



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
DEP15073

PAGE
1

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

RFQ COPY

TYPE NAME/ADDRESS HERE

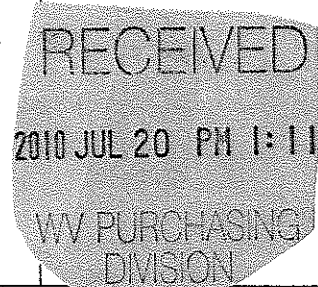
Eagle Carbon Inc.
 PO Box 187
 Lochgelly WV 25866

ENVIRONMENTAL PROTECTION
 DEPT. OF
 OFFICE OF SPECIAL RECLAMATION
 116 INDUSTRIAL DRIVE
 OAK HILL, WV
 25901 304-465-1911

DATE PRINTED	TERMS OF SALE	SHIP VIA	FOB	FREIGHT TERMS
06/23/2010				

BID OPENING DATE: **07/20/2010** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	JB		885-78		
<p>GRANULATED LIME, DELIVERED, PRICED PER TON</p> <p>THE WEST VIRGINIA PURCHASING DIVISION, FOR THE AGENCY, THE WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION'S OFFICE OF SPECIAL RECLAMATION, IS SOLICITING BIDS FROM QUALIFIED VENDORS TO PROVIDE THE AGENCY WITH BOTH GRANULATED AND HYDRATED LIME PER THE FOLLOWING SPECIFICATIONS, TERMS & CONDITIONS, BID REQUIREMENTS, AND THE ATTACHED BID SCHEDULE.</p> <p>AS ON-SITE SUPPLIES OF THE CHEMICAL ARE DEPLETED, IT IS NECESSARY TO ORDER AND RECEIVE ADDITIONAL QUANTITIES TO MAINTAIN AN ADEQUATE SUPPLY ON SITE AT ALL TIME. THE CONTRACTOR SHALL BE RESPONSIBLE FOR MAKING DELIVERY OF THE LIME TO THE SITE. THE SITES ARE IN REMOTE AREAS. THE ROADS ARE PASSABLE, BUT DURING INCLEMENT WEATHER CONDITIONS, PASSAGE IS SOMETIMES DIFFICULT. DELIVERY WILL BE REQUIRED DURING ALL WEATHER CONDITIONS AND ON A SEVENTY-TWO (72) HOUR NOTICE AND AT AN AGREED UPON TIME. SOME ROAD MAINTENANCE EQUIPMENT AND OPERATORS WILL BE AVAILABLE, AND PERSONNEL WILL BE ON HAND TO DIRECT AND SUPERVISE THE PARKING OF THE BULK TRAILERS.</p> <p>THE ACQUISITION AND UTILIZATION OF ALL REASONABLE AND NECESSARY EQUIPMENT, LICENSES, PERMITS, SPECIALIZED EQUIPMENT, ETC., WILL BE THE EXCLUSIVE RESPONSIBILITY OF THE VENDOR.</p> <p>EXHIBIT 3</p>						



SEE REVERSE SIDE FOR TERMS AND CONDITIONS		
SIGNATURE <i>San Ardea</i>	TELEPHONE (304) 465-0941	DATE 7/19/10
TITLE President	FEIN 55-0697700	ADDRESS CHANGES TO BE NOTED ABOVE

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

GENERAL TERMS & CONDITIONS
REQUEST FOR QUOTATION (RFQ) AND REQUEST FOR PROPOSAL (RFP)

1. Awards will be made in the best interest of the State of West Virginia.
2. The State may accept or reject in part, or in whole, any bid.
3. Prior to any award, the apparent successful vendor must be properly registered with the Purchasing Division and have paid the required \$125 fee.
4. All services performed or goods delivered under State Purchase Order/Contracts are to be continued for the term of the Purchase Order/Contracts, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods this Purchase Order/Contract becomes void and of no effect after June 30.
5. Payment may only be made after the delivery and acceptance of goods or services.
6. Interest may be paid for late payment in accordance with the *West Virginia Code*.
7. Vendor preference will be granted upon written request in accordance with the *West Virginia Code*.
8. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
9. The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
10. The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern the purchasing process.
11. Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
12. **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.
13. **HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, is available online at www.state.wv.us/admin/purchase/vrc/hipaa.htm and is hereby made part of the agreement. Provided that the Agency meets the definition of a Cover Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the vendor.
14. **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. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/noticeConfidentiality.pdf>.
15. **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, and the West Virginia Insurance Commission. 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.
16. **ANTITRUST:** In submitting a bid to any agency for the State of West Virginia, the bidder offers and agrees that if the bid is accepted the bidder will convey, sell, assign or transfer to the State of West Virginia all rights, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to the bidder.

