

BREAKAWAY, INC.

1075 OLD TURNPIKE ROAD
SUTTON, WV 26601

General Contractor
WV037089

Voice: 304-765-5317
FAX: 304-765-5389

FAX COVER PAGE

To State of WV - Purchasing Division

Attention Chuck Bowman

Fax Number 304-558-3970

Date 6/7/11

From Tony Vincent

Total Pages (Including this cover sheet) 21

RE:

Sealed Bid Enclosed

RFQ Number: DEP1009

Buyer: Ch...

Bid Opening Date: 6/7/11

Bid Opening Time: 12:00

Mail To:

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

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JUN -7 A 9:35
STATE OF WV
PURCHASING DIVISION



State of West Virginia
 Department of Administration
 Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
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Request for Quotation

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| RFQ NUMBER |
| DEP15409 |

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

VENDOR

*510160447 304-765-5317
 BREAKAWAY INC
 1075 OLD TURNPIKE ROAD
 SUTTON WV 26601

SHIP TO

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

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| DATE PRINTED | TERMS OF SALE | SHIP VIA | FOB | FREIGHT TERMS |
| 04/20/2011 | | | | |
| BID OPENING DATE: 06/02/2011 | | BID OPENING TIME 01:30PM | | |

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| 0001 | 1 | JB | | 962-73 | | \$224,000.00 |
| <p>RECLAMATION: RESTORATION OF LAND</p> <p>THE WEST VIRGINIA PURCHASING DIVISION, FOR THE AGENCY, THE WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION, IS SOLICITING BIDS FROM QUALIFIED CONTRACTORS FOR A CONTRACT TO PROVIDE ALL LABOR AND MATERIALS TO PERFORM RECLAMATION ON THE MINING OPERATION OF BURN COAL, INC., NOW UNDER REVOKED PERMIT NUMBER(S) U-2005-97. THIS SITE CONSISTS OF APPROXIMATELY 5 ACRES AND IS LOCATED NEAR BUCKHANNON, WV IN UPSHUR COUNTY.</p> <p>THE RECLAMATION SHALL BE PERFORMED UNDER THE GUIDANCE AND GENERAL SUPERVISION OF THE AGENT ASSIGNED TO THE PROJECT FOR THE STATE OF WEST VIRGINIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION.</p> <p>A MANDATORY ON-SITE PREBID CONFERENCE SHALL BE HELD ON 05/05/2011 @ 10:00 AM. ALL INTERESTED PARTIES ARE REQUIRED TO ATTEND THIS MEETING. FAILURE TO ATTEND THE MANDATORY PRE-BID SHALL RESULT IN DISQUALIFICATION OF THE BID. NO ONE PERSON MAY REPRESENT MORE THAN ONE BIDDER.</p> <p>AN ATTENDANCE SHEET WILL BE MADE AVAILABLE FOR ALL POTENTIAL BIDDERS TO COMPLETE. THIS WILL SERVE AS THE OFFICIAL DOCUMENT VERIFYING ATTENDANCE AT THE MANDATORY PRE-BID. FAILURE TO PROVIDE YOUR COMPANY AND REPRESENTATIVE NAME ON THE ATTENDANCE SHEET WILL RESULT IN DISQUALIFICATION OF THE BID. THE STATE WILL NOT ACCEPT ANY OTHER DOCUMENTATION TO VERIFY ATTENDANCE. THE BIDDER IS RESPONSIBLE FOR ENSURING THEY HAVE COMPLETED THE INFOR</p> | | | | | | |

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

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| SIGNATURE <i>Conny Vincent</i> | TELEPHONE 304-765-5317 | DATE 6/7/11 |
| TITLE President | FFIN 13-4279911 | ADDRESS CHANGES TO BE NOTED ABOVE |

