



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

Request for Quotation

RFQ NUMBER
 DEP13578

PAGE
 1

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

RFQ COPY
 TYPE NAME/ADDRESS HERE

Babcock Fence

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

DATE PRINTED	TERMS OF SALE	SHIP VIA	FOB	FREIGHT TERMS
07/26/2007	<i>30 Days</i>		<i>SITE</i>	<i>Ⓟ</i>
BID OPENING DATE: 08/22/2007		BID OPENING TIME 01:30PM		

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	LS		988-15		<i>93477.87</i>
<p>OPEN END CONTRACT FOR FENCE AND/OR GATES DSR NORTH</p> <p>THE WEST VIRGINIA PURCHASING DIVISION, FOR THE AGENCY, THE WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION'S DIVISION OF LAND RESTORATION'S OFFICE OF SPECIAL RECLAMATION SITES, IS SOLICITING BIDS TO AWARD AN OPEN-END CONTRACT TO FURNISH ALL LABOR, MATERIALS, EQUIPMENT, AND OTHER NECESSARY SERVICES TO INSTALL GATES AND/OR FENCES ON VARIOUS OFFICE OF SPECIAL RECLAMATION PROJECT SITES AS DETERMINED BY A REPRESENTATIVE OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION, PER THE FOLLOWING SPECIFICATIONS, BID REQUIREMENTS, AND TERMS AND CONDITIONS.</p> <p>EXHIBIT 1</p> <p>LIFE OF CONTRACT: THIS CONTRACT BECOMES EFFECTIVE UPON AWARD AND EXTENDS FOR A PERIOD OF ONE (1) YEAR OR UNTIL SUCH "REASONABLE TIME" THEREAFTER AS IS NECESSARY TO OBTAIN A NEW CONTRACT OR RENEW THE ORIGINAL CONTRACT. THE "REASONABLE TIME" PERIOD SHALL NOT EXCEED TWELVE (12) MONTHS. DURING THIS "REASONABLE TIME" THE VENDOR MAY TERMINATE THIS CONTRACT FOR ANY REASON UPON GIVING THE DIRECTOR OF PURCHASING 30 DAYS WRITTEN NOTICE.</p> <p>UNLESS SPECIFIC PROVISIONS ARE STIPULATED ELSEWHERE IN THIS CONTRACT DOCUMENT, THE TERMS, CONDITIONS, AND PRICING SET HEREIN ARE FIRM FOR THE LIFE OF THE CONTRACT.</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE *[Signature]* TELEPHONE *740 896 2211* DATE *8/05/07*

TITLE *owner* FEIN *31-1246960* ADDRESS CHANGES TO BE NOTED ABOVE

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

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

1. Awards will be made in the best interest of the State of West Virginia.
2. The State may accept or reject in part, or in whole, any bid.
3. All quotations are governed by the *West Virginia Code* and the *Legislative Rules* of the Purchasing Division.
4. Prior to any award, the apparent successful vendor must be properly registered with the Purchasing Division and have paid the required \$125.00 registration fee.
5. All services performed or goods delivered under State Purchase Orders/Contracts are to be continued for the term of the Purchase Order/Contract, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
6. Payment may only be made after the delivery and acceptance of goods or services.
7. Interest may be paid for late payment in accordance with the *West Virginia Code*.
8. Vendor preference will be granted upon written request in accordance with the *West Virginia Code*.
9. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
10. The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
11. The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern all rights and duties under the Contract, including without limitation the validity of this Purchase Order/Contract.
12. Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
13. **BANKRUPTCY:** In the event the vendor/contractor files for bankruptcy protection, this contract is automatically null and void, and is terminated without further order.
14. **HIPAA Business Associate Addendum** - The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General; and available online at the Purchasing Division's web site (<http://www.state.wv.us/admin/purchase/vrc/hipaa.htm>) is hereby made part of the agreement. Provided that, the Agency meets the definition of a Covered Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the vendor.

INSTRUCTIONS TO BIDDERS

1. Use the quotation forms provided by the Purchasing Division.
2. **SPECIFICATIONS:** Items offered must be in compliance with the specifications. Any deviation from the specifications must be clearly indicated by the bidder. Alternates offered by the bidder as EQUAL to the specifications must be clearly defined. A bidder offering an alternate should attach complete specifications and literature to the bid. The Purchasing Division may waive minor deviations to specifications.
3. Complete all sections of the quotation form.
4. Unit prices shall prevail in cases of discrepancy.
5. All quotations are considered F.O.B. destination unless alternate shipping terms are clearly identified in the quotation.
6. **BID SUBMISSION:** All quotations must be delivered by the bidder to the office listed below prior to the date and time of the bid opening. Failure of the bidder to deliver the quotations on time will result in bid disqualifications.

SIGNED BID TO:

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



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<p>RENEWAL: THIS CONTRACT MAY BE RENEWED UPON THE MUTUAL WRITTEN CONSENT OF THE SPENDING UNIT AND VENDOR, SUBMITTED TO THE DIRECTOR OF PURCHASING THIRTY (30) DAYS PRIOR TO THE EXPIRATION DATE. SUCH RENEWAL SHALL BE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND SHALL BE LIMITED TO TWO (2) SUCCESSIVE ONE (1) YEAR PERIODS.</p> <p>CANCELLATION: THE DIRECTOR OF PURCHASING RESERVES THE RIGHT TO CANCEL THIS CONTRACT IMMEDIATELY UPON WRITTEN NOTICE TO THE VENDOR IF THE COMMODITIES AND/OR SERVICES SUPPLIED ARE OF AN INFERIOR QUALITY OR DO NOT CONFORM WITH THE SPECIFICATIONS OF THE BID AND CONTRACT HEREIN.</p> <p>OPEN MARKET CLAUSE: THE DIRECTOR OF PURCHASING MAY AUTHORIZE A SPENDING UNIT TO PURCHASE ON THE OPEN MARKET, WITHOUT THE FILING OF A REQUISITION OR COST ESTIMATE, ITEMS SPECIFIED ON THIS CONTRACT FOR IMMEDIATE DELIVERY IN EMERGENCIES DUE TO UNFORESEEN CAUSES (INCLUDING BUT NOT LIMITED TO DELAYS IN TRANSPORTATION OR AN UNANTICIPATED INCREASE IN THE VOLUME OF WORK).</p> <p>INSURANCE: SUCCESSFUL VENDOR SHALL FURNISH PROOF OF COVERAGE OF COMMERCIAL GENERAL LIABILITY INSURANCE PRIOR TO ISSUANCE OF THE CONTRACT. UNLESS OTHERWISE SPECIFIED IN THE BID DOCUMENTS, THE MINIMUM AMOUNT OF INSURANCE COVERAGE REQUIRED IS \$250,000.</p> <p>WORKER'S COMPENSATION: VENDOR IS REQUIRED TO PROVIDE A CERTIFICATE FROM WORKER'S COMPENSATION IF SUCCESSFUL.</p> <p>BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THIS CONTRACT IS AUTOMATICALLY NULL AND VOID, AND IS TERMINATED WITHOUT FURTHER ORDER.</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE: *Chuck Bowman* TELEPHONE: 7408962211 DATE: 8/05/07

