



Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
 Charleston, WV 25305-0130

**State of West Virginia**  
**Request for Quotation**  
**32 - Reclamation**

Proc Folder: 96019

Doc Description: Addendum 01: Wolfpen (Carpenter) Portals - DEP17209

Proc Type: Central Purchase Order

Date Issued	Solicitation Closes	Solicitation No	Version
2015-08-10	2015-09-08 13:30:00	CRFQ 0313 DEP1600000001	2

**BID RECEIVING LOCATION**

BID CLERK  
 DEPARTMENT OF ADMINISTRATION  
 PURCHASING DIVISION  
 2019 WASHINGTON ST E  
 CHARLESTON WV 25305  
 US

**VENDOR**

Vendor Name, Address and Telephone Number:

**Thaxton Construction Co., Inc. of Sissonville**  
 P.O. Box 13279  
 Charleston, WV 25360  
 (304)984-2299

09/08/15 13:21:38  
 WV Purchasing Division

**FOR INFORMATION CONTACT THE BUYER**

Beth Collins  
 (304) 558-2157  
 beth.a.collins@wv.gov

Signature X

*Kelley D. Thaxton*

FEIN # 55-0743840

DATE 9/8/2015

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

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON WV25304 US		ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	Mobilization & Demobilization	1.00000	LS	1,000.00	1,000.00

Comm Code	Manufacturer	Specification	Model #
77111603			

**Extended Description :**  
(Cannot be more than 10% of Total Amount Bid)

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON WV25304 US		ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
2	Construction Layout Stakes	1.00000	LS	1,000.00	1,000.00

Comm Code	Manufacturer	Specification	Model #
77111603			

**Extended Description :**  
(Cannot be more than 5% of Total Amount Bid)

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON WV25304 US		ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
3	Quality Control	1.00000	LS	1,000.00	1,000.00

Comm Code	Manufacturer	Specification	Model #
77111603			

**Extended Description :**

(Cannot be more than 3% of Total Amount Bid)

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON US	WV25304	ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON US	WV 25304

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
4	Site Preparation	1.00000	LS	9,650.00	9,650.00

Comm Code	Manufacturer	Specification	Model #
77111603			

**Extended Description :**

(Cannot be more than 10% of Total Amount Bid)

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON US	WV25304	ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON US	WV 25304

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
5	Access Road Rehabilitation	1000.00000	TON	20.00	20,000.00

Comm Code	Manufacturer	Specification	Model #
77111603			

**Extended Description :**

Access Road Rehabilitation

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON WV25304 US		ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
6	Silt Fence	3000.00000	LF	1.00	3,000.00

Comm Code	Manufacturer	Specification	Model #
77111603			

**Extended Description :**  
Silt Fence

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON WV25304 US		ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
7	Stabilized Construction Entrance	1.00000	EA	80,000.00	80,000.00

Comm Code	Manufacturer	Specification	Model #
77111603			

**Extended Description :**  
Stabilized Construction Entrance

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON WV25304 US		ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
8	Revegetation (per plan view acre)	12.00000	ACRE	500.00	6,000.00

Comm Code	Manufacturer	Specification	Model #
77111603			

**Extended Description :**  
Revegetation (per plan view acre)

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON US	WV25304	ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON US	WV 25304

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
9	Type I, 2-Ft. Deep Riprap Lined Channel	200.00000	LF	30.00	6,000.00

Comm Code	Manufacturer	Specification	Model #
77111603			

**Extended Description :**  
Type I, 2-Ft. Deep Riprap Lined Channel

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON US	WV25304	ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON US	WV 25304

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
10	Type 2, 2-foot Deep Grouted Riprap Lined Channel	275.00000	LF	50.00	13,750.00

Comm Code	Manufacturer	Specification	Model #
77111603			

**Extended Description :**  
Type 2, 2-foot Deep Grouted Riprap Lined Channel

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON WV25304 US		ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
11	12-inch CPP	80.00000	LF	40.00	3,200.00

Comm Code	Manufacturer	Specification	Model #
77111603			

Extended Description :  
12-inch CPP

INVOICE TO		SHIP TO	
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
12	4' x 4' Splash Pad	21.00000	EA	500.00	10,500.00

Comm Code	Manufacturer	Specification	Model #
77111603			

Extended Description :  
4' x 4' Splash Pad

INVOICE TO		SHIP TO	
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
13	Wet/Modified Mine Seal	15.00000	EA	4,000.00	60,000.00

Comm Code	Manufacturer	Specification	Model #
77111603			

**Extended Description :**

Wet/Modified Mine Seal

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON US	WV25304	ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON US	WV 25304

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
14	Single Bat Gate Mine Seal	4.00000	EA	8,000.00	32,000.00

Comm Code	Manufacturer	Specification	Model #
77111603			

**Extended Description :**

Single Bat Gate Mine Seal

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON US	WV25304	ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON US	WV 25304

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
15	Dry Mine Seal	5.00000	EA	3,000.00	15,000.00

Comm Code	Manufacturer	Specification	Model #
77111603			

**Extended Description :**

Dry Mine Seal

INVOICE TO		SHIP TO	
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
16	Soda Ash Briquettes (per 50 pound bag)	900.00000	EA	1.00	900.00

Comm Code	Manufacturer	Specification	Model #
77111603			

**Extended Description :**

Soda Ash Briquettes (per 50 pound bag)

INVOICE TO		SHIP TO	
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
17	8-inch Underdrain	500.00000	LF	20.00	10,000.00

Comm Code	Manufacturer	Specification	Model #
77111603			

**Extended Description :**

8-inch Underdrain

INVOICE TO		SHIP TO	
ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON WV25304 US		ENVIRONMENTAL PROTECTION OFFICE OF AML&R 601 57TH ST SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
18	8-inch Conveyance Pipe	300.00000	LF	20.00	6,000.00



Comm Code	Manufacturer	Specification	Model #
77111603			

**Extended Description :**  
8-inch Conveyance Pipe

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**ADDITIONAL TERMS AND CONDITIONS**

See attached document(s) for additional Terms and Conditions

## INSTRUCTIONS TO VENDORS SUBMITTING BIDS

1. **REVIEW DOCUMENTS THOROUGHLY:** The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor's bid.
2. **MANDATORY TERMS:** The Solicitation may contain mandatory provisions identified by the use of the words "must," "will," and "shall." Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.
3. **PREBID MEETING:** The item identified below shall apply to this Solicitation.

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

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

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

July 23, 2015 at 10:00 AM, EST

From Charleston, WV, take I-77 N to the Tupper's Creek Exit (Exit 111). Turn left on Call Road (CR 29) and continue 1.3 miles to Sissonville Drive (CR 21). Turn left on Sissonville Drive, go 0.2 mile, turn left again on Wolfpen Drive (CR 24). Turn right, cross the bridge, and continue 1.0 mile to Antique Road. Turn right on Antique Road and continue 0.1 mile to a farm gate.

The Pre-Bid Conference will start near the farm gate.

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No one person attending the pre-bid meeting may represent more than one Vendor.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. The State will not accept any other form of proof or documentation to verify attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing. Additionally, the person attending the pre-bid meeting should include the Vendor's E-Mail address, phone number, and Fax number on the attendance sheet. It is the Vendor's responsibility to locate the attendance sheet and provide the required information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

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

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

4. **VENDOR QUESTION DEADLINE:** Vendors may submit questions relating to this Solicitation to the Purchasing Division. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the address listed below in order to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are non-binding. Submitted e-mails should have solicitation number in the subject line.

Question Submission Deadline: July 27, 2015 at 5:00PM, EST

Submit Questions to: Beth A. Collins, Senior Buyer  
2019 Washington Street, East  
Charleston, WV 25305  
Fax: (304) 558-4115 (Vendors should not use this fax number for bid submission)  
Email: beth.a.collins@wv.gov

5. **VERBAL COMMUNICATION:** Any verbal communication between the Vendor and any State personnel is not binding, including verbal communication at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Division is binding.
6. **BID SUBMISSION:** All bids must be submitted electronically through wvOASIS or signed and delivered by the Vendor to the Purchasing Division at the address listed below on or before the date and time of the bid opening. Any bid received by the Purchasing Division staff is considered to be in the possession of the Purchasing Division and will not be returned for any reason. The Purchasing Division will not accept bids, modification of bids, or addendum acknowledgment forms via e-mail. Acceptable delivery methods include electronic submission via wvOASIS, hand delivery, delivery by courier, or facsimile. The bid delivery address is:

Department of Administration, Purchasing Division  
2019 Washington Street East  
Charleston, WV 25305-0130

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

SEALED BID:  
BUYER:  
SOLICITATION NO.:  
BID OPENING DATE:  
BID OPENING TIME:  
FAX NUMBER:

In the event that Vendor is responding to a request for proposal, and chooses to respond in a manner other than by electronic submission through wvOASIS, the Vendor shall submit one original technical and one original cost proposal plus convenience copies of each to the Purchasing Division at the address shown above. Additionally, if Vendor does not submit its bid through wvOASIS, the Vendor should identify the bid type as either a technical or cost proposal on the face of each bid envelope submitted in response to a request for proposal as follows:

BID TYPE: (This only applies to CRFP)

Technical

Cost

7. **BID OPENING:** Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when confirmation of delivery is provided by wvOASIS (in the case of electronic submission) or when the bid is time stamped by the official Purchasing Division time clock (in the case of hand delivery).

Bid Opening Date and Time: September 2, 2015 at 1:30PM, EST  
Bid Opening Location: Department of Administration, Purchasing Division  
2019 Washington Street East  
Charleston, WV 25305-0130

8. **ADDENDUM ACKNOWLEDGEMENT:** Changes or revisions to this Solicitation will be made by an official written addendum issued by the Purchasing Division. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

9. **BID FORMATTING:** Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.
10. **ALTERNATES:** Any model, brand, or specification listed in this Solicitation establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.
11. **EXCEPTIONS AND CLARIFICATIONS:** The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.
12. **COMMUNICATION LIMITATIONS:** In accordance with West Virginia Code of State Rules §148-1-6.6, communication with the State of West Virginia or any of its employees regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited without prior Purchasing Division approval. Purchasing Division approval for such communication is implied for all agency delegated and exempt purchases.
13. **REGISTRATION:** Prior to Contract award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the \$125 fee, if applicable.
14. **UNIT PRICE:** Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.
15. **PREFERENCE:** Vendor Preference may only be granted upon written request and only in accordance with the West Virginia Code § 5A-3-37 and the West Virginia Code of State Rules. A Vendor Preference Certificate form has been attached hereto to allow Vendor to apply for the preference. Vendor's failure to submit the Vendor Preference Certificate form with its bid will result in denial of Vendor Preference. Vendor Preference does not apply to construction projects.
16. **SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES:** For any solicitations publicly advertised for bid, in accordance with West Virginia Code §5A-3-37(a)(7) and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the

same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to contract award to receive the preferences made available to resident vendors. Preference for a non-resident small, women-owned, or minority owned business shall be applied in accordance with W. Va. CSR § 148-22-9.

**17. WAIVER OF MINOR IRREGULARITIES:** The Director reserves the right to waive minor irregularities in bids or specifications in accordance with West Virginia Code of State Rules § 148-1-4.6.

**18. ELECTRONIC FILE ACCESS RESTRICTIONS:** Vendor must ensure that its submission in wvOASIS can be accessed by the Purchasing Division staff immediately upon bid opening. The Purchasing Division will consider any file that cannot be immediately opened and/or viewed at the time of the bid opening (such as, encrypted files, password protected files, or incompatible files) to be blank or incomplete as context requires, and are therefore unacceptable. A vendor will not be permitted to unencrypt files, remove password protections, or resubmit documents after bid opening if those documents are required with the bid.

## GENERAL TERMS AND CONDITIONS:

1. **CONTRACTUAL AGREEMENT:** Issuance of a Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.
  
2. **DEFINITIONS:** As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.
  - 2.1. **"Agency" or "Agencies"** means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.
  - 2.2. **"Contract"** means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.
  - 2.3. **"Director"** means the Director of the West Virginia Department of Administration, Purchasing Division.
  - 2.4. **"Purchasing Division"** means the West Virginia Department of Administration, Purchasing Division.
  - 2.5. **"Award Document"** means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the contract holder.
  - 2.6. **"Solicitation"** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.
  - 2.7. **"State"** means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.
  - 2.8. **"Vendor" or "Vendors"** means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.



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

**Term Contract**

**Initial Contract Term:** This Contract becomes effective on \_\_\_\_\_ and extends for a period of \_\_\_\_\_ year(s).

**Renewal Term:** This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be submitted to the Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Renewal of this Contract is limited to \_\_\_\_\_ successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed \_\_\_\_\_ months in total. Automatic renewal of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases. Attorney General approval may be required for vendor terms and conditions.

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

**Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within \_\_\_\_\_<sup>365</sup> days.

**Fixed Period Contract with Renewals:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within \_\_\_\_\_ days. Upon completion, the vendor agrees that maintenance, monitoring, or warranty services will be provided for one year thereafter with an additional \_\_\_\_\_ successive one year renewal periods or multiple renewal periods of less than one year provided that the multiple renewal periods do not exceed \_\_\_\_\_ months in total. Automatic renewal of this Contract is prohibited.

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

**Other:** See attached.

4. **NOTICE TO PROCEED:** Vendor shall begin performance of this Contract immediately upon receiving notice to proceed unless otherwise instructed by the Agency. Unless otherwise specified, the fully executed Award Document will be considered notice to proceed.
5. **QUANTITIES:** The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.
- Open End Contract:** Quantities listed in this Solicitation are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.
- Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.
- Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.
- One Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.
6. **PRICING:** The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification.
7. **EMERGENCY PURCHASES:** The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute of breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.
8. **REQUIRED DOCUMENTS:** All of the items checked below must be provided to the Purchasing Division by the Vendor as specified below.

**BID BOND:** All Vendors shall furnish a bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

**PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of 100%. The performance bond must be received by the Purchasing Division prior to Contract award. On construction contracts, the performance bond must be 100% of the Contract value.

**LABOR/MATERIAL PAYMENT BOND:** The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be delivered to the Purchasing Division prior to Contract award.

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under \$100,000. Personal or business checks are not acceptable.

**MAINTENANCE BOND:** The apparent successful Vendor shall provide a two (2) year maintenance bond covering the roofing system. The maintenance bond must be issued and delivered to the Purchasing Division prior to Contract award.

**INSURANCE:** The apparent successful Vendor shall furnish proof of the following insurance prior to Contract award and shall list the state as a certificate holder:

**Commercial General Liability Insurance:** In the amount of \_\_\_\_\_  
\$2,000,000.00 or more.

**Builders Risk Insurance:** In an amount equal to 100% of the amount of the Contract.

\$2,000,000.00 Aggregate

\$2,000,000.00 Automobile Liability

The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed above.

**LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section entitled Licensing, of the General Terms and Conditions, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits prior to Contract award, in a form acceptable to the Purchasing Division.

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

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

**10. LITIGATION BOND:** The Director reserves the right to require any Vendor that files a protest of an award to submit a litigation bond in the amount equal to one percent of the lowest bid submitted or \$5,000, whichever is greater. The entire amount of the bond shall be forfeited if the hearing officer determines that the protest was filed for frivolous or improper purpose, including but not limited to, the purpose of harassing, causing unnecessary delay, or needless expense for the Agency. All litigation bonds shall be made payable to the Purchasing Division. In lieu of a bond, the protester may submit a cashier's check or certified check payable to the Purchasing Division. Cashier's or certified checks will be deposited with and held by the State Treasurer's office. If it is determined that the protest has not been filed for frivolous or improper purpose, the bond or deposit shall be returned in its entirety.

**11. LIQUIDATED DAMAGES:** Vendor shall pay liquidated damages in the amount of Two hundred fifty dollars (\$250.00) per day for each day of delay.

This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy.

- 12. ACCEPTANCE/REJECTION:** The State may accept or reject any bid in whole, or in part. Vendor's signature on its bid signifies acceptance of the terms and conditions contained in the Solicitation and Vendor agrees to be bound by the terms of the Contract, as reflected in the Award Document, upon receipt.
- 13. FUNDING:** This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available.
- 14. PAYMENT:** Payment in advance is prohibited under this Contract. Payment may only be made after the delivery and acceptance of goods or services. The Vendor shall submit invoices, in arrears.
- 15. TAXES:** The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
- 16. CANCELLATION:** The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-7.16.2.
- 17. TIME:** Time is of the essence with regard to all matters of time and performance in this Contract.
- 18. APPLICABLE LAW:** This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.
- 19. COMPLIANCE:** Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable law.
- 20. PREVAILING WAGE:** On any contract for the construction of a public improvement whose cost at the time the contract is awarded will be paid with public money in an amount greater than \$500,000, Vendor and any subcontractors utilized by Vendor shall pay a rate or rates of wages which shall not be less than the fair minimum rate or rates of wages (prevailing wage), as established under West Virginia Code §§ 21-5A-1 et seq. Vendor shall

be responsible for ensuring compliance with prevailing wage requirements and determining when prevailing wage requirements are applicable.

