

Project Summary

2007 Coal Fire Suppression Project Contract AM-537-07



**North Dakota Public Service Commission
Abandoned Mine Lands Division
State Capitol, Department 408
600 East Boulevard Avenue
Bismarck, North Dakota 58505-0480**

May 2007

2007 Coal Fire Suppression Project

An estimated 30 coal seam outcrop fires were ignited as a result of a 1999 grass fire that burned approximately 70,000 acres of grasslands in North Dakota, near the Montana border. A primary concern was the possibility of additional grass fires igniting as a result of the burning coal seams. Since the 1999 fire, at least four subsequent grass fires have already been attributed to the burning coal seams. Left alone, underground lignite coal fires have been documented to burn for decades in North Dakota.

The U.S. Forest Service contacted representatives of the Abandoned Mine Lands Division of the North Dakota Public Service Commission and inquired if they would be amenable to assist in fire suppression efforts. Coal outcrop fire suppression normally falls outside of Abandoned Mine Lands Division jurisdiction, and authority to conduct this project was obtained as a result of a cooperative agreement between the U.S. Forest Service and the U.S. Department of the Interior, Office of Surface Mining.

The Abandoned Mine Lands Division of the North Dakota Public Service Commission conducted its first coal outcrop fire suppression project during the winter of 2003. A second suppression project was conducted in 2004.

This third coal outcrop fire suppression project was conducted during the spring of 2007. The objective was to extinguish three coal seam outcrop fires actively burning in the badlands of southwestern North Dakota. The Jacobson Ranch Site is located in Section 19, T136N, and R102W. The Bennie Pier Cross 24 Site is located in Section 24, T148N, and R105W. The Burns 10 Site is located in Section 10, T148N, and R104W. Approximately 2000 cubic yards of material was moved at the three sites to completely excavate and bury all burning/hot coal and combustible materials. All three sites were backfilled and graded to their approximate original contour, with positive drainage. Topsoil was respread and the areas were then finish-graded and back-dragged.

Subsequent site inspections of the reclaimed coal fire sites indicate that all burning materials have been sufficiently extinguished during project work. No indications of continued burning are evident such as visible venting, sulfurous smell, fracturing or slumping of overburden.

A total of 7 working days were required to complete suppression activities at the 3 project sites at a cost of \$10,000. Additional work remains to be done on the remaining 13 or so sites. Additional coal outcrop fire sites may be discovered. The PSC will submit additional grant applications to the Office of Surface Mining for additional grant money to continue coal fire suppression efforts at the other sites in the coming years.

Correspondence, Contract Procurement and Administration

- Authorization to proceed letter
- Signed right-of entry form
- Memorandum to prospective bidders
- Project specifications
- Bid form
- Work plan narrative
- Sample contract
- Public bid opening attendance sheet
- Project bid summary
- Intent to award and award of contract
- Signed contract
- Certification of liability insurance
- Notice to proceed
- Change order
- Billing
- Invoice
- Close out memorandum

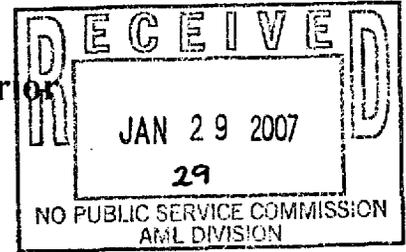


IN REPLY REFER TO:

United States Department of the Interior

OFFICE OF SURFACE MINING

Reclamation and Enforcement
Casper Field Office
150 East "B" Street, Rm 1018
Casper, Wyoming 82601



January 22, 2007

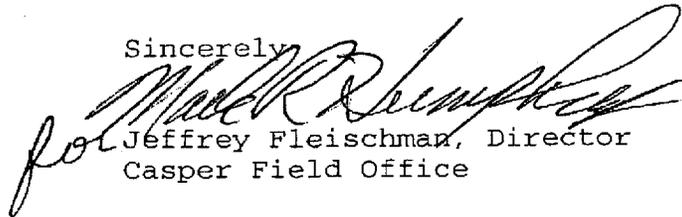
Mr. James R. Deutsch, Director
Abandoned Mine Lands Division
North Dakota Public Service Commission
600 E. Boulevard Ave. Dept. 408
Bismarck, North Dakota 58505-0480

Dear Mr. Deutsch:

The Office of Surface Mining (OSM) has reviewed the Environmental Assessment and associated documentation for the Jacobson Ranch Coal Outcrop Fire Reclamation Project which is located on private lands in Slope County, near Amidon, North Dakota. We have determined that the documentation adequately discusses the environmental issues and impacts associated with the project. Based on the analysis of these documents, I have determined that the reclamation of this coal outcrop fire would not have significant effects on the quality of the human environment, and therefore conclude that no environmental impact statement (EIS) is necessary.

Accordingly, pursuant to section 5-11-20D.3 of the Federal Assistance Manual, you are hereby authorized to proceed with this project.

Sincerely,


for Jeffrey Fleischman, Director
Casper Field Office

FINDING OF NO SIGNIFICANT IMPACTS

Jacobson Ranch Coal Fire
Coal Outcrop Fire Project
Slope County, North Dakota

OSM has thoroughly reviewed the environmental assessment and associated documentation for the above referenced project, which was prepared by the North Dakota Public Service Commission, Abandoned Mine Lands Division. The Casper Field Office has determined that this documentation adequately discusses the environmental issues and impacts for OSM coal outcrop fire reclamation construction activities authorization purposes.

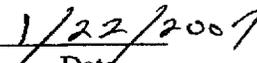
Based on the analysis of this documentation, I find that reclamation of this project will not have significant effects on the quality of the human environment. I therefore conclude that no detailed statement (EIS) is necessary.

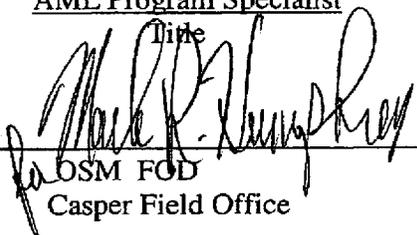
My specific reasons are as follows:

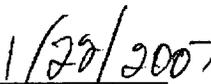
Inherent dangerous problems are associated with the burning coal seam located on private land utilized for grazing/pasture. The site covers approximately one acre of surface. Reclamation will involve excavating all burning coal and combustible materials, mixing the materials with inert (noncombustible) overburden, and enclosing the materials in a burial trench.

Cultural resource and threatened or endangered species clearances have been properly obtained. The project area is not within any identified flood plain, and wetlands will not be affected by reclamation activities. The integrity or utility of prime farmlands will not be destroyed. There are no wilderness areas, National Parks, Wild and Scenic Rivers or other recreational resources that will be impacted. The short term impacts of the reclamation activities will be far outweighed by the long term safety, health and environmental benefits for post reclamation use of the site and downstream water resources.


OSM Environmental Reviewer

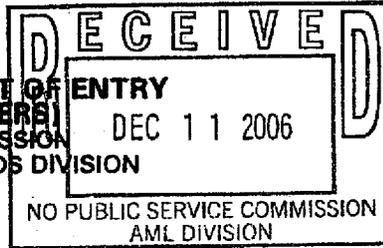

Date

AML Program Specialist
Title

OSM FOD
Casper Field Office


Date



**CONSENT FOR RIGHT OF ENTRY
(LIEN-PRIVATE OWNERS)
PUBLIC SERVICE COMMISSION
ABANDONED MINE LANDS DIVISION
SFN 19719 (Rev. 12-99)**



Project number
Name Coal Fire Suppression Project
State North Dakota

Under Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1231, et seq., the Public Service Commission (PSC), Abandoned Mine Lands (AML) Division proposes to undertake reclamation work necessitated by abandoned coal mining activity to protect the public health, safety and general welfare from the adverse effects of past coal mining.

To achieve this objective, it will be necessary for officers, agents, employees and contractors of the PSC to enter upon property owned by _____
Loren Jacobson _____ acquired by virtue of a deed dated _____

In the _____ Slope _____ County, _____ North Dakota _____ records (and more particularly described as:)

TI36N, R102W, Section 19, NE, SW

NOW, THEREFORE, in consideration of the benefits which will inure to the Owner and to the general public, the Owner does hereby grant to the PSC, its employees, agents, contractors and subcontractors a right of entry into, over and upon the above described property, including all necessary and convenient rights of ingress, egress and regress, with all materials and equipment to conduct the proposed reclamation activities, and to do any and all things necessary and convenient to effectively carry on said activities, in a good and workmanlike manner, including but not limited to the temporary storage of equipment and materials and the construction of temporary roadways on the property. Said right of entry is granted for the time required to complete the reclamation activities subject to the Owners continued ownership and use of the property.

It is understood a lien may be placed against the property if the reclamation work performed results in a significant increase in the market value of the property. The lien, if appropriate, will be determined and filed in accordance with Section 408 of SMCRA, and 30 CFR 882 of the Regulations. The PSC shall obtain an appraisal, at no expense to the Owner, to determine if there has been an increase in the property's value.

The Owner understands and acknowledges that the success of the project cannot be warranted and the proposed work may not accomplish the intended result. The Owner also acknowledges that the PSC has no responsibility or liability for any mine related damage to the Owner's property which occurred prior to or which might occur during or after the abatement work.

It is understood the work performed in the project area shall be done by contractors for the PSC, and the PSC is without authority to assume the risk of injury to persons or damage to persons or property resulting from the action of the contractors, but the PSC shall require contractors performing the work on the property to obtain and keep in force liability insurance in the minimum amount of \$500,000 per person and \$1,000,000 per occurrence.

It is further understood that the PSC is unable to make repairs to structures for any mine related damages.

Execution of this Consent for Right-of-Entry does not obligate the PSC to perform any part of the contemplated or proposed reclamation work.

By executing this consent for right of entry neither the Owner nor the PSC waive any rights conferred by operation of Title IV of the SMCRA. This agreement is binding on the parties hereto and their heirs, legal representatives, successors and assigns.

IN WITNESS WHEREOF, the Owner(s) or authorized representative caused this Consent for Right of Entry to be executed this X 12 day

X of S _____, 2006.