TITLE: Owner FEIN: 31-1246960 ADDRESS CHANGES TO BE NOTED ABOVE

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<p>REV. 9/98</p> <p>LIQUIDATED DAMAGES: ACCORDING TO WV CODE 5A-3-4(8), THE VENDOR AGREES THAT LIQUIDATED DAMAGES SHALL BE IMPOSED AT THE RATE OF \$100.00 PER DAY, FOR FAILURE TO PROVIDE DELIVERABLES AT THE AGREED UPON DATE IDENTIFIED IN EACH INDIVIDUAL RELEASE OF THE CONTRACT. THIS CLAUSE SHALL IN NO WAY BE CONSIDERED EXCLUSIVE AND SHALL NOT LIMIT THE STATE OR DEP'S RIGHT TO PURSUE ANY OTHER ADDITIONAL REMEDY TO WHICH THE STATE OR DEP MAY HAVE LEGAL CAUSE FOR ACTION INCLUDING FURTHER DAMAGES AGAINST THE VENDOR.</p> <p>BID BOND: A BID BOND IN THE AMOUNT OF \$5,000.00 PAYABLE TO THE STATE OF WEST VIRGINIA, SHALL BE SUBMITTED WITH EACH BID. BONDS MAY BE PROVIDED IN THE FORM OF A CERTIFIED CHECK, IRREVOCABLE LETTER OF CREDIT, OR A BOND FURNISHED BY A SOLVENT SURETY COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE OF WEST VIRGINIA. PERSONAL OR BUSINESS CHECKS ARE NOT ACCEPTABLE IN LIEU OF THE BID BOND.</p> <p>WAGE RATES: THE CONTRACTOR OR SUBCONTRACTOR SHALL PAY THE HIGHER OF THE U.S. DEPARTMENT OF LABOR MINIMUM WAGE RATES AS ESTABLISHED FOR THE COUNTY IN WHICH THE WORK IS TO BE PERFORMED, PURSUANT TO WEST VIRGINIA CODE 21-5A, ET, SEQ.</p> <p>ARBITRATION: ANY REFERENCES MADE TO ARBITRATION OR INTEREST FOR PAYMENTS DUE (EXCEPT FOR ANY INTEREST REQUIRED BY STATE LAW) CONTAINED IN THIS CONTRACT OR IN ANY AMERICAN INSTITUTE OF ARCHITECTS DOCUMENTS PERTAINING TO THIS CONTRACT ARE HEREBY DELETED.</p> <p>CONTRACTORS LICENSE</p>						

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TITLE owner	FEIN 31-1246960	ADDRESS CHANGES TO BE NOTED ABOVE

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<p>WEST VIRGINIA STATE CODE 21-11-2 REQUIRES THAT ALL PERSONS DESIRING TO PERFORM CONTRACTING WORK IN THIS STATE MUST BE LICENSED. THE WEST VIRGINIA CONTRACTORS LICENSING BOARD IS EMPOWERED TO ISSUE THE CONTRACTORS LICENSE. APPLICATIONS FOR A CONTRACTORS LICENSE MAY BE MADE BY CONTACTING THE WEST VIRGINIA DIVISION OF LABOR CAPITOL COMPLEX, BUILDING 3, ROOM 319, CHARLESTON, WV 25305. TELEPHONE: (304) 558-7890.</p> <p>WEST VIRGINIA STATE CODE 21-11-11 REQUIRES ANY PROSPECTIVE BIDDER TO INCLUDE THE CONTRACTORS LICENSE NUMBER ON THEIR BID.</p> <p>BIDDER TO COMPLETE: <i>Babcock Fence Company</i> CONTRACTORS NAME -</p> <p>CONTRACTORS LICENSE NO. - <i>WV031115</i></p> <p>THE SUCCESSFUL BIDDER WILL REQUIRED TO FURNISH A COPY OF THEIR CONTRACTORS LICENSE PRIOR TO ISSUANCE OF A PURCHASE ORDER/CONTRACT.</p> <p>EXHIBIT 7</p> <p>DOMESTIC ALUMINUM, GLASS & STEEL IN PUBLIC WORKS PROJECTS</p> <p>IN ACCORDANCE WITH WEST VIRGINIA CODE 5-19-1 ET., SEQ., EVERY CONTRACT FOR CONSTRUCTION, RECONSTRUCTION, ALTERATION, REPAIR, IMPROVEMENT OR MAINTENANCE OF PUBLIC WORKS, WHERE THE COST IS MORE THAN \$50,000 AND, IN THE CASE OF STEEL ONLY, WHERE THE COST OF STEEL IS MORE THAN \$50,000 OR WHERE MORE THAN 10,000 POUNDS OF STEEL ARE REQUIRED, THE STATE WILL ACCEPT ONLY ALUMINU</p>						

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SIGNATURE: *[Signature]* TELEPHONE: 740 896 2211 DATE: 8/05/07

TITLE: owner FEIN: 31-124 6960 ADDRESS CHANGES TO BE NOTED ABOVE

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 5

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PROPERTY

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<p>GLASS, OR STEEL PRODUCTS PRODUCED IN THE UNITED STATES. IN ADDITION, ITEMS OF MACHINERY OR EQUIPMENT PURCHASED FOR USE AT THE SITE OF PUBLIC WORKS SHALL BE MADE OF DOMESTIC ALUMINUM, GLASS OR STEEL, UNLESS THE COST OF THE PRODUCT IS LESS THAN \$50,000 OR LESS THAN 10,000 POUNDS OF STEEL ARE USED IN PUBLIC WORKS PROJECTS.</p> <p>FOREIGN MADE ALUMINUM, GLASS OR STEEL PRODUCTS MAY BE ACCEPTED ONLY IF THE COST OF DOMESTIC PRODUCTS IS FOUND TO BE UNREASONABLE. SUCH COST IS UNREASONABLE IF IT IS 20% OR MORE HIGHER THAN THE BID PRICE FOR FOREIGN MADE PRODUCTS. IF THE DOMESTIC ALUMINUM, GLASS OR STEEL PRODUCTS TO BE SUPPLIED OR PRODUCED IN A "SUBSTANTIAL LABOR SURPLUS AREA", AS DEFINED BY THE UNITED STATES DEPARTMENT OF LABOR, FOREIGN PRODUCTS MAY BE SUPPLIED ONLY IF DOMESTIC PRODUCTS ARE 30% OR MORE HIGHER IN PRICE THAN THE FOREIGN MADE PRODUCTS.</p> <p>IF, PRIOR TO THE AWARD OF A CONTRACT UNDER THE ABOVE PROVISIONS, THE SPENDING OFFICER OF THE SPENDING UNIT DETERMINES THAT THERE EXISTS A BID FOR LIKE FOREIGN ALUMINUM, GLASS OR STEEL THAT IS REASONABLE AND LOWER THAN THE LOWEST BID DOMESTIC PRODUCTS, THE SPENDING OFFICE MAY REQUEST, IN WRITING, A REEVALUATION AND REDUCTION IN THE LOWEST BID FOR SUCH DOMESTIC PRODUCTS. ALL VENDORS MUST INDICATE IN THEIR BID IF THEY ARE SUPPLYING FOREIGN ALUMINUM, GLASS OR STEEL.</p> <p>REV. 3/88</p> <p>VENDOR PREFERENCE CERTIFICATE</p> <p>CERTIFICATION AND APPLICATION* IS HEREBY MADE FOR PREFERENCE IN ACCORDANCE WITH WEST VIRGINIA CODE, 5A-3-37 (DOES NOT APPLY TO CONSTRUCTION CONTRACTS).</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE: *Chuck Bowman* TELEPHONE: 740 896 2211 DATE: 8/05/07