- 21. ARBITRATION:** Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.
- 22. MODIFICATIONS:** This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary, no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). No Change shall be implemented by the Vendor until such time as the Vendor receives an approved written change order from the Purchasing Division.
- 23. WAIVER:** The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.
- 24. SUBSEQUENT FORMS:** The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.
- 25. ASSIGNMENT:** Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments. Notwithstanding the foregoing, Purchasing Division approval may or may not be required on certain agency delegated or exempt purchases.
- 26. WARRANTY:** The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.
- 27. STATE EMPLOYEES:** State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.
- 28. BANKRUPTCY:** In the event the Vendor files for bankruptcy protection, the State of West Virginia may deem this Contract null and void, and terminate this Contract without notice.

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

**30. DISCLOSURE:** Vendor's response to the Solicitation and the resulting Contract are considered public documents and will be disclosed to the public in accordance with the laws, rules, and policies governing the West Virginia Purchasing Division. Those laws include, but are not limited to, the Freedom of Information Act found in West Virginia Code §§ 29B-1-1 et seq. and the competitive bidding laws found West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq.

If a Vendor considers any part of its bid to be exempt from public disclosure, Vendor must so indicate by specifically identifying the exempt information, identifying the exemption that applies, providing a detailed justification for the exemption, segregating the exempt information from the general bid information, and submitting the exempt information as part of its bid but in a segregated and clearly identifiable format. Failure to comply with the foregoing requirements will result in public disclosure of the Vendor's bid without further notice. A Vendor's act of marking all or nearly all of its bid as exempt is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor's act of marking a bid or any part thereof as "confidential" or "proprietary" is not sufficient to avoid disclosure and WILL NOT BE HONORED. A legend or other statement indicating that all or substantially all of the bid is exempt from disclosure is not sufficient to avoid disclosure and WILL NOT BE HONORED. Additionally, pricing or cost information will not be considered exempt from disclosure and requests to withhold publication of pricing or cost information WILL NOT BE HONORED.

Vendor will be required to defend any claimed exemption for nondisclosure in the event of an administrative or judicial challenge to the State's nondisclosure. Vendor must indemnify the State for any costs incurred related to any exemptions claimed by Vendor. Any questions regarding the applicability of the various public records laws should be addressed to your own legal counsel prior to bid submission.

**31. LICENSING:** In accordance with West Virginia Code of State Rules §148-1-6.1.7, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

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

**33. VENDOR CERTIFICATIONS:** By signing its bid or entering into this Contract, Vendor certifies (1) that its bid or offer was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid or offer for the same material, supplies, equipment or services; (2) that its bid or offer is in all respects fair and without collusion or fraud; (3) that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; and (4) that it has reviewed this Solicitation in its entirety; understands the requirements, terms and conditions, and other information contained herein. Vendor's signature on its bid or offer also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency. The individual signing this bid or offer on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or offer or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

**34. PURCHASING CARD ACCEPTANCE:** The State of West Virginia currently utilizes a Purchasing Card program, administered under contract by a banking institution, to process payment for goods and services. The Vendor must accept the State of West Virginia's Purchasing Card for payment of all orders under this Contract unless the box below is checked.

Vendor is not required to accept the State of West Virginia's Purchasing Card as payment for all goods and services.

**35. VENDOR RELATIONSHIP:** The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but



not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing. Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

- 36. INDEMNIFICATION:** The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.
- 37. PURCHASING AFFIDAVIT:** In accordance with West Virginia Code § 5A-3-10a, all Vendors are required to sign, notarize, and submit the Purchasing Affidavit stating that neither the Vendor nor a related party owe a debt to the State in excess of \$1,000. The affidavit must be submitted prior to award, but should be submitted with the Vendor's bid. A copy of the Purchasing Affidavit is included herewith.
- 38. ADDITIONAL AGENCY AND LOCAL GOVERNMENT USE:** This Contract may be utilized by and extends to other agencies, spending units, and political subdivisions of the State of West Virginia; county, municipal, and other local government bodies; and school districts ("Other Government Entities"). This Contract shall be extended to the aforementioned Other Government Entities on the same prices, terms, and conditions as those offered and agreed to in this Contract. If the Vendor does not wish to extend the prices, terms, and conditions of its bid and subsequent contract to the Other Government Entities, the Vendor must clearly indicate such refusal in its bid. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner.
- 39. CONFLICT OF INTEREST:** Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.
- 40. REPORTS:** Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:
- Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

- Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at [purchasing.requisitions@wv.gov](mailto:purchasing.requisitions@wv.gov).

**41. BACKGROUND CHECK:** In accordance with W. Va. Code § 15-2D-3, the Director of the Division of Protective Services shall require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol complex or who have access to sensitive or critical information to submit to a fingerprint-based state and federal background inquiry through the state repository. The service provider is responsible for any costs associated with the fingerprint-based state and federal background inquiry.

After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol complex to the Director of the Division of Protective Services for purposes of verifying compliance with this provision.

The State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check.

Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

**42. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS:** Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open heath, basic oxygen, electric furnace, Bessemer or other steel making process. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
  - c. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater.

For the purposes of this section, the cost is the value of the steel product as delivered to the project; or

- d. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

**43. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL:** In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a "substantial labor surplus area", as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products.

This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

**ADDITIONAL TERMS AND CONDITIONS (Construction Contracts Only)**

1. **CONTRACTOR'S LICENSE:** West Virginia Code § 21-11-2 requires that all persons desiring to perform contracting work in this state be licensed. The West Virginia Contractors Licensing Board is empowered to issue the contractor's license. Applications for a contractor's license may be made by contacting the West Virginia Division of Labor. West Virginia Code § 21-11-11 requires any prospective Vendor to include the contractor's license number on its bid. Failure to include a contractor's license number on the bid shall result in Vendor's bid being disqualified. Vendors should include a contractor's license number in the space provided below.

Contractor's Name: Thaxton Construction Co, Inc.

Contractor's License No. WV025029

The apparent successful Vendor must furnish a copy of its contractor's license prior to the issuance of a Award Document.

2. **DRUG-FREE WORKPLACE AFFIDAVIT:** W. Va. Code § 21-1D-5 provides that any solicitation for a public improvement contract requires each Vendor that submits a bid for the work to submit at the same time an affidavit that the Vendor has a written plan for a drug-free workplace policy. To comply with this law, Vendor must either complete the enclosed drug-free workplace affidavit and submit the same with its bid or complete a similar affidavit that fulfills all of the requirements of the applicable code. Failure to submit the signed and notarized drug-free workplace affidavit or a similar affidavit that fully complies with the requirements of the applicable code, with the bid shall result in disqualification of Vendor's bid. Pursuant to W. Va. Code 21-1D-2(b) and (k), this provision does not apply to public improvement contracts the value of which is \$100,000 or less or temporary or emergency repairs.

2.1. **DRUG-FREE WORKPLACE POLICY:** Pursuant to W. Va. Code § 21-1D-4, Vendor and its subcontractors must implement and maintain a written drug-free workplace policy that complies with said article. The awarding public authority shall cancel this contract if: (1) Vendor fails to implement and maintain a written drug-free workplace policy described in the preceding paragraph, (2) Vendor fails to provide information regarding implementation of its drug-free workplace policy at the request of the public authority; or (3) Vendor provides to the public authority false information regarding the contractor's drug-free workplace policy. Pursuant to W. Va. Code 21-1D-2(b) and (k), this provision does not apply to public improvement contracts the value of which is \$100,000 or less or temporary or emergency repairs.

3. **DRUG FREE WORKPLACE REPORT:** Pursuant to W. Va. Code § 21-1D-7b, no less than once per year, or upon completion of the project, every contractor shall provide a certified report to the public authority which let the contract. For contracts over \$25,000, the

public authority shall be the West Virginia Purchasing Division. For contracts of \$25,000 or less, the public authority shall be the agency issuing the contract. The report shall include:

- (1) Information to show that the education and training service to the requirements of West Virginia Code § 21-1D-5 was provided;
- (2) The name of the laboratory certified by the United States Department of Health and Human Services or its successor that performs the drug tests;
- (3) The average number of employees in connection with the construction on the public improvement;
- (4) Drug test results for the following categories including the number of positive tests and the number of negative tests: (A) Pre-employment and new hires; (B) Reasonable suspicion; (C) Post-accident; and (D) Random.

Vendor should utilize the attached Certified Drug Free Workplace Report Coversheet when submitting the report required hereunder. Pursuant to W. Va. Code 21-1D-2(b) and (k), this provision does not apply to public improvement contracts the value of which is \$100,000 or less or temporary or emergency repairs.

4. **AIA DOCUMENTS:** All construction contracts that will be completed in conjunction with architectural services procured under Chapter 5G of the West Virginia Code will be governed by the AIA A101-2007 and A201-2007 or the A107-2007 documents, as amended by the Supplementary Conditions for the State of West Virginia, in addition to the terms and conditions contained herein.
5. **SUBCONTRACTOR LIST SUBMISSION:** In accordance with W. Va. Code § 5-22-1, The apparent low bidder on a contract for the construction, alteration, decoration, painting or improvement of a new or existing building or structure valued at more than \$250,000.00 shall submit a list of all subcontractors who will perform more than \$25,000.00 of work on the project including labor and materials. This provision shall not apply to any other construction projects, such as highway, mine reclamation, water or sewer projects. Additionally, if no subcontractors who will perform more than \$25,000.00 of work are to be used to complete the project, it will be noted on the subcontractor list.
  - a. Required Information. The subcontractor list shall contain the following information:
    - i. Bidder's name
    - ii. Name of each subcontractor
    - iii. License numbers as required by W. Va. Code § 21-11-1 et. seq.
    - iv. Notation that no subcontractor will be used to perform more than \$25,000.00 of work, when applicable
  - b. Submission. The completed subcontractor list shall be provided to the Purchasing Division within one business day of the opening of bids for review. Failure to submit the subcontractor

list within one business day after the deadline for submitting bids shall result in disqualification of the bid.

c. Substitution of Subcontractor. Written approval must be obtained from the State Spending Unit before any subcontractor substitution is permitted. Substitutions are not permitted unless:

- i. The subcontractor listed in the original bid has filed for bankruptcy;
- ii. The subcontractor in the original bid has been debarred or suspended; or
- iii. The contractor certifies in writing that the subcontractor listed in the original bill fails, is unable, or refuses to perform his subcontract.

**6. GREEN BUILDINGS MINIMUM ENERGY STANDARDS:** In accordance with § 22-29-4, all new building construction projects of public agencies that have not entered the schematic design phase prior to July 1, 2012, or any building construction project receiving state grant funds and appropriations, including public schools, that have not entered the schematic design phase prior to July 1, 2012, shall be designed and constructed complying with the ICC International Energy Conservation Code, adopted by the State Fire Commission, and the ANSI/ASHRAE/IESNA Standard 90.1-2007: Provided, That if any construction project has a commitment of federal funds to pay for a portion of such project, this provision shall only apply to the extent such standards are consistent with the federal standards.

**WEST VIRGINIA**  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**OFFICE OF ABANDONED MINE LANDS**  
**AND RECLAMATION**

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**COUNTY**  
**OF**  
**KANAWHA**

---

**NAME OF PROJECT**  
**WOLFPEN (CARPENTER) PORTALS**

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**NOTICE**

**ALL PAPERS BOUND WITH OR ATTACHED TO**  
**THE BID FORM ARE A NECESSARY PART**  
**THEREOF AND MUST NOT BE DETACHED**

**PROJECT SPECIFICATION BOOK**

**INDEX**

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**ARTICLE I - DEFINITIONS**

## ARTICLE I - DEFINITIONS

- 1.0 "Bidder" refers to the person, firm, or company offering to furnish the work called for by the specifications herein.
- 2.0 "Chief" shall mean the Chief of the West Virginia Department of Environmental Protection's, Office of Abandoned Mine Lands & Reclamation.
- 3.0 "Regional Engineer" refers to the head of the Construction Group of the Office of Abandoned Mine Lands & Reclamation of the West Virginia Department of Environmental Protection in each regional office.
- 4.0 "Construction Supervisor" refers to the regional supervisor of the West Virginia Department of Environmental Protection, Office of Abandoned Mine Lands & Reclamation Construction Inspectors.
- 5.0 "Contract" refers to a purchase order placed by the West Virginia Department of Administration on behalf of the Department of Environmental Protection and accepted by the Contractor together with these specifications and all other documents incorporated therein by reference.
- 6.0 "Contract Documents" consist of all of the articles, sections, and attachments to the contract, including Information for Bidders, General Conditions, General Requirements, Special Conditions, drawings, specifications, all addenda issued prior to execution of the contract, and change orders and other written modifications issued after execution of the contract and executed by both parties to the contract.
- 7.0 "Contractor" refers to the person, firm or company contracting with the West Virginia Department of Environmental Protection to furnish the work called for in the contract.
- 8.0 "Cabinet Secretary" refers to the Cabinet Secretary of the West Virginia Department of Environmental Protection.
- 9.0 "DEP" means the West Virginia Department of Environmental Protection.
- 10.0 "Design Engineer" shall mean the representative of the Office of Abandoned Mine Lands & Reclamation's Engineering Section or the Architect/Engineering consulting firm, whichever designed the project.
- 11.0 "Inspector" shall refer to DEP's Inspector, who monitors all construction operations at the project site.
- 12.0 "Project" shall mean the Abandoned Mine Lands Project described and referred to by the specifications herein.
- 13.0 "Sub-contractor" refers to the person, firm or company contracting directly with the Contractor and not with DEP to furnish the Contractor with any portion of the work called for by the contract.

## ARTICLE I - DEFINITIONS

- 14.0 "Work" shall be understood to mean and include any and all of the labor, supervision, services, materials, machinery, equipment, tools, supplies and facilities called for by and required to complete the contract.
- 15.0 "Stabilization Measures" as noted in Section 5.1 Vegetative Practices shall be understood to mean and include any/all measures necessary for preventing erosion & sediment to the project site. This may include seeding and mulching, mulching without seed, silt fence, wattles, check dikes, sumps or any other method required to stabilize a site that work has stopped for a time exceeding fourteen (14) days.

**ARTICLE II - GENERAL CONDITIONS**

## ARTICLE II - GENERAL CONDITIONS

### Sections Included:

- 1.0 Enumeration of Contract Documents
- 2.0 Correlation of Documents
- 3.0 Examination of Premises
- 4.0 Materials & Workmanship
- 5.0 Guarantee & Maintenance
- 6.0 Supervision & Construction Procedures
- 7.0 Permits, Laws, Regulations, & Rights of Entry
- 8.0 Safety Requirements
- 9.0 Protection of Persons & Property
- 10.0 Insurance & Worker's Compensation
- 11.0 Labor Laws, Ordinances, Wages & Other Conditions
- 12.0 Subcontractors
- 13.0 Time
- 14.0 Payments & Completion
- 15.0 Surety Bonds
- 16.0 Changes in the Work
- 17.0 Uncovering & Correction of Work
- 18.0 Assignment of Contract

**ARTICLE II - GENERAL CONDITIONS**

**1.0 ENUMERATION OF CONTRACT DOCUMENTS**

**1.1 Drawings**

Construction drawings (21 sheets) for the reclamation of the project as prepared by for the West Virginia Department of Environmental Protection, Office of Abandoned Mine Lands and Reclamation, 601 57th Street, SE, Charleston, West Virginia 25304-2345, Telephone (304) 926-0485.

**1.2 Specifications**

See Index

**1.3 Addenda**

No. _____	Date _____
No. _____	Date _____
No. _____	Date _____
No. _____	Date _____

**2.0 CORRELATION OF DOCUMENTS**

- 2.1** The intent of the contract documents is to include all labor, materials, equipment, operations and transportation necessary for the proper execution and completion of the work. The contract documents are complementary and what is required by one is required by all.
- 2.2** The Contractor shall carefully study and compare the contract documents and shall at once report to DEP any error, inconsistency or omission it may discover. Contractor shall not proceed with the work affected by such error, inconsistency, or omission until resolved to the satisfaction of itself and DEP.
- 2.3** The drawings and specifications are correlative and shall be accepted and used as a whole and not separately. Should any item be omitted from the drawings and be included in the specifications, and be required to complete the work under the contract, it shall be executed as if shown on both and contained in both; except that it is not intended that items or work not applicable or required be provided unless it is consistent therewith and reasonably inferable therefrom as being necessary to produce the intended results.
- 2.4** In case of disagreement or conflict between drawings and specifications, or inconsistencies, errors, or if omissions be discovered in the drawings and specifications, or if in any part the meaning of either or both shall be considered obscure or uncertain, the Chief or his/her authorized

## ARTICLE II - GENERAL CONDITIONS

representative shall be immediately notified thereof. No work so affected by such circumstances shall proceed until the Chief or his/her authorized representative renders a decision and/or interpretation thereon. Large scale drawing details shall take precedence over drawings of lesser scale. Words and abbreviations which have well known technical or trade meanings are used in the contract documents in accordance with such recognized meanings.