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, or person or entity submitting a bid for the same material, supplies, equipment or services and is in all respects fair and without collusion or Fraud. I further certify that I am authorized to sign the certification on behalf of the bidder or this bid.

INSTRUCTIONS TO BIDDERS

1. Use the quotation forms provided by the Purchasing Division. Complete all sections of the quotation form.
2. Items offered must be in compliance with the specifications. Any deviation from the specifications must be clearly indicated by the bidder. Alternates offered by the bidder as **EQUAL** to the specifications must be clearly defined. A bidder offering an alternate should attach complete specifications and literature to the bid. The Purchasing Division may waive minor deviations to specifications.
3. Unit prices shall prevail in case of discrepancy. All quotations are considered F.O.B. destination unless alternate shipping terms are clearly identified in the quotation.
4. All quotations must be delivered by the bidder to the office listed below prior to the date and time of the bid opening. Failure of the bidder to deliver the quotations on time will result in bid disqualifications: Department of Administration, Purchasing Division, 2019 Washington Street East, P.O. Box 50130, Charleston, WV 25305-0130
5. Communication during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited (W.Va. C.S.R. §148-1-6.6).



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ADDRESS CORRESPONDENCE TO ATTENTION OF
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 304-558-2157**

RFQ COPY

TYPE NAME/ADDRESS HERE

Eagle Carbon Inc.
 PO Box 187
 Lochgelly WV 25866

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ENVIRONMENTAL PROTECTION
 DEPT. OF
 OFFICE OF SPECIAL RECLAMATION
 116 INDUSTRIAL DRIVE
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DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
06/23/2010				
BID OPENING DATE: 07/20/2010		BID OPENING TIME 01:30PM		

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>LIFE OF CONTRACT: THIS CONTRACT BECOMES EFFECTIVE UPON AWARD, AND EXTENDS FOR A PERIOD OF ONE (1) YEAR OR UNTIL SUCH "REASONABLE TIME" THEREAFTER AS IS NECESSARY TO OBTAIN A NEW CONTRACT OR RENEW THE ORIGINAL CONTRACT. THE "REASONABLE TIME" PERIOD SHALL NOT EXCEED TWELVE (12) MONTHS. DURING THIS "REASONABLE TIME" THE VENDOR MAY TERMINATE THIS CONTRACT FOR ANY REASON UPON GIVING THE DIRECTOR OF PURCHASING 30 DAYS WRITTEN NOTICE.</p> <p>UNLESS SPECIFIC PROVISIONS ARE STIPULATED ELSEWHERE IN THIS CONTRACT DOCUMENT, THE TERMS, CONDITIONS AND PRICING SET HEREIN ARE FIRM FOR THE LIFE OF THE CONTRACT.</p> <p>RENEWAL: THIS CONTRACT MAY BE RENEWED UPON THE MUTUAL WRITTEN CONSENT OF THE SPENDING UNIT AND VENDOR, SUBMITTED TO THE DIRECTOR OF PURCHASING THIRTY (30) DAYS PRIOR TO THE EXPIRATION DATE. SUCH RENEWAL SHALL BE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND SHALL BE LIMITED TO TWO (2) ONE (1) YEAR PERIODS.</p> <p>CANCELLATION: THE DIRECTOR OF PURCHASING RESERVES THE RIGHT TO CANCEL THIS CONTRACT IMMEDIATELY UPON WRITTEN NOTICE TO THE VENDOR IF THE COMMODITIES AND/OR SERVICES SUPPLIED ARE OF AN INFERIOR QUALITY OR DO NOT CONFORM TO THE SPECIFICATIONS OF THE BID AND CONTRACT HEREIN.</p> <p>OPEN MARKET CLAUSE: THE DIRECTOR OF PURCHASING MAY AUTHORIZE A SPENDING UNIT TO PURCHASE ON THE OPEN MARKET, WITHOUT THE FILING OF A REQUISITION OR COST ESTIMATE, ITEMS SPECIFIED ON THIS CONTRACT FOR IMMEDIATE DELIVERY IN EMERGENCIES DUE TO UNFORESEEN CAUSES (INCLUDING BUT NOT LIMITED TO DELAYS IN TRANS-</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE *Lois Arlee* TELEPHONE (304) 465-0941 DATE 7/19/10

TITLE President FEIN 55-0697700 ADDRESS CHANGES TO BE NOTED ABOVE

WHEN RESPONDING TO RFQ INSERT NAME AND ADDRESS IN SPACE ABOVE LABELLED "VENDOR"