Witness	Owner <i>X Loren Jacobson</i>
Witness	Owner

Address 5710 153rd. Ave. SW			
City Bowman	State ND	Zip Code 58623	Telephone Number (701) 279-5797

To: Prospective Bidders
From: North Dakota Public Service Commission
Abandoned Mine Lands Division
Date: January 23, 2007
Subject: **2007 Coal Outcrop Fire Suppression Project**

Enclosed for your consideration is an invitation for bids to extinguish burning coal seam outcrop fires at the Jacobson Ranch and one or more sites on U.S. Forest Service land, Little Missouri National Grassland in western North Dakota. This project will entail excavation, backfilling and grading of actively burning lignite coal seams. Areas included are generally located at the Jacobson Ranch 12 miles northwest of the town of Amidon and within the Little Missouri National Grasslands near Sather Dam which is approximately 20 miles southwest of Alexander in McKenzie County, North Dakota. **Project funding is limited to \$10,000.**

The successful bidder must be an approved vendor on the State's Vendor Database **prior to contract award** in accordance with N.D.C.C. 54-44.4-09. Please note the section, "**Registration – Vendors Must be Approved Before Contract Award**" in the Invitation for Bid.

Contractors are required to understand that project work will be conducted over inherently dangerous burning coal seams, fractured and collapsing overburden. All precautionary measures shall be taken by the contractor to adequately protect his work force and equipment, and to minimize the potential for ignition of grass fires during excavation and suppression efforts.

If interested, please submit your bid for the project (on the bid form provided) by **1:00 PM Central Time, Tuesday, February 6, 2007**. The successful bidder is expected to submit the required documents, sign a contract and begin work as directed by the Commission Project Manager. The performance period for this project will be 30 consecutive calendar days beginning approximately March 1, 2007.

Bid quantities are estimated and will be based on the successful contractor's price/cubic yard bid and mobilization. Payment will be based on measured cut volumes of intercept and/or burial trenches and measured volumes of material excavation required for complete extinguishment. The Commission reserves the right to estimate volumes based on negotiated hourly equipment rates if deemed necessary.

Contractors will be required to comply with all terms, conditions and requirements contained in the "Sample Contract" attached to this invitation for bids. Out of State bidders are required by law to provide the Commission with a "Certificate of Authority" from the Secretary of State's office to be included with the bidding documents.

Important Dates:

- Bid opening February 6, 2007
- Intent to award February 7, 2007
- Award of contract February 23, 2007
- Performance period March 1, 2007 to March 30, 2007
- Contract period March 1, 2007 to June 1, 2007

2007 Coal Fire Suppression Project Specifications

Project Objective: To extinguish all burning materials within selected project sites.

Scope of Work: This project will entail excavation and burial of burning lignite coal within the Jacobson Ranch and one or more sites within Little Missouri National Grasslands. The Jacobson Ranch site is approximately ½ acre in size. There are approximately 15 actively burning coal seam outcrop fires ranging in size from 1/10 acre to 1 acre or more within the Little Missouri National Grasslands and extinguishment efforts will be conducted on one or more of these sites if possible.

Overburden depth to the burning coal seam(s) is expected to range from 2-20 feet, pending site conditions. Average coal seam thickness is expected to be from 1-8 feet. Multiple burning layers are possible. If deemed necessary, the U.S. Forest Service will provide a water truck and personnel for quenching of burning materials on the Little Missouri National Grasslands area. No water truck will be provided for the Jacobson Ranch site. No seeding will be required at the Jacobson Ranch site. Seeding of Little Missouri National Grassland reclaimed sites will be completed by the U.S. Forest Service.

Standard Requirements

1. Remove and stockpile topsoil or suitable plant growth material from around/within the defined project area.
2. Excavate intercept trench or burial trenches at prescribed depths for burial of competent overburden and/or burning materials.
3. Excavate and emplace burning materials into the burial trenches. Blend or intermix the burning/hot materials with clay or approved overburden in lifts as directed. Excavation of the active burn face is considered complete when the coal seam is cool to the touch. Water quenching (as required) will be performed by U.S. Forest Service personnel on the Little Missouri National Grassland site or sites.
4. Cover the backfilled trenches with approved material. Ensure that all buried materials are isolated from other combustible materials. Any combustible material removed from trenches or borrow areas must be covered or mixed with inert soil material.
5. Grade area to blend with surrounding topography and re-establish drainage.
6. Re-spread salvaged topsoil (where available) over disturbed areas. Drag the topsoil area with a spike-tooth harrow or equivalent and clean up the site.

At a minimum, the contractor is required to provide **an excavator. A dozer and/or front end loader is also required.** The contractor must have at least two fully-charged fire extinguishers on site at all times. The Jacobson Ranch site will be completed first. The Commission Project Manager and U.S. Forest Service representatives will direct the location of the remaining project sites to be reclaimed.

Underground utility location responsibilities rest with the contractor. The North Dakota "One Call" Utility hotline is 1-800-795-0555. Any site access work undertaken by the contractor must be reclaimed to its previous condition.

BID FORM

**North Dakota Public Service Commission
Abandoned Mine Lands Division
2007 Coal Fire Suppression Project**

<u>Bid Item</u>	<u>Unit</u>	<u>Quantity</u>		<u>Unit Price</u>	=	<u>Total</u>
Mobilization*	Lump Sum	1	X	_____	=	_____
Material Handling And Excavation	Cubic Yard	1,800	X	_____	=	_____

Total (In Numbers) _____

*** This bid item shall not exceed 10% of the total contract bid**

I agree to perform the work as described at the specified project sites for the price I have submitted.

Signed and Dated _____

****** Please detach this form and submit with any other required bidding documents ******

Coal Fire Suppression Supplemental Work Plan Narrative

Work will not be allowed if the fire danger index is in the extreme category for the Jacobson Ranch and National Grasslands areas. The U.S. Forest Service will determine that status and advise. As a precautionary measure, work will not be allowed on excessively windy days (the U.S. Forest Service site representative will make that determination within the National Grasslands area). Any weather-related loss of work days will not be charged against the contractor's performance period.

Use the dozer and excavator to strip topsoil from around/within the work area. Strip a buffer zone of at least 20 feet around the periphery to eliminate fuel sources and the potential for starting a grass fire. Stockpile topsoil up-gradient of the burning face and/or around the edges of the designated work zone. The dozer can strip the outside edges of the work area and the excavator can strip inside the sloughed (previously burned) area. Payment for topsoil stripping is coincidental to the project and not paid as a cut measurement.

The dozer can begin digging the burial trench while the excavator is still stripping topsoil. Construct the trench as close to the burning face as possible-close enough to be within the swing radius of the excavator (if possible) that will be pulling out the burning materials. Most trenches are expected to be about 3-8 feet deep depending on the coal seam thickness, but at least as deep as required to get below the target coal seam. Some exploratory excavator work may be required to determine depth to the coal seam, overburden thickness and elevation of the trench cut. The trench could be up to 20 feet wide and should run the length of the anticipated burn face. The trench overburden material may be stockpiled by the dozer at the two far ends of the trench and/or adjacent to the down-gradient cut of the trench.

The excavator will start pulling out burning material and backfilling the far end of the trench (down gradient). The dozer will spread the cast burning materials at the bottom of the trench and will inter-mix the stockpiled overburden material with the excavated burning/hot material between lifts. As the excavator digs farther into the burning coal seam, the trench cut will keep moving towards the coal face (into the hill), which will probably be mostly dozer work. Water quenching (as required) will be conducted in the burial trench during mixing of the burning material and overburden. The dozer can also be used at this time to help daylight/excavate the burning coal seam between lifts.

Continue the above-listed process until the coal face is cool to the touch and the Commission or U.S. Forest Service personnel indicate that complete excavation and suppression of the burning materials is complete. Backfill the trench or trenches, grade the site to its approximate original contour, respread the topsoil and drag all disturbed areas.

Due to funding limitations, intercept trenches are expected to be excavated only on those sites that are considered too big or the coal seam is considered too deep for complete extinguishment. The above-listed work plan for burial trench fire suppression is expected to be the standard method for suppression activities. Payment for all work will be as noted in the bid proposal.



INVITATION FOR BID

Public Service Commission
600 E Boulevard Avenue, 13th Floor
Bismarck, ND 58505-0480

Bid Number: 2007 Coal Fire Suppression	Commodity: 912 Construction Services Gen Sub Class 23
Bids will be publicly opened: February 6, 2007, 1:00 P.M. Central Time	Refer All Inquiries to: Mark Knell 701-328-4095 E-Mail: meknell@nd.gov
Contract No.: To be Assigned	Contract Period: March 1, 2007 to June 1, 2007 (approximate)

In compliance with this invitation for bid and subject to all the conditions specified in the invitation for bid, the vendor agrees and promises to sell, furnish, and deliver to the State all commodities and services contained in the invitation for bid and for which the vendor has been awarded by this contract with the State. The vendor shall fully perform this contract in accordance with the terms and conditions contained in the invitation for bid and shall comply with all applicable provisions of the North Dakota Century Code and North Dakota Administrative Code Chapter 4-12.

Upon execution of the attached service contract, a contract will be made and entered into by and between the State of North Dakota through the agency named above and:

Bidder:	Federal ID or Social Security No.
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Street Address:

P.O. Box	City	Telephone Number:	Toll Free Tel. No.
State	Zip Code	Fax Number:	E-Mail:

Type or Print Name & Title of Person Signing:

Authorized Signature:

For State Use Only

Bid response accepted and contract awarded this _____ day of _____ as indicated on the attached letter.

By _____ Title

Mailing Instructions

Mail one completed and signed invitation for bid document to the address indicated below. Invitation for bid documents received after the date and time specified in the invitation for bid, will be rejected.

Address the envelope containing your response in the following manner:

PUBLIC SERVICE COMMISSION
BID NUMBER – 2007 Coal Fire Suppression
BID OPENING DATE – February 6, 2007, 11:00 AM CDT
PUBLIC SERVICE COMMISSION
13th FLOOR DEPT 408
600 EAST BOULEVARD AVE
BISMARCK ND 58505-0480

Bidder's Instructions

Acceptance/Resection. The right is reserved to accept or reject any or all bid responses wholly or in part.

Addition of Terms and Conditions. No alternations or variations of the terms and conditions of the solicitation by the bidder will be valid and binding upon the state, unless made in writing and accepted by the purchasing agency in accordance with N.D.A.C. 4-12-11-06. Bids subject to conditions imposed by the bidder may be rejected as being nonresponsive, as determined by the purchasing agency.

Affirmative Action. The contractor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of the handicapped, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or physical handicap.