### 3.0 EXAMINATION OF PREMISES

- 3.1 Before submitting proposals for the work, each bidder will be held to have examined the premises and satisfied itself as to the existing conditions under which it will be obliged to operate, or that will in any manner affect the work under the contract. Bidders shall have become familiar with the drawings and specifications and have compared them with existent conditions.
- 3.2 By executing the contract, Contractor represents that it has visited the site, familiarized itself with the local conditions under which the work is to be performed, and correlated its observations with the contract documents. No allowance will subsequently be made by reason of neglect or error on the part of the Contractor for failing to inform itself of the requirements and conditions contained herein.

### 4.0 MATERIALS & WORKMANSHIP

- 4.1 All installed materials and equipment shall be new, and all materials, equipment, and workmanship shall be of kind and type specified, and in all cases, be of good quality. Contractor shall, if required, furnish satisfactory evidence as to kind and quality of its materials, equipment and workmanship.
- 4.2 The Contractor shall provide and pay for all labor, materials, equipment operations, tools, construction equipment, and machinery, transportation, water, heat, utilities, and other facilities and services necessary for the proper execution and completion of the work. The Contractor at all times shall supply sufficient skilled and other labor necessary to adequately fulfill the requirements of the drawings and specifications, and provide for expeditious and practicable execution of the work to its completion.
- 4.3 The installation or application of all devices and materials shall be in accordance with the manufacturer's installation application data, shop drawings and instructions, unless otherwise provided herein.

### 5.0 GUARANTEE & MAINTENANCE

- 5.1 The materials and workmanship affected by the Contractor are subject to the guarantee established by custom of the respective trades. In the absence

## ARTICLE II - GENERAL CONDITIONS

of a trade guarantee custom or a special guarantee provision, the work, both as to the materials and workmanship, shall upon acceptance of final inspection by the Contractor be considered guaranteed by the Contractor for one (1) year from the date of the acceptance of the work. Neither the final acceptance nor the final payment shall relieve the Contractor of responsibility for negligence or faulty materials, and for defects appearing within the guarantee period shall be remedied at the expense of the Contractor upon written notice.

- 5.2 During the one-year guarantee period, the Contractor will maintain the project to the conditions existing at the date of the acceptance of the work. Any failures due to the negligence or workmanship of the Contractor in any of the work which develop during the guarantee period shall be corrected by the Contractor at its expense.
- 5.3 The one-year guarantee period shall not be construed as being an extension of the performance time allotted for work under the contract. Failure to perform warranty work shall extend performance time until work is completed and accepted.
- 5.4 Guarantees concerning revegetation may be further defined in the technical specifications contained herein.

### 6.0 SUPERVISION & CONSTRUCTION PROCEDURES

- 6.1 The Contractor shall supervise and direct the work, using its best skill and attention. It shall be responsible for all construction means, methods, techniques, and procedures, coordinating all portions of the work, and for cooperating with appropriate DEP personnel and with other contractors in every way possible.
- 6.2 The Contractor shall be responsible to DEP for the acts and omissions of its employees, its subcontractors and their agents or employees, and other persons performing any of the work under a contract with the Contractor.
- 6.3 The Contractor will be supplied with three (3) copies of the plans and specifications. It shall have available on the work site at all times one (1) copy of said plans and specifications. Additional copies of plans and specifications may be obtained by the Contractor for the cost of reproduction.

### 7.0 PERMITS, LAWS, REGULATIONS, & RIGHTS OF ENTRY

- 7.1 As indicated in Section 13 of the Special Provisions, the WVDEP-AML has obtained a Construction Storm Water General Permit for this project from WVDEP Division of Water and Waste Management (WVDEP DWWM). The registration for this reclamation project will be modified to include the Contractor as Co-Applicant #1, with the WVDEP-AML being Co-Applicant #2. As such, the Contractor shall assume responsibility for compliance with the terms and conditions of the permit including modifications and any future correspondence such as registration renewal invoices, inspection reports, and notices of violation shall be forwarded to the Contractor. Upon award of the contract, the Contractor shall complete a Co-Applicant #1 signature page and submit the completed form to WVDEP-AML prior to scheduling a Pre-Construction Conference.

Upon receipt of the completed form, WVDEP-AML will request the WVDEP DWWM to modify the existing NPDES registration for this project to make the Contractor the Co-Applicant #1 to the permit.



## ARTICLE II - GENERAL CONDITIONS

The WVDEP DWWM will notify the Contractor and WVDEP-AML when the successful transfer of registration under WV/NPDES Storm Water Construction General Permit (No. WV0115924) is completed. A Notice to Proceed will not be issued until the successful submittal of registration has been completed. Once the transfer has been completed, the WVDEP will continue to be responsible for any modification fees and annual renewal fees incurred up until the date of the final inspection of the project that occurs after completion of construction activities at the site. The Contractor shall be responsible for any and all costs associated with violations and fines assessed against the project that are a result of the Contractor's negligence, carelessness, or failure to install permanent controls as part of the work as scheduled.

The Contractor shall apply for a Notice of Termination (NOT) from WVDEP DWWM via the Construction Storm Water website <http://www.dep.wv.gov/Programs/stormwater/csw/Documents/Construction> upon completion of construction activities at the site. The NOT shall be issued by WVDEP DWWM upon completion of the project. The Contractor will continue to be bound by the terms and conditions of the permit until the NOT has been approved by WVDEP DWWM. Once the project is complete, the Contractor will still bear responsibility for the NPDES registration until a NOT is received from the WVDEP DWWM.

- 7.2 The Contractor shall comply with all laws, ordinances, rules, orders and regulations relating to the performance of the work, the protection of adjacent property, the maintaining of passageways, guard fences, or other protective facilities.
- 7.3 All applicable Federal and State laws and regulations, municipal ordinances, and the rules and regulations of all public authorities having jurisdiction over construction of the project shall apply to the contract throughout, and are incorporated herein by reference.
- 7.4 DEP shall be responsible for obtaining all construction rights of entry for the project unless otherwise provided for in the Construction Specifications.
- 7.5 The Contractor agrees to indemnify and hold harmless the DEP from all liability and/or damages resulting from the Contractor's use of property for which the Contractor was to obtain rights of entry for borrow, disposal, access or other purposes. Said indemnification shall include, but is not limited to, liability and damages resulting from the Contractor's failure to obtain any or not all the right of entry; failure to utilize appropriate language in the right of entry agreements; or failure to obtain the permission and signatures of all persons or entities holding a legal interest in the subject property(ies) covered by the rights of entry.
- 7.6 All right of entry agreements the Contractor obtains for borrow, disposal, access or other purposes for this project shall include a provision requiring the property owner to indemnify and hold harmless the DEP for the Contractor's actions and any injury or damages whatsoever resulting from the Contractor's use of the property.



**Co-Applicant #1 Signature Page**

Co-Applicant#1: \_\_\_\_\_

New and/or Modification of NPDES Storm Water of Construction Project  
Name: \_\_\_\_\_

BY COMPLETING AND SUBMITTING THIS APPLICATION, I HAVE REVIEWED AND UNDERSTAND AND AGREE TO THE TERMS AND CONDITIONS OF THE GENERAL PERMIT ISSUED ON DECEMBER 05, 2012. I UNDERSTAND THAT PROVISIONS OF THE PERMIT ARE ENFORCEABLE BY LAW, VIOLATION OF ANY TERM AND CONDITION OF THE GENERAL PERMIT AND /OR OTHER APPLICABLE LAW OR REGULATIONS CAN LEAD TO ENFORCEMENT ACTION.

I CERTIFY UNDER PENALTY OF LAW THAT I HAVE PERSONALLY EXAMINED AND AM FAMILIAR WITH THE INFORMATION SUBMITTED ON THIS FORM AND ALL ATTACHMENTS AND THAT, BASED ON MY INQUIRING OF THOSE INDIVIDUALS IMMEDIATELY RESPONSIBLE FOR OBTAINING THE INFORMATION. THE INFORMATION SUBMITTED IS, TO THE BEST OF MY KNOWLEDGE AND BELIEF, TRUE, ACCURATE, AND COMPLETE. I AM AWARE THAT THERE ARE SIGNIFICANT PENALTIES FOR SUBMITTING FALSE INFORMATION, INCLUDING THE POSSIBILITY OF FINE AND IMPRISONMENT.

\_\_\_\_\_  
(CO- APPLICANT #1 SIGNATURE)

\_\_\_\_\_  
DATE

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone Number: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Email: \_\_\_\_\_

FEIN: \_\_\_\_\_

## ARTICLE II - GENERAL CONDITIONS

### 8.0 SAFETY REQUIREMENTS

- 8.1 Particular attention is directed to the "West Virginia Safety Code for Building Construction" as published by the West Virginia Department of Labor. Observance of and compliance with said laws, regulations and codes shall be solely with and without qualification the responsibility of the Contractor.
- 8.2 The Contractor, subcontractors, other contractors and all employees and workers shall comply with the provisions of the Occupational Safety and Health Act 29 CFR 1926. The Contractor shall be held liable to DEP for any health and safety infractions, on the Contractor's part, which cause DEP to receive a citation and/or fine from any local, State or Federal agency. Actual costs involved will be paid by the Contractor to the satisfaction of DEP.

### 9.0 PROTECTION OF PERSONS & PROPERTY

- 9.1 The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work.
- 9.2 Safety of Persons and Property: The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection, preventing damage, injury, or loss to:
- (a) All employees on the work, and all other persons who may be affected thereby;
  - (b) All the work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor, or any of its subcontractors or their employees or subcontractors; and
  - (c) Other property on the site or adjacent thereto, including, but not limited to, paving, roadways, structures, utilities and permanent property boundaries, monuments or markers not designated for removal, or relocation, or replacement in the course of construction. Any damage to these items shall be repaired or replaced at the expense of the Contractor and to the satisfaction of DEP.

## ARTICLE II - GENERAL CONDITIONS

- 9.3 The Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority, bearing on the safety of persons or property, or their protection from damage, injury, or loss.
- 9.4 The Contractor shall erect and maintain, as required by existing conditions and progress of the work, all reasonable and adequate safeguards for safety and protection. It shall post danger signs and provide other warnings as required against hazards and dangers to persons and property.
- 9.5 In case of an emergency which threatens injury, loss of life and/or damage to property, the Contractor will be permitted to act, without prior instruction from the Regional Engineer, in a diligent manner. It shall notify the Construction Supervisor immediately thereafter. Any claim for compensation by the Contractor due to such extra work shall be promptly submitted to the Construction Supervisor for verification and approval by the Regional Engineer.
- Where the Contractor has not taken action, but has notified the Regional Engineer of an emergency threatening injury to persons or damage to the work or any adjoining property, it shall act as instructed or authorized by the Regional Engineer.
- The amount of reimbursement claimed by the Contractor for work arising out of any emergency situation shall be determined by the Chief or his/her authorized representative.
- 9.6 The Contractor shall be responsible for the verification of existing utilities that may be affected by its work in the project area. It shall be held responsible for any damage to and for maintenance and protection of existing utilities and structures during the performance of the work.

### 10.0 INSURANCE & WORKER'S COMPENSATION

#### 10.1 Contractor's and Subcontractor's Public Liability, Vehicle Liability and Property Damage Insurance

The Contractor shall maintain insurance as follows:

- (a) Contractor's Public Liability Insurance and Comprehensive Vehicle Liability Insurance shall be in an amount not less than \$2,000,000.00 for bodily injury and property damage for each occurrence and not less than \$2,000,000.00 aggregate.

The required insurance must be written by a company or companies licensed to do business in West Virginia at the time the policy is issued and the policy must be countersigned by a licensed resident agent. Any property owner requiring additional insured shall be added to this policy.

- (b) Contractor shall either (1) require each of the subcontractors to procure and to maintain, during the life of its subcontract, subcontractor's Public Liability and Property Damage Insurance of the type and in the same amounts as specified in paragraph (a) above, or (2) insure the activities of its subcontractors in its own policy.

## ARTICLE II - GENERAL CONDITIONS

Contractor agrees to indemnify and hold harmless DEP from all liability for personal injury, including death resulting therefrom, and against all liability for property damage sustained by any person or persons, including persons employed by Contractor or subcontractors, which is caused in whole or in part by an act or omission, negligent or otherwise, of the Contractor, its agents, servants, or employees, and to assume the defense of any action brought by such persons to recover damages, and to pay all costs and expenses, including attorney's fees, incurred by DEP as result thereof.

Each party to the contract shall promptly notify the other of the assertion of any claim against which such party is held harmless pursuant to this Section, shall give such other party the opportunity to defend any such claim, and shall not settle any such claim without approval of the indemnifying party.

### 10.2 Proof of Carriage of Insurance

The Contractor shall provide DEP, before work commences, with certificates issued by the insurance company or companies issuing the insurance policies required by this Section. The certificates shall show the type, amount, class of operations covered, effective dates, and dates of expiration of such policies. Such certificates shall provide that written notice shall be given to DEP prior to expiration, cancellation, or modification of any such policy, and shall contain substantially the following representation: "The insurance covered by this certificate will not be canceled, or materially modified or altered, except after ten (10) days written notice has been verified as received by the West Virginia Department of Environmental Protection".

### 10.3 Worker's Compensation Insurance

All employees of the Contractor, and of subcontractors engaged in the work of this contract, shall be covered by West Virginia Worker's Compensation Insurance. Certificates shall be provided to DEP by the Contractor and subcontractors showing compliance with the Worker's Compensation Laws of West Virginia.

## 11.0 LABOR LAWS, ORDINANCES, WAGES, AND OTHER CONDITIONS

### 11.1 The Contractor shall obey and abide by all laws of the State of West Virginia, particularly with respect to the carrying out of public improvements.

The Contractor shall not pay less than the established prevailing minimum wage rate for each particular class of employment in the county in which the work is being performed. This rate shall include and and all time an employee is on the project.

## ARTICLE II - GENERAL CONDITIONS

11.2 During the performance of this contract, the Contractor agrees as follows:

- (a) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice, to be provided by the contracting officer, setting forth the provisions of this nondiscrimination clause.
- (b) Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color or national origin.
- (c) Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Contractor's commitments under Section 202 of Presidential Executive Order #11246 of September 24, 1965 (hereinafter "Executive Order #11246"), as amended by Presidential Executive Order #11375 and supplemented by U.S. Department of Labor regulations 41 CFR Part 60 and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (d) Contractor will comply with all provisions of Executive Order #11246, and with all of the applicable rules, regulations, and relevant orders of the U.S. Secretary of Labor (hereinafter "Secretary of Labor").
- (e) Contractor will furnish all information and reports required by Executive Order #11246, and by the applicable rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders. These provisions shall also apply to DEP or employees of the Federal Government or their designated representatives for the purpose of making audits, examinations, excerpts, or transcriptions.
- (f) In the event of the Contractor's noncompliance with these nondiscrimination clauses, this contract may be canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order #11246, and such other sanctions may be imposed and remedies invoked as provided in Executive Order #11246, or by rules, regulations, or orders of the Secretary of Labor, or as otherwise provided by law.

## ARTICLE II - GENERAL CONDITIONS

- (g) **The Contractor will include the provisions of these paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order #11246, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request DEP to enter into such litigation to protect the interests of DEP.**
- (h) **Copeland "Anti-Kickback" Act Contractor or Subcontractor shall comply with the Copeland "Anti-Kickback" Act (18 USC 874) as supplemented in U.S. Department of Labor regulations (29 CFR Part 3). Said Act provides that each Contractor or subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public works, to give up any part of the compensation to which it is otherwise entitled. The Contractor shall report all suspected or reported violations to DEP.**
- (i) **Clean Air & Water Acts Should the amount of this contract exceed one-hundred thousand dollars (\$100,000.00), compliance will be required with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857[h]), Section 508 of the Clean Water Act (33 USC 1368), Presidential Executive Order #11738, and Federal Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Contractor shall report violations to DEP and to the U.S. EPA Assistant Administrator for Enforcement (EN-329).**
- (j) **Energy Policy & Conservation Act The Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act, Public Law 94-163.**
- (k) **Access to Records DEP, the U.S. Department of Interior's Office of Surface Mining Reclamation & Enforcement, and the U.S. Comptroller General or their duly authorized representatives shall have access to any books, papers, and records of the Contractor which are directly pertinent to that specific contract, for the purpose of making audits, examinations, excerpts, and transcriptions.**
- (l) **Maintenance of Records The Contractor shall maintain all required records for three (3) years after DEP processes final payments and all other pending matters are closed.**
- (m) **Termination of Contract by DEP This contract may be cancelled in whole or in part in writing by the Director of Purchasing, without prejudice to any other right or remedy it may have, provided that the contractor is given not less than thirty (30) calendar days written notice, (delivered by certified mail, return receipt requested) of intent to terminate.**

## ARTICLE II - GENERAL CONDITIONS

- (n) **Legal Remedies** Unless otherwise provided by law or elsewhere in this contract, all claims, counter-claims, disputes and other matters in question between DEP and the Contractor arising out of, or relating to, this contract or the breach of it will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of West Virginia.