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<p>PORTATION OR AN UNANTICIPATED INCREASE IN THE VOLUME OF WORK.)</p> <p>QUANTITIES: QUANTITIES LISTED IN THE REQUISITION ARE APPROXIMATIONS ONLY, BASED ON ESTIMATES SUPPLIED BY THE STATE SPENDING UNIT. IT IS UNDERSTOOD AND AGREED THAT THE CONTRACT SHALL COVER THE QUANTITIES ACTUALLY ORDERED FOR DELIVERY DURING THE TERM OF THE CONTRACT, WHETHER MORE OR LESS THAN THE QUANTITIES SHOWN.</p> <p>ORDERING PROCEDURE: SPENDING UNIT(S) SHALL ISSUE A WRITTEN STATE CONTRACT ORDER (FORM NUMBER WV-39) TO THE VENDOR FOR COMMODITIES COVERED BY THIS CONTRACT. THE ORIGINAL COPY OF THE WV-39 SHALL BE MAILED TO THE VENDOR AS AUTHORIZATION FOR SHIPMENT, A SECOND COPY MAILED TO THE PURCHASING DIVISION, AND A THIRD COPY RETAINED BY THE SPENDING UNIT.</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> <p>THE TERMS AND CONDITIONS CONTAINED IN THIS CONTRACT SHALL SUPERSEDE ANY AND ALL SUBSEQUENT TERMS AND CONDITIONS WHICH MAY APPEAR ON ANY ATTACHED PRINTED DOCUMENTS SUCH AS PRICE LISTS, ORDER FORMS, SALES AGREEMENTS OR MAINTENANCE AGREEMENTS, INCLUDING ANY ELECTRONIC MEDIUM SUCH AS CD-ROM.</p> <p>EXHIBIT 6 PRICE ADJUSTMENT PROVISION: THE STATE OF WEST VIRGINIA WILL CONSIDER BIDS THAT CONTAIN PROVISIONS FOR PRICE ADJUSTMENTS PRIOR TO THE ORIGINAL EXPIRATION OF THE CONTRACT, PROVIDED THAT SUCH</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>[Signature]</i>	TELEPHONE (304) 465-0941	DATE 7/19/10
TITLE President	FEIN 55-0697700	ADDRESS CHANGES TO BE NOTED ABOVE

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4

ADDRESS CORRESPONDENCE TO ATTENTION OF
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VENDOR
 RFQ COPY
 TYPE NAME/ADDRESS HERE
 Eagle Carbon INC.
 PO Box 187
 Lochgelly WV 25866

SHIP TO
 ENVIRONMENTAL PROTECTION
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<p>PRICE ADJUSTMENT COVERS BOTH UPWARD AND DOWNWARD MOVEMENT OF THE COMMODITY PRICE, AND THAT ADJUSTMENT IS BASED ON THE "PASS THROUGH" INCREASE OR DECREASE OF RAW MATERIALS AND/OR LABOR, WHICH MAKE UP ALL OR A SUBSTANTIAL PART OF A PRODUCT. ADJUSTMENTS ARE TO BE BASED UPON AN ACTUAL DOLLAR FIGURE, NOT A PERCENTAGE. ALL PRICE ADJUSTMENT REQUESTS MUST BE SUBSTANTIATED IN A MANNER ACCEPTABLE TO THE DIRECTOR PURCHASING, E.G. GOVERNMENTAL BENCH MARKS, GENERAL MARKET INCREASE, PUBLISHED PRICE LISTS. SUCH REQUESTS FOR AND INCREASE SHOULD BE RECEIVED IN WRITING BY THE DIRECTOR OF PURCHASING AT LEAST 30 DAYS IN ADVANCE OF THE EFFECTIV DATE OF THE INCREASE. ANY TIME THE VENDOR REQUESTS A PRICE ADJUSTMENT, THE PURCHASING DIVISION MAY EITHER ACCEPT THE PRICE ADJUSTMENT AND AMEND THE CONTRACT ACCORDINGLY OR REJECT THE ADJUSTMENT IN ITS ENTIRETY AND CANCEL THE CONTRACT.</p> <p>PREFERRED TERMS: IT IS PREFERRED THAT THE PRICES ON THIS CONTRACT ARE FIRM FOR LIFE OF THE CONTRACT, AS INDICATED IN THE LIFE OF CONTRACT CLAUSE CONTAINED HEREIN, NOT TO EXCEED ONE (1) YEAR.</p> <p>NOTICE</p> <p>AN ORIGINAL, SIGNED BID MUST BE SUBMITTED TO:</p> <p>DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION BUILDING 15 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25305-0130</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>Lucas...</i>	TELEPHONE (304) 465-0941	DATE 7/19/10
TITLE President	FEIN 55-0697700	ADDRESS CHANGES TO BE NOTED ABOVE