TITLE: owner FEIN: 31-1246960 ADDRESS CHANGES TO BE NOTED ABOVE

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<p>A. APPLICATION IS MADE FOR 2.5% PREFERENCE FOR THE REASON CHECKED:</p> <p>() BIDDER IS AN INDIVIDUAL RESIDENT VENDOR AND HAS RESIDED CONTINUOUSLY IN WEST VIRGINIA FOR FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS CERTIFICATION; OR</p> <p>() BIDDER IS A PARTNERSHIP, ASSOCIATION OR CORPORATION RESIDENT VENDOR AND HAS MAINTAINED ITS HEAD-QUARTERS OR PRINCIPAL PLACE OF BUSINESS CONTINUOUSLY IN WEST VIRGINIA FOR FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS CERTIFICATION; OR 80% OF THE OWNERSHIP INTEREST OF BIDDER IS HELD BY ANOTHER INDIVIDUAL, PARTNERSHIP, ASSOCIATION OR CORPORATION RESIDENT VENDOR WHO HAS MAINTAINED ITS HEADQUARTERS OR PRINCIPAL PLACE OF BUSINESS CONTINUOUSLY IN WEST VIRGINIA FOR FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS CERTIFICATION; OR</p> <p>() BIDDER IS A CORPORATION NONRESIDENT VENDOR WHICH HAS AN AFFILIATE OR SUBSIDIARY WHICH EMPLOYS A MINIMUM OF ONE HUNDRED STATE RESIDENTS AND WHICH HAS MAINTAINED ITS HEADQUARTERS OR PRINCIPAL PLACE OF BUSINESS WITHIN WEST VIRGINIA CONTINUOUSLY FOR THE FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS CERTIFICATION.</p> <p>B. APPLICATION IS MADE FOR 2.5% PREFERENCE FOR THE REASON CHECKED:</p> <p>() BIDDER IS A RESIDENT VENDOR WHO CERTIFIES THAT, DURING THE LIFE OF THE CONTRACT, ON AVERAGE AT LEAST 75% OF THE EMPLOYEES WORKING ON THE PROJECT BEING BID ARE RESIDENTS OF WEST VIRGINIA WHO HAVE RESIDED IN THE STATE CONTINUOUSLY FOR THE TWO YEARS IMMEDIATELY</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE *Chuck Bowman* TELEPHONE 740 896 2211 DATE 8/05/07

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7

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<p>PRECEDING SUBMISSION OF THIS BID; OR () BIDDER IS A NONRESIDENT VENDOR EMPLOYING A MINIMUM OF ONE HUNDRED STATE RESIDENTS OR IS A NONRESIDENT VENDOR WITH AN AFFILIATE OR SUBSIDIARY WHICH MAINTAINS ITS HEADQUARTERS OR PRINCIPAL PLACE OF BUSINESS WITHIN WEST VIRGINIA EMPLOYING A MINIMUM OF ONE HUNDRED STATE RESIDENTS WHO CERTIFIES THAT, DURING THE LIFE OF THE CONTRACT, ON AVERAGE AT LEAST 75% OF THE EMPLOYEES OR BIDDERS' AFFILIATE'S OR SUBSIDIARY'S EMPLOYEES ARE RESIDENTS OF WEST VIRGINIA WHO HAVE RESIDED IN THE STATE CONTINUOUSLY FOR THE TWO YEARS IMMEDIATELY PRECEDING SUBMISSION OF THIS BID.</p> <p>BIDDER UNDERSTANDS IF THE SECRETARY OF TAX & REVENUE DETERMINES THAT A BIDDER RECEIVING PREFERENCE HAS FAILED TO CONTINUE TO MEET THE REQUIREMENTS FOR SUCH PREFERENCE, THE SECRETARY MAY ORDER THE DIRECTOR OF PURCHASING TO: (A) RESCIND THE CONTRACT OR PURCHASE ORDER ISSUED; OR (B) ASSESS A PENALTY AGAINST SUCH BIDDER IN AN AMOUNT NOT TO EXCEED 5% OF THE BID AMOUNT AND THAT SUCH PENALTY WILL BE PAID TO THE CONTRACTING AGENCY OR DEDUCTED FROM ANY UNPAID BALANCE ON THE CONTRACT OR PURCHASE ORDER.</p> <p>BY SUBMISSION OF THIS CERTIFICATE, BIDDER AGREES TO DISCLOSE ANY REASONABLY REQUESTED INFORMATION TO THE PURCHASING DIVISION AND AUTHORIZES THE DEPARTMENT OF TAX AND REVENUE TO DISCLOSE TO THE DIRECTOR OF PURCHASING APPROPRIATE INFORMATION VERIFYING THAT BIDDER HAS PAID THE REQUIRED BUSINESS TAXES, PROVIDED THAT SUCH INFORMATION DOES NOT CONTAIN THE AMOUNTS OF TAXES PAID NOR ANY OTHER INFORMATION DEEMED BY THE TAX COMMISSIONER TO BE CONFIDENTIAL.</p> <p>UNDER PENALTY OF LAW FOR FALSE SWEARING (WEST VIRGINIA</p>						

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SIGNATURE: *[Signature]* TELEPHONE: **740 896 2211** DATE: **8/05/07**

TITLE: **owner** FEIN: **31-1246960** ADDRESS CHANGES TO BE NOTED ABOVE

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<p>CODE 61-5-3), BIDDER HEREBY CERTIFIES THAT THIS CERTIFICATE IS TRUE AND ACCURATE IN ALL RESPECTS; AND THAT IF A CONTRACT IS ISSUED TO BIDDER AND IF ANYTHING CONTAINED WITHIN THIS CERTIFICATE CHANGES DURING THE TERM OF THE CONTRACT, BIDDER WILL NOTIFY THE PURCHASING DIVISION IN WRITING IMMEDIATELY.</p> <p>BIDDER: <u>Babcock Fence Company</u></p> <p>DATE: <u>8/05/07</u></p> <p>SIGNED: <u>[Signature]</u></p> <p>TITLE: <u>owner</u></p> <p>* CHECK ANY COMBINATION OF PREFERENCE CONSIDERATION(S) IN EITHER "A" OR "B", OR BOTH "A" AND "B" WHICH YOU ARE ENTITLED TO RECEIVE. YOU MAY REQUEST UP TO THE MAXIMUM 5% PREFERENCE FOR BOTH "A" AND "B". (REV. 12/00)</p> <p>NOTICE</p> <p>AN ORIGINAL, SIGNED BID MUST BE SUBMITTED TO:</p> <p>DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION BUILDING 15 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25305-0130</p>						

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<p>THE BID MUST CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPE OR THE BIDS MAY NOT BE CONSIDERED:</p> <p>SEALED BID</p> <p>BUYER: CB-23</p> <p>RFQ. NO.: DEP13578</p> <p>BID OPENING DATE: 08/22/2007</p> <p>BID OPENING TIME: 1:30 PM</p> <p>PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID: 740 896 2277</p> <p>CONTACT PERSON (PLEASE PRINT CLEARLY): MIKE BABCOCK</p> <p>***** THIS IS THE END OF RFQ DEP13578 ***** TOTAL: \$ 93477.87</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE: *[Signature]* TELEPHONE: **7408962211** DATE: **8/05/07**

TITLE: **owner** FEIN: **31-1246960** ADDRESS CHANGES TO BE NOTED ABOVE

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

BUYER CB-23	PAGE 10	REQ. OR PO NO. DEP13578
SPENDING UNIT WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION/SPECIAL RECLAMATION		

WV-36 STATE OF WEST VIRGINIA
Rev. 02/97 PURCHASING CONTINUATION SHEET
VENDOR:

CONTRACT
FOR
DIVISION OF LAND RESTORATION/OFFICE OF SPECIAL RECLAMATION SITES
GATE AND FENCING SERVICES
NORTHERN COUNTIES

ISSUING OFFICE
WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF LAND RESTORATION/OFFICE OF SPECIAL RECLAMATION
601 – 57th STREET SE
CHARLESTON, WEST VIRGINIA 25304
TELEPHONE 304-926-0499

BUYER CB-23	PAGE 011	REQ. OR PO NO. DEP13578
SPENDING UNIT WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION/SPECIAL RECLAMATION		

WV-36 STATE OF WEST VIRGINIA
Rev. 02/97 PURCHASING CONTINUATION SHEET
VENDOR:

CONTRACTUAL INFORMATION & REQUIREMENTS

Article I - Statement of Work

The Contractor shall furnish all personnel, facilities, equipment, material, supplies, and services for all the scope of work required in this contract.