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| <p>MATION REQUIRED ON THE ATTENDANCE SHEET. THE PURCHASING DIVISION AND THE STATE AGENCY WILL NOT ASSUME ANY RESPONSIBILITY FOR A BIDDER'S FAILURE TO COMPLETE THE PRE-BID ATTENDANCE SHEET. IN ADDITION, WE REQUEST THAT ALL POTENTIAL BIDDERS INCLUDE THEIR E-MAIL ADDRESS AND FAX NUMBER.</p> <p>ALL POTENTIAL BIDDERS ARE REQUESTED TO ARRIVE PRIOR TO THE STARTING TIME FOR THE PRE-BID. BIDDERS WHO ARRIVE LATE, BUT PRIOR TO THE DISMISSAL OF THE TECHNICAL PORTION OF THE PRE-BID WILL BE PERMITTED TO SIGN IN. BIDDERS WHO ARRIVE AFTER CONCLUSION OF THE TECHNICAL PORTION OF THE PRE-BID, BUT DURING ANY SUBSEQUENT PART OF THE PRE-BID WILL NOT BE PERMITTED TO SIGN THE ATTENDANCE SHEET.</p> <p>DIRECTIONS TO PRE-BID: IN UPSHUR COUNTY, FROM THE INTERSECTION OF US RT 33 AND SR 20, TRAVEL NORTH ON SR 20 FOR APPROX. 2.5 MILES TURN LEFT ONTO TURKEY RUN ROAD (CR 6). TRAVEL APPROX. 1.0 MILE TO CR 6/5 AND TURN RIGHT TO THE RECLAMATION SITE.</p> <p>ALL WORK MUST BE COMPLETED IN ACCORDANCE WITH THE PLANS AND SPECIFICATIONS PREPARED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND PURCHASE ORDER ISSUED BY THE DEPARTMENT OF ADMINISTRATION, DIVISION OF PURCHASING.</p> <p>EXHIBIT 5</p> <p>WEST VIRGINIA CODE 21-1D-5 PROVIDES THAT: ANY SOLICITATION FOR A PUBLIC IMPROVEMENT CONSTRUCTION CONTRACT REQUIRES EACH VENDOR THAT SUBMITS A BID FOR THE WORK TO SUBMIT AT THE SAME TIME AN AFFIDAVIT OF COMPLIANCE WITH THE BID. THE ENCLOSED PURCHASING AFFIDAVIT MUST BE SIGNED AND SUBMITTED WITH THE BID AS EVIDENCE OF THE</p> | | | | | | |

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| <p>VENDOR'S COMPLIANCE WITH THE PROVISIONS OF ARTICLE 1D, CHAPTER 21 OF THE WEST VIRGINIA CODE. FAILURE TO SUBMIT THE SIGNED PURCHASING AFFIDAVIT WITH THE BID SHALL RESULT IN DISQUALIFICATION OF SUCH BID.</p> <p>NOTICE TO PROCEED: THIS CONTRACT IS TO BE PERFORMED WITH 365 CALENDAR DAYS AFTER THE NOTICE TO PROCEED IS RECEIVED. UNLESS OTHERWISE SPECIFIED, THE FULLY EXECUTED PURCHASE ORDER WILL BE CONSIDERED NOTICE TO PROCEED.</p> <p>CANCELLATION: THE DIRECTOR OF PURCHASING RESERVES THE RIGHT TO CANCEL THIS CONTRACT IMMEDIATELY UPON WRITTEN NOTICE TO THE VENDOR IF THE MATERIALS OR WORKMANSHIP SUPPLIED ARE OF AN INFERIOR QUALITY OR DO NOT CONFORM WITH THE SPECIFICATIONS OF THE THE BID AND CONTRACT HERE IN.</p> <p>WAGE RATES: THE CONTRACTOR OR SUBCONTRACTOR SHALL PAY THE HIGHER OF THE U.S. DEPARTMENT OF LABOR MINIMUM WAGE RATES AS ESTABLISHED FOR UPSHUR COUNTY, PURSUANT TO WEST VIRGINIA CODE 21-5A, ET, SEQ. (PREVAILING WAGE RATES APPLY TO THIS PROJECT)</p> <p>ARBITRATION: ANY REFERENCES MADE TO ARBITRATION OR INTEREST FOR PAYMENTS DUE (EXCEPT FOR ANY INTEREST REQUIRED BY STATE LAW) CONTAINED IN THIS CONTRACT OR IN ANY AMERICAN INSTITUTE OF ARCHITECTS DOCUMENTS PERTAINING TO THIS CONTRACT ARE HEREBY DELETED.</p> <p>WORKERS' COMPENSATION: VENDOR IS REQUIRED TO PROVIDE A CERTIFICATE FROM WORKERS' COMPENSATION IF SUCCESSFUL.</p> <p>ALL OF THE ITEMS CHECKED BELOW WILL BE A REQUIREMENT OF THIS CONTRACT:</p> | | | | | | |