### 11.3 **Wages**

Attention is called to the prevailing rates of wages to be paid for labor on public improvements in Kanawha County, West Virginia, as determined by the West Virginia Department of Labor. A copy of wage rates shall be posted in a conspicuous location on the job site. Copies of the wage rates are included herein, however, it is the responsibility of the Contractor to pay the wage rate in effect when the project was bid. The Contractor is to maintain and have available for inspection by DEP, upon request, certified copies of its payrolls.

The contractor/subcontractors shall pay the higher of the U.S. Department of Labor Davis-Bacon Act or the WV Prevailing wage rate as established for various county, pursuant to West Virginia Code 21-5A, Et, Seq. and 42CSR7 Rules & Regulations for the WV Prevailing Wage Act. For prevailing wage rates, please refer to <http://www.sos.wv.gov>

### 12.0 **SUBCONTRACTORS**

- 12.1 Unless otherwise required by the contract documents, the Contractor, as soon as practicable after award of the contract, shall furnish DEP in writing the names of subcontractors (including those who are to furnish materials or equipment fabricated to special design) proposed for performing portions of the work.
- 12.2 DEP reserves the right to disapprove any proposed subcontractor whose record of performance does not establish its experience, competence, and financial ability to perform the work for which it is proposed. Nothing contained in the contract documents shall create any contractual relation between any subcontractor and DEP.

### 13.0 **TIME**

- 13.1 The date of commencement of work is the date established in a written "Notice to Proceed" issued by DEP to the Contractor. The date of completion shall be the date that DEP finds the work acceptable under the contract documents and the contract fully performed.



## ARTICLE II - GENERAL CONDITIONS

### 13.2 Delays & Extensions of Time

- (a) It is agreed that if the Contractor should be unavoidably delayed in fulfilling its obligations under this contract by acts of Providence or general strikes, or by Court injunctions, or by stopping of the work by DEP because of any Contractor toward final completion of the work hereunder, DEP may require the Contractor to prepare an itemized estimate of the amount of work performed, and material and equipment stored under the contract since the date of the last preceding estimate and Application for Payment. DEP may request that the Contractor submit such estimate along with supporting documentation in the form of certified payrolls, material invoices, weight slips, and Applications for Payment. Contractor is to maintain and have available such records for inspection by DEP upon request.
- (b) Upon approval by DEP of the Application and Certificate for Payment, DEP shall, as soon thereafter as practicable, process for the Contractor as a progress payment a sum equal to the contract value of the work performed since the last preceding estimate and Application for Payment in accordance with Paragraphs 14.4 and 14.5 of this Section, less the aggregate of previous payments.
- (c) No Certificate for a progress payment, nor any progress payment, shall constitute acceptance or be deemed or construed as acceptance of any part of the work not in accordance with the contract documents.
- (d) The Contractor warrants and guarantees that title to all work, materials, and equipment covered by an Application for Payment, whether incorporated in the project or not, will pass to DEP upon the receipt of such payment by the Contractor, free and clear of all liens.

### 13.3 Progress Schedule

The Contractor, immediately after being awarded the contract, shall prepare and submit, for DEP's information, an estimated progress schedule for the work. Such progress schedule shall be related to the entire project to the extent required by the contract documents, and shall provide for expeditious and practicable execution dates of the various stages of construction and may be revised as required by conditions of work, subject to DEP's approval.

## 14.0 PAYMENTS & COMPLETION

### 14.1 Contract Sum

The contract sum as stated in the Contractor's executed Contract Acceptance Form, including any authorized adjustment(s) thereto, is the total amount payable by DEP to the Contractor for the performance of the work under the contract documents.

## ARTICLE II - GENERAL CONDITIONS

### 14.2 Schedule of Values

Before submitting its first Application for Payment, the Contractor shall submit to DEP a schedule of values allocated to the various portions of the work, prepared in such form and supported by such data to substantiate its accuracy, as DEP may require. This schedule shall be used only as a basis for the Contractor's Applications for Payment.

### 14.3 Progress Estimates, Applications for Payment

- (a) On the fifteenth (15th) and thirtieth (30th) day of each month during which progress has been made on the work under the contract by the Contractor toward final completion of the work hereunder, DEP may require the Contractor to prepare an itemized estimate of the amount of work performed since the date of the last preceding estimate and Application for Payment. DEP may request that the Contractor submit such estimate along with supporting documentation in the form of certified payrolls (not to include social security numbers), material invoices, weight slips, and Applications for Payment. Contractor is to maintain and have available such records for inspection by DEP upon request.
- (b) Upon approval by DEP of the Application and Certificate for Payment, DEP shall, as soon thereafter as practicable, process for the Contractor as a progress payment a sum equal to the contract value of the work performed since the last preceding estimate and Application for Payment, in accordance with Paragraphs 14.4 and 14.5 of this Section, less the aggregate of previous payments.
- (c) No Certificate for a progress payment, nor any progress payment, shall constitute acceptance or be deemed or construed as acceptance of any part of the work not in accordance with the contract documents.
- (d) The Contractor warrants and guarantees that title to all work, materials, and equipment covered by an Application for Payment, whether incorporated in the project or not, will pass to DEP upon the receipt of such payment by the Contractor, free and clear of all liens, claims, security interests or encumbrances, and that no work, materials, or equipment covered by an Application for Payment will have been acquired by the Contractor or by any other person performing the work at the site or furnishing materials and equipment for the project, subject to an agreement under which an interest therein or an encumbrance thereon is retained by the Contractor or otherwise imposed by the Contractor or such other person.

## ARTICLE II - GENERAL CONDITIONS

### 14.4 Payments Withheld

The Regional Engineer or his representative may decline to approve an estimate or Application for Payment, to the extent necessary to protect DEP from loss because of:

- (i) Unsatisfactory, unrepresentative, and unverified amounts and items included in progress estimates of Paragraph 14.3(a) above.
- (ii) Unfulfilled provisions of Paragraphs 14.3(d) above.
- (iii) Defective work not remedied.
- (iv) Unsatisfactory performance of the work by the Contractor.
- (v) Failure of the Contractor to make payments properly to subcontractors, or for labor, materials, or equipment.
- (vi) Reasonable doubt that the remaining work can be completed for the unpaid balance of the contract sum.
- (vii) Reasonable indication that the work will not be completed within the contract time for completion.
- (viii) Third party claims filed, or reasonable evidence indicating probable filing of such claims.
- (ix) Damage to another contractor.

When the above grounds under 14.4 (i)-(ix) are removed, payment shall be approved for the amounts that were withheld because of them.

### 14.5 Final Completion & Final Payment

- (a) Upon notice from the Contractor that the work is ready for final inspection, the Construction Supervisor will promptly make such inspection. If the Construction Supervisor upon his/her inspection finds the work acceptable under the contract documents and the contract fully performed, the Contractor shall submit a Final Estimate Application and Certificate for Payment to DEP for processing. Also, final quantity calculations shall be submitted to DEP by the Contractor prior to final inspection conference.
- (b) Final payment to the Contractor will be processed by DEP upon fulfillment of the provisions of the contract documents and the conditions thereof.

**ARTICLE II - GENERAL CONDITIONS**

- (c) **The processing of final payment and the processing of payment of retained percentage shall constitute a waiver of all claims by DEP except those arising from:**
- (i) **Unsettled liens.**
  - (ii) **Faulty or defective work appearing after final completion.**
  - (iii) **Failure of the work to comply with requirements of the contract documents.**
  - (iv) **Terms of any special warranties required by the contract documents.**
  - (v) **Affidavate of Payment**
- (d) **The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the final Application for Payment. No payment, however, final or otherwise, shall operate to release the Contractor or its sureties from any obligation under the contract documents, or the Performance Bond, and the Labor and Material Payment Bond. (See 15.1 below.)**

**14.6 Application for Payment Forms**

**Bound herewith on the following pages are sample Application and Certificate for Payment forms which the Contractor shall use in the submittal of progress estimate Applications for Payment to DEP.**

**APPLICATION AND CERTIFICATE FOR PAYMENT**

Page 1 of    pages

Project Name: \_\_\_\_\_

Application No: \_\_\_\_\_

Contractor: \_\_\_\_\_

Application Date: \_\_\_\_\_

Address: \_\_\_\_\_

Performance Period From: \_\_\_\_\_ To: \_\_\_\_\_

ATTN (AML&R Inspector): \_\_\_\_\_

**CHANGE ORDER SUMMARY**

Change Order Number	Approved (date)	Additions \$+	Deductions \$-

Application is made for payment, as shown below, in connection with contract. Continuation Sheet is attached. The present status of the account for this contract is as follows:

ORIGINAL CONTRACT SUM \$ \_\_\_\_\_

Net Change by Change Orders \$ \_\_\_\_\_

CONTRACT SUM TO DATE \$ \_\_\_\_\_

TOTAL COMPLETED & STORED TO DATE \$ \_\_\_\_\_  
(Column "G" on Continuation Sheet)

LESS PREVIOUS CERTIFICATES FOR PAYMENT \$ \_\_\_\_\_

CURRENT PAYMENT DUE \$ \_\_\_\_\_

Items listed hereon conform to specification, were received & are approved for payment.

Date: \_\_\_\_\_ Signed: \_\_\_\_\_ Inspector: \_\_\_\_\_

PO#: \_\_\_\_\_

RF: \_\_\_\_\_ Office/App: \_\_\_\_\_

PERM/ISS#: \_\_\_\_\_ Date: \_\_\_\_\_

TMS Vendor #: \_\_\_\_\_

PLAN	REV	DATE	BY	DESCRIPTION	ISSUE NO.
8708	20		130	830	

% COMPLETE:  $\frac{\text{Total Completed \& Stored to Date}}{\text{Contract Sum to Date}} \times 100 =$  \_\_\_\_\_

Contractor: \_\_\_\_\_  
Original Signature (Blue Ink)

**CONTINUATION SHEET OF APPLICATION AND CERTIFICATE FOR PAYMENT**

Project Name: \_\_\_\_\_ Application No: \_\_\_\_\_

Page \_\_\_ of \_\_\_ pages

BID SCHEDULE PER CONTRACT				UNITS THIS APPLICATION	TOTAL COMPLETED AND STORED TO DATE	
ITEM # A	DESCRIPTION B	UNITS C	UNIT BID PRICE D	UNITS E	UNITS F	COST G=(DxF)

**SUBTOTAL OR TOTAL**

## ARTICLE II - GENERAL CONDITIONS

### 15.0 SURETY BONDS

- 15.1 The Contractor shall provide and deliver to DEP's Buyer at the Purchasing Division of the Department of Administration at the time of execution of the contract, and prior to the performance of the work, satisfactory surety bonds in an amount of not less than one hundred percent (100%) of the contract sum which shall include a Performance Bond and Labor and Material Payment Bond, with sureties acceptable to DEP's Buyer, for the faithful fulfillment of the contract within the time specified. Said bonds shall also save and hold harmless DEP from all liens and claims arising out of the work. The Contractor shall pay for the bonds.
- 15.2 In the event that the surety on any contract or payment bond given by the Contractor becomes insolvent, or is placed in the hands of a receiver, or has its right to do business in this State revoked as provided by law, the Cabinet Secretary may at his/her election, withhold payment or any estimate until the Contractor shall give a good and sufficient bond in lieu of the bond so executed by such surety.
- 15.3 Attorneys-in-Fact who execute surety bonds issued pursuant to this Section must provide with each such bond a certified and properly executed Power of Attorney.
- 15.4 All performance bonds shall be in effect throughout the one-year guarantee period set out in Section 5.0 above. Bonds will be released upon completion of the guarantee period and acceptance of the project by DEP.

### 16.0 CHANGES IN THE WORK

#### 16.1 Change Orders

- (a) DEP, without invalidating the contract, may order or the Contractor may request changes in the work within the general scope of the contract consisting of additions, deletions, or other revisions, the contract sum and the contract time being adjusted accordingly. All such changes in the work shall be authorized by change order, and shall be executed under the applicable conditions of the contract documents.
- (b) A change order is a written order to the Contractor, properly executed as to form, issued after the execution of the contract, authorizing a change in the work or an adjustment in the contract sum or contract time. The contract sum or contract time may be changed only by a change order. A change order issued to the Contractor indicates its agreement therewith, including the adjustment in the contract sum or contract time set forth therein.

## ARTICLE II - GENERAL CONDITIONS

- (c) The cost or credit to DEP resulting from a change in the work shall be determined in one or both of the following ways:
- (i) By mutual acceptance of a lump sum properly itemized.
  - (ii) By unit prices stated in the contract documents or subsequently agreed upon.
- (d) If none of the methods set forth in 16.1(c) above is agreed upon, or the work to be performed is agreed by DEP and Contractor to be of such nature that it cannot be estimated in advance with sufficient exactness for mutual agreement, then DEP may direct the Contractor to perform the work by change order in accordance with the following provisions, and the Contractor shall promptly proceed with the work:
- (i) The work shall then be performed for an amount equal to the actual and necessary net cost to the Contractor for material and labor cost necessarily used therein, including all taxes and delivery costs for materials, all required extra costs on labor, plus cost for superintendents, power, use of tools, equipment, plant, plus the Contractor's normal charge under the contract for overhead and profit. The Contractor shall keep and present to DEP for inclusion in the change order complete itemized accounting for all materials, complete identified time and payment records for all employees, and workmen actually performing the work covered by the change order, the cost accounting of work performed by subcontractors for work covered by the change order. DEP reserves the right to require verifications of all costs covered under the change order.
  - (ii) The amount of credit to be allowed by the Contractor to DEP for any deletion or change which results in a net decrease in the contract sum will be the actual net cost. When both additions and credits covering related work or substitutions are involved in one change, the allowance for overhead and profit shall be figured only on the basis of the increase, if any, with respect to that change.
- 16.2 The Chief is the only individual who can execute a change order committing DEP to the expenditure of public funds. No person other than the Chief or his/her authorized representative can make any changes to the terms, conditions, contract clauses, or other stipulations of this contract.

The Contractor shall not accept any instructions issued by any person other than the Chief or his/her authorized representative regarding changes in the work under the contract which affect the contract sum and/or contract time. No information, other than that which may be contained in an authorized modification to this contract, duly issued by the Chief or his/her authorized representative, which may be received from any person employed by DEP or otherwise, shall be considered grounds for deviation from any stipulation of the contract.



## ARTICLE II - GENERAL CONDITIONS

### 16.3 Minor Changes in the Work

Notwithstanding the requirements of Section 16.2 above, the Regional Engineer or his/her authorized representative shall have authority to order minor changes in the work not involving an adjustment in the contract sum or an extension of the contract time and not inconsistent with the intent of the contract documents. Such changes may be affected by field order or by other written order. Such changes shall be binding on DEP and the Contractor. The Contractor shall carry out such written orders promptly.

### 16.4 Omissions

DEP may omit any item or items in the contract, provided that the notice of intent to omit such item or items is given to the Contractor before any material has been purchased or labor involved has been performed, and such omission shall not constitute grounds of any claim for damages or loss of anticipated profits. DEP may omit any item or items shown the estimate, at any time, by agreeing to compensate the Contractor for the reasonable expense already incurred and to take over at actual cost any unused material purchased in good faith for use for the item or items omitted.

## 17.0 UNCOVERING & CORRECTION OF WORK

### 17.1 Uncovering of Work

- (a) If any work should be covered contrary to the request of DEP, it must, if required by DEP, be uncovered for its observation and be replaced at the Contractor's expense.
- (b) If any other work has been covered which DEP has not specifically requested to observe prior to being covered, DEP may request to see such work and it shall be uncovered by the Contractor. If such work is found to be in accordance with the contract documents, the cost of uncovering and replacement shall, by appropriate change order, be charged to DEP. If such work is found not to be in accordance with the contract documents, the Contractor shall pay such costs unless it is found that such condition was caused by a separate contractor employed by DEP and in that event DEP shall be responsible for the payment of such costs.