Article 2 - Location of Work-North

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

- | | |
|-----------------|----------------|
| 1. Hancock | 15. Tucker |
| 2. Brooke | 16. Barbour |
| 3. Ohio | 17. Lewis |
| 4. Marshall | 18. Braxton |
| 5. Wetzel | 19. (Upshur) |
| 6. Tyler | 20. Pocahontas |
| 7. (Monongalia) | 21. Randolph |
| 8. (Preston) | 22. Pendleton |
| 9. Marion | 23. Gilmer |
| 10. Doddridge | 24. Webster |
| 11. Harrison | 25. Pleasants |
| 12. Taylor | 26. Wood |
| 13. Mineral | 27. Ritchie |
| 14. Grant | |

Article 3 - Definitions

- A. The words "Owner", "The State", "DEP" or "Office of Special Reclamation" are used herein to refer to the West Virginia Department of Environmental Protection, Office of Special Reclamation.
- B. The word "offeror" refers to the person or company offering to furnish the services called for in this request for proposal.
- C. The word "Contract" is used to refer to the agreement or purchase order requested by the owner and accepted by the contractor together with all the provisions of this request for proposal and all parts of said agreement of purchase order.
- D. The word "Contractor" refers to the person or company contracting with State to furnish the "services" called for by the contract.
- E. The words "services" or "work" is used to mean and include all labor, supervision, materials, machinery, equipment, tools, supplies, and facilities called for in the work directives issued within the contract.
- F. The word "Director" is used to mean the Director of the Division of Land Restoration, Department of Environmental Protection, and shall be considered to be the State's authorized representative.

BUYER CB-23	PAGE 012	REQ. OR PO NO. DEP13578
SPENDING UNIT WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION/SPECIAL RECLAMATION		

WV-36 STATE OF WEST VIRGINIA
Rev. 02/97 PURCHASING CONTINUATION SHEET
VENDOR:

Article 4 - Ordering Procedure

- A. This is an open end quantity contract for the services specified in the statement of work and for the period set forth herein. Delivery or performance shall be made in accordance with the provisions of this contract.
- B. Work will be ordered by the Director or his representative, for the Office of Special Reclamation, West Virginia Department of Environmental Protection by issuance of a work directive, which shall include the name of the project site, and the cost estimate (quantity of work to be done). The contractor shall acknowledge receipt by signing, dating and forwarding back to the Director the cost estimate for the work requested. The cost estimate shall be in accordance with the unit prices provided in the response to this proposal. No work shall be performed until a notice to proceed has been issued by the State.

Article 5 - Delivery

- A. The contractor shall complete the specified work in accordance to each work directive. The contractor shall give an invoice to the Department of Environmental Protection representative upon completion of each work directive.
- B. Inspections of each project will be made by the Director or his authorized representative as work is completed. A final inspection will be made when all work is completed.
- C. Acceptance criteria will be based on all work being completed as requested in the work directive.

Article 6 - General Conditions

- A. The contractor shall be responsible for paying and/or securing all taxes, permits, fees, insurance liability, compensations, and any other items necessary to render the owner free and harmless from all claims arising from services performed under this contract.
- B. The contractor shall take steps required to ensure equal opportunity for employment in accordance with policies promulgated by the Presidents Committee on Equal Opportunity.
- C. The State shall be responsible for obtaining all rights of entry for each project, if needed.
- D. The work and services to be performed under this contract shall be subject to continual monitoring and inspection by the State's authorized representative. Such inspection will, among other things, ensure technical compliance.
- E. In accomplishment of services to fulfill the requirements of the work directive, neither contractor nor his subcontractor shall create any adverse environmental effects and shall be responsible for compliance with all applicable local, state, and federal environmental and occupational health and safety regulations pertinent to the work.

BUYER CB-23	PAGE <u>013</u>	REQ. OR PO NO. DEP13578
SPENDING UNIT WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION/SPECIAL RECLAMATION		

WV-36 STATE OF WEST VIRGINIA
Rev. 02/97 PURCHASING CONTINUATION SHEET
VENDOR:

Article 7 - Costs and Payments

A. Payment to the contractor will be made on the following basis:

1. Unit Pricing

Item - As directed by the State in specific work directive.

Quantity - As agreed to prior to issuing a Notice to Proceed.

Unit Price - As provided by the Offeror in the proposal.

B. The contractor shall invoice on specified DEP forms to the department after completion of work specified in the work directive; final inspection has been made; and the work is accepted by the department. All invoices shall show the quantities and unit prices approved in the cost estimate for the work directive. Multiple invoices will be accepted on Work Directives with prior approval of the DEP.

Article 8 - Changes in the Contract

A. The State, without invalidating the contract, may order changes in the work within the general scope of the contract consisting of additions, deletions, or other revisions. All such changes in the work shall be authorized by a change order. A change order signed by both the State and Offeror indicates their agreement to an adjustment to the contract. The cost or credit to the State resulting from a change in the work shall be determined in one or more of the following ways:

- 1) By mutual acceptance of a lump sum properly documented (itemized)
- 2) By unit prices (negotiated)

All equipment used must be in good operable condition and be readily available.

All materials must have approval from a DEP representative.

Labor for operating equipment and installing materials shall be incidental to each item.

Labor – The contractor shall pay the West Virginia State Department of Labor Wage Rates as established in the county in which the work is being performed. Code 21-5A-1 ET SEQ.

BUYER CB-23	PAGE <u>014</u>	REQ. OR PO NO. DEP13578
SPENDING UNIT WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION/SPECIAL RECLAMATION		

WV-36 STATE OF WEST VIRGINIA
Rev. 02/97 PURCHASING CONTINUATION SHEET
VENDOR:

ITEM NO.	QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
1.0	<u>10</u> Per Unit	Two (2) inch diameter heavy-duty pipe gate, eight (8) feet in length.	\$ <u>476.20</u> Per Unit	\$ <u>4,762.00</u>
2.0	<u>10</u> Per Unit	Two (2) inch diameter heavy-duty pipe gate, ten (10) feet in length.	\$ <u>542.32</u> Per Unit	\$ <u>5,423.20</u>
3.0	<u>10</u> Per Unit	Two (2) inch diameter heavy-duty pipe gate, twelve (12) feet in length.	\$ <u>550.30</u> Per Unit	\$ <u>5,503.00</u>
4.0	<u>100</u> Per Unit	Treated wooden gate/corner post, six (6) inch Min. diameter, eight (8) foot Min. length.	\$ <u>93.976</u> Per Unit	\$ <u>9,397.60</u>
5.0	<u>100</u> Per Unit	Treated wooden intermediate post, six (6) inch Min. diameter, eight (8) foot Min. length. (Used for bracing both gate and corner posts.)	\$ <u>133.7093</u> Per Unit	\$ <u>13,370.93</u>
6.0	<u>1,000</u> Per Unit	Treated wooden line post, three (3) inch Min. diameter, seven and one half (7 1/2) foot Min. length.	\$ <u>36.28162</u> Per Unit	\$ <u>36,281.62</u>
7.0	<u>10,000</u> Per LF	Typical woven wire line fence, forty seven (47) inch height, ten (10) strands, top and bottom stays ten (10) gauge min., vertical stays eleven (11) gauge min. and six (6) inch spacing.	\$ <u>1.15778</u> Per LF	\$ <u>11,577.80</u>
8.0	<u>10,000</u> Per LF	Typical standard barbed wire, fifteen and one half (15 1/2) gauge, four (4) point barbs at five (5) inch centers.	\$ <u>.303812</u> Per LF	\$ <u>3,038.12</u>
9.0	<u>10</u> Per Unit	Two (2) inch diameter heavy-duty pipe gate, four (4) feet in length. Pedestrian gate.	\$ <u>412.36</u> Per Unit	\$ <u>4,123.60</u>
		TOTAL		\$ <u>93,477.87</u>

NOTE:

1. All items must be bid and bid in unit measure specified in the quantity column.
2. Quantities are for bidding purposes only.
3. All equipment used must be in good operable condition and be readily available.
4. All materials must have approval from a DEP representative.
5. Labor for operating equipment and installing materials shall be incidental to each item.
6. Labor - The contractor shall pay the West Virginia State Division of Labor Wage Rates as established in the county in which the work is being performed. Code 21-5A-1 ET SEQ.

