMES**  
Notary Public, State of New York  
No. 01CO6030609  
Qualified in Onondaga County  
Commission Expires Sept. 20, 2013