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| <p>LICENSE. APPLICATIONS FOR A CONTRACTORS LICENSE MAY BE MADE BY CONTACTING THE WEST VIRGINIA DIVISION OF LABOR CAPITOL COMPLEX, BUILDING 3, ROOM 319, CHARLESTON, WV 25305. TELEPHONE: (304) 558-7890.</p> <p>WEST VIRGINIA STATE CODE 21-11-11 REQUIRES ANY PROSPECTIVE BIDDER TO INCLUDE THE CONTRACTORS LICENSE NUMBER ON THEIR BID.</p> <p>BIDDER TO COMPLETE: CONTRACTORS NAME: <i>Breakaway, Inc.</i> CONTRACTORS LICENSE NO.: .. <i>WV037089</i></p> <p>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FURNISH A COPY OF THEIR CONTRACTORS LICENSE PRIOR TO ISSUANCE OF A PURCHASE ORDER/CONTRACT.</p> <p style="text-align: center;">APPLICABLE LAW</p> <p>THE WEST VIRGINIA STATE CODE, PURCHASING DIVISION RULES AND REGULATIONS, AND THE INFORMATION PROVIDED IN THE "REQUEST FOR QUOTATION" ISSUED BY THE PURCHASING DIVISION IS THE SOLE AUTHORITY GOVERNING THIS PROCUREMENT.</p> <p>ANY INFORMATION PROVIDED IN SPECIFICATION MANUALS, OR ANY OTHER SOURCE, VERBAL OR WRITTEN, WHICH CONTRADICTS OR ALTERS THE INFORMATION PROVIDED FROM THE SOURCES AS DESCRIBED IN THE ABOVE PARAGRAPH IS VOID AND OF NO EFFECT.</p> <p>BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THE STATE MAY DEEM THIS CONTRACT NULL AND VOID AND TERMINATE SUCH CONTRACT WITHOUT FURTHER ORDER.</p> | | | | | | |

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

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

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

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| CONSTRUCTION PROJECT ADDENDA FOR STATE AGENCIES: (1) THE ARCHITECT/ENGINEER SHALL PREPARE THE ADDENDUM AND A LIST OF ALL PARTIES THAT HAVE PROCURED DRAWINGS AND SPECIFICATIONS FOR THE PROJECT. THE ADDENDUM AND LIST SHALL BE FORWARDED TO THE BUYER IN THE STATE PURCHASING DIVISION. THE ARCHITECT/ENGINEER SHALL ALSO SEND A COPY OF THE ADDENDUM TO THE STATE AGENCY FOR WHICH THE CONTRACT IS ISSUED. (2) THE BUYER SHALL SEND THE ADDENDUM TO ALL INTERESTED PARTIES AND, IF NECESSARY, EXTEND THE BID OPENING DATE. ANY ADDENDUM SHOULD BE RECEIVED BY THE BUYER WITHIN FOURTEEN (14) DAYS PRIOR TO THE BID OPENING DATE. (3) ALL ADDENDA SHOULD BE FORMALLY ACKNOWLEDGED BY ALL BIDDERS AND SUBMITTED TO THE STATE PURCHASING DIVISION. THE SAME RULES AND REGULATIONS THAT APPLY TO THE ORIGINAL BIDDING DOCUMENT SHALL ALSO APPLY TO AN ADDENDUM DOCUMENT. THE ONLY EXCEPTION MAY BE FOR AN ADDENDUM THAT IS ISSUED FOR THE SOLE PURPOSE OF CHANGING A BID OPENING TIME AND/OR DATE. REV. 11/96 EXHIBIT 10 ADDENDUM ACKNOWLEDGEMENT I HEREBY ACKNOWLEDGE RECEIPT OF THE FOLLOWING CHECKED ADDENDUM(S) AND HAVE MADE THE NECESSARY REVISIONS TO MY PROPOSAL, PLANS AND/OR SPECIFICATION, ETC. | | | | | | |