BUYER CB-23	PAGE 015	REQ. OR PO NO. DEP13578
SPENDING UNIT WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION/SPECIAL RECLAMATION		

WV-36 STATE OF WEST VIRGINIA
Rev. 02/97 PURCHASING CONTINUATION SHEET
VENDOR:

Specifications :

Haulroad Gates

Gates and other hardware shall be hot-dipped galvanized as per ASTM A153 specifications for zinc coating (hot dip) on iron and steel hardware.

Wood posts and braces shall be pressure-preservative treated according to Federal Specification TT-W-571, Wood Preservation: Treating Practices, latest revision and may be round or square.

Gateposts shall be a minimum 6-inch top diameter or square and 8 ft. long.

Postholes shall be a minimum of three (3) ft. deep and twelve (12) inch in diameter or square. Sides shall be nearly vertical.

Posts shall be braced to support the weight of the gate. Conventional bracing or use of a dead man will be considered for approval. Gate posts shall be the end post for the farm fence if applicable.

Gates shall be two (2) inch diameter heavy-duty pipe gates. Double gates may be installed at some entrances to allow access. Provide a lockable latch which includes protection for the lock. All hardware and/or accessories necessary for installation of gates shall be part of the gate bid price. Gates will be installed at locations as shown on the work directive.

Payment shall be made at the completion of installation and acceptance by the DEP.

Farm Fence

This item shall consist of providing all necessary material, equipment, and personnel needed to provide and install fence at the locations shown on the plans and/or as directed by the DEP on site representative.

Unless otherwise indicated, the ASAE Specifications for Farm Fence Construction shall apply. (ASAE EP250.2 DEC01). Exceptions to the specifications are listed below:

1. Woven wire fence fabric shall be used (10-47-6-11).
2. One strand of barbed wire shall be placed 3 inches above the top strand of the woven wire.
3. Use gate specifications for placing gates in fence line.
4. Line posts shall be placed a 10 feet with a maximum distance of 15 feet in rocky soil conditions.
5. Some fence curvature is anticipated.
6. Line posts shall have a minimum length of 7 ½ feet.
7. Posts may be driven, tamped, or set in concrete as necessary.

Materials

Woven wire fabric shall conform to the current American Society for Testing and Materials ASTM A116, Specifications for Zinc-Coated (Galvanized) Iron or Steel Farm-Field and Railroad Right-of-Way Wire Fencing. The wire shall be coated with Class-1 zinc coating.

BUYER CB-23	PAGE 016	REQ. OR PO NO. DEP13578
SPENDING UNIT WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION/SPECIAL RECLAMATION		

WV-36 STATE OF WEST VIRGINIA
Rev. 02/97 PURCHASING CONTINUATION SHEET
VENDOR:

Barbed wire shall be composed of two main strands of two main strands of number 15 ½ gage wire with 16 gage round barbs. If four-point barbed wire is specified, barbs shall be spaced on approximately 5-in. centers. Barbed wire shall conform to the requirements of the current ASTM A121.

Smooth wire for braces shall be galvanized 0.40 oz per sq ft or aluminum-coated 0.34 oz per sq ft No 9 gage steel wire, minimum tensile strength 45,000 psi.

Wire ties, clamps and staples shall be coated equivalent to fence or barbed wire specified. Staples shall be 9-gage, and 1 in. long for use in dense hardwoods and 1.5 in long for use in preservative-treated softwoods.

Nails, bolts, and other fence hardware shall be hot-dipped galvanized as per ASTM A153, Specifications for Zinc Coating (Hot Dip) on Iron and Steel Hardware.

Wood posts and braces shall be pressure-preservative treated according to Federal Specification TT-W-571, Wood Preservation: Treating Practices, latest revision and may be round or square. Decay-resistant species may be used untreated if specified. Minimum normal size and lengths shall be as follows, or as specified in the plans.

Wood corner and end posts shall be a minimum 6 in. top diameter or square and 8 ft. length.

Wood brace posts shall be a minimum 6 in. top diameter or square and 8 ft length.

Wood line posts shall be a minimum 3 in top diameter or square, a minimum 7.5 ft length, and shall be set a minimum 3 ft. deep. Post spacing shall be as specified on the plans. Posts pointed for driving shall be shaped before preservative treatment.

Assemblies

Corner assemblies are constructed as two end assemblies with a single end post.

Horizontal brace assemblies shall have the end or corner, and brace, posts set a minimum of 3.0 ft. deep. Brace posts shall be spaced to accommodate 8 ft. long brace. Horizontal braces shall be mounted 12 in below the top of the end post.

Wire braces shall be four strands of 9 gage steel wire positively fastened 4 in below the top of the post and 4 in above grade. They shall be tightened (twisted) with a 0.75 X 1 in wood slat or 0.38 in diameter steel rod until the entire assembly is rigid. Slat or rods shall be left in position.

Diagonal brace assemblies recommended in soft soils, shall have the end or corner, and brace, posts set a minimum of 3.0 ft deep. Brace posts shall be spaced to accommodate 8 ft long brace. Fencing is stretched from the first brace post. Ends are filled in after wire is attached.

Pull-post assemblies shall be placed a maximum of 40 rods apart in straight runs and at the top and bottom (ridge and valley) of appreciable slope changes. Construction will follow the specifications. Smooth wire braces shall be placed as in details.