Award. Award will be made to the bidder whose bid meets the specifications and other requirements of the bid, and is the lowest, responsive bid considering price, responsibility of bidder, and compliance with all other relevant factors stated in the solicitation.

Award, Preference Laws The preference given to a resident North Dakota bidder will be equal to the preference given or required by the state of the nonresident bidder, in accordance with N.D.C.C. 44-08-01. A "resident" North Dakota bidder, offeror, seller, or contractor is defined in N.D.C.C. 44-08-02 as a bidder, seller, or contractor who has maintained a bona fide place of business within this State for at least one year prior to the date on which a contract was awarded. For a listing of state preference laws, visit the following website: http://tpps.das.state.or.us/purchasing/pref-law/reciprocal_detail.php or contact the North Dakota State Procurement Office at 701-328-2683.

Bid Held Firm. Bids are not awarded at the bid opening. Bid responses will be firm for 30 days, unless stated otherwise.

Bid Summary. Bid summaries will be mailed to those bidders who supply a self-addressed, stamped, envelope with their bid response. Bid summaries are not mailed until the bid has been awarded. Bid summaries may be viewed and a copy obtained by contacting the Procurement Officer during normal working hours.

Bidder's Instructions

Bidder Checklist. HAVE YOU REMEMBERED TO:

- Bid F.O.B. Destination (Ship To: Address) Freight Prepaid
- Mark envelope as indicated.
- Review Standard Terms and Conditions contained in this solicitation.
- Sign your bid on the cover sheet.
- Initial all bid/pricing changes you made.
- Prepare your bid response in ink or typewriting.
- Review and complete all requirements contained in this solicitation to ensure compliance.

Bidder's Responsibility. It is the bidder's responsibility to ensure that a bid response is physically deposited with the Commission prior to the date and time specified for the opening. Late bid responses will not be opened and will be rejected regardless of the degree of lateness or the reasons. It is the bidder's responsibility to comply with the State of North Dakota's laws and regulations.

Clarifications/Interpretations. Any and all questions regarding this document must be addressed to the Procurement Officer referenced on the first page of this document. The bidder is cautioned that the requirements of this solicitation can be altered only by written addendum and that verbal communications from whatever source are of no effect.

Definitions:

- Bidder - any person or firm submitting a competitive bid in response to a solicitation.
- Bid summary - a summary of all bid responses received by the Purchasing Agency.
- Bid response - the executed document submitted by a bidder in response to a solicitation.
- Contract - a deliberate written agreement between two or more competent persons to perform a specific act or acts.
- Contractor - any person or firm having a contract with a governmental body.
- Solicitation - the process of notifying prospective bidders that the state wishes to receive bids for furnishing goods or services.

Deviation from Specifications Supplied by the State. Any deviation from specifications indicated herein must be clearly pointed out; otherwise, it will be considered that the goods and services offered are in strict compliance with these specifications, and the bidder will be held responsible.

Facsimile Bids. Bid responses are not to be faxed to the Commission. BID RESPONSES FAXED TO THIS OFFICE WILL BE REJECTED. Faxed bid responses are accepted only, if the bid proposal is faxed to a third party, who will put it in an envelope and deliver it before the date and time specified in the solicitation.

Award, Preference Laws: The preference given to a resident North Dakota bidder will be equal to the preference given or required by the state of the nonresident bidder, in accordance with N.D.C.C. 44-08-01. A "resident" North Dakota bidder, offeror, seller, or contractor is defined in N.D.C.C. 44-08-02 as a bidder, seller, or contractor who has maintained a bona fide place of business within this State for at least one year prior to the date on which a contract was awarded. For a listing of state preference laws, visit the following website: http://tpps.das.state.or.us/purchasing/pref-law/reciprocal_detail.php or contact the North Dakota State Procurement Office at 701-328-2683

Indemnification and Insurance Requirements. Bidders must review the Indemnification and insurance requirements as stated in the Service Contract attached to this solicitation. The indemnification and insurance provisions will be incorporated into the final contract. Objections to any provisions of the Indemnification and Insurance Requirements must be made in writing to the attention of the procurement officer by the deadline set for receipt of questions. No alterations of these provisions will be permitted without prior written approval from the purchasing agency in consultation with the North Dakota Risk Management Division. Upon receipt of the Notice of Intent to Award, the successful bidder must obtain the required insurance coverage and provide the procurement officer with proof of coverage prior to contract approval. The coverage must be satisfactory to the purchasing agency.

Investigation. The State reserves the right to make an investigation or investigations of the materials, equipment, supplies, qualifications, or facilities offered by the apparent low bidder or bidders. This investigation would be to determine whether or not the apparent low bidder or bidders could meet the requirements set forth in the solicitation.

Minor Informalities. The state reserves the right to waive minor informalities. Minor informalities are insignificant omissions or nonjudgmental mistakes that are matters of form rather than substance, evident from the bid document, with a negligible effect on price, quantity, quality, delivery, or contractual conditions that can be waived or corrected without prejudice to other bidders, in accordance with N.D.A.C. 4-12-10-01.

Pricing (Unit and Total Prices). Only one unit price is to be quoted for each item. The unit price is to be according to the unit of measurement specified in the solicitation. In the event of mathematical differences between the unit price and extended total, the unit price will prevail.

Protests. An interested party may protest the solicitation within seven days before the bid opening or protest the notice of intent to award or award within seven days after receiving notice in accordance with N.D.C.C. 54-44.4-09 and N.D.A.C. 4-12-14.

Review of the Bids. Those interested in reviewing the bid file are to make arrangements, with the ND Public Service Commission. Office hours are between 8:00 a.m. 12:00 pm and 1:00 pm and 5:00 pm, Monday through Friday.

Receipt of Bids. All sealed bids received by the Commission will be opened and read at the place, date, and hour specified in the solicitation.

Registration. Vendors Must Be Approved Before Contract Award. Proposals will be accepted from vendors who are not currently approved vendors on the State's Vendor Database; however, the successful bidder or offeror will be required to become approved prior to award, in accordance with N.D.C.C. 54-44.4-09. To become an approved vendor, you must: 1) be registered with the North Dakota Secretary of State (fees apply), and 2) submit a completed Bidders List Application to the ND State Procurement Office. Registration instructions and forms are available on-line at: <http://www.state.nd.us/csd/spo/vendor-resources.htm>. Contact the ND State Procurement Office at 701-328-2683 or infospo@nd.gov for assistance. The successful bidder or offeror must register and become approved within thirty calendar days from the date of the Notice of Intent to Award. The bid or proposal may be rejected if the vendor fails to register within the specified time period.

Rejection. The state reserves the right to reject any and all bids in whole or in part. Bid responses will be rejected if:

- the bid response is not legible.
- the bid response is not completed as requested.
- the bid response is faxed to the procurement office
- the bid response does not meet the required specifications of the solicitation.
- the bid response is received after the time and date specified.
- the bid response is from an inactive or unregistered vendor, unless waived in the solicitation.
- Or a combination of above.

Signature. The bidder submitting the bid response or that bidder's duly authorized agent or representative must sign the bid response manually in ink. The name and title of the person signing the bid response must be typed or printed below the signature.

Specifications. Unless otherwise indicated by the bidder, it will be assumed that specifications will be met in all respects. Designation of brand names and catalog numbers in lieu of more detailed specifications are for illustrative purposes only and not intended to prevent bidders from offering alternate products, unless otherwise specified in this solicitation.

Taxes. The State does not pay sales tax or federal excise tax. The state sales tax exemption number is E-2001. The federal tax-free transaction number is 45-70-0010K.

Withdrawal or changes to a bid response prior to the bid opening date and time. A bidder may withdraw or make a change to his bid response prior to the bid opening date and time. The request to make a change or withdraw must be in writing by a representative of the firm. The request to withdraw or change must be signed by the bidder or his designated representatives.

Withdrawals after the bid opening date and time. Withdrawals after the bid opening may be permitted in accordance with N.D.A.C. 4-12-10-05.

General Terms and Conditions

Assignments, Transfers, Etc. Contracts as a result of this solicitation are not to be assigned, transferred, conveyed, sublet, or otherwise disposed of without previous consent, in writing, of the Procurement Officer, in accordance with N.D.A.C. 4-12-13-02.

Attempt to Influence an Award. Any vendor or contractor is prohibited from giving or offering to give, and any employee and official of the Office of Management and Budget or a purchasing agency involved in any aspect of the procurement process is prohibited from soliciting, accepting, or agreeing to accept money, loans, credits, prejudicial discounts, subscriptions, offers of employment, gifts, entertainment, favors, or services that might influence, or appear to influence, procurement decisions. Any person or business entity that attempts to influence an award will be reported to the state procurement manager in accordance with N.D.A.C. 4-12-04-05.

Contract. The successful bidder will be required to sign and submit the contract attached to this solicitation (Sample Contract). The contractor must comply with the contract provisions set out in this attachment. Any objections to the contract provisions must be brought to the attention of the Procurement Officer by the deadline set for receipt of questions. No alterations of these contract provisions will be permitted without prior written approval from the purchasing agency. Any oral agreement or arrangement by a bidder with the purchasing agency or procurement officer will have no force or effect unless reduced to writing.

Contract Approval. The Invitation for Bid does not, by itself, obligate the State. The State's obligation will commence when the purchasing agency approves the contract. Upon written notice to the contractor, the State may set a different starting date for the contract. The State will not be responsible for any work done by the contractor, even work done in good faith, if it occurs prior to the contract start date set by the State.

Contract Changes. After a binding contract has been entered into, no changes (i.e. substitution of product or a price adjustment) may be made, unless prior written approval has been obtained from the Commission. Any changes must be within the general scope of the initial contract. The Contractor will not commence additional work until the project director has secured any required State approvals necessary for the amendment and issued a written contract amendment, approved by the purchasing agency.

Compliance with Laws. The contractor must, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules and regulations. The contractor must comply with the provisions of all appropriate federal laws, including Title VI of the Civil Rights Act of 1964. Any subletting or subcontracting by the contractor subject subcontractors to the same provision.

Cancellation of Contract. If the Commission cancels the contract for cause, the contractor is responsible for delivery of all items and services ordered prior to the cancellation, unless those orders had been canceled by the ordering agency.

Contract Period. Contract or contracts issued as a result of this solicitation will be for the period from approximately March 1, 2006 to June 1, 2007.