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ADDENDUM NOS.:

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

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

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

Donna T. Hunt

..... SIGNATURE

Breakaway, Inc. COMPANY

6/7/11 DATE

REV. 11/96

NOTICE

A SIGNED BID MUST BE SUBMITTED TO:

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

| | | |
|-----------|-----------|------|
| SIGNATURE | TELEPHONE | DATE |
|-----------|-----------|------|

| | | |
|-------|------|-----------------------------------|
| TITLE | FEIN | ADDRESS CHANGES TO BE NOTED ABOVE |
|-------|------|-----------------------------------|

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



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
DEP15409

PAGE
11

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

***510160447 304-765-5317**
BREAKAWAY INC
1075 OLD TURNPIKE ROAD
SUTTON WV 26601

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

| DATE PRINTED | TERMS OF SALE | SHIP VIA | F.O.B. | FREIGHT TERMS |
|------------------------------|---------------|--------------------------|--------|---------------|
| 04/20/2011 | | | | |
| BID OPENING DATE: 06/02/2011 | | BID OPENING TIME 01:30PM | | |

| LINE | QUANTITY | UOP | CAT NO | ITEM NUMBER | UNIT PRICE | AMOUNT |
|---|----------|-----|--------|-------------|------------|--------|
| | | | | | | |
| DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION BUILDING 15 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25305-0130 | | | | | | |
| THE BID SHOULD CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPE OR THE BID MAY NOT BE CONSIDERED: | | | | | | |
| SEALED BID | | | | | | |
| BUYER: CB-23 | | | | | | |
| REQ. NO.: DEP15409 | | | | | | |
| BID OPENING DATE: 06/02/2011 | | | | | | |
| BID OPENING TIME: 1:30 P.M. | | | | | | |
| PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID: | | | | | | |
| ----- 304-765-5389 ----- | | | | | | |
| PLEASE PRINT OR TYPE NAME OF PERSON TO CONTACT CONCERNING THIS QUOTE: | | | | | | |
| ----- Doug Vincent ----- | | | | | | |

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

| | | |
|-----------|-----------|-----------------------------------|
| SIGNATURE | TELEPHONE | DATE |
| TITLE | FEIN | ADDRESS CHANGES TO BE NOTED ABOVE |

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



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

Request for Quotation

REQ NUMBER
 DEP15409

PAGE
 1

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

*510160447 304-765-5317
 BREAKAWAY INC
 1075 OLD TURNPIKE ROAD
 SUTTON WV 26601

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

| DATE PRINTED | TERMS OF SALE | SHIP VIA | FOB | FREIGHT TERMS |
|--------------|---------------|----------|-----|---------------|
| 05/23/2011 | | | | |

| | |
|------------------------------|--------------------------|
| BID OPENING DATE: 06/07/2011 | BID OPENING TIME 01:30PM |
|------------------------------|--------------------------|

| LINE | QUANTITY | UOP | CAT NO | ITEM NUMBER | UNIT PRICE | AMOUNT |
|--|----------|-----|--------|-------------|------------|--------|
| ***** ADDENDUM NO. 1 ***** | | | | | | |
| ADDENDUM ISSUED FOR THE BURN COAL INC., PROJECT TO DISTRIBUTE THE PRE-BID SIGN-IN SHEETS, THE Q/A, AND THE REVISED BID SCHEDULE RESULTING FROM THE 05/02/11 MANDATORY PRE-BID MEETING. | | | | | | |
| BID OPENING DATE AND TIME ARE EXTENDED FROM 06/02/11 TO 06/07/11 AT 1:30 PM. | | | | | | |
| ***** NO OTHER CHANGES ***** | | | | | | |
| 0001 | 1 | JB | | 962-73 | | |
| RECLAMATION: RESTORATION OF LAND | | | | | | |