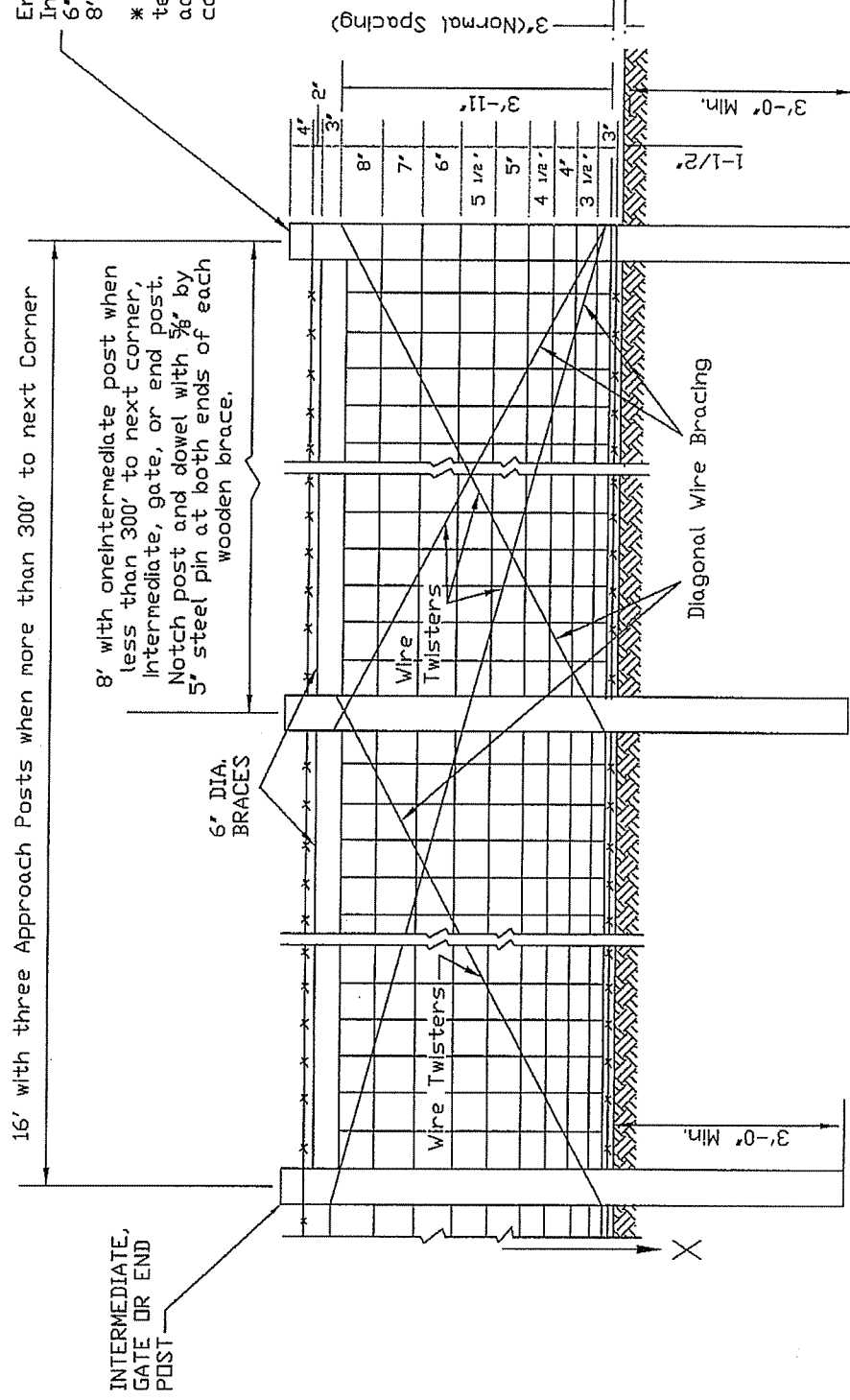
Installation

One barbed wire shall be first stretched at the bottom to determine alignment of line posts and shall be temporarily fastened to end posts. This barbed wire may be left at the bottom when needed.

The fence shall be attached to one end (or corner) post and the fence stretchers attached to the opposite end (corner post) post (or pull-post assembly). The fence at the stretcher end is then attached directly to the pull-post corner or end. The fence or stretchers shall be attached to the first brace post in the assembly. Its design provides for maximum strain taken at this point. A slack span of fence fabric is used between the end (or corner) post and the first brace post after stretching is completed.

With the pull-post assembly the fence fabric shall be extended past the first post and attached to the middle post. The wires shall be cut and wrapped around the post. The tension for stretching the woven-wire fence shall be applied at two points on the clamp bar for all fences over 32 in. high by using stretchers designed and manufactured for that purpose. Stretchers shall be so designed that tension can be applied to both ends of the bar at the same time. All splices in the fabric shall be securely made, with a Western Union splice or commercial splicing device approved by the engineer. The tension for stretching the barbed wire shall be applied by use of single-wire stretchers designed and manufactured for that purpose, and in accordance with the manufacturer's recommendations.

End, Corner or Intermediate Posts
6" Min. Dia.,
8' Min. Length
* Applies on level terrain. May be adjusted for sloped construction.



NOTES:

Posts and braces may be either round or square shaped. Dimensions shown on the Plans are for round posts and braces only. When square posts are used, line posts shall be 3" square (min.), braces 6" square (min.), corner, end, pull, gate, approach, and intermediate posts 6" square (min.).

The positioning of the fence fabric and barbed wire on the posts, as shown on the 'Typical Fence Section' detail, applies for level and gentle sloping terrain. For fence erected on slopes, the positioning may be adjusted to meet the slope conditions as long as the adjustment is continued from post to post in a uniform manner. Trenching on slopes may be warranted. On slopes, posts will continue to be erected vertically, unless otherwise directed, and the ends of the fencing fabric shall be cut on a skew as may be necessary for proper connection to the posts.

Dumped rock channel protection will be used at channel crossings when called for on the plans.

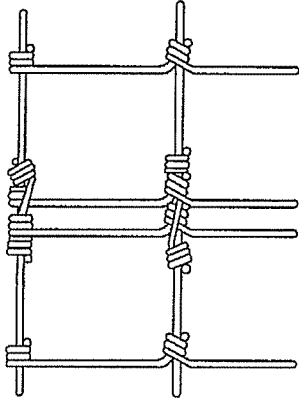
Install drainage structure terminal installations as called for on the plans and/or as shown on typical fence details.

Unless otherwise specified, or directed by the Engineer, the farm field fence may be installed with the fence fabric and barbed wire positioned on either side of the fence

Hardware and miscellaneous fittings, not specifically designated herein as to type or dimensions, shall conform to the applicable requirements of WVDOT Section. 608 of the Specifications and shall be of good quality commercial design acceptable to the Director or Representative.

In lieu of the barbed wire detailed herein, the following additional types are acceptable, provided they retain the "4-point barb at 5-inch centers" requirement and provided they meet or exceed the strength and coating requirements for the standard, 15-1/2 gage, barbed wire as called for in 712.10 of the WVDOT Specifications:

- (a) stranded, 15-1/2 gage, high carbon steel barbed wire.
- (b) one-strand, 12 gage, steel barbed wire.



Note: Type Fw-4-5 Nicopress Oval Sleeve Wire Splices, or other equal sleeve splices approved by the Engineer, may be used in lieu of the above wrapped wire splices.