Currency. (Required). All prices must be in United States currency.

Descriptive Literature. Complete manufacturer's descriptive literature sufficient to establish quality must be submitted with each bid. Failure to comply with the requirements may invalidate a bidder's quotation for any or all items.

Estimated Volume. The volumes expressed in this IFB are estimated. Estimates are not to be considered as either a minimum or maximum, but rather an estimate based upon past and anticipated usage.

Funding-out Clause. This contract shall become null and void, in total or in part, should the Legislature of the State of North Dakota fail to appropriate funds for any or all agencies, which are committed to the terms of this contract. Any such contract termination shall be at no cost to the state.

Material and Workmanship All material and workmanship shall be subject to inspection and testing by the state either at: (1) the point of manufacturer, or; (2) place of storage, or; (3) upon receipt.

Pricing. The total bid price is to include all discounts and deductions, and is to be less federal and state taxes, for which exemption certificates will be furnished upon request. Pricing shall be firm for the period of the contract.

Service Representative:

NAME OF SERVICE REPRESENTATIVE: _____
ADDRESS OF SERVICE REP: _____
CITY & STATE & ZIP CODE: _____
PHONE NUMBER: _____
TOLL FREE NUMBER: _____
FAX NUMBER: _____
E-MAIL ADDRESS: _____

SAMPLE CONTRACT

Administrator:	State of North Dakota Public Service Commission State Capitol - 12th Floor Bismarck, ND 58505-0480 (701) 328-2400	
Date:		
_____	_____	_____
Tony T. Clark Commissioner	Susan E. Wefald President	Kevin Cramer Commissioner

Contractor		
Name		
Address	City/State/Zip	Phone
Typed Name	Title	
Signature	Date	

Agreement Information	
Contract No.:	_____
Start Date:	_____
End Date:	_____
Program Title:	_____
Type of Contract:	<input type="checkbox"/> Fixed Price <input type="checkbox"/> Cost Reimb. <input type="checkbox"/> Unit Price <input type="checkbox"/> Other

Budget Information	
Cost Center:	_____ 9000
Services:	_____
Optional on-site review:	_____
Expenses:	_____
ID	
Type of Contractor:	<input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Public Agency <input type="checkbox"/> Nonprofit Organization <input type="checkbox"/> Other

This contract is entered into between the State of North Dakota acting through the Public Service Commission (State) and XXX (Contractor). This contract consists of this sheet, general provisions and specific provisions.

GENERAL PROVISIONS

CONTRACTUAL FEATURES

LEGAL AUTHORITY

The Contractor assures that it possesses legal authority to participate in this contract.

ASSIGNMENT/SUBCONTRACTING

The Contractor may not assign this contract or any part thereof, or assign any of the monies to be paid hereunder, nor shall any part of the work done or material furnished under this contract be sublet without the State's express written consent.

The Contractor may not enter into subcontracts for any of the work contemplated under this contract unless included in the specific provisions of this contract. Any such subcontract must acknowledge the binding nature of the contract and must incorporate this contract, including any attachments. Contractor is solely responsible for the performance of any subcontractor. Contractor shall not have the authority to contract for or incur obligations on behalf of the State.

TERMINATION

The State, by written notice of default listing causes and reasons, may terminate this contract in whole or in part if (1) the Contractor fails to provide services required by this contract within the time specified or any extension agreed to by the State; or (2) the Contractor fails to perform any of the other conditions or provisions of this contract, or so fails to pursue the work so as to endanger performance of this contract in accordance with its terms. The State will be liable only for payment provisions of this contract for services satisfactorily rendered prior to the effective date of termination.

Significant deviation from performance standards in this contract may result in reduced or terminated financial participation of the Contractor, subsequent to negotiations with the State.

This contract may be terminated in whole or in part without cause by mutual consent of the Contractor and the State.

The parties shall agree upon the termination conditions including effective date and in the case of partial terminations, that portion to be terminated.

The State may terminate this contract effective upon delivery of written notice to the Contractor or on any later date stated in the notice in the event (1) funding from federal, state or other sources is not obtained and continued at levels sufficient to allow for work performed or purchases of the services or supplies in the indicated quantities or term; (2) federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract; or (3) any license, permit or certificate required by law or rule, or by the terms of this contract, is for any reason denied, revoked, suspended or not renewed.

Any contract that extends beyond the current biennium may be terminated by the State if sufficient funds are unavailable, if the law regarding the contract is changed or without cause at any time.

The rights and remedies of the State provided in the termination provisions related to defaults by the Contractor are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.

FORCE MAJUEURE

Contractor will not be held responsible for delay or default caused by fire, riot, acts of God or war if the event is beyond the Contractor's reasonable control and the Contractor gives notice to the State immediately upon occurrence of the event causing the delay or default or which is reasonably expected to cause a delay or default.

RENEWAL

This contract will not automatically renew. State will provide written notice to Contractor of its intent to renew this contract

at least sixty days before the scheduled termination date.

DISPUTES

The Contractor agrees to attempt to resolve disputes arising from this contract by informal administrative process and negotiations in lieu of litigation. Continued performance by the Contractor during disputes is assured.

Any dispute concerning a question of fact arising under this contract which is not settled by the informal means shall be decided by the authorized representative of the Commission who shall reduce the decision to writing and mail or otherwise furnish a copy thereof to the Contractor.

The Contractor shall be afforded an opportunity to be heard and to offer evidence in support of an appeal. Pending final decision of a dispute, the Contractor shall proceed diligently with the performance of the contract and in accordance with the decision of the Commission.

The State does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolutions. The parties have the right to enforce their rights and remedies in judicial proceedings. The State does not waive any right to a jury trial.

MERGER AND MODIFICATION

This contract constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this contract. This contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by both parties.

SEVERABILITY

If any term of this contract is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms shall not be affected, and if possible, the rights and obligations of the parties are to be construed and enforced as if the contract did not contain that term.

NOTICE

All notices or other communications required under this contract shall be given by registered or certified mail and are complete on the date mailed when addressed to the parties at the following addresses:

State

Illona Jeffcoat-Sacco, Executive Secretary
Public Service Commission
600 E. Boulevard Avenue, Department 408
Bismarck, ND 58505-0480

Contractor

APPLICABLE LAW AND VENUE

This contract is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this contract must be brought in the District Court of Burleigh County, North Dakota.

SPOILIATION – NOTICE OF POTENTIAL CLAIMS

Contractor shall promptly notify State of all potential claims that arise or result from this contract. Contractor shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to the State the opportunity to review and inspect the evidence, including the scene of an accident.

INDEMNITY

Contractor agrees to defend, indemnify, and hold harmless the State of North Dakota, its agencies, officers and employees (State), from claims resulting from the performance of the Contractor or its agent, including all costs, expenses and attorneys' fees, which may in any manner result from or arise out of this agreement. The legal defense provided by Contractor to the State under this provision must be free of any conflicts of interest, even if retention

of separate legal counsel for the State is necessary. Contractor also agrees to defend, indemnify, and hold the State harmless for all costs, expenses and attorneys' fees incurred in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

CONFIDENTIALITY

Contractor agrees not to use or disclose any information it receives from the State under this contract that the State has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this contract or as authorized in advance by the State. The State agrees not to disclose any information it receives from Contractor that the Contractor has previously identified as confidential and which the State determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota open records law, N.D.C.C. §44-04-18. The duty of the State and Contractor to maintain confidentiality of information under this section continues beyond the term of this contract, or any extensions or renewals of it.

Contractor understands that, except for disclosures prohibited in N.D.C.C. Chapter 47-25.1, the State must disclose to the public upon request any records it receives from Contractor. Contractor further understands that any records that are obtained or generated by the Contractor under this contract, except for records that are confidential under N.D.C.C. Chapter 47-25.1, may, under certain circumstances, be open to the public upon request under North Dakota open records law. Contractor agrees to contact the State immediately upon receiving a request for information under the open records law and to comply with the State's instructions on how to respond to the request.

INSURANCE

a. Required Coverages. Contractor shall secure and keep in force during the

term of this agreement and Contractor shall require all subcontractors, prior to commencement of an agreement between Contractor and the subcontractor, to secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota, the following insurance coverages:

- (1) Commercial general liability, including premises or operations, contractual, and products or completed operations coverage (if applicable), with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- (2) Automobile liability, including Owned (if any), Hired and Non-Owned automobiles, with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- (3) Workers compensation coverage meeting all statutory requirements. The policy shall provide coverage for all states of operation that apply to the performance of this contract.
- (4) Employer's liability or "stop gap" insurance of not less than \$1,000,000 as an endorsement on the workers compensation or commercial general liability insurance if Contractor is domiciled outside the State of North Dakota.

b. General Insurance Requirements.

The insurance coverages listed above must meet the following additional requirements:

- (1) Any deductible or self insured retention amount or similar obligation under the policies shall be the sole responsibility of the Contractor. The amount of any deductible or self-retention is subject to approval by the State.
- (2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by

- A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the State. The policies shall be in for and terms approved by the State.
- (3) The State will be defended, indemnified, and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the State under this agreement shall not be limited by the insurance required in this contract.
- (4) The State of North Dakota and its agencies, officers, and employees (State) shall be endorsed on the commercial general liability policy, including any excess policies (to the extent applicable), as additional insured. The State shall have all the benefits, rights and coverages of an additional insured under these policies.
- (5) The insurance required in this agreement, through a policy or endorsement, shall include:
- a. a "Waiver of Subrogation" waiving any right to recovery the insurance company may have against the State;
 - b. a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior notice to the undersigned State representative;
 - c. a provision that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08;
 - d. a provision that Contractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the State, and that any insurance, self-insurance or self-retention maintained by the State shall be in excess of the Contractor's insurance and shall not contribute with it;
 - e. cross liability/severability of interest for all policies and endorsements.
- (6) The legal defense provided to the State under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary.
- (7) The Contractor shall furnish a certificate of insurance and all endorsements to the undersigned State representative prior to commencement of this agreement. All endorsements shall be provided as soon as practicable.
- (8) Failure to provide insurance as required in this agreement is a material breach of contract entitling the State to terminate this agreement immediately.