### 17.2 Correction of Work

The Contractor shall promptly correct all work rejected by DEP as defective or as failing to conform to the contract documents whether observed before or after final completion and whether or not fabricated, installed or completed. The Contractor shall bear all cost of correcting such rejected work. All such defective or

## ARTICLE II - GENERAL CONDITIONS

non-conforming work shall be removed from the site if necessary, and the work shall be corrected to comply with the contract documents at no cost to DEP. If the Contractor fails to correct such defective or non-conforming work, DEP may correct it in accordance with Section 17.3 below or Section 11.2(m) of these General Conditions.

### 17.3 Acceptance of Non-Conforming Work

If DEP prefers to accept non-conforming work, it may do so instead of requiring its removal and correction, in which case a change order will be issued to reflect an appropriate reduction in the contract sum, or, if the amount is determined after final payment, it shall be paid by the Contractor.

### 18.0 ASSIGNMENT OF CONTRACT

Contractor shall not assign or transfer this contract or sublet it as a whole without having first obtained the written consent of DEP to do so; and it is likewise agreed that the Contractor shall not assign legally or equitably any of the moneys payable to it under the contract, or its claim thereto, without having first obtained the written consent of DEP to do so.

**AML CONTRACTOR INFORMATION FORM**

You must complete this form for your AML contracting officer to request an eligibility evaluation from the Office of Surface Mining to determine if you are eligible to receive an AML contract. This requirement applies to contractors and their sub-contractors and is found under OSM's regulations at 30 CFR §74.16. When possible, please type your information onto this form to reduce errors on our end. **NOTE: Signatures and date this form is signed must be recent (within the last month) to be considered for a current bid.**

**Part A: General Information**

Business Name: \_\_\_\_\_ Tax Payer ID No.: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ Phone: \_\_\_\_\_  
Fax No.: \_\_\_\_\_ E-mail address: \_\_\_\_\_

**Part B: Legal Structure**

Corporation     Sole Proprietorship     Partnership     LLC  
 Other (please specify) \_\_\_\_\_

**Part C: Certifying and updating information in the Applicant/Violator System (AVS). Select only one of the following options, follow the instructions for that option, and sign below.**

I, \_\_\_\_\_, *have the express authority to certify that:*  
(print name)

- \_\_\_\_\_ Information on the attached Entity Organizational Family Tree (OFT) from AVS is accurate, complete, and up-to-date. If you select this option, you must attach an Entity OFT from AVS to this form. Sign and date below and do not complete Part D.
- \_\_\_\_\_ Part of the information on the attached Entity OFT from AVS is missing or incorrect and must be updated. If you select this option, you must attach an Entity OFT from AVS to this form. Use Part D to provide the missing or corrected information. Sign and date below and complete Part D.
- \_\_\_\_\_ Our business currently is not listed in AVS. If you select this option, you must provide all information required in Part D. Sign and date below and complete Part D.

\_\_\_\_\_  
Date    Signature    Title  
**IMPORTANT!** In order to certify in Part C to the accuracy of existing information in AVS, you must obtain a copy of your business' Entity OFT. To obtain an Entity OFT, contact the AVS Office, toll-free, at 800-643-9748 or from the AVS website at <https://avss.osmre.gov>.

**Part D.**

Contractor's Business Name: \_\_\_\_\_

If the current Entity OFT information for your business is incomplete or incorrect in AVS, or if there is no information in AVS for your business, you must provide all of the following information as it applies to your business. Please make as many copies of this page as you require.

- Every officer (President, Vice President, Secretary, Treasurer, etc.);
- All Directors;
- All persons performing a function similar to a Director;
- Every person or business that owns 10% or more of the voting stock in your business;
- Every partner, if your business is a partnership;
- Every member and manager, if your business is a limited liability company; and
- Any other person(s) who has the ability to determine the manner in which the AML reclamation project is being conducted.

Name	_____	Position/Title	_____
Address	_____	Telephone #	_____
	_____	% of Ownership	_____
Begin Date:	_____	Ending Date:	_____
Name	_____	Position/Title	_____
Address	_____	Telephone #	_____
	_____	% of Ownership	_____
Begin Date:	_____	Ending Date:	_____
Name	_____	Position/Title	_____
Address	_____	Telephone #	_____
	_____	% of Ownership	_____
Begin Date:	_____	Ending Date:	_____
Name	_____	Position/Title	_____
Address	_____	Telephone #	_____
	_____	% of Ownership	_____
Begin Date:	_____	Ending Date:	_____

**PAPERWORK REDUCTION STATEMENT**

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501) requires us to inform you that: Federal Agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. This information is necessary for all successful bidders prior to the distribution of AML funds, and is required to obtain a benefit.

Public reporting burden for this form is estimated to range from 15 minutes to 1 hour, with an average of 22 minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. You may direct comments regarding the burden estimate or any other aspect of this form to the Information Collection Clearance Officer, Office of Surface Mining Reclamation and Enforcement, Room 202 SIB, Constitution Ave., NW, Washington, D.C. 20240.

**ARTICLE III - GENERAL REQUIREMENTS**

## **ARTICLE III - GENERAL REQUIREMENTS**

### **Sections Included:**

- 1.0 Summary of the Work**
- 2.0 Quality Standards, Approvals**
- 3.0 Superintendents, Coordination**
- 4.0 Project Meetings**
- 5.0 Authority & Duties of Inspectors**
- 6.0 Shop Drawings, Product Data, Samples**
- 7.0 Measurements, Manufacturer's Directions**
- 8.0 Lines, Levels, Grades, Layout**
- 9.0 Documents, Shop Drawings, Etc., at Site**
- 10.0 Storage of Materials**
- 11.0 Protection of Work, Damages**
- 12.0 Temporary Facilities**
- 13.0 Construction Sign**
- 14.0 Cleaning and Final Clean-Up**
- 15.0 Testing**
- 16.0 Project Completion - Certificates**

## ARTICLE III - GENERAL REQUIREMENTS

### 1.0 SUMMARY OF THE WORK

This Article briefly outlines and describes the work to be performed and is not intended to limit the faithful execution of the contract documents.

- 1.1 The scope of the work for this project, without attempting to restrict or limit the contractor's responsibility, consists of furnishing all plant, labor, materials, and equipment to construct abandoned mine drainage control structures described in the drawings and these specifications. The work shall include, but not be limited to, the following:

Providing erosion and sediment control. Clearing and grubbing at the site. Construction and installation of support areas, and maintenance/upgrade of access roads to the site. Installation of various types of mine seals, including bat gates. Construction and installation of drainage control structures. Revegetation of disturbed areas.

## ARTICLE III - GENERAL REQUIREMENTS

### 2.0 QUALITY STANDARDS, APPROVALS

- 2.1 Notwithstanding reference in the specifications or on the drawings to any article, item, product, material, equipment, or system by name, brand, make, or manufacturer, such reference shall be intended and interpreted as establishing a standard of quality, and shall not be taken, regarded, or construed as limiting competition.
- 2.2 Any article, item, product, material, equipment, or system which will perform adequately and satisfactorily the duties imposed by the general design will be considered equally acceptable to that specified or referenced, providing the article, item, product, material, equipment, or system so proposed is equal in quality, substance, design, manufacture, function and performance as that specified or referenced, and adjudged and determined to be so in the opinion of the Construction Supervisor and is approved by him/her. The approval of the Regional Engineer is required before purchase and installation.
- 2.3 Approvals
- Where the term "of approved manufacture" appears in the specifications, or an "approved" or "approved as equal" article or item is referred to, it shall mean that the article, item, workmanship, or material must meet the approval of the Construction Supervisor.

### 3.0 SUPERINTENDENTS, COORDINATION

#### 3.1 Superintendents

The Contractor shall employ and keep a competent superintendent and assistants who shall be capable of effective communication as required on the job at all times and who shall give efficient supervision to the work, using his/her best skill and attention, and shall have knowledge and control of all trades. The superintendent shall be acceptable to the Construction Supervisor and shall not be changed without the Construction Supervisor's knowledge and consent. The Contractor also shall see that each respective sub-contractor provides a competent foreman for each trade.

#### 3.2 Coordination

The Contractor and each sub-contractor shall coordinate the work and operations and shall cooperate with and assist each other on the job for the successful execution of the work within trade jurisdictional rulings. Each shall study all drawings and specifications and shall perform all work which properly comes under jurisdiction of the trade he/she represents.

### 4.0 PROJECT MEETINGS AND CONFERENCES

- 4.1 The following meetings shall be scheduled and held prior to commencement of the project and during execution of the work. DEP will schedule such



### ARTICLE III - GENERAL REQUIREMENTS

meetings and advise all parties concerned by written notice of the date, time, and location of such meetings.

- (a) Pre-Bid Conference Conference with Engineer, bidders and appropriate DEP personnel as necessary, and others directly concerned for explanation of bidding and contract documents, project site familiarization as required, and for answering questions pertinent to the project. Attendance by bidders is mandatory in order to be eligible to bid on the project.

A date and time will be set for the on-site mandatory Prebid Conference. 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.

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 the pre-bid conference has ended will not be permitted to sign the attendance sheet or bid on the project work.

- (b) Pre-Construction Conference Conference with Engineer, appropriate DEP personnel, Contractor, Sub-Contractors, and others directly concerned, after award of the contract and prior to commencement of construction, for discussion of the project, contract documents, scheduling, and for resolving questions concerning project execution and administration as required.

- (c) **Project Meetings** Meetings shall be held at periodic intervals throughout the construction contract period for discussion of matters pertinent to the execution and administration of the project. The Regional Engineer, Construction Engineer, Construction Supervisor, Inspector, Contractor and/or its Superintendent, Subcontractors, Project Foremen, as required, and others directly concerned, as necessary, shall attend the meetings.

## **5.0 AUTHORITY & DUTIES OF INSPECTORS**

- 5.1 The Inspector, as the Regional Engineer's authorized representative, is authorized to make minor field changes to the plans and specifications that do not involve an increase or decrease in the contract sum or an increase or decrease in the contract time. The Inspector shall be authorized to inspect all work done, all material furnished, payroll records of personnel, material invoices and relevant data and records of the work, and the preparation, fabrication, or manufacture of the materials to be used. The Inspector is not authorized to revoke, alter, or waive any requirements of the plans and specifications that result in an increase or decrease in the amount of compensation due the Contractor or an increase or decrease in the contract time. The Inspector is authorized to call to the attention of the Contractor any failure of the work or materials to conform to the plans and specifications. The Inspector shall have the authority to reject materials or suspend the work until any questions at issue can be referred to and decided by the Regional Engineer.
- 5.2 The Inspector shall in no case act as foreman or perform other duties for the Contractor, nor interfere with the management of the work by the Contractor. Any advice which the Inspector may give the Contractor shall in no way be construed as binding the Regional Engineer in any way, or releasing the Contractor from fulfilling all of the terms of the contract.

## ARTICLE III - GENERAL REQUIREMENTS

- 5.3 If a problem arises that the contractor will not correct and the Contractor refuses to suspend operations on verbal order, the Inspector shall issue a written order giving the reason for ordering the work to stop. After placing the order in the hands of the person in charge, the Inspector shall immediately leave the job, and the Contractor shall cease all operations.

### 6.0 SHOP DRAWINGS, PRODUCT DATA, SAMPLES

#### 6.1 Definitions

- (a) "Shop drawings" are drawings, diagrams, schedules, and other data, prepared for the project by the Contractor, Sub-contractor, manufacturer, or supplier, to illustrate and/or install some portion of the work.
- (b) "Product data" are illustrative data, brochures, schedules, catalog cuts, charts, informative material and specifications to illustrate materials, articles, items, or products for use in some portion of the work.
- (c) "Samples" are physical examples which show and illustrate materials, finishes, equipment or workmanship of products proposed for use in some portion of the work.

#### 6.2 Submittals

- (a) The Contractor shall review, approve, and submit to the Regional Engineer with reasonable promptness, and in such sequence to cause no delay in the work, all shop drawings, product data, and samples required by the contract documents.
- (b) No shop drawings, product data, or samples shall be submitted to the Regional Engineer except by the Contractor, who shall, before submission, verify all materials, check all details, measurements, verify all field measurements and field construction conditions, and other job coordination requirements. Upon review, check, and approval by the Contractor, the Contractor shall place its stamp of approval thereon before submitting to the Regional Engineer.
- (c) The Contractor shall not be relieved of responsibility for any deviation from the requirements of the contract documents by the Regional Engineer's approval of shop drawings, product data, or samples, nor shall it be relieved of responsibility for errors or omissions therein.
- (d) Shop drawings, product data, and samples shall be submitted in sufficient number for all approvals, with a minimum of two (2) copies or samples being retained by the Regional Engineer, and a number of copies and samples being retained by the Contractor as required for the execution of its work.

### ARTICLE III - GENERAL REQUIREMENTS

- (e) No portion of the work requiring submission of a shop drawing, product data, or sample shall be commenced until the submittal has been approved by the Regional Engineer. All such portions of the work shall be in accordance with approved submittals.
- (f) Shop drawings, product data, and samples shall be submitted for work, systems, articles, items, and equipment as specified. Other additional shop drawings, product data, and samples as may be requested for the work by the Regional Engineer shall be submitted to him/her for approval.

#### 7.0 MEASUREMENTS, MANUFACTURER'S DIRECTIONS

##### 7.1 Measurements

Before ordering any material, product, article, or doing any work, the Contractor shall take all necessary measurements at the project and shall be responsible for the correctness of same. No extra charge or compensation will be allowed on account of differences between actual dimensions and the dimensions indicated on the drawings. The Regional Engineer shall be notified of any differences found and work shall not proceed thereon until the Regional Engineer has rendered a decision.

##### 7.2 Manufacturers' Directions

All manufactured articles, items, products, material, and equipment shall be applied, installed, connected, erected, used, cleaned, conditioned and put into operation or use as directed by the manufacturer's printed instructions, unless specified otherwise herein. The Contractor shall be responsible for obtaining all such instructions.

##### 7.3 Measurement of Quantities

The Contractor shall be responsible for providing all necessary volumetric and weight measurement equipment necessary to measure quantities accurately for payment of contract unit items, and said equipment shall be subject to the Regional Engineer's approval. Volume and weight measurements shall be submitted to the Regional Engineer for approval.

#### 8.0 LINES, LEVELS, GRADES, LAYOUT

##### 8.1 Lines, Levels, Grades

- (a) Control points have been established in the field and are shown on the plans whereby the Contractor can properly control the work contracted for under these specifications. Such stakes and markings which the Engineer may have set for either his/her own guidance shall be scrupulously preserved by the Contractor, or its employees. If any

### ARTICLE III - GENERAL REQUIREMENTS

action by the Contractor should result in the destruction of such stakes or markings, an amount equal to the cost of replacing same may be deducted from subsequent estimates due the Contractor at the discretion of the Construction Supervisor. The Contractor shall satisfy itself as to the accuracy of all measurements before constructing any permanent structure and shall not take advantage of any errors which may have been made in laying out the work. Should any discrepancies become evident between the plans and the Contractor's field survey, the Contractor shall immediately notify the Inspector. If these discrepancies will create a change in any item in the Contractor's accepted final bid, the DEP reserves the right to re-design or negotiate. Should the Contractor fail to make notification of these discrepancies, DEP will not be held liable for any changes in the original quantities.

- (b) The Contractor shall make all field measurements necessary for its work and shall be responsible for the accuracy of all dimensions, lines, levels, and grades. If a survey is required, it shall be performed at the expense of the Contractor. All survey work shall be performed by a West Virginia Licensed Land Surveyor who shall certify as to the accuracy of the survey to DEP.

#### 9.0 DOCUMENTS, SHOP DRAWINGS, ETC., AT THE SITE

- 9.1 The Contractor shall maintain at the project site for DEP one (1) record copy of all drawings, specifications, addenda, change orders, and other modifications, in good order, marked currently to record all changes made during construction, and all approved shop drawings, product data, and samples, properly filed and referenced. All such documents and samples shall be delivered to the Construction Supervisor upon completion of the work.
- 9.2 The Contractor shall furnish the Inspector in writing two (2) sets of daily reports showing all personnel (by classification), equipment, and tools engaged in the work, for use in accounting records.
- 9.3 The Contractor shall be responsible for submitting a daily activity summary which shall be used to report progress of the various construction activities performed at the subject site. The summary report shall be submitted to the Inspector on a weekly basis on the prescribed forms. Processing invoices may be delayed if summary reports are not submitted.