***** THIS IS THE END OF RFQ DEP15409 ***** TOTAL: \$224,000.00

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE: *Sonya Vincent* TELEPHONE: 304-765-5317 DATE: 6/7/11

TITLE: President FEIN: 13-4279911 ADDRESS CHANGES TO BE NOTED ABOVE

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

| | |
|--|-----------------------------|
| BUYER CB-23 | REQ. OR PO NO. DEP 15409 |
| SPENDING UNIT WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION/SPECIAL RECLAMATION | |

WV-36a STATE OF WEST VIRGINIA
REV. 3-15-10 PURCHASING CONTINUATION SHEET
VENDOR:

SCOPE OF WORK

The successful bidder shall provide appropriate equipment, materials, labor and any technical services needed for the successful reclamation of Burn Coal, Inc., Permit U-2005-97, and any disturbance associated with such operation. The General Performance Standards (GPS) shall apply to all items in Scope of Work.

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

1. Upon mobilization to the site, which will be directed in a written Notice to Proceed, the access roads shall be developed in accordance with bid item #4.0. If, fuel and lubricants are to be stored on site, bid item #2.0 shall be in place before fuel is delivered. Project sign is to be obtained and installed.
2. Storm water management shall be in place using bid item #12.0 & #13.0 (described locations) prior to any disturbance of materials or earthwork takes place.
3. Backfilling is required for the slip repair area, which will require regrading and topsoiling for this area and borrow areas. Revegetation and soil improvements are also required for select areas. Reclamation is to be according to the attached specifications, plans, and clarifying discussions at the Pre-Bid Conference.
4. Construction stakeout as necessary to carry out work. (Bid Item #3.0)
5. All bid items specified by ACRE on this project in the Bid Schedule shall require the submittal of a final survey to verify final acreages. This submittal shall include a copy of all field notes, a map to scale in paper and electronic form. The final survey must be conducted under the direct supervision of and certified by a Professional Surveyor or Professional Engineer licensed in the state of West Virginia. Partial payments may be made for estimated acreages that are field verified and agreed upon with the DEP onsite representative. Partial payments may not exceed 75% of bid item prior to final survey. This shall be paid from the Construction Stakeout bid item.
6. It shall be the contractor's responsibility to check for and locate all utilities within the work area to provide and maintain a safe working area in addition to preventing damage to the utility.
7. Construct riprap ditches as designated on the site plan.
8. Remove structures and debris from site.
9. Replace the main haulroad culvert with two parallel 48 inch diameter HDPE culverts.
10. Construct underdrains in two separate areas.
11. Convey underdrain water to nearest roadside riprap ditch with solid piping.
12. Install 15 inch diameter and 24 inch diameter HDPE culverts in various locations.
13. Repair slip area above old mine portals by excavating existing material, and recompacting material in 1 foot lifts, and backfilling area below the slips to establish an overall regraded slope of 2H:1V or more.
14. Repair Pond D embankment with a new keyway and install engineering fabric in trench across embankment. Also, the pond inlet sediment shall be excavated and placed on other areas of the site.
15. Clean out the side inlet to Pond E where drainage from a road culvert has deposited sediment. This work shall be performed under the Regrading and Topsoiling bid item.

| | |
|--|-----------------------------|
| BUYER CB-23 | REQ. OR PO NO. DEP 15409 |
| SPENDING UNIT WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION/SPECIAL RECLAMATION | |

WV-36a STATE OF WEST VIRGINIA
REV. 3-15-10 PURCHASING CONTINUATION SHEET
VENDOR:

16. Replace the two steel spillway culverts at Pond E with two HDPE culverts.
17. Vegetative enhancement shall be required for 4 acres with seed, lime, and fertilizer.
18. Revegetation shall be required for 5 acres with seed, lime, fertilizer, and mulch.
19. Any other site specific items required.