SAFETY REQUIREMENTS

The Contractor shall keep informed of and comply with all federal, state, and local laws, regulations, and other legal requirements governing the safety, health, sanitation, and performance of the contract in general. In

addition, the Contractor shall provide, inspect and maintain all safeguards, safety devices, protective equipment, safety programs and other needed actions the Contractor determines necessary to reasonably protect the life, health and property of the Contractor, subcontractors, the State, the public and each of the employees, officers, assigns and agents of the Contractor, subcontractors and the State, in connection with the performance of work resulting from or arising out of the contract.

The Contractor shall submit to the State a copy of the written safety program to be used as guidelines and direction for the Contractor's and subcontractors' activities. This program must meet all federal, state and local laws, regulations and other legal requirements and include the following minimum provisions: (1) a worksite safety policy and mission statement; (2) assigned responsibilities among management, supervisors and employees; (3) a system for periodic self-inspections, including inspections of job sites, materials, work performance and equipment; (4) a thorough accident and injury reporting and investigation process; (5) a safety orientation program including first aid, medical attention, emergency facilities, fire protection and prevention, housekeeping, illumination, sanitation, personal protective equipment, and occupational noise exposure; and (6) a safety training program including safety "tool box" meetings and other systems for ongoing training and also including training for employees on the recognition, avoidance and prevention of unsafe conditions.

It will be a condition of the contract, and shall be made a condition of each subcontract entered into pursuant to that contract, that the State is assuming no liability relating to its receipt and review of the Contractor's safety plan or activities. Safety remains the responsibility of the Contractor. Furthermore, the right of the State to receive and review the safety plan or activities shall not give rise to a duty on the part of the State to exercise this right for

the benefit of the Contractor or any other person or entity.

ATTORNEY FEES

In the event a lawsuit is instituted by the State to obtain performance due of any kind under this contract, and the State is the prevailing party, Contractor shall, except when prohibited by N.D.C.C. § 28-26-04, pay the State's reasonable attorney fees and costs in connection with the lawsuit.

INDEPENDENT ENTITY

Contractor is an independent entity under this contract and is not a State employee for any purpose, including but not limited to the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the North Dakota Unemployment Compensation Law and the North Dakota Workers' Compensation Act. The Contractor retains sole and absolute discretion in the manner and means of carrying out the Contractor's activities and responsibilities under this contract, except to the extent specified in the contract.

FISCAL RESPONSIBILITIES

RECORDS

All records, regardless of physical form, and the accounting practices and procedures of the Contractor relevant to this contract are subject to examination by the North Dakota State Auditor or the Auditor's designee. The Contractor shall maintain and retain all books, records, and other documents required by the State and to produce program narrative and statistical data at times prescribed by the State relevant to this agreement for four years after final payment. Records shall be retained beyond four years if audit findings have not been resolved.

NO CLAIM FOR ADDITIONAL WORK

No claim for additional services not specifically herein provided, done, or furnished by the Contractor will be allowed, nor shall the Contractor do any work or furnish any material not covered by the

contract, unless such work is ordered in writing by the State.

TIME KEEPING PROCEDURES

The Contractor shall require employees and subcontractors, if applicable, whose positions are funded under this contract or included as match, to maintain adequate documentation for services provided. For positions that are funded from more than one source, an analysis of duties performed by program shall also be prepared.

MONITORING, EVALUATION AND AUDIT

The Contractor agrees to cooperate with any monitoring, evaluating and/or audit conducted by the State, or their designees who shall have full access to and the right to examine all books, records and other relevant documents.

The Contractor agrees to take immediate corrective action on deficiencies disclosed through program monitoring of costs disallowed in the course of an audit, review, or monitoring.

PREPAYMENT

The State will not make any advance payments before performance by the Contractor under this contract. The Contractor will be compensated based on periodic submittal of progress reports.

TAXPAYER ID

Contractor's North Dakota tax ID number is: _____.
Contractor's federal employer ID number is: _____.

PROGRAM REQUIREMENTS

COMPLIANCE WITH LAWS

Contractor agrees to comply with all applicable laws, rules, regulations and policies, including but not limited to those relating to nondiscrimination, accessibility and civil rights. Contractor agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including but not limited to sales and use taxes and unemployment compensation and workers' compensation premiums. Contractor shall

have and keep current at all times during the term of this contract all licenses, registrations and permits required by law and shall be authorized to do business in the State of North Dakota.

EQUAL OPPORTUNITY

No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with this contract because of race, color, disability, or political affiliation or belief.

The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, national origin, disability, age, sex, political affiliation or belief or citizenship.

NONDISCRIMINATION

This contract and any subcontract hereunder are subject to the Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act, Title VI of the Civil Rights of 1964 and the Americans with Disabilities Act of 1990.

WORK PRODUCT, EQUIPMENT AND MATERIALS

All work product, equipment or materials created or purchased under this contract belong to the State and must be delivered to the State at the State's request upon termination of this contract. Contractor agrees that all materials prepared under this contract are "works for hire" within the meaning of copyright laws of the United States and assigns to State all rights and interests Contractor may have in the materials it prepares under this contract, including any right to derivative use of the material. Contractor shall execute all necessary documents to enable State to protect its rights under this section. Contractor shall include provisions appropriate to effectuate the purposes of this condition in all subcontracts entered into relating to this project.

Buy American Act

Contract No.
Page 8

The contractor agrees to comply with sections 2 through 4 of the Act of March 3, 1933 (41U.S.C. 10a-10c, popularly known as the "Buy American Act".) This applies to all subcontractors and suppliers of the contractor. The contractor will include this clause in all agreements and contracts.

EFFECTIVENESS OF CONTRACT

This contract is not effective until fully executed by both parties.

SPECIFIC PROVISIONS



INVITATION FOR BID

Public Service Commission
600 E Boulevard 13th Floor

Bismarck, ND 58505-0480

Bid Number: 2007 Coal Fire Suppression	Commodity: 912 Construction Services Gen Sub Class 23
Bids will be publicly opened: February 6, 2007, 11:00 A.M. CDT	Refer All Inquiries to: Mark Knell 701-328-4095 E-Mail: meknell@nd.gov
Contract No.: To be Assigned	Contract Period: March 1, 2007 to June 1, 2007 (approximate)

In compliance with this invitation for bid and subject to all the conditions specified in the invitation for bid, the vendor agrees and promises to sell, furnish, and deliver to the State all commodities and services contained in the invitation for bid and for which the vendor has been awarded by this contract with the State. The vendor shall fully perform this contract in accordance with the terms and conditions contained in the invitation for bid and shall comply with all applicable provisions of the North Dakota Century Code and North Dakota Administrative Code Chapter 4-12.

Upon execution of the attached service contract, a contract will be made and entered into by and between the State of North Dakota through the agency named above and:

Bidder: Gary Morlock Const. Inc.	Federal ID or Social Security No. 81-0388052		
Street Address: 580 5th St SE Bismarck ND 58504			
P.O. Box	City: Bismarck	Telephone Number: 701-223-8326	Toll Free Tel. No.
State: ND	Zip Code: 58504	Fax Number: 701-223-9422	E-Mail: wmorlock@bis.midco.net
Type or Print Name & Title of Person Signing: Wayne Morlock - Secretary / Treasurer			
Authorized Signature: <i>Wayne Morlock</i>			
For State Use Only			
Bid response accepted and contract awarded this _____ day of _____ as indicated on the attached letter.			
By _____		Title _____	

BID FORM

**North Dakota Public Service Commission
Abandoned Mine Lands Division
2007 Coal Fire Suppression Project**

<u>Bid Item</u>	<u>Unit</u>	<u>Quantity</u>		<u>Unit Price</u>	=	<u>Total</u>
Mobilization*	Lump Sum	1	X	<u>1,000.⁰⁰</u>	=	<u>1,000.⁰⁰</u>
Material Handling And Excavation	Cubic Yard	1,800	X	<u>5.⁰⁰</u>	=	<u>9,000.⁰⁰</u>

Total (In Numbers) \$ 10,000.00

* This bid item shall not exceed 10% of the total contract bid

I agree to perform the work as described at the specified project sites for the price I have submitted.

Signed and Dated W. Wayne Morlock

**** Please detach this form and submit with any other required bidding documents ****

Descriptive Literature. Complete manufacturer's descriptive literature sufficient to establish quality must be submitted with each bid. Failure to comply with the requirements may invalidate a bidder's quotation for any or all items.

Estimated Volume. The volumes expressed in this IFB are estimated. Estimates are not to be considered as either a minimum or maximum, but rather an estimate based upon past and anticipated usage.

Funding-out Clause. This contract shall become null and void, in total or in part, should the Legislature of the State of North Dakota fail to appropriate funds for any or all agencies, which are committed to the terms of this contract. Any such contract termination shall be at no cost to the state.

Material and Workmanship All material and workmanship shall be subject to inspection and testing by the state either at: (1) the point of manufacturer, or; (2) place of storage, or; (3) upon receipt.

Pricing. The total bid price is to include all discounts and deductions, and is to be less federal and state taxes, for which exemption certificates will be furnished upon request. Pricing shall be firm for the period of the contract.

Service Representative:

NAME OF SERVICE REPRESENTATIVE: Gary Mallock Const. Inc.
ADDRESS OF SERVICE REP: 5180 57th St SE Bismark ND 58504
CITY & STATE & ZIP CODE: Bismark ND 58504
PHONE NUMBER: 701-223-8326
TOLL FREE NUMBER: _____
FAX NUMBER: 701-223-9422
E-MAIL ADDRESS: gmallock@bisc.midco.net

BID FORM

**North Dakota Public Service Commission
Abandoned Mine Lands Division
2007 Coal Fire Suppression Project**

<u>Bid Item</u>	<u>Unit</u>	<u>Quantity</u>		<u>Unit Price</u>	=	<u>Total</u>
Mobilization*	Lump Sum	1	X	<u>\$800.00</u>	=	<u>\$800.00</u>
Material Handling And Excavation	Cubic Yard	1,800	X	<u>\$4.33</u>	=	<u>7794.00</u>

Total (In Numbers) \$8,594.00

* This bid item shall not exceed 10% of the total contract bid

I agree to perform the work as described at the specified project sites for the price I have submitted.