#### 10.0 STORAGE OF MATERIALS

- 10.1 The Contractor, under and with the approval, supervision, and direction of DEP, shall assume full charge of the area or areas of the project premises allocated for the storage of materials and equipment as required, allocating the necessary site space to any sub-contractor(s) for storage sheds and space for the storage of materials and equipment. Such arrangement of storage facilities

## ARTICLE III - GENERAL REQUIREMENTS

shall be orderly, convenient, shall not obstruct movement on the site, the work of others, or construction operations. All storage sheds, enclosures, and facilities shall fully protect the stored materials. The Contractor shall arrange with appropriate landowner(s) for any storage areas located outside of the project limits and such storage areas shall also be subject to DEP's approval.

- 10.2 All materials subject to damage by moisture, water, or weather shall be fully protected. All flammable, toxic, and explosive materials shall be safely stored in conformity with applicable safety requirements of State and Federal regulations and safety standards of the National Fire Protection Association.

### 11.0 PROTECTION OF WORK; DAMAGES

#### 11.1 Protection and Replacement of Work

- (a) The Contractor shall protect its work from damage of any kind until completion of construction. Each contractor or sub-contractor shall adequately protect all preceding work from damage caused by it or its work. Should any part of the construction be subject to freezing or exposure to the elements, the same shall be fully protected to prevent damage.
- (b) The Contractor and each sub-contractor shall provide protection against weather, frost, freezing, storms, and heat, to maintain all work, materials, installations, and equipment safe from injury and damage. The Contractor shall provide temporary covering and closures in the construction as required to protect it from damage by weather, until permanent construction provides such protection.
- (c) Damaged or defective work must be replaced; all other work injured or damaged in the replacing of such work or in any way incidental thereto must be brought back to its original condition or replaced by the Contractor performing the work, without additional cost to DEP.

#### 11.2 Damages to Existing Work

All masonry damage, glass breakage, and other damage caused to existing buildings and appurtenances by the Contractor or by other contractors in the performance of work shall be properly replaced or repaired at the option of DEP, without additional cost to DEP.

### 12.0 TEMPORARY FACILITIES

#### 12.1 Utilities

- (a) General All concerned with providing temporary utilities for use on the project are advised to determine locations of sources of supply and the conditions under which services can be brought to points of use on the site.

### ARTICLE III - GENERAL REQUIREMENTS

- (b) **Drinking Water** The Contractor shall arrange for drinking water and containers to be provided on the site.
- (c) **Utility Connections** The Contractor is to furnish power, gas, compressed air and any other utilities required for its own use during construction. The Contractor shall remove all temporary wiring, switches, lights, piping and connections to service facilities used during construction. Such connections shall not be made without approval of the Inspector.
- (d) **Temporary Supports** The Contractor shall provide such temporary supports as may be required during construction, including those necessary to ensure the stability of the proposed excavation.
- (e) **Equipment** The Contractor shall furnish all special apparatuses, welding machines, air compressors, hoisting equipment, tools, implements, cartage, scaffolding, ladders, planks, acetylene gas, oxygen gas, expendable materials, temporary light and heat, construction materials, shims and all other materials that may be required for the proper execution of the work.
- (f) **Temporary Buildings** The Contractor will furnish, place, and equip, at its own expense, and as it deems necessary, any portable construction building(s) such as a trailer, storage sheds or chemical sanitary facilities. These portable facilities must be within the designated project limits; otherwise, the Contractor is solely responsible for making necessary arrangements with the proper landowner when the buildings are set up outside of the project limits. The type and number of buildings are subject to the approval of the Inspector. All written instructions, orders, and other communication delivered to the temporary construction office set up on the site shall be considered as having been delivered to the Contractor itself. The Contractor shall provide and pay for its own fire protection, watchman, temporary utility hookups, etc. The Contractor will promptly remove from the project any office facilities, equipment or materials when so instructed by the Inspector.
- (g) **Sanitation Facilities** The Contractor shall provide and pay for adequate temporary toilet facilities for personnel during the project construction period. Toilets shall be of types approved by DEP and the State Division of Health, and situated only in approved locations. The Contractor shall be responsible for operation and sanitary maintenance of the temporary toilets and shall have them removed upon completion of construction.

## ARTICLE III - GENERAL REQUIREMENTS

### 13.0 CONSTRUCTION SIGN

#### 13.1 Work Required

The work to be performed under this Section consists of providing all labor, material and equipment necessary to install a project sign as indicated on the detail included herein and as specified herein.

#### 13.2 Materials

- (a) Paint Paint for the project sign shall be one (1) coat Exterior-Grade Wood Primer-Sealer, and two (2) coats Exterior Grade Low-Sheen Enamel by Glidden or another approved manufacturer.
- (b) Sign face shall be 3/4" Marine Exterior plywood, aluminum composite material and posts and cross-brace shall be No. 2 Grade Pine or Fir, kiln dried and treated.
- (c) Hardware:
  - (1) All hardware shall be manufactured from good, commercial-quality material and meet all applicable ASTM standards.
  - (2) Spikes and nails shall be common wire-type and shall meet AISI steel specifications 1010 or 1020.
  - (3) All hardware shall be hot-dip galvanized in accordance with ASTM A-153.

#### 13.3 Execution

- (a) Project Sign The sign board shall be cut to the dimensions shown on the detail herein. The sign shall be painted with one (1) coat of primer and two (2) coats of white enamel. All exterior cut edges shall be smooth sanded prior to painting. All edges shall be double primed. The letters, border and strips shall be painted as shown on the detail drawing. Posts and cross-brace shall be painted with two (2) finished coats of brown enamel.

The Contractor shall bolt the sign to posts and provide required cross-bracing. The posts and sign shall be erected and posts set in gravel base, as shown on the drawings. One (1) sign is required and is to be located at the discretion of the Inspector.

- (b) Payment Payment for the work which shall include installation of the project sign shall be part of the lump-sum bid for "Mobilization".





**STATE OF WEST VIRGINIA**  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Office of Abandoned Mine Lands & Reclamation**

**Earl Ray Tomblin**  
Governor



**Randy C. Huffman**  
Cabinet Secretary



**Robert Rice**  
Chief

Project Cost: \$XXX,XXX.00

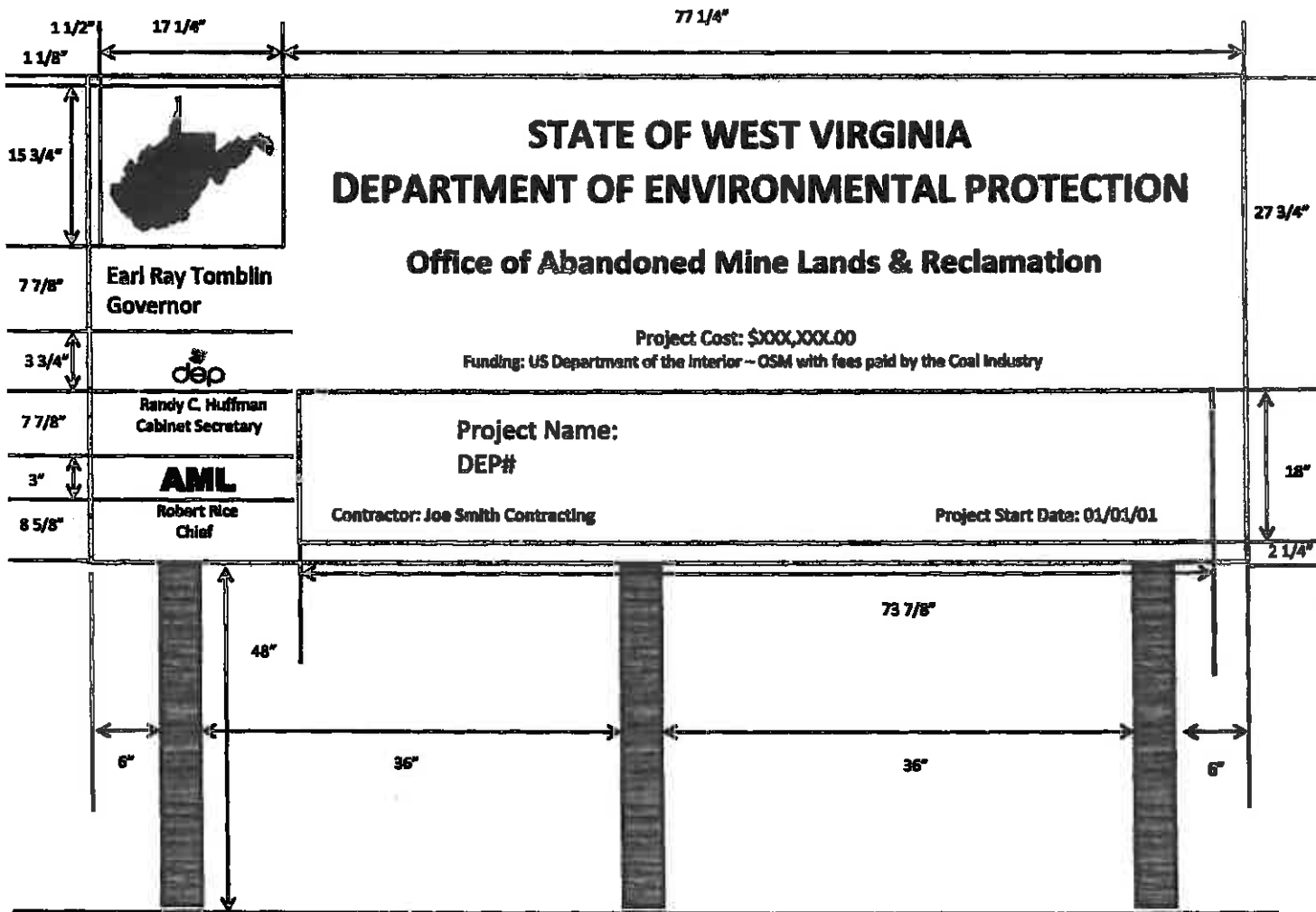
Funding: US Department of the Interior – OSM with fees paid by the Coal Industry

Project Name:

DEP#

Contractor: Joe Smith Contracting

Project Start Date: 01/01/01



96"



# STATE OF WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

## Office of Abandoned Mine Lands & Reclamation

Earl Ray Tomblin  
Governor

Project Cost: \$XXX,XXX.00

Funding: US Department of the Interior -- OSM with fees paid by the Coal Industry



Randy C. Huffman  
Cabinet Secretary



Robert E. Egan  
Chief

Project Name:	
DEP#	
Contractor: Joe Smith Contracting	Project Start Date: 01/01/01

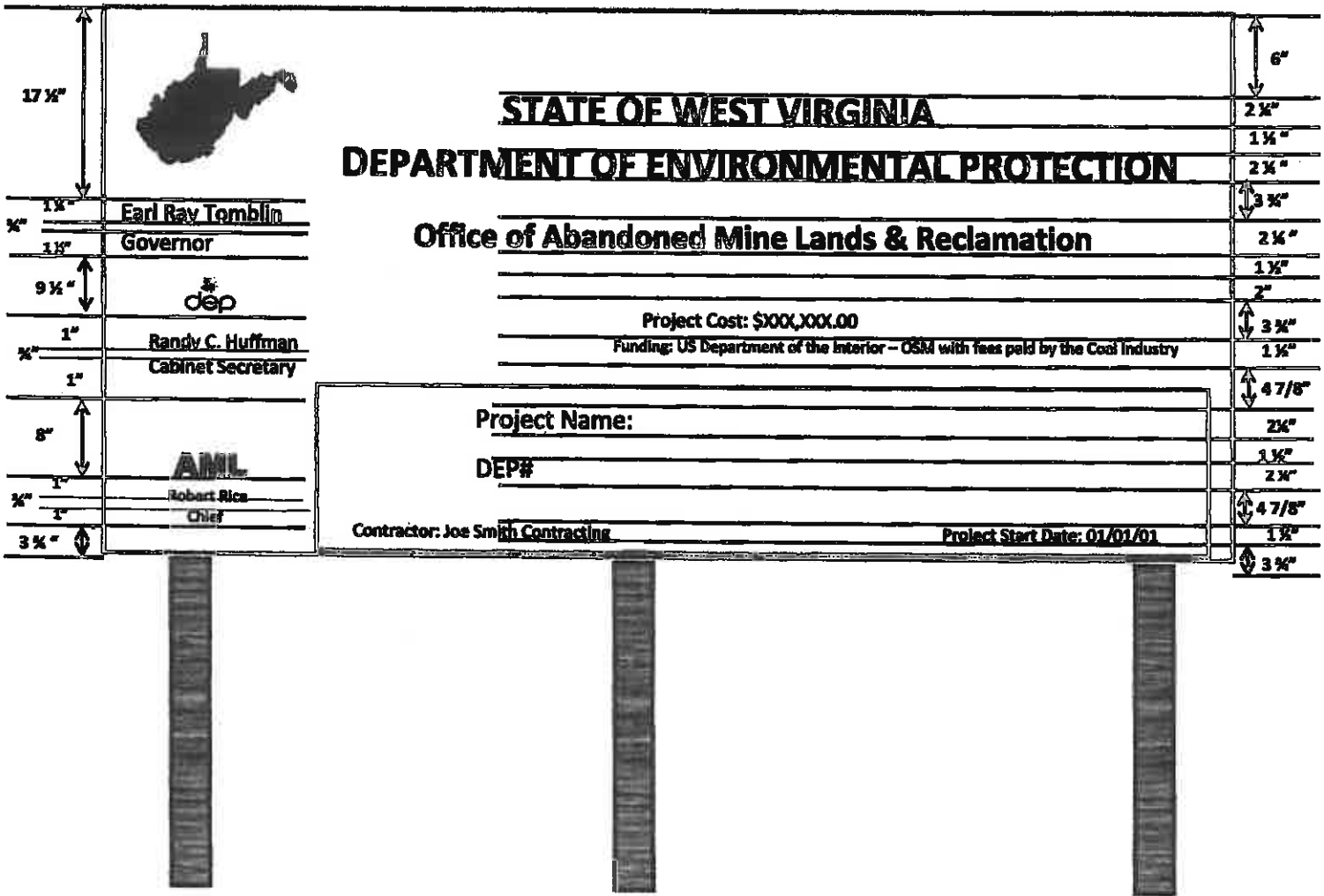
48"

5 1/4"

7 7/8"

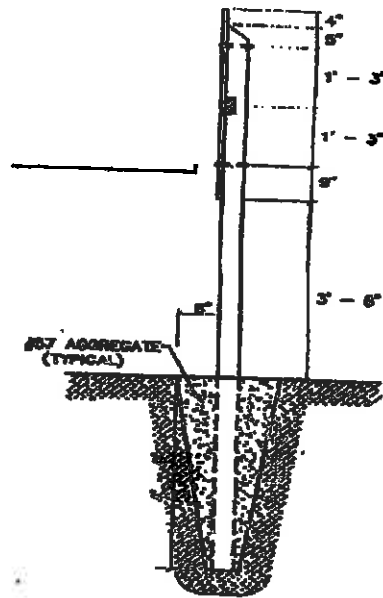
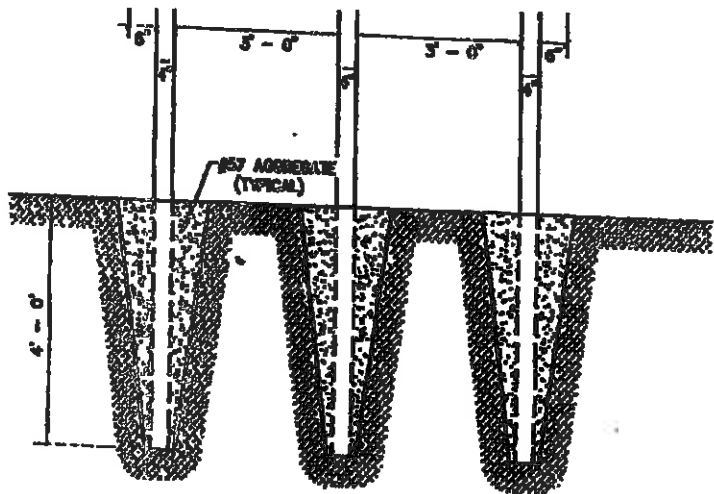
9 3/8"

81 3/8"



**Notes:**

1. Sign board to be 3/4" by 4'X 8' marine plywood.
2. Sign board color is to be white and letter colors are to be dark green and sized as shown on the detail.
3. 2"X 4" treated cross brace let into posts.
4. Mount sign to posts using 3/8"X 5" galvanized carriage bolt.
5. Posts are to be treated 4"X 4"X 12' and painted brown.
6. Location determined by WVDEP.