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

David B. McCoy
Registered Professional Engineer WV No. 14375

Date: 3-28-2011

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



| | | |
|--|------|-----------------------------|
| BUYER CB-23 | PAGE | REQ. OR PO NO. DEP 15409 |
| SPENDING UNIT WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION/SPECIAL RECLAMATION | | |

WV-36a STATE OF WEST VIRGINIA
REV. 3-15-10 PURCHASING CONTINUATION SHEET

REVISED

| ITEM NO. | QUANTITY | DESCRIPTION | UNIT PRICE | AMOUNT |
|---|----------|---|--------------------------------|---------------------|
| BID SCHEDULE | | | | |
| PERMIT NAME: <u>BURN COAL, INC.</u> | | | | |
| PERMIT NUMBER(S): <u>U-2005-97</u> | | | | |
| The DEP reserves the right to request additional information and supporting documentation regarding unit prices when the unit price appears to be unreasonable. | | | | |
| 1.0 | LUMP SUM | <u>MOBILIZATION/DEMobilIZATION/PROJECT SIGN (5% Total Bid Maximum for this permit)</u> | LUMP SUM | \$ <u>10,000.00</u> |
| 2.0 | LUMP SUM | <u>SPILL CONTAINMENT AREA (S.C.A.)</u> (\$1,000.00 Maximum Bid for this permit) | LUMP SUM | \$ <u>1,000.00</u> |
| 3.0 | LUMP SUM | <u>CONSTRUCTION STAKEOUT (Limited to 5% Total Bid)</u> | LUMP SUM | \$ <u>10,000.00</u> |
| 4.0 | 950 LF | <u>HAULROAD/ACCESS ROAD UPGRADE</u> | \$ <u>18.00</u> PER LF | \$ <u>17,100.00</u> |
| 5.0 | 50 TON | <u>INCIDENTAL STONE FOR ROAD UPGRADE</u> | \$ <u>50.00</u> PER TON | \$ <u>2,500.00</u> |
| 6.0 | LUMP SUM | <u>STRUCTURE AND/OR DEBRIS REMOVAL</u> | LUMP SUM | \$ <u>40,000.00</u> |
| 7.0 | LUMP SUM | <u>SLIP REPAIR</u> | LUMP SUM | \$ <u>50,000.00</u> |
| 8.0 | 5 AC | <u>REGRAVING AND TOPSOILING</u> | \$ <u>2,000.00</u> PER ACRE | \$ <u>10,000.00</u> |
| 9.0 | | <u>REVEGETATION</u> | | |
| 9.1 | 5 AC | <u>AGRICULTURAL LIME</u> | \$ <u>750.00</u> PER ACRE | \$ <u>3,750.00</u> |
| 9.2 | 5 AC | <u>FERTILIZER</u> | \$ <u>500.00</u> PER ACRE | \$ <u>2,500.00</u> |
| 9.3 | 5 AC | <u>MULCH</u> | \$ <u>500.00</u> PER ACRE | \$ <u>2,500.00</u> |
| 9.4 | 5 AC | <u>VEGETATIVE SPECIES</u> | \$ <u>750.00</u> PER ACRE | \$ <u>3,750.00</u> |
| 10.0 | 4 AC | <u>VEGETATIVE ENHANCEMENT</u> | \$ <u>750.00</u> PER ACRE | \$ <u>3,000.00</u> |
| <u>SURFACE WATER MANAGEMENT</u> | | | | |
| 11.0 | LUMP SUM | <u>CLEAR AND GRUB</u> | LUMP SUM | \$ <u>1,000.00</u> |

| | | |
|--|------|-----------------------------|
| BUYER CB-23 | PAGE | REQ. OR PO NO. DEP 15409 |
| SPENDING UNIT WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION/SPECIAL RECLAMATION | | |