Signed and Dated

Kurt Hanson 2-1-07

**** Please detach this form and submit with any other required bidding documents ****



INVITATION FOR BID

Public Service Commission
600 E Boulevard Avenue, 13th Floor
Bismarck, ND 58505-0480

Bid Number: 2007 Coal Fire Suppression	Commodity: 912 Construction Services Gen Sub Class 23
Bids will be publicly opened: February 6, 2007, 1:00 P.M. Central Time	Refer All Inquiries to: Mark Knell 701-328-4095 E-Mail: meknell@nd.gov
Contract No.: To be Assigned	Contract Period: March 1, 2007 to June 1, 2007 (approximate)

In compliance with this invitation for bid and subject to all the conditions specified in the invitation for bid, the vendor agrees and promises to sell, furnish, and deliver to the State all commodities and services contained in the invitation for bid and for which the vendor has been awarded by this contract with the State. The vendor shall fully perform this contract in accordance with the terms and conditions contained in the invitation for bid and shall comply with all applicable provisions of the North Dakota Century Code and North Dakota Administrative Code Chapter 4-12.

Upon execution of the attached service contract, a contract will be made and entered into by and between the State of North Dakota through the agency named above and:

Bidder: Basaraba's Excavating	Federal ID or Social Security No. 41-1973497		
Street Address: 37610 12 th St NE			
P.O. Box	City Wilton	Telephone Number: 734-8143	Toll Free Tel. No.
State N.D.	Zip Code 58579	Fax Number: 734-6965	E-Mail:
Type or Print Name & Title of Person Signing: Brent Basaraba Partner			
Authorized Signature: <i>Brent Basaraba</i>			
For State Use Only			
Bid response accepted and contract awarded this _____ day of _____ as indicated on the attached letter.			
By		Title	

BID FORM

**North Dakota Public Service Commission
Abandoned Mine Lands Division
2007 Coal Fire Suppression Project**

<u>Bid Item</u>	<u>Unit</u>	<u>Quantity</u>		<u>Unit Price</u>	=	<u>Total</u>
Mobilization*	Lump Sum	1	X	<u>750⁰⁰</u>	=	<u>750⁰⁰</u>
Material Handling And Excavation	Cubic Yard	1,800	X	<u>5⁰⁰</u>	=	<u>9000⁰⁰</u>

Total (In Numbers) 9,750⁰⁰

* This bid item shall not exceed 10% of the total contract bid

I agree to perform the work as described at the specified project sites for the price I have submitted.

Signed and Dated

Brent Baskin

2-6-7

**** Please detach this form and submit with any other required bidding documents ****

Descriptive Literature. Complete manufacturer's descriptive literature sufficient to establish quality must be submitted with each bid. Failure to comply with the requirements may invalidate a bidder's quotation for any or all items.

Estimated Volume. The volumes expressed in this IFB are estimated. Estimates are not to be considered as either a minimum or maximum, but rather an estimate based upon past and anticipated usage.

Funding-out Clause. This contract shall become null and void, in total or in part, should the Legislature of the State of North Dakota fail to appropriate funds for any or all agencies, which are committed to the terms of this contract. Any such contract termination shall be at no cost to the state.

Material and Workmanship All material and workmanship shall be subject to inspection and testing by the state either at: (1) the point of manufacturer, or; (2) place of storage, or; (3) upon receipt.

Pricing. The total bid price is to include all discounts and deductions, and is to be less federal and state taxes, for which exemption certificates will be furnished upon request. Pricing shall be firm for the period of the contract.

Service Representative:

NAME OF SERVICE REPRESENTATIVE: Brent Basalosa
ADDRESS OF SERVICE REP: 37600 12th St NE
CITY & STATE & ZIP CODE: Wilton N.D. 58179
PHONE NUMBER: 719-4861 cell 739-8143 office
TOLL FREE NUMBER: _____
FAX NUMBER: 734-8147
E-MAIL ADDRESS: _____

MOTION

February 7, 2007

**AML Coal Fire Suppression
2006 Grant
Application**

Case No. AM-06-271

I move the Commission issue an Intent to Award a Contract to Hanson's Excavating, Inc. in the amount of \$8,594.00 for construction work at two or more coal outcrop fires in western North Dakota.

caselib\060271\1.doc

PUBLIC SERVICE COMMISSION

Abandoned Mine Lands Division

Memorandum

TO: Commissioners Wefald, Cramer and Clark
Illona Jeffcoat-Sacco

From: Jim Deutsch, Director - AML Division

Date: February 6, 2007

Subject: Intent to Award a contract for construction services for coal outcrop fires in western North Dakota

The AML Division solicited bids for construction services for extinguishing coal outcrop fires at a location on private land northwest of Amidon and at one or more locations on Forest Service land southwest of Alexander. Last summer we received a \$10,000 grant from OSM for suppressing coal outcrop fires. Competitive sealed bidding procedures were used with solicitations sent to qualified bidders. Three bids were received and they were publicly opened February 6.

The low bid came from Hanson's Excavating, Inc. of Des Lacs, ND in the amount of \$8,594. The second and third bids came from Basaraba's Excavating of Wilton, ND and Gary Morlock Construction of Bismarck, ND in the amounts of \$9,750 and \$10,000, respectively.

I recommend the Commission issue an Intent to Award a Contract to Hanson's Excavating, Inc. in the amount of \$8,594 for construction services for extinguishing coal outcrop fires at two or more sites in western North Dakota. Attached is a motion for the February 7 Commission meeting to issue the Intent to Award.

Attachment

caselib\060271\2.doc

APPROVED

DATE: 2-23-07
SB

MOTION

February 23, 2007

**AML Coal Fire Suppression
2006 Grant
Application**

Case No. AM-06-271

I move the Commission award a Contract to Hanson's Excavating, Inc. in the amount of \$8,594.00 for construction work at two or more coal outcrop fires in western North Dakota.

caselib\060271\1.doc

PUBLIC SERVICE COMMISSION

Abandoned Mine Lands Division

Memorandum

TO: Commissioners Wefald, Cramer and Clark
Illona Jeffcoat-Sacco

From:  Jim Deutsch, Director - AML Division

Date: February 15, 2007

Subject: Contract award for construction services for coal fire suppression project at sites in western North Dakota

The AML Division solicited bids for construction services for extinguishing coal outcrop fires at a location on private land northwest of Amidon and at one or more locations on Forest Service land southwest of Alexander. Last summer we received a \$10,000 grant from OSM for suppressing coal outcrop fires. Competitive sealed bidding procedures were used with solicitations sent to qualified bidders. Three bids were received and they were publicly opened February 6.

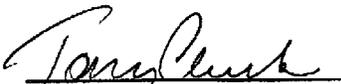
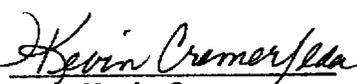
The low bid came from Hanson's Excavating, Inc. of Des Lacs, ND in the amount of \$8,594 and the Commission approved issuing an Intent to Award a Contract to Hanson's Excavating, Inc. on February 7. The other two bidders were also notified of the Intent to Award and they did not appeal it.

Since the 7-day appeal has ended, I recommend that a contract be awarded to Hanson's Excavating, Inc. for construction services associated with the coal fire suppression project. Attached is the motion for the February 23rd Commission meeting to award a contract and two copies of the contract that need to be signed.

Attachments

caselib\060271\3.doc

CONTRACT

Administrator:	State of North Dakota Public Service Commission State Capitol - 12th Floor Bismarck, ND 58505-0480 (701) 328-2400
Date:	
 Tony Clark Commissioner	 Susan E. Wefald President
	 Kevin Cramer Commissioner

Contractor		
Hanson's Excavating, Inc.		
Name		
9515 198 th St SW	Des Lacs, ND 58733	701-725-4364
Address	City/State/Zip	Phone
Kurt Hanson		President
Typed Name		Title
	2-26-07	
Signature		Date

Agreement Information	
Contract No.:	AM-537-07
Start Date:	March 1, 2007
End Date:	June 1, 2007
Program Title:	
Type of Contract:	<input type="checkbox"/> Fixed Price <input type="checkbox"/> Cost Reimb. <input checked="" type="checkbox"/> Unit Price <input type="checkbox"/> Other

Budget Information	
Cost Center:	9000
Services:	Coal fire suppression
Optional on-site review:	
Expenses:	\$8,594.00
ID	
Type of Contractor:	<input type="checkbox"/> Individual <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Public Agency <input type="checkbox"/> Nonprofit Organization <input type="checkbox"/> Other

This contract is entered into between the State of North Dakota acting through the Public Service Commission (State) and Hanson's Excavating, Inc. (Contractor). This contract consists of this sheet, general provisions and specific provisions. 14 AM-06-271

GENERAL PROVISIONS

CONTRACTUAL FEATURES

LEGAL AUTHORITY

The Contractor assures that it possesses legal authority to participate in this contract.

ASSIGNMENT/SUBCONTRACTING

The Contractor may not assign this contract or any part thereof, or assign any of the monies to be paid hereunder, nor shall any part of the work done or material furnished under this contract be sublet without the State's express written consent.

The Contractor may not enter into subcontracts for any of the work contemplated under this contract unless included in the specific provisions of this contract. Any such subcontract must acknowledge the binding nature of the contract and must incorporate this contract, including any attachments. Contractor is solely responsible for the performance of any subcontractor. Contractor shall not have the authority to contract for or incur obligations on behalf of the State.

TERMINATION

The State, by written notice of default listing causes and reasons, may terminate this contract in whole or in part if (1) the Contractor fails to provide services required by this contract within the time specified or any extension agreed to by the State; or (2) the Contractor fails to perform any of the other conditions or provisions of this contract, or so fails to pursue the work so as to endanger performance of this contract in accordance with its terms. The State will be liable only for payment provisions of this contract for services satisfactorily rendered prior to the effective date of termination.

Significant deviation from performance standards in this contract may result in reduced or terminated financial participation of the Contractor, subsequent to negotiations with the State.

This contract may be terminated in whole or in part without cause by mutual consent of the Contractor and the State.

The parties shall agree upon the termination conditions including effective date and in the case of partial terminations, that portion to be terminated.

The State may terminate this contract effective upon delivery of written notice to the Contractor or on any later date stated in the notice in the event (1) funding from federal, state or other sources is not obtained and continued at levels sufficient to allow for work performed or purchases of the services or supplies in the indicated quantities or term; (2) federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract; or (3) any license, permit or certificate required by law or rule, or by the terms of this contract, is for any reason denied, revoked, suspended or not renewed.

Any contract that extends beyond the current biennium may be terminated by the State if sufficient funds are unavailable, if the law regarding the contract is changed, or without cause at any time.