## ARTICLE III - GENERAL REQUIREMENTS

### 14.0 CLEANING & FINAL CLEAN-UP

#### 14.1 Housekeeping - Periodic Cleaning

The Contractor shall at all times keep the construction site free of accumulations of waste materials and rubbish caused by its operations. Periodically during the progress of the work, and also when directed to do so by DEP, the Contractor shall remove, or cause to be removed by sub-contractors responsible, accumulated waste materials, rubbish, and debris, and leave the construction area in good order.

#### 14.2 Final Clean-Up

The Contractor at all times shall dispose of all debris and waste resulting from work at the Contractor's dump site. The Contractor shall not put or spill any materials into any drainage system which would pollute area streams or waterways. The Contractor shall be liable for any stream pollution caused directly or indirectly by its own employees or those of its sub-contractors.

#### 14.3 Final

Should disputes arise between Contractor and separate contractors, or sub-contractors as to responsibilities for cleaning-up, and refusals to do so result therefrom, DEP may hold final payment until the cleanup work is completed.

### 15.0 TESTING

#### 15.1 When Testing Required

Testing shall be performed as required by the specifications or ordered by the Regional Engineer. The Regional Engineer will determine the need, location, extent, and time of any testing herein specified, or in addition to that which is herein specified.

#### 15.2 Payment for Testing

The Contractor shall select an independent testing laboratory or utilize a laboratory run by the Contractor, to perform all testing for compaction, concrete, and soils as specified herein. All laboratory reports must be signed by a registered professional engineer. The Contractor shall be responsible for testing payments as an incidental to the various items of the bid schedule. If the Contractor allows work to proceed beyond a testing point resulting in the disassembly of structures or the uncovering of work for testing, payment for such will be the responsibility of the Contractor at no extra cost to DEP.

### ARTICLE III - GENERAL REQUIREMENTS

#### 16.0 PROJECT COMPLETION - CERTIFICATES

- 16.1 All certificates of testing, quality, compliance, and performance, as required, requested, and/or specified, shall be delivered to DEP upon delivery or completion of the work covered by the certificates.
- 16.2 All certificates of approval, compliance, and completion as required by codes, inspection and regulatory agencies, and local, State and Federal governmental authorities, shall be delivered to DEP upon completion of the work and inspections covered by such certificates.
- 16.3 The contractor shall submit to the WVDEP as built drawings certified by a Licensed Land Surveyor identifying all changes occurring on the project. The drawings shall be of professional quality. Unsuitable drawings will be returned for revisions. These drawings shall be approved by WVDEP prior to scheduling a Final Inspection.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION  
OFFICE OF ABANDONED MILE LANDS & RECLAMATION**

Report for Week Ending: \_\_\_\_\_ Project Name: \_\_\_\_\_  
By: \_\_\_\_\_ Location: \_\_\_\_\_  
Title: \_\_\_\_\_ Contractor: \_\_\_\_\_

**Daily Activity Summary**

<b>Sunday</b>	
<b>Monday</b>	
<b>Tuesday</b>	
<b>Wednesday</b>	
<b>Thursday</b>	
<b>Friday</b>	
<b>Saturday</b>	



**DEPARTMENT OF ENVIRONMENTAL PROTECTION  
OFFICE OF ABANDONED MILE LANDS & RECLAMATION**  
Weekly Quantity Summary

Report By: \_\_\_\_\_

For Week Ending: \_\_\_\_\_

Pay Item	Units	Quantity Performed

Attach any sheets applicable to this weeks work and check appropriate box.

Change Orders   
Test Results   
Other (explain)

Field Changes   
Explanation of work stoppages not due to weather

**ARTICLE IV - SPECIAL CONDITIONS**

## **ARTICLE IV - SPECIAL CONDITIONS**

### **Sections Included:**

- 1.0 Use of Minority, Women's, & Small Business Enterprises**
- 2.0 Erosion & Sediment Control**
- 3.0 Debarment and Suspension Requirements**
- 4.0 Certification Regarding Lobbying**

## ARTICLE IV - SPECIAL CONDITIONS

### 1.0 USE OF MINORITY, WOMEN'S, & SMALL BUSINESS ENTERPRISES

- 1.1 **Should the Contractor intend to sublet a portion of the work on this project, it shall seek out and consider minority, women's, and small business enterprises as potential sub-contractors. The Contractor shall contact minority, women's, and small businesses to solicit their interest, capability, and prices, and shall retain proper documentation to substantiate such contacts.**
- 1.2 **The Contractor will sign and provide the enclosed Minority, Women's and Small Business Affirmative Action Certification to DEP along with the name(s) of any subcontractor(s) it submits for approval.**

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION  
CONSTRUCTION CONTRACTOR'S  
MINORITY, WOMEN'S AND SMALL BUSINESS  
AFFIRMATIVE ACTION CERTIFICATION

We, Thaxton Construction Co. Inc., the undersigned, Construction Contractor on the Abandoned Mine Lands & Reclamation construction contract herein, intending to sub-contract a part of our contract work under Requisition No. 16 \* 1, hereby certify as follows:

- 1) We will include qualified small, minority and women's businesses on solicitation lists;
- 2) We will assure that small, minority and women's businesses are solicited whenever they are potential sources;
- 3) We will, when economically feasible, divide total requirements into smaller tasks or quantities so as to permit maximum small, minority and women's business participation.
- 4) Where our requirements permit, we will establish delivery schedules which will encourage participation by small, minority and women's businesses.
- 5) We will utilize the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce and the Community Services Administration as required.

We understand that we may obtain the information required under the foregoing provisions from the Governor's Office of Community & Industrial Development's Small Business Development Center, 1115 Virginia Street, East, Charleston, West Virginia 25301, Phone 304/348-2960.

- 6) We will submit this certification to the Construction Supervisor when we submit proposed subcontractors for approval.
- 7) We agree that all documentation relative to affirmative action taken by us to seek out and consider the use of minority, women's and small business enterprises as subcontractors shall be made available for inspection by representatives of the West Virginia Department of Environmental Protection and the U.S. Office of Surface Mining Reclamation and Enforcement;
- 8) This certification is an integral part of our proposal for the construction contract.

Signed this 8<sup>th</sup> day of September, 2015.

Kelley O. Thaxton  
Signature of Authorized Representative  
Vice President  
Title

## ARTICLE IV - SPECIAL CONDITIONS

### 2.0 EROSION & SEDIMENT CONTROL

The manual entitled "West Virginia Department of Environmental Sediment Control Design Manual BMP", 2006, is incorporated herein by reference as a guide for erosion and sediment control, except that where any provision of said manual is in conflict with any special erosion and sediment control provision set out and contained in this specification book and/or in the plans for this project, the plans and/or specification book shall prevail and be followed.

ASSURANCE REQUIREMENT REGARDING EQUAL EMPLOYMENT OPPORTUNITY  
FOR VENDORS, SUPPLIERS AND CONTRACTORS ENGAGED IN  
COMMERCIAL TRANSACTIONS WITH  
THE WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

We, Thaxton Construction Co Inc, the undersigned, desiring to avail ourselves of the benefits of engaging in commercial transactions with the West Virginia Department of Environmental Protection, hereby agree that:

- 1) All employment and personnel practices under this contract, Requisition No. 6\*1, will be conducted without regard to race, sex, religion or national origin;
- 2) We will include in all recruitment advertisements the following wording:  
"An Equal Opportunity Employer"; and
- 3) We will provide the Chief of the Abandoned Mine Lands and Reclamation Division or his/her authorized representative, upon request, documentation that will enable him/her to judge the extent of our compliance with the requirements of Governor's Executive Order No. 4-65, of December 15, 1965.

Signed this 04 day of September, 2015.

Kelley O. Mayton  
Signature of Authorized Representative  
Vice President  
Title

## ARTICLE IV - SPECIAL CONDITIONS

### 3.0 GOVERNMENT-WIDE DEBARMENT & SUSPENSION REQUIREMENTS

#### U. S. Department of the Interior

#### Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

#### Lower Tier Covered Transactions

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1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal, that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non procurement List (Tel.#).
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.



**U. S. Department of the Interior**  
**Certification Regarding**  
**Debarment, Suspension, Ineligibility and**  
**Voluntary Exclusion**  
**Lower Tier Covered Transactions**

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This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 43 CFR Part 12, Section 12.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). For assistance in obtaining a copy of the regulations, contact the U.S. Department of the Interior, Acquisition and Assistance Division, Office of Acquisition and Property Management, 18th and C Streets, N.W., Washington D.C. 20240.

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Kelley D. Thaxton, Vice President  
Name and Title of Authorized Representative

Kelley D. Thaxton 9/8/15  
Signature Date

**ARTICLE IV - SPECIAL CONDITIONS**  
**Instructions for Certification Regarding Lobbying**

- 1. This certification and a disclosure form should be filed by each person as required, with each submission that initiates agency consideration of such person for: (1) award of a Federal contract, grant, or cooperative agreement exceeding \$100,000 or (2) an award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000.**
- 2. This certification and a disclosure form should be filed by each person as required, upon receipt by such person of (1) a Federal contract, grant, or cooperative agreement exceeding \$100,000, or (2) a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000, unless such person previously filed a certification, and a disclosure form, if required, at the time agency consideration was initiated.**
- 3. Any person who requests or receives from a person referred to in paragraphs (1) and (2) above: (1) a subcontract exceeding \$100,000 at any tier under a Federal contract; (2) a subgrant, contract, or subcontract exceeding \$100,000 at any tier under a Federal grant; (3) a contract or subcontract exceeding \$100,000 at any tier under a Federal loan exceeding \$150,000; or (4) a contract or subcontract exceeding \$100,000 at any tier under a Federal cooperative agreement, shall file a certification, and a disclosure form, as required, to the next tier above.**
- 4. All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraphs(1) or (2) above. That person shall forward all disclosure forms to the appropriate Bureau/Office within the Department of the Interior.**
- 5. Any certification or disclosure form filed under paragraph (4) above shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared by any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification or disclosure, the United States may pursue all available remedies, including those authorized by Section 1352, Title 31, U.S. Code.**

**U. S. Department of the Interior  
CERTIFICATION REGARDING LOBBYING**

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**This certification is required by Section 1352, title 31, U. S. Code, entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions."**

**(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)**

**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

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**The undersigned certifies, to the best of his or her knowledge and belief, that:**

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.**
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. To obtain a Standard Form LLL, contact DEP or the U.S. Office of Surface Mining, 603 Morris Street, Charleston, WV 25301, phone number 347-7158.**
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify accordingly.**

**This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.**

Signature Kelley D. Thaxton Date 9/8/15

## DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB  
0348-0046

(See reverse for public burden disclosure.)

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity:</b> <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, <i>if known:</i>  Congressional District, <i>if known:</i> 4c	<b>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:</b>  Congressional District, <i>if known:</i>	
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, <i>if applicable:</i> _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b> \$ _____	
<b>10. a. Name and Address of Lobbying Registrant</b> <i>(if individual, last name, first name, MI):</i>	<b>b. Individuals Performing Services</b> <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>	
<b>11.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
<b>Federal Use Only:</b>		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

## **WAGE AND HOUR INFORMATION**

**PREVAILING WAGE RATES**  
**can be obtained by contacting:**

**WV Division of Labor**  
**Capitol Complex**  
**Bldg. 6, Room 749B**  
**Charleston, WV 25305**

**Phone: (304) 558-7890**

**Website: [www.sos.wv.gov](http://www.sos.wv.gov)**

## **CONSTRUCTION SPECIFICATIONS**



**SOLICITATION NUMBER:** CRFQ DEP1600000001

**Addendum Number:** 01

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

**Applicable Addendum Category:**

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

**Description of Modification to Solicitation:**

This addendum is issued to modify the solicitation per the attached documentation and the following:

1. To provide answers to vendor submitted questions.
2. To provide a copy of the mandatory pre-bid sign-in sheet
3. To modify the bid opening date and time to September 8, 2015 at 1:30PM, EST.
4. To provide a revised bid schedule and commodity lines.

No other changes.

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

**Terms and Conditions:**

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

# ATTACHMENT A

**DEP17209**  
**Wolfpen (Carpenter) Portals**  
**Addendum #1**

- Item 1: The contractor will have 180 days from the date of the Notice to Proceed to complete construction activities on the project. The \$250 per day liquidated damage clause will be in effect after the 90 days. However, the total performance period will be 365 days from the date of the Notice to Proceed for invoicing purposes.
- Item 2: Bat gate mine seals shall be installed between May 1 and August 31.
- Item 3: Prior to issuing a Notice to Proceed for construction activities, the Contractor must submit the required documentation to be named as "Co-Applicant #1" on the NPDES storm water permit application. A Notice to Proceed will not be issued until the successful transfer of registration has been completed. Once the transfer has been completed, the Contractor shall be responsible for any fees associated with violations or fines assessed against the project. Please refer to Article III in the General Conditions for additional details.
- Item 4: Add the following language to the end of specification 9.3.4:  
The three (3) piezometers which will require abandonment are illustrated on the plans and labeled as B-1, B-2, and B-3.
- Item 5: In an effort to minimize change orders, disruption of work, and paperwork for the contractor and WVDEP, we have revised the Bid Sheet (copy attached) with slightly increased quantities for some items (access road stone, revegetation acreage, channel footage, pipe, etc.).
- Item 6: Sheet 19 of the plans has been revised (copy attached).
- Item 7: The bridge at the construction entrance, Antique Rd., will be the Contractor's responsibility.
- Item 8: The rock from the existing riprap lined channel at Channel No. 3 can be reused for the grouted riprap channel if it is removed, cleaned, meets correct gradation, and is acceptable to the Engineer.
- Item 9: There are some leaning trees along the drill access road to piezometer B-3. These leaning trees will need to be brought to the ground. This work will be incidental to demobilization.

## Wolfpen (Carpenter) Portals

### Contractor's Bid Sheet

Vendor's Name: Thaxton Construction Co., Inc.

The DEP reserves the right to request additional information and supporting documentation regarding unit prices when the unit price appears to be unreasonable.

Item No.	Bid Quantity	Unit	Description	Unit Price	Amount
1.0	1	LS	Mobilization & Demobilization (Lump Sum) (Limited to 10% of Total Amount Bid)	LS	\$ 1,000.00
2.0	1	LS	Construction Layout Stakes (Lump Sum) (Limited to 5% of Total Amount Bid)	LS	\$ 1,000.00
3.0	1	LS	Quality Control (Lump Sum) (Limited to 3% of Total Amount Bid)	LS	\$ 1,000.00
4.1	1	LS	Site Preparation (Lump Sum) (Limited to 10% of Total Amount Bid)	LS	\$ 9,650.00
4.2	1,000	TN	Access Road Rehabilitation (per ton)	\$ 20.00	\$ 20,000.00
5.1	3,000	LF	Slit Fence (per linear foot)	\$ 1.00	\$ 3,000.00
5.2	1	EA	Stabilized Construction Entrance (per each)	\$80,000.00	\$ 80,000.00
6.0	12	AC	Revegetation (per plan view acre)	\$ 500.00	\$ 6,000.00
7.1	200	LF	Type 1, 2-foot Deep Riprap Lined Channel (per linear foot)	\$ 30.00	\$ 6,000.00
7.2	275	LF	Type 2, 2-foot Deep Grouted Riprap Lined Channel (per linear foot)	\$ 50.00	\$ 13,750.00
7.3	80	LF	12-inch CPP (per linear foot)	\$ 40.00	\$ 3,200.00
7.4	21	EA	4' x 4' Splash Pad (per each)	\$ 500.00	\$ 10,500.00
9.1	15	EA	Wet/Modified Mine Seal (per each)	\$ 4,000.00	\$ 60,000.00
9.2	4	EA	Single Bat Gate Mine Seal (per each)	\$ 8,000.00	\$ 32,000.00
9.3	5	EA	Dry Mine Seal (per each)	\$ 3,000.00	\$ 15,000.00
9.4	900	EA	Soda Ash Briquettes (per 50 pound bag)	\$ 1.00	\$ 900.00
10.1	500	LF	8-inch Underdrain (per linear foot)	\$ 20.00	\$ 10,000.00
10.2	300	LF	8-inch Conveyance Pipe (per linear foot)	\$ 20.00	\$ 6,000.00
<b>TOTAL</b>					<b>\$ 279,000.00</b>