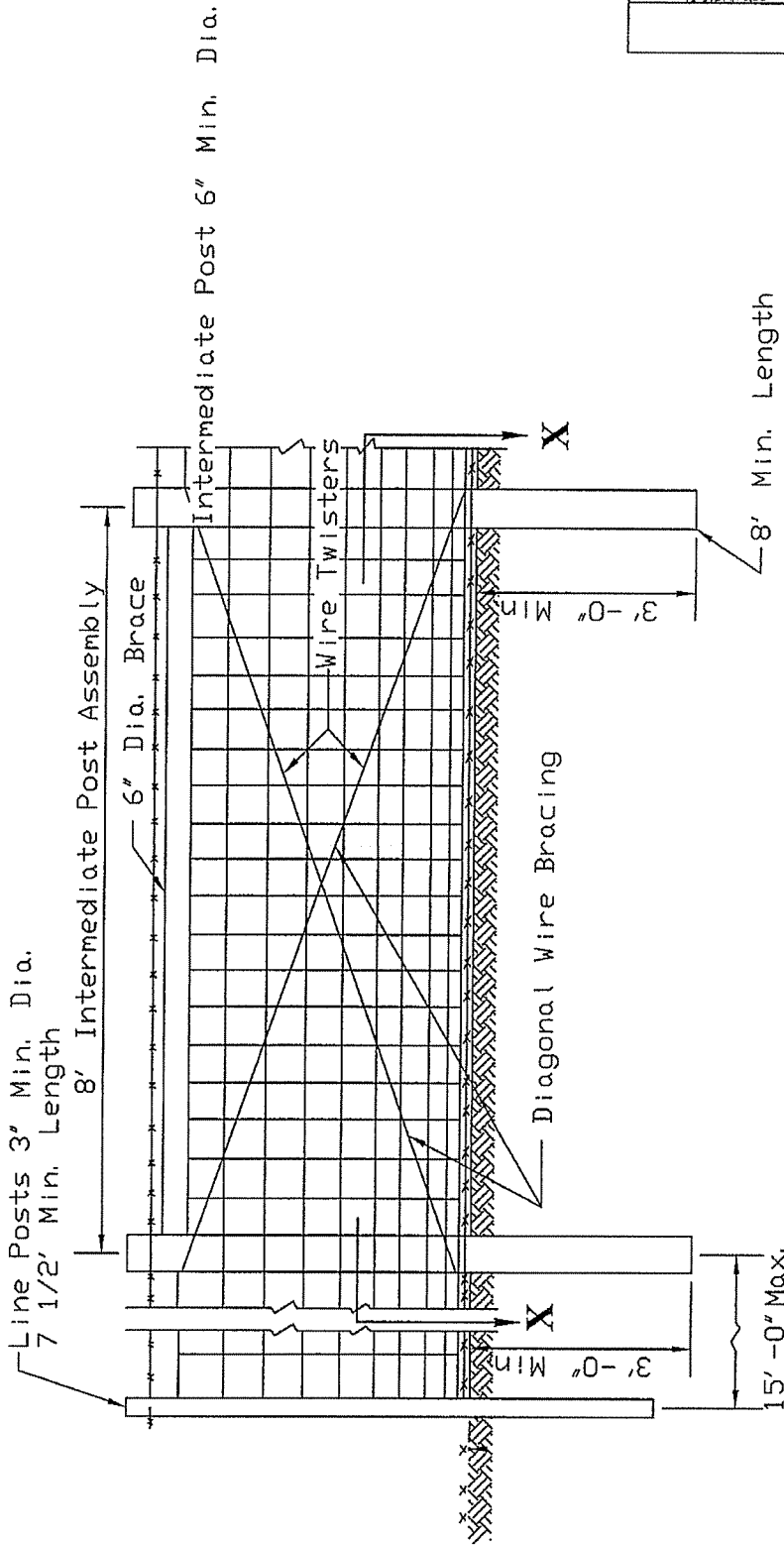
TYPICAL WIRE FENCE SPLICE

BUYER
CB-23

PAGE
017

REQ. or P.D. No.
DEP 13578

FARM FENCE

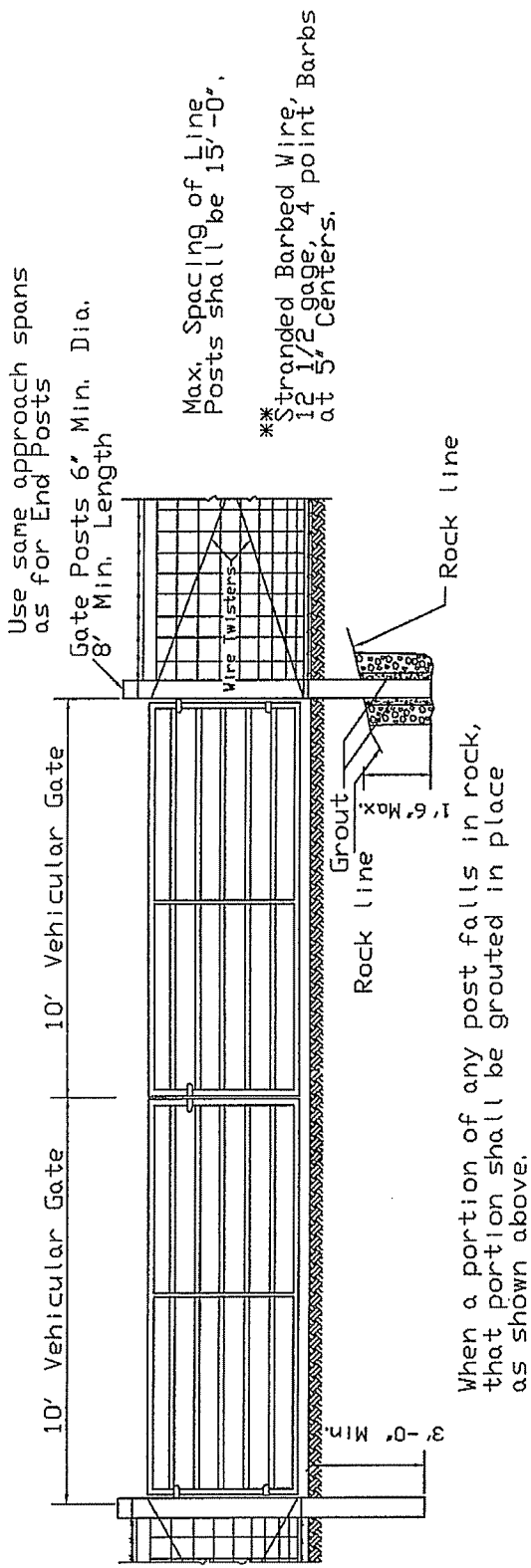


Not Less Than 3 Twists Tightly Wrapped

VIEW X - X

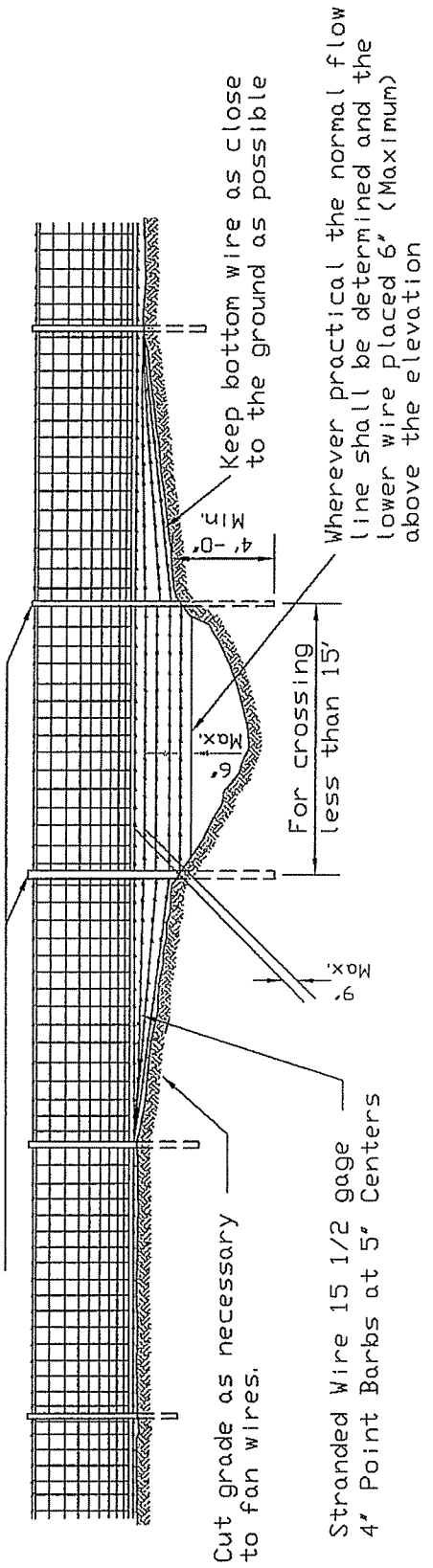
(Connection of Fencing Fabric to Intermediate Assembly Posts)

FARM FENCE



When a portion of any post falls in rock, that portion shall be grouted in place as shown above.

Line Posts: 3" Min. Dia. up to and including heights 6.5' above ground line.



DETAIL SHOWING TYPICAL SECTION AT MINOR DEPRESSIONS AND WET WEATHER CROSSINGS

STATE OF WEST VIRGINIA
Purchasing Division

023

PURCHASING AFFIDAVIT

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

DEFINITIONS:

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

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

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

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

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

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

Vendor's Name: _____

Babcock Fence Co.

Authorized Signature: _____

Wm. S. Babcock

Date: _____

8/10/07

BOND #70351203

Agency _____
REQ.P.O# DEPT3578

BID BOND

021

KNOW ALL MEN BY THESE PRESENTS, That we, the undersigned, Michael S. Babcock dba Babcock Fence Company of 214 Riverview Ln., Lowell, OH 45744, as Principal, and WESTERN SURETY COMPANY of 101 S. Phillips Ave., Sioux Falls, SD 57104-6703, a corporation organized and existing under the laws of the State of _____ with its principal office in the City of Sioux Falls, as Surety, are held and firmly bound unto the State of West Virginia, as Oblige, in the penal sum of Five Thousand and no/100 (\$5,000.00) 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 Division of Land Restoration/Office of Special Reclamation Sites; Gate & Fencing Services, Northern Counties

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 Oblige may accept such bid, and said Surety does hereby give notice of any such extension.