WV-36a STATE OF WEST VIRGINIA
REV. 3-15-10 PURCHASING CONTINUATION SHEET

REVISED

| | | | | |
|-------------------------------|----------|---|---------------------|---------------|
| 12.0 | 400 LF | <u>SEDIMENT CONTROL WITH SILT FENCE AND HAYBALE DIKE</u> (Max. Bid \$5.00 Per LF) | \$ 1.00 PER LF | \$ 400.00 |
| 13.0 | 4 EA | <u>SEDIMENT CONTROL SUMP</u> | \$ 250.00 PER EA | \$ 1,000.00 |
| 14.0 | 2200 LF | <u>V-DITCH</u> | \$ 10.00 PER LF | \$ 22,000.00 |
| 15.0 | 1000 LF | <u>TRAPEZOIDAL DITCH</u> | \$ 20.00 PER LF | \$ 20,000.00 |
| 16.0 | 140 LF | <u>15 INCH CULVERT</u> | \$ 15.00 PER LF | \$ 2,100.00 |
| 17.0 | 180 LF | <u>24 INCH CULVERT</u> | \$ 24.00 PER LF | \$ 4,320.00 |
| 18.0 | 160 LF | <u>48 INCH CULVERT</u> | \$ 48.00 PER LF | \$ 7,680.00 |
| 19.0 | 40 LF | <u>UNDERDRAIN</u> | \$ 60.00 PER LF | \$ 2,400.00 |
| 20.0 | 250 LF | <u>6 INCH SOLID PIPE</u> | \$ 24.00 PER LF | \$ 6,000.00 |
| 21.0 | LUMP SUM | <u>REPAIR POND D EMBANKMENT</u> | LUMP SUM | \$ 1,000.00 |
| TOTAL PERMIT U-2005-97 | | | | \$ 224,000.00 |

Agency Purchasing Division
REQ.P.O# DEP15409

BID BOND

KNOW ALL MEN BY THESE PRESENTS, That wa, the undersigned, Breakaway, Inc.
of Sutton, WV, as Principal, and Ohio Farmers Insurance Company
of Westfield Center, OH, a corporation organized and existing under the laws of the State of
OH with its principal office in the City of Westfield Center, as Surety, are held and firmly bound unto the State
of West Virginia, as Oblige, 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
Burn Coal, Inc., Upshur County, WV

NOW THEREFORE,

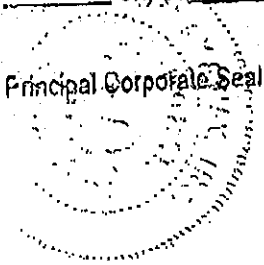
- (a) If said bid shall be rejected, or
- (b) If said bid shall be accepted and the Principal shall enter into a contract in accordance with the bid or proposal attached hereto and shall furnish any other bonds and insurance required by the bid or proposal, and shall in all other respects perform the 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 waive notice of any such extension.

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

7th day of June, 2011

Principal Corporate Seal



Surety Corporate Seal



Breakaway, Inc.
(Name of Principal)
By: Janice Vincent
(Must be President or Vice President)
President
(Title)

Ohio Farmers Insurance Company
(Name of Surety)
By: Kimberly L. Miles
Kimberly L. Miles, Licensed WV Resident Agent Attorney-in-Fact

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

POWER NO. 4750172 01

General Power of Attorney

Westfield Insurance Co. Westfield National Insurance Co. Ohio Farmers Insurance Co. Westfield Center, Ohio

CERTIFIED COPY

Know All Men by These Presents, That WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, corporations, hereinafter referred to individually as a "Company" and collectively as "Companies," duly organized and existing under the laws of the State of Ohio, and having its principal office in Westfield Center, Medina County, Ohio, do by these presents make, constitute and appoint ANDREW K. TEETER, KIMBERLY L. MILES, JANIS KAY PEACOCK, DOUGLAS P. TAYLOR, PAMELA D. OBRIEN, DONNA J. PRICE, TRAVIS A. HILL, JR., PAMELA V. LANHAM, GARY R. FREEMAN, JOINTLY OR SEVERALLY

of CHARLESTON and State of WV its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings, or other instruments or contracts of suretyship.