The rights and remedies of the State provided in the termination provisions related to defaults by the Contractor are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.

FORCE MAJUEURE

Contractor will not be held responsible for delay or default caused by fire, riot, acts of God or war if the event is beyond the Contractor's reasonable control and the Contractor gives notice to the State immediately upon occurrence of the event causing the delay or default or which is reasonably expected to cause a delay or default.

RENEWAL

This contract will not automatically renew. State will provide written notice to Contractor of its intent to renew this contract

at least sixty days before the scheduled termination date.

DISPUTES

The Contractor agrees to attempt to resolve disputes arising from this contract by informal administrative process and negotiations in lieu of litigation. Continued performance by the Contractor during disputes is assured.

Any dispute concerning a question of fact arising under this contract which is not settled by the informal means shall be decided by the authorized representative of the Commission who shall reduce the decision to writing and mail or otherwise furnish a copy thereof to the Contractor.

The Contractor shall be afforded an opportunity to be heard and to offer evidence in support of an appeal. Pending final decision of a dispute, the Contractor shall proceed diligently with the performance of the contract and in accordance with the decision of the Commission.

The State does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolutions. The parties have the right to enforce their rights and remedies in judicial proceedings. The State does not waive any right to a jury trial.

MERGER AND MODIFICATION

This contract constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this contract. This contract may not be modified, supplemented or amended, in any manner, except by written agreement signed by both parties.

SEVERABILITY

If any term of this contract is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms shall not be affected, and if possible, the rights and obligations of the parties are to be construed and enforced as if the contract did not contain that term.

NOTICE

All notices or other communications required under this contract shall be given by registered or certified mail and are complete on the date mailed when addressed to the parties at the following addresses:

State

Illona Jeffcoat-Sacco, Executive Secretary
Public Service Commission
600 E. Boulevard Avenue, Department 408
Bismarck, ND 58505-0408

Contractor

Hanson's Excavating, Inc.
9515 198th St SW
Des Lacs, ND 58733

APPLICABLE LAW AND VENUE

This contract is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this contract must be brought in the District Court of Burleigh County, North Dakota.

SPOILIATION – NOTICE OF POTENTIAL CLAIMS

Contractor shall promptly notify State of all potential claims that arise or result from this contract. Contractor shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to the State the opportunity to review and inspect the evidence, including the scene of an accident.

INDEMNITY

Contractor agrees to defend, indemnify, and hold harmless the State of North Dakota, its agencies, officers and employees (State), from claims resulting from the performance of the Contractor or its agent, including all costs, expenses and attorneys' fees, which may in any manner result from or arise out of this agreement. The legal defense provided by Contractor to

the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Contractor also agrees to defend, indemnify, and hold the State harmless for all costs, expenses and attorneys' fees incurred in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

CONFIDENTIALITY

Contractor agrees not to use or disclose any information it receives from the State under this contract that the State has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this contract or as authorized in advance by the State. The State agrees not to disclose any information it receives from Contractor that the Contractor has previously identified as confidential and which the State determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota open records law, N.D.C.C. §44-04-18. The duty of the State and Contractor to maintain confidentiality of information under this section continues beyond the term of this contract, or any extensions or renewals of it.

Contractor understands that, except for disclosures prohibited in N.D.C.C. Chapter 47-25.1, the State must disclose to the public upon request any records it receives from Contractor. Contractor further understands that any records that are obtained or generated by the Contractor under this contract, except for records that are confidential under N.D.C.C. Chapter 47-25.1, may, under certain circumstances, be open to the public upon request under North Dakota open records law. Contractor agrees to contact the State immediately upon receiving a request for information under the open records law and to comply with the State's instructions on how to respond to the request.

INSURANCE

a. Required Coverages.

Contractor shall secure and keep in force during the term of this agreement and Contractor shall require all subcontractors, prior to commencement of an agreement between Contractor and the subcontractor, to secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota, the following insurance coverages:

- (1) Commercial general liability, including premises or operations, contractual, and products or completed operations coverage (if applicable), with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- (2) Automobile liability, including Owned (if any), Hired and Non-Owned automobiles, with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- (3) Workers compensation coverage meeting all statutory requirements. The policy shall provide coverage for all states of operation that apply to the performance of this contract.
- (4) Employer's liability or "stop gap" insurance of not less than \$1,000,000 as an endorsement on the workers compensation or commercial general liability insurance if Contractor is domiciled outside the State of North Dakota.

b. General Insurance Requirements.

The insurance coverages listed above must meet the following additional requirements:

- (1) Any deductible or self insured retention amount or similar obligation under the policies shall be the sole responsibility of the Contractor. The amount of any deductible or self-retention is subject to approval by the State.
- (2) This insurance may be in policy or policies of insurance, primary and excess, including the so-

called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the State. The policies shall be in for and terms approved by the State.

- (3) The State will be defended, indemnified, and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the State under this agreement shall not be limited by the insurance required in this contract.
- (4) The State of North Dakota and its agencies, officers, and employees (State) shall be endorsed on the commercial general liability policy, including any excess policies (to the extent applicable), as additional insured. The State shall have all the benefits, rights and coverages of an additional insured under these policies.
- (5) The insurance required in this agreement, through a policy or endorsement, shall include:
 - a. a "Waiver of Subrogation" waiving any right to recovery the insurance company may have against the State;
 - b. a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior notice to the undersigned State representative;
 - c. a provision that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney

General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08;

- d. a provision that Contractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the State, and that any insurance, self-insurance or self-retention maintained by the State shall be in excess of the Contractor's insurance and shall not contribute with it;
 - e. cross liability/severability of interest for all policies and endorsements.
- (6) The legal defense provided to the State under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary.
 - (7) The Contractor shall furnish a certificate of insurance and all endorsements to the undersigned State representative prior to commencement of this agreement. All endorsements shall be provided as soon as practicable.
 - (8) Failure to provide insurance as required in this agreement is a material breach of contract entitling the State to terminate this agreement immediately.

SAFETY REQUIREMENTS

The Contractor shall keep informed of and comply with all federal, state, and local

laws, regulations, and other legal requirements governing the safety, health, sanitation, and performance of the contract in general. In addition, the Contractor shall provide, inspect and maintain all safeguards, safety devices, protective equipment, safety programs and other needed actions the Contractor determines necessary to reasonably protect the life, health and property of the Contractor, subcontractors, the State, the public and each of the employees, officers, assigns and agents of the Contractor, subcontractors and the State, in connection with the performance of work resulting from or arising out of the contract.

The Contractor shall submit to the State a copy of the written safety program to be used as guidelines and direction for the Contractor's and subcontractors' activities. This program must meet all federal, state and local laws, regulations and other legal requirements and include the following minimum provisions: (1) a worksite safety policy and mission statement; (2) assigned responsibilities among management, supervisors and employees; (3) a system for periodic self-inspections, including inspections of job sites, materials, work performance and equipment; (4) a thorough accident and injury reporting and investigation process; (5) a safety orientation program including first aid, medical attention, emergency facilities, fire protection and prevention, housekeeping, illumination, sanitation, personal protective equipment, and occupational noise exposure; and (6) a safety training program including safety "tool box" meetings and other systems for ongoing training and also including training for employees on the recognition, avoidance and prevention of unsafe conditions.

It will be a condition of the contract, and shall be made a condition of each subcontract entered into pursuant to that contract, that the State is assuming no liability relating to its receipt and review of the Contractor's safety plan or activities. Safety remains the responsibility of the

Contractor. Furthermore, the right of the State to receive and review the safety plan or activities shall not give rise to a duty on the part of the State to exercise this right for the benefit of the Contractor or any other person or entity.

ATTORNEY FEES

In the event a lawsuit is instituted by the State to obtain performance due of any kind under this contract, and the State is the prevailing party, Contractor shall, except when prohibited by N.D.C.C. § 28-26-04, pay the State's reasonable attorney fees and costs in connection with the lawsuit.

INDEPENDENT ENTITY

Contractor is an independent entity under this contract and is not a State employee for any purpose, including but not limited to the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the North Dakota Unemployment Compensation Law and the North Dakota Workers' Compensation Act. The Contractor retains sole and absolute discretion in the manner and means of carrying out the Contractor's activities and responsibilities under this contract, except to the extent specified in the contract.

FISCAL RESPONSIBILITIES

RECORDS

All records, regardless of physical form, and the accounting practices and procedures of the Contractor relevant to this contract are subject to examination by the North Dakota State Auditor or the Auditor's designee. The Contractor shall maintain and retain all books, records, and other documents required by the State and to produce program narrative and statistical data at times prescribed by the State relevant to this agreement for four years after final payment. Records shall be retained beyond four years if audit findings have not been resolved.

NO CLAIM FOR ADDITIONAL WORK

No claim for additional services not specifically herein provided, done, or

furnished by the Contractor will be allowed, nor shall the Contractor do any work or furnish any material not covered by the contract, unless such work is ordered in writing by the State.

TIME KEEPING PROCEDURES

The Contractor shall require employees and subcontractors, if applicable, whose positions are funded under this contract or included as match, to maintain adequate documentation for services provided. For positions that are funded from more than one source, an analysis of duties performed by program shall also be prepared.

MONITORING, EVALUATION AND AUDIT

The Contractor agrees to cooperate with any monitoring, evaluating and/or audit conducted by the State, or their designees who shall have full access to and the right to examine all books, records and other relevant documents.

The Contractor agrees to take immediate corrective action on deficiencies disclosed through program monitoring of costs disallowed in the course of an audit, review, or monitoring.

PREPAYMENT

The State will not make any advance payments before performance by the Contractor under this contract. The Contractor will be compensated based on periodic submittal of progress reports.

TAXPAYER ID

Contractor's North Dakota tax ID number is: _____
Contractor's federal employer ID number is: 45-0444581.

PROGRAM REQUIREMENTS

COMPLIANCE WITH LAWS

Contractor agrees to comply with all applicable laws, rules, regulations and policies, including but not limited to those relating to nondiscrimination, accessibility and civil rights. Contractor agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes

and premiums owed, including but not limited to sales and use taxes and unemployment compensation and workers' compensation premiums. Contractor shall have and keep current at all times during the term of this contract all licenses, registrations and permits required by law and shall be authorized to do business in the State of North Dakota.

EQUAL OPPORTUNITY

No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with this contract because of race, color, disability, or political affiliation or belief.