IN WITNESS WHEREOF, Principal and Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be affixed hereunto and these presents to be signed by their proper officers, this 22nd day of August, 2007.

Principal Corporate Seal

Babcock Fence Company

(Name of Principal)

By

[Handwritten Signature]

(Must be President or Vice President)

owner

(Title)

Surety Corporate Seal

WESTERN SURETY COMPANY

(Name of Surety)

M. Bent M. Bent, Ass't. Sec.

Attorney-in-Fact

NOTICE - Surety executing bonds must be licensed in West Virginia to transact surety insurance. Corporate seals must be affixed. Power of attorney must be attached.

STATE OF SOUTH DAKOTA
County of Minnehaha

} SS

ACKNOWLEDGMENT OF SURETY
(Corporate Officer)

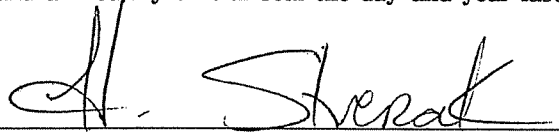
On this 22nd day of August, 2007, before me, a Notary Public in

M. Bent, Ass't. Sec.

and for said County, personally appeared _____ personally known to me, who being by me duly sworn, did say that he is the aforesaid officer of WESTERN SURETY COMPANY, a corporation duly organized and existing under the laws of the State of South Dakota, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that the said instrument was signed, sealed and executed on behalf of said corporation by authority of its Board of Directors, and further acknowledge that the said instrument and the execution thereof to be the voluntary act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My commission expires
H. STVERAK
My Commission Expires 4-10-2011



Notary Public

Western Surety Company

POWER OF ATTORNEY - CERTIFIED COPY

Bond No. 70351203

Know All Men By These Presents, that WESTERN SURETY COMPANY, a corporation duly organized and existing under the laws of the State of South Dakota, and having its principal office in Sioux Falls, South Dakota (the "Company"), does by these presents make, constitute and appoint M. Bent

its true and lawful attorney(s)-in-fact, with full power and authority hereby conferred, to execute, acknowledge and deliver for and on its behalf as Surety, bonds for:

Principal: Michael S. Babcock dba Babcock Fence Company

Obligee: West Virginia Department of Environmental Protection

Amount: \$500,000.00

and to bind the Company thereby as fully and to the same extent as if such bonds were signed by the Senior Vice President, sealed with the corporate seal of the Company and duly attested by its Secretary, hereby ratifying and confirming all that the said attorney(s)-in-fact may do within the above stated limitations. Said appointment is made under and by authority of the following bylaw of Western Surety Company which remains in full force and effect.

"Section 7. All bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

All authority hereby conferred shall expire and terminate, without notice, unless used before midnight of November 22, 2007, but until such time shall be irrevocable and in full force and effect.

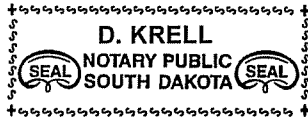
In Witness Whereof, Western Surety Company has caused these presents to be signed by its Senior Vice President, Paul T. Bruflat, and its corporate seal to be affixed this 22nd day of August, 2007.



WESTERN SURETY COMPANY
Paul T. Bruflat
Paul T. Bruflat, Senior Vice President

STATE OF SOUTH DAKOTA }
COUNTY OF MINNEHAHA } ss

On this 22nd day of August, in the year 2007, before me, a notary public, personally appeared Paul T. Bruflat, who being to me duly sworn, acknowledged that he signed the above Power of Attorney as the aforesaid officer of WESTERN SURETY COMPANY and acknowledged said instrument to be the voluntary act and deed of said corporation.



My Commission Expires November 30, 2012

D. Krell
Notary Public - South Dakota

I the undersigned officer of Western Surety Company, a stock corporation of the State of South Dakota, do hereby certify that the attached Power of Attorney is in full force and effect and is irrevocable, and furthermore, that Section 7 of the bylaws of the Company as set forth in the Power of Attorney is now in force.

In testimony whereof, I have hereunto set my hand and seal of Western Surety Company this 22nd day of August, 2007.

WESTERN SURETY COMPANY
Paul T. Bruflat
Paul T. Bruflat, Senior Vice President

Office of Financial
Regulation Services
2100 State Court
Columbus, OH
43215-1087
(614) 644-2888
Fax (614) 644-3288
www.ohioinsurance.gov

Ohio Department of Insurance

Ted Strickland - Governor
Mary Jo Hudson - Director

Certificate of Compliance



Issued	03/28/07
Effective	04/02/07
Expires	04/01/08

I, Mary Jo Hudson, hereby certify that I am the Director of Insurance in the State of Ohio and have supervision of insurance business in said State and as such I hereby certify that


WESTERN SURETY COMPANY

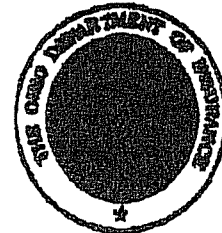
is authorized to transact the business of insurance under the following section(s) of the Ohio Revised Code:

Section 3929.01 (A)
Fidelity
Other Liability
Surety

WESTERN SURETY COMPANY certified in its annual statement to this Department as of December 31, 2006 that it has admitted assets in the amount of \$959,642,190, liabilities in the amount of \$610,627,018, and surplus of at least \$349,015,172.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused my seal to be affixed at Columbus, Ohio, this day and date.


Mary Jo Hudson
Director



WESTERN SURETY COMPANY
Sioux Falls, South Dakota
Statement of Condition and Affairs
December 31, 2006

ASSETS

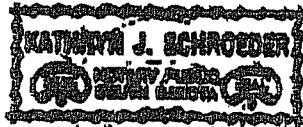
Bonds	\$746,774,301
Stocks	18,582,255
Cash and short-term investments	92,003,241
Other invested assets	22,130
Uncollected premiums and agents' balances	38,560,254
Amounts recoverable from reinsurers	1,741,076
Funds held by or deposited with reinsured companies	33,145,165
Federal income tax recoverable	856,171
Net deferred tax asset	15,833,057
Electronic data processing equipment and software	1,669,285
Investment income due and accrued	9,662,524
Other assets	792,731
Total Assets	<u>\$959,642,190</u>

LIABILITIES AND SURPLUS

Losses	\$217,493,474
Loss adjustment expense	56,465,342
Contingent and other commissions payable	3,924,607
Other expense	19,371,110
Taxes, licenses and fees	3,197,224
Unearned premiums	244,883,556
Retroactive reinsurance reserve assumed	10,535,196
Other liabilities	54,756,509
Total Liabilities	<u>610,627,018</u>

Surplus Account:	
Capital paid up	\$4,000,000
Gross paid in and contributed surplus	176,435,232
Unassigned funds	<u>168,570,940</u>
Surplus as regards policyholders	\$349,015,172
Total Liabilities and Capital	<u>\$959,642,190</u>

I, Philip E. Lundy, Vice President and Treasurer of Western Surety Company hereby certify that the above is an exact copy of the financial statement of the Company dated December 31, 2006, as filed with the various Insurance Departments and is a true and correct statement of the condition of Western Surety Company as of that date.



Western Surety Company

By Philip E. Lundy
 Vice President, Treasurer

Subscribed and sworn to me this 20 day of February, 2007.

My commission expires:

KATHRYN J. SCHROEDER
 My Commission Expires 7-31-2009

Kathryn J. Schroeder
 Notary Public S.D.