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PAGE
5

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

PROPERTY

RFQ COPY
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Eagle Carbon Inc.
 PO Box 187
 Lochgelly WV 25866

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LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
BID MUST CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPE OR THE BID MAY NOT BE CONSIDERED: SEALED BID BUYER: CB-23 REQ. NO.: DEP15073 BID OPENING DATE: 08/19/2010 BID OPENING TIME: 1:30 PM PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID: <div style="text-align: right;">304-465-5807</div> <hr/> CONTACT PERSON (PLEASE PRINT CLEARLY): <div style="text-align: center;">TODD A. DEAN</div> <hr/> ***** THIS IS THE END OF RFQ DEP15073 ***** TOTAL: _____						

SIGNATURE <i>Todd A. Dean</i>			SEE REVERSE SIDE FOR TERMS AND CONDITIONS		
TITLE President		FEIN 55-0697700	TELEPHONE (304) 465-0941	DATE 7/19/10	
ADDRESS CHANGES TO BE NOTED ABOVE					

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BUYER CB-23	PAGE	REQ. OR PO NO. DEP15073
SPENDING UNIT WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION/SPECIAL RECLAMATION		

WV-36a STATE OF WEST VIRGINIA
Rev. 1/29/02 PURCHASING CONTINUATION SHEET
VENDOR:

As on-site supplies of the lime are depleted, it is necessary to order and receive additional quantities to maintain an adequate supply on site at all times. The contractor shall be responsible for acquiring and making delivery of the lime to the sites. The sites are in remote areas. The roads are passable, but during inclement weather conditions, passage is sometimes difficult. Delivery will be required during all weather conditions and on a seventy-two (72) hour notice.

The acquisition and utilization of all reasonable and necessary equipment, licenses, permits, specialized equipment, etc. will be the exclusive responsibility of the vendor.

Vendor to provide a price per ton for bulk deliveries in partial loads of one (1) to five (5) tons, five point one (5.1) to nineteen point nine (19.9) tons, and full loads of 20 tons plus, which may be split.

Bulk amounts will be delivered to locations as determined by a representative of the Department of Environmental Protection and mechanically off loaded into water treatment silos. Silos can be filled pneumatically by piping or placed through door on top of silo.

GRANULATED LIME SPECIFICATIONS

1. GRANULATED BURNT LIME
2. ONE (1) TO FORTY (40) TON BULK DELIVERIES
3. 94 - 95% CAO
4. LESS THAN 1.0% LOSS ON IGNITION
5. LESS THAN 1.5% MOISTURE
6. SIZE GENERALLY 1/8 TO 1/4 INCH

HYDRATED LIME SPECIFICATIONS

CHEMISTRY

Available CaO - 71.63%	Sulphur - 0.032%
Ca(OH) ₂ - 98.3%	
Mg(OH) ₂ - 0.33%	LOI - 24.0%
Al ₂ O ₃ - 0.19%	GRIT - 2.45%
Fe ₂ O ₃ - 0.05%	Neutralization Value - 132
SiO ₂ - 0.45%	Moisture 1.7%

GRADATION

<u>SIZING</u>	<u>PERCENTAGE PASSING</u>
40 MESH	100%
100 MESH	98.3%
200 MESH	88.4%
325 MESH	83.1%

DENSITY - 33.3 LBS/FT³ OR 0.45 TONS/YD³

BUYER CB-23	PAGE	REQ. OR PO NO. DEP15073
SPENDING UNIT WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION/SPECIAL RECLAMATION		

WV-36a STATE OF WEST VIRGINIA
Rev. 1/29/02 PURCHASING CONTINUATION SHEET
VENDOR:

CONTRACTUAL INFORMATION & REQUIREMENTS

Article 1 - STATEMENT OF WORK

The Contractor shall furnish CaO or Ca(OH)₂ and all personnel and equipment necessary to deliver CaO or Ca(OH)₂ to water treatment sites as directed by a representative of the Department of Environmental Protection.

Article 2 - LOCATION OF WORK-SOUTH

The area of work shall include the Southern Counties of West Virginia. The counties listed below are the coal producing counties and those in parenthesis represent where most of the work required in this contract is located.