16\*1<sup>st</sup>  
 REQUEST FOR QUOTATION NO. DEP17209

**SIGN IN SHEET**

Page 1 of 2

Wolfpen (Carpenter) Portals

PLEASE PRINT

Date: July 23, 2015

\* PLEASE BE SURE TO PRINT LEGIBLY - IF POSSIBLE, LEAVE A BUSINESS CARD

FIRM & REPRESENTATIVE NAME	MAILING ADDRESS	TELEPHONE & FAX NUMBERS
Company: <u>GREEN MOUNTAIN COMPANY</u> Rep: <u>DAVID H. BOWMAN</u> Email Address: <u>DHB722@yahoo.com</u>	<u>511 50<sup>th</sup> ST</u> <u>Charleston WV</u> <u>25304</u>	PHONE <u>304-925-0253</u> TOLL FREE FAX <u>304-925-4043</u>
Company: <u>McCourt &amp; Son Const.</u> Rep: <u>GARY LONG</u> Email Address: <u>glong@wirefire.com</u>	<u>5802 Centralia Rd</u> <u>Sutton WV 26601</u>	PHONE <u>304 765-5288</u> TOLL FREE FAX <u>304 765-5293</u>
Company: <u>Pineville Paving &amp; Exc Inc</u> Rep: <u>MIKE BRADFORD</u> Email Address: <u>Tony PPI@aol.com</u>	<u>Box 1290</u> <u>Pineville W.V. 24874</u>	PHONE <u>304-732-8303</u> TOLL FREE FAX <u>304-732-7855</u>
Company: <u>EASTERN ARROW</u> Rep: <u>Ann Wansel</u> Email Address: <u>easternarrow@hotmail.com</u>	<u>70 Box 4168</u> <u>CHARLESTON WV</u> <u>25304</u>	PHONE <u>304 414-0255</u> TOLL FREE FAX <u>0256</u>
Company: <u>BREAKAWAY INC.</u> Rep: <u>Doug Vincent</u> Email Address: <u>doug@breakawaywv.com</u>	<u>1539 Old Turnpike Rd</u> <u>Sutton WV 26601</u>	PHONE <u>765-5317</u> TOLL FREE FAX <u>765-5317</u>

16\*1 JB  
 REQUEST FOR QUOTATION NO. DEP17209  
 Wolfpen (Carpenter) Portals

**SIGN IN SHEET**

Page 2 of 2  
 Date: July 23, 2015

PLEASE PRINT

\* PLEASE BE SURE TO PRINT LEGIBLY - IF POSSIBLE, LEAVE A BUSINESS CARD

FIRM & REPRESENTATIVE NAME	MAILING ADDRESS	TELEPHONE & FAX NUMBERS
Company: <u>Carpenter Reclamation</u> Rep: <u>Ragdy Carpenter</u> Email Address: <u>Rcarp@03</u>	<u>PO Box 13015</u> <u>Sissonville, WV</u> <u>25750</u>	PHONE <u>304-984-1145</u> TOLL FREE FAX <u>984-2770</u>
Company: <u><del>Paul</del> Thaxter Const Co</u> Rep: <u>Dale Thaxter</u> Email Address: <u>Thaxter Const at Gmail</u>	<u>PO Box 13279</u> <u>Charleston WV</u> <u>25360</u>	PHONE <u>304 984 2299</u> TOLL FREE FAX <u>304 984 2334</u>
Company: <u>All Quality LLC</u> Rep: <u>Jason Davis</u> Email Address: <u>allqualityllc@aol.com</u>	<u>PO Box 7169</u> <u>Cross Lanes, WV 25356</u>	PHONE <u>304 776 9473</u> TOLL FREE <del>304</del> FAX <u>304 776 9474</u>
Company: <u>All Quality LLC</u> Rep: <u>Tony DeCarlo</u> Email Address: _____	_____ _____ _____	PHONE TOLL FREE FAX
Company: <u>S + E Carpentry</u> Rep: <u>David Bailey</u> Email Address: <u>164p@y@5022@link.net</u>	<u>846 Saunders St</u> <u>St Albans WV</u> <u>25177</u>	PHONE <u>759 5328</u> TOLL FREE <u>426 5156</u> FAX <u>426 5166</u>

**ADDENDUM ACKNOWLEDGEMENT FORM**  
**SOLICITATION NO.: DEP160000001**

**Instructions:** Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

**Acknowledgment:** I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

**Addendum Numbers Received:**

(Check the box next to each addendum received)

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6  |
| <input type="checkbox"/> Addendum No. 2            | <input type="checkbox"/> Addendum No. 7  |
| <input type="checkbox"/> Addendum No. 3            | <input type="checkbox"/> Addendum No. 8  |
| <input type="checkbox"/> Addendum No. 4            | <input type="checkbox"/> Addendum No. 9  |
| <input type="checkbox"/> Addendum No. 5            | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

\_\_\_\_\_  
Thaxton Construction Co., Inc.  
Company

\_\_\_\_\_  
*Kelley D. Thaxton*  
Authorized Signature

\_\_\_\_\_  
9/8/2015  
Date

**NOTE:** This addendum acknowledgment should be submitted with the bid to expedite document processing.  
Revised 6/8/2012

**AML CONTRACTOR INFORMATION FORM**

You must complete this form for your AML contracting officer to request an eligibility evaluation from the Office of Surface Mining to determine if you are eligible to receive an AML contract. This requirement applies to contractors and their sub-contractors and is found under OSM's regulations at 30 CFR 874.16. When possible, please type your information onto this form to reduce errors on our end. NOTE: Signature and date this form is signed must be recent (within the last month) to be considered for a current bid

**Part A: General Information**

Business Name: Thaxton Construction Co., Inc. Tax Payer ID No.: 55-0743840  
Address: P.O. Box 13279  
City: Charleston State: WV Zip Code: 25360 Phone: (304)984-2299  
Fax No.: (304)984-2334 E-mail address: thaxtonconstruction@gmail.com

**Part B: Legal Structure**

Corporation     Sole Proprietorship     Partnership     LLC  
 Other (please specify) \_\_\_\_\_

**Part C: Certifying and updating information in the Applicant/Violator System (AVS).** Select only one of the following options, follow the instructions for that option, and sign below.

I, Kelley D. Thaxton, have the express authority to certify that:  
(print name)

- Information on the attached Entity Organizational Family Tree (OFT) from AVS is accurate, complete, and up-to-date. If you select this option, you must attach an Entity OFT from AVS to this form. Sign and date below and do not complete Part D.
- \_\_\_\_\_ Part of the information on the attached Entity OFT from AVS is missing or incorrect and must be updated. If you select this option, you must attach an Entity OFT from AVS to this form. Use Part D to provide the missing or corrected information. Sign and date below and complete Part D.
- \_\_\_\_\_ Our business currently is not listed in AVS. If you select this option, you must provide all information required in Part D. Sign and date below and complete Part D.

9/8/2015  
Date

Kelley D. Thaxton  
Signature

Vice President  
Title

**IMPORTANT!** In order to certify in Part C to the accuracy of existing information in AVS, you must obtain a copy of your business' Entity OFT. To obtain an Entity OFT, contact the AVS Office, toll-free, at 800-643-9748 or from the AVS website at <https://avss.osmre.gov>.



**Part D.**

**Contractor's Business Name:** \_\_\_\_\_

If the current Entity OFT information for your business is incomplete or incorrect in AVS, or if there is no information in AVS for your business, you must provide all of the following information as it applies to your business. Please make as many copies of this page as you require.

- Every officer (President, Vice President, Secretary, Treasurer, etc.);
- All Directors;
- All persons performing a function similar to a Director;
- Every person or business that owns 10% or more of the voting stock in your business;
- Every partner, if your business is a partnership;
- Every member and manager, if your business is a limited liability company; and
- Any other person(s) who has the ability to determine the manner in which the AML reclamation project is being conducted.

Name	_____	Position/Title	_____
Address	_____	Telephone #	_____
Begin Date:	_____	% of Ownership	_____
		Ending Date:	_____
Name	_____	Position/Title	_____
Address	_____	Telephone #	_____
Begin Date:	_____	% of Ownership	_____
		Ending Date:	_____
Name	_____	Position/Title	_____
Address	_____	Telephone #	_____
Begin Date:	_____	% of Ownership	_____
		Ending Date:	_____
Name	_____	Position/Title	_____
Address	_____	Telephone #	_____
Begin Date:	_____	% of Ownership	_____
		Ending Date:	_____

**PAPERWORK REDUCTION STATEMENT**

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501) requires us to inform you that: Federal Agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. This information is necessary for all successful bidders prior to the distribution of AML funds, and is required to obtain a benefit.

Public reporting burden for this form is estimated to range from 15 minutes to 1 hour, with an average of 22 minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. You may direct comments regarding the burden estimate or any other aspect of this form to the Information Collection Clearance Officer, Office of Surface Mining Reclamation and Enforcement, Room 202 SIB, Constitution Ave., NW, Washington, D.C. 20240.



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[HOME](#) > ENTITY PAGE

**Entity Number:** 141839

**Entity Name:** Thaxton Construction Company Incorporated

**\* First Name:**

**Middle Name:**

**Alias:**

**Tax ID:**

**Memo:** AML CONTRACTOR

**Created:** 7/3/1996

**Updated:** 10/17/2007

**Source:** lcox@osmre.gov

**Entity Type:** Business

**Locked:** N

Find By Entity #, Bus. Name, Last Name

Show Results: 10

Fast

Entity#	EName	FName	Middle	LCK	EType
141839	Thaxton Construction Company Incorporated			N	Business

[Select](#)

Addresses Relationships Applications Permits Comments

Parent	Entity	SubEntity	Name	Desc.	% Own	begin	End	Hold	HoldSrc	Create	Update	ExtDesc	By
141839	Thaxton Construction Company Incorporated	141841	Thaxton Garland	President	0	3/1/2001		None		10/23/2002	10/23/2002		avsky033
141839	Thaxton Construction Company Incorporated	141841	Thaxton Garland	Shareholder	100	8/1/1995		None		7/3/1996	10/23/2002		avsky033
141839	Thaxton Construction Company Incorporated	141841	Thaxton Garland	Treasurer	0	3/1/2001		None		10/23/2002	10/23/2002		avsky033
141839	Thaxton Construction Company Incorporated	141842	Thaxton Kelley	Secretary	0	8/1/1995		None		7/3/1996	7/3/1996		avsky033
141839	Thaxton Construction Company Incorporated	141842	Thaxton Kelley	Vice President	0	3/1/2001		None		10/23/2002	10/23/2002		avsky033
141839	Thaxton Construction Company Incorporated	141844	Wilkinson Chester	Corporate Officer	0	8/1/1995		None		7/3/1996	7/3/1996		avsky033
141839	Thaxton Construction Company Incorporated	141845	Thaxton Lester	Corporate Officer	0	8/1/1995		None		7/3/1996	7/3/1996		avsky033
141839	Thaxton Construction Company Incorporated	141840	Thompson Allen	President	0	8/1/1995	3/1/2001	None		7/3/1996	10/23/2002		avsky033
141839	Thaxton Construction Company Incorporated	141840	Thompson Allen	Shareholder	75	8/1/1995	3/1/2001	None		7/3/1996	10/23/2002		avsky033
141839	Thaxton Construction Company Incorporated	141841	Thaxton Garland	Vice President	0	8/1/1995	3/1/2001	None		7/3/1996	10/23/2002		avsky033





U.S. Department of the Interior Office of Surface Mining Applicant/Violator System

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[HOME](#) > ENTITY PAGE

**Entity Number:** 141839

**Entity Name:** Thaxton Construction Company Incorporated

**\* First Name:**

**Middle Name:**

**Alias:**

**Tax ID:**

**Memo:** AML CONTRACTOR

**Created:** 7/3/1996

**Updated:** 10/17/2007

**Source:** lcox@osmre.gov

**Entity Type:** Business

**Locked:** N

Show Results: 10 ▼

Find By Entity #, Bus. Name, Last Name

Fast

<u>Entity#</u>	<u>EName</u>
141839	Thaxton Construction Company Incorporated

<u>EName</u>	<u>Middle</u>	<u>LCK</u>	<u>ETyrc</u>
		N	Business

[Addresses](#) [Relationships](#) [Applications](#) [Permits](#) [Comments](#)

<u>Parent</u>	<u>Entity</u>	<u>SubEntity</u>	<u>Name</u>	<u>Desc.</u>	<u>% Own</u>	<u>begin</u>	<u>End</u>	<u>Hold</u>	<u>HoldSrc</u>	<u>Create</u>	<u>Update</u>	<u>ExtDesc</u>	<u>By</u>
141839	Thaxton Construction Company Incorporated	141843	Hale Pamela	Treasurer	0	8/1/1995	3/1/2001	None		7/3/1996	10/23/2002		avsky033

12



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

STATE OF WEST VIRGINIA,

COUNTY OF Kanawha, TO-WIT:

I, Kelley D. Thaxton, after being first duly sworn, depose and state as follows:

1. I am an employee of Thaxton Construction Co., Inc.; and,  
(Company Name)

2. I do hereby attest that Thaxton Construction Co., Inc.  
(Company Name)

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

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

By: Kelley D. Thaxton

Title: Vice President

Company Name: Thaxton Construction Co., Inc.

Date: 9/8/2015

Taken, subscribed and sworn to before me this 8th day of September, 2015.

By Commission expires Jan 16 2022



Jane Wood  
(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.**

**BID BOND**

KNOW ALL MEN BY THESE PRESENTS, That we, the undersigned, Thaxton Construction Company, Inc. of Sissonville  
of Charleston, WV, as Principal, and Merchants National Bonding, Inc.  
of Des Moines, IA, a corporation organized and existing under the laws of the State of  
IA with its principal office in the City of Des Moines, as Surety, are held and firmly bound unto the State  
of West Virginia, as Oblgee, in the penal sum of Five Percent of 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  
Wolfpen (Carpenter) Portals DEP17209 - According to Plans & Specifications

**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 Oblgee may accept such bid, and said Surety does hereby  
waive notice of any such extension.

WITNESS, the following signatures and seals of Principal and Surety, executed and sealed by a proper officer of Principal and  
Surety, or by Principal individually if Principal is an individual, this 8th day of September, 2015.

Principal Seal

Thaxton Construction Company, Inc. of Sissonville  
(Name of Principal)  
By: Kelley D. Thaxton  
(Must be President, Vice President, or  
Duly Authorized Agent)  
Vice President  
(Title)

Surety Seal

Merchants National Bonding, Inc.  
(Name of Surety)  
By: Patricia A. Moye  
Patricia A. Moye, WV Resident Agent Attorney-in-Fact

**IMPORTANT – Surety executing bonds must be licensed in West Virginia to transact surety insurance, must affix its seal, and  
must attach a power of attorney with its seal affixed.**

**MERCHANTS  
BONDING COMPANY  
POWER OF ATTORNEY**

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

**Allan L McVey; Gregory T Gordon; Kimberly J Wilkinson; Patricia A Moye**

their true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver on behalf of the Companies, as Surety, bonds, undertakings and other written obligations in the nature thereof, subject to the limitation that any such instrument shall not exceed the amount of:

**EIGHT MILLION (\$8,000,000.00) DOLLARS**

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 24, 2011.

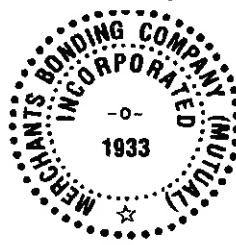
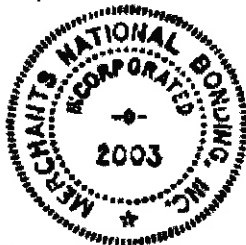
"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission 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 connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 15th day of August, 2015



**MERCHANTS BONDING COMPANY (MUTUAL)  
MERCHANTS NATIONAL BONDING, INC.**

By *Larry Taylor*

President

STATE OF IOWA  
COUNTY OF Dallas ss.

On this 15th day of August, 2015, before me appeared Larry Taylor, to me personally known, who being by me sworn did say that he is President of the MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.

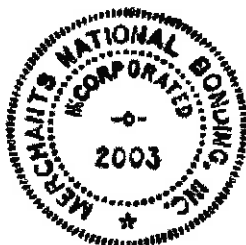


*Wendy Woody*  
Notary Public, Roll County, Iowa

(Expiration of notary's commission does not invalidate this instrument)

I, William Warner, Jr., Secretary of the MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, 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 Companies on this 8th day of September, 2015



*William Warner Jr.*  
Secretary

STATE OF WEST VIRGINIA  
Purchasing Division  
**PURCHASING AFFIDAVIT**

**MANDATE:** Under W. Va. Code §5A-3-10a, 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: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

**EXCEPTION:** The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. 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.

**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.

**"Employer default"** means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

**"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.

**AFFIRMATION:** By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (W. Va. Code §61-5-3) that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

**WITNESS THE FOLLOWING SIGNATURE:**

Vendor's Name: Thaxton Construction Co., Inc.

Authorized Signature: Kelley D. Thaxton Date: 9/8/2015

State of West Virginia

County of Kanawha, to-wit:

Taken, subscribed, and sworn to before me this 8<sup>th</sup> day of September, 2015

My Commission expires Jan 16, 2022

AFFIX SEAL HERE



NOTARY PUBLIC

Jane Wood

Purchasing Affidavit (Revised 07/01/2012)