LIMITATION: THIS POWER OF ATTORNEY CANNOT BE USED TO EXECUTE NOTE GUARANTEE, MORTGAGE DEFICIENCY, MORTGAGE GUARANTEE, OR BANK DEPOSITORY BONDS.

and to bind any of the Companies thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the corporate seal of the applicable Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. Said appointment is made under and by authority of the following resolution adopted by the Board of Directors of each of the WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY:

"Be It Resolved, that the President, any Senior Executive, any Secretary or any Fidelity & Surety Operations Executive or other Executive shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

The Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements of indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed by the President and sealed and attested by the Corporate Secretary."

"Be It Further Resolved, that the signature of any such designated person and the seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signatures or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached." (Each adopted at a meeting held on February 8, 2000).

In Witness Whereof, WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY have caused these presents to be signed by their Senior Executive and their corporate seals to be hereto affixed this 12th day of JANUARY A.D., 2010.

Corporate Seals Affixed



WESTFIELD INSURANCE COMPANY WESTFIELD NATIONAL INSURANCE COMPANY OHIO FARMERS INSURANCE COMPANY

Richard L. Kinnaird, Jr. (Signature)

By: Richard L. Kinnaird, Jr., Senior Executive

State of Ohio County of Medina ss.:

On this 12th day of JANUARY A.D., 2010, before me personally came Richard L. Kinnaird, Jr. to me known, who, being by me duly sworn, did depose and say, that he resides in Medina, Ohio; that he is Senior Executive of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, the companies described in and which executed the above instrument; that he knows the seals of said Companies; that the seals affixed to said instrument are such corporate seals; that they were so affixed by order of the Boards of Directors of said Companies; and that he signed his name thereto by like order.

Notarial Seal Affixed



William J. Kahelin (Signature) William J. Kahelin, Attorney at Law, Notary Public My Commission Does Not Expire (Sec. 147.03 Ohio Revised Code)

State of Ohio County of Medina ss.:

I, Frank A. Carrino, Secretary of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; and furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Westfield Center, Ohio, this 7th day of June A.D., 2011



Frank A. Carrino (Signature) Frank A. Carrino, Secretary



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

STATE OF WV

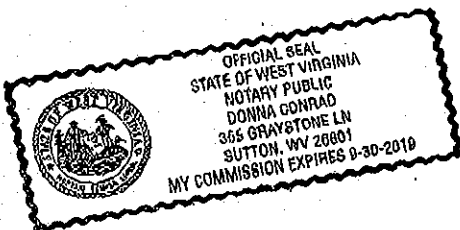
COUNTY OF Braxton, TO-WIT:

I, Tonya Vincent, after being first duly sworn, depose and state as follows:

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

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

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



Breakaway, Inc.
(Company Name)

By: Tonya Vincent

Title: President

Date: 6/7/11

Taken, subscribed and sworn to before me this 7 day of June 2011.

By Commission expires 9-30-19

(Seal)

Donna Conrad
(Notary Public)

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

RFQ No. DEP15409

STATE OF WEST VIRGINIA
Purchasing Division

PURCHASING AFFIDAVIT

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

DEFINITIONS:

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

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

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

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

WITNESS THE FOLLOWING SIGNATURE

Vendor's Name: Breakaway, Inc
Authorized Signature: *Terese Tice* Date: 6/7/11

State of WV

County of Braxton, to-wit:

Taken, subscribed, and sworn to before me this 7th day of Jun, 2011.

My Commission expires 9-30-14, 20 .

NOTARY PUBLIC *Donna Conrad*

AFFIX SEAL HERE