- | | |
|-----------------|---------------|
| 1. (Greenbrier) | 5. (Nicholas) |
| 2. Summers | 6. Fayette |
| 3. (Raleigh) | 7. Mercer |
| 4. McDowell | 8. Wyoming |

Article 4 - ORDERING PROCEDURE

- A. This is an open end quantity contract for the services specified and for the period set forth herein. Delivery or performance shall be made in accordance with the provisions of this contract.
- B. Work will be ordered by the Director or his representative, for the Division of Land Restoration, West Virginia Department of Environmental Protection by issuance of a work directive, which shall include the name of the project site, and the quantity of CaO or Ca(OH)₂ to be delivered. The contractor shall acknowledge receipt by signing, dating and forwarding back to the Director a copy of the work directive.

Article 5 - DELIVERY

- A. The contractor shall acquire and deliver the specified quantity of CaO or Ca(OH)₂ in accordance to each work directive. The contractor shall give an invoice to the Department of Environmental Protection representative upon completion of work directives.

Article 6 - GENERAL CONDITIONS

- A. The contractor shall be responsible for paying and/or securing all taxes, permits, fees, insurance liability, compensations, and any other items necessary to render the owner free and harmless from all claims arising from services performed under this contract.
- B. The contractor shall take steps required to ensure equal opportunity for employment in accordance with policies promulgated by the Presidents Committee on Equal Opportunity.

BUYER CB-23	PAGE	REQ. OR PO NO. DEP15073
SPENDING UNIT		
WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION/SPECIAL RECLAMATION		

WV-36a STATE OF WEST VIRGINIA
Rev. 1/29/02 PURCHASING CONTINUATION SHEET

VENDOR:

- C. The State shall be responsible for obtaining all rights of entry for each project, if needed.
- D. The work and services to be performed under this contract shall be subject to continual monitoring and inspection by the State's authorized representative, such inspection will, among other things ensure technical compliance.
- E. In accomplishment of services to fulfill the requirements of the work directive, neither contractor nor his subcontractor shall create any adverse environmental effects and shall be responsible for compliance with all applicable local, state, and federal environmental and occupational health and safety regulations pertinent to the work.

Article 7 - COSTS AND PAYMENTS

- A. Payment to the contractor will be made on the following basis:
1. Unit Pricing
 - Item - As directed by the State in specific work directive.
 - Quantity - As directed in the Work Directive.
 - Unit Price - As provided by the Offeror in the proposal.
- B. The contractor shall invoice on specified DEP forms to the division after delivery as specified in the work directive and the delivery is accepted by the division. All invoices shall show the quantities and unit price as directed in the work directive and include verification. More than one work directive can be billed on the same invoice.

Article 8 - CHANGES IN THE CONTRACT

- A. The State, without invalidating the contract, may order changes in the work within the general scope of the contract consisting of additions, deletions, or other revisions, all such changes in the work shall be authorized by a change order, a change order signed by both the State and Offeror indicates their agreement to an adjustment to the contract. The cost or credit to the State resulting from a change in the work shall be determined in one or more of the following ways:
- 1) By mutual acceptance of a lump sum properly documented (itemized)
 - 2) By unit prices (negotiated)

State of West Virginia
VENDOR PREFERENCE CERTIFICATE

Certification and application* is hereby made for Preference in accordance with *West Virginia Code*, §5A-3-37. (Does not apply to construction contracts). *West Virginia Code*, §5A-3-37, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the *West Virginia Code*. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Resident Vendor Preference, if applicable.

- 1. Application is made for 2.5% resident vendor preference for the reason checked:
 Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; or,
 Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or 80% of the ownership interest of Bidder is held by another individual, partnership, association or corporation resident vendor who has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or,
 Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; or,
- 2. Application is made for 2.5% resident vendor preference for the reason checked:
 Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,
- 3. Application is made for 2.5% resident vendor preference for the reason checked:
 Bidder is a nonresident vendor employing a minimum of one hundred state residents or is a nonresident vendor with an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia employing a minimum of one hundred state residents who certifies that, during the life of the contract, on average at least 75% of the employees or Bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,
- 4. Application is made for 5% resident vendor preference for the reason checked:
 Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; or,
- 5. Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:
 Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; or,
- 6. Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:
 Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) reject the bid; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

Under penalty of law for false swearing (*West Virginia Code*, §61-5-3), Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.

Bidder: Eagle Carbon Inc. Signed: Todd A. Dean
Date: 7/19/10 Title: President

*Check any combination of preference consideration(s) indicated above, which you are entitled to receive.

RFQ No. DEP15073

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 owned 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 exceed 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: Eagle Carbon Inc.

Authorized Signature: *[Signature]* Date: 7/19/10

State of WV

County of Fayette, to-wit:

Taken, subscribed, and sworn to before me this 19 day of July, 2010.

My Commission expires July 14, 2014.

NOTARY PUBLIC *[Signature]*

AFFIX SEAL HERE