The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, national origin, disability, age, sex, political affiliation or belief or citizenship.

NONDISCRIMINATION

This contract and any subcontract hereunder is subject to the Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act, Title VI of the Civil Rights of 1964 and the Americans with Disabilities Act of 1990.

WORK PRODUCT, EQUIPMENT AND MATERIALS

All work product, equipment or materials created or purchased under this contract belong to the State and must be delivered to the State at the State's request upon termination of this contract. Contractor agrees that all materials prepared under this contract are "works for hire" within the meaning of copyright laws of the United States and assigns to State all rights and interests Contractor may have in the materials it prepares under this contract, including any right to derivative use of the material. Contractor shall execute all necessary documents to enable State to protect its rights under this section. Contractor shall include provisions appropriate to effectuate the purposes of

this condition in all subcontracts entered into relating to this project.

Buy American Act

The contractor agrees to comply with sections 2 through 4 of the Act of March 3, 1933 (41U.S.C. 10a-10c, popularly known as the "Buy American Act".) This applies to all subcontractors and suppliers of the contractor. The contractor will include this clause in all agreements and contracts.

EFFECTIVENESS OF CONTRACT

This contract is not effective until fully executed by both parties.

SPECIFIC PROVISIONS

Scope of Work: This project will entail excavation and burial of burning lignite coal within the Jacobson Ranch and one or more sites within Little Missouri National Grasslands. The Jacobson Ranch site is approximately ½ acre in size. There are approximately 15 actively burning coal seam outcrop fires ranging in size from 1/10 acre to 1 acre or more within the Little Missouri National Grasslands and extinguishment efforts will be conducted on one or more these sites if possible.

Overburden depth to the burning coal seam(s) is expected to range from 2-20 feet, pending site conditions. Average coal seam thickness is expected to be from 1-8 feet. Multiple burning layers are possible. If deemed necessary, the U.S. Forest Service will provide a water truck and personnel for quenching of burning materials on the Little Missouri National Grasslands area. No water truck will be provided for the Jacobson Ranch site. No seeding will be required at the Jacobson Ranch site. Seeding of Little Missouri National Grassland reclaimed sites will be completed by the U.S. Forest Service.

Standard Requirements

1. Remove and stockpile topsoil or suitable plant growth material from around/within the defined project area.
2. Excavate intercept trench or burial trenches at prescribed depths for burial of competent overburden and/or burning materials.
3. Excavate and emplace burning materials into the burial trenches. Blend or intermix the burning/hot materials with clay or approved overburden in lifts as directed. Excavation of the active burn face is considered complete when the coal seam is cool to the touch. Water quenching (as required) will be performed by U.S. Forest Service personnel on the Little Missouri National Grassland site or sites.
4. Cover the backfilled trenches with approved material. Ensure that all buried materials are isolated from other combustible materials. Any combustible material removed from trenches or borrow areas must be covered or mixed with inert soil material.

5. Grade area to blend with surrounding topography and re-establish drainage.
6. Re-spread salvaged topsoil (where available) over disturbed areas. Drag the topsoil area with a spike-tooth harrow or equivalent and clean up the site.

At a minimum, the contractor is required to provide an excavator. A dozer and/or front end loader is also required. The contractor must have at least two fully-charged fire extinguishers on site at all times. The Jacobson Ranch site will be completed first. The Commission Project Manager and U.S. Forest Service representatives will direct the location of the remaining project sites to be reclaimed.

Underground utility location responsibilities rest with the contractor. The North Dakota "One Call" Utility hotline is 1-800-795-0555. Any site access work undertaken by the contractor must be reclaimed to its previous condition.

ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID D9
HANSO-9
DATE (MM/DD/YYYY)
12/01/06

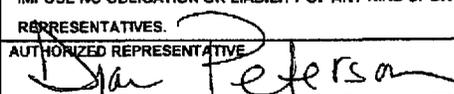
PRODUCER Humphreys Insurance & Surety P.O. Box 1486 Minot ND 58702-1486 Phone: 701-852-1093 Fax: 701-852-9475		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED Hanson's Excavating, Inc. 9515 198th St SW Des Lacs ND 58733-9467		NO PUBLIC SERVICE COMMISSION A.I.L. DIVISION	
		INSURERS AFFORDING COVERAGE	
		INSURER A: Harleysville Insurance	
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	TBD	12/04/06	12/04/07	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 250,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000
A		AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	TBD	12/04/06	12/04/07	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATU-TORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
		OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 Certificate Holder has been added as Additional Insured & Waiver of Subrogation.

CERTIFICATE HOLDER North Dakota State Land Dept State of ND, It's Agencies, Officers & Employees PO Box 5523 Bismarck ND 58506-5523	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
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**NORTH DAKOTA PUBLIC SERVICE COMMISSION
NOTICE TO PROCEED**

TO: Hanson's Excavating, Inc
9515 198th St. SW
Des Lacs, ND 58733

Project Description: 2006-07 Coal Fire Suppression Project, Contract No. AM-537-07

You are hereby notified to commence WORK in accordance with the CONTRACT dated February 26, 2007 on or after March 20, 2005.

You are required to return an acknowledged copy of this NOTICE TO PROCEED to the OWNER.

Dated this 20th day of March 2007.

OWNER
NORTH DAKOTA PUBLIC SERVICE COMMISSION

By: William E. Dodd

Title: Assistant Director - AML Division

ACKNOWLEDGMENT OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by Hanson's Excavating, Inc. this

the 21st day of March, 2007.

By: Kurt Hanson

Title: President

William E. Dodd
Witness to Signature



CHANGE ORDER
 NORTH DAKOTA PUBLIC SERVICE COMMISSION
 ABANDONED MINE LANDS
 SFN 19942 (5-93)

CHANGE ORDER
 NUMBER

0003

Project	2007 Coal Fires
Contractor	Hanson's Excavating, Inc
Original Contract Amount	\$ 8,594.00
Date	March 28, 2007

NO.	ITEM OF WORK	UNIT	ORIG. QUAN.	QUAN. + OR -	UNIT PRICE	INCREASE AMOUNT	DECREASE AMOUNTS
1.	Mobilization	L.S.	1	+ 1/4	\$ 800.00	\$ 200.00	
2.	Material Handling	Yrs.	1,500	+ 278.52	\$ 4.33	\$ 1206.00	
TOTALS:						\$ 1406.00	

Explanation and/or sketch of change:
Additional volume on additional coal fire site.

Net Increase or Decrease to Date	+ \$ 1,406.00
Projected Contract Final Cost to Date	\$ 10,000.00

AML Project Manager	Mark E. Kroll
Date	3-28-07
Contractor	Kurt Hanson
Date	3-28-07

NOTE: No increase or decrease of work is authorized unless this change order is signed by both parties prior to start or elimination of such work.

Billing

To: N.D. Public Service Commission
AML Division
State Capitol
Bismarck, ND 58505-0480

From: Hanson's Excavating, Inc.
9515 198th St. SW
Des Lacs, ND. 58733

Project: 2007 Coal Fires

Service Date: March 20, 2007 to March 28, 2007

Mobilization	= 1.0 (#800.00) + 1/4 (#200.00)	= \$1000.00
Excavator	= 48 hrs. X \$150/hr.	= \$7200.00
Loader	= 24 hrs. X \$75/hr.	= \$1800.00
TOTAL		= \$10,000.00

Contractor: Kurt Hanson

Date: March 28, 2007

INVOICES: 001 (FINAL)

Project: COAL FIRE SUPPRESSION 2006-2007
 Project No.: R0926

Contractor: HANSON'S EXCAVATING, INC.
 9515 198th St. SW
 DBS LACS, ND 58733

Contract No.: AM-537-07
 Date of Invoice: 03/30/07
 Dates Service Rendered: 3/20/07 to 3/28/07

Spec No.	Description	Orig. Quantity	Unit	Unit Price	Bid Amount	Previous Invoices		Current Invoice		Total To Date	
						Quantity	Amount	Quantity	Amount	Quantity	Amount
(1)	MOBILIZATION	1	L. Sum	\$800.000	\$800.00		\$0.00	1	\$800.00	1	\$800.00
(2)	MATERIAL HANDLING	1800	Cubic Yd.	\$4.330	\$7,794.00		\$0.00	1800	\$7,794.00	1800	\$7,794.00
				Change Order(s)	\$0.00		\$0.00		\$8,594.00		\$8,594.00
				Percent Completed	100.00%	Change Order(s)	\$0.00	Change Order(s)	\$1,406.00	Total CO.	\$1,406.00
				Grand Total	\$8,594.00						
				Contract Balance	(\$1,406.00)	Amount Paid	\$0.00	AMOUNT DUE	\$10,000.00	Total Amt.	\$10,000.00

Project Manager:

AML Director:

Grant & Contracts:

M. E. 95
[Signature]
[Signature]

9000
 40870
 Ps R09206 (01)
 (R0926) fund.

REFERENCE DOCUMENT
 NUMBER PS # 1399

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

MEMORANDUM

TO: Jim Deutsch, Director - AML Division

FROM: Mark Knell, Project Manager - AML Division

DATE: March 30, 2007

RE: Close Coal Fire Suppression Project, Contract No. AM-537-07

On February 26, 2007 the Commission entered into the Contract No. AM-537-07 with Hanson's Excavating, Inc. to perform construction services for extinguishing coal outcrop fires located in western North Dakota. This contract required Hanson's Excavating, Inc. to extinguish coal fires on private land northwest of Amidon and on Forest Service land southwest of Alexander. The original contract amount was \$8,594.00.

Construction services at the coal fire sites started on March 20, 2007 and were completed on March 28, 2007. I have inspected this project work, and all conditions of the contract have been completed by Hanson's Excavating, Inc.

The contracted work has been completed for a total cost of \$10,000.00. Based upon the completed work, I recommend that Contract No. AM-537-07 be closed.

Project Photographs



Notice the exposed coal seam at the Jacobson Ranch Site.



Smoke and steam from the burning coal seam at the Jacobson Ranch Site.



Notice the small amount of scoria produced by the baking and fusing of the clay above the burning coal seam.



The excavator being utilized to dig out the burning coal at the Jacobson Ranch Site.



The finish grading is complete at the Jacobson Ranch Site.



The contractor, Hanson's Excavating Inc., starting the work at the Bennie Pier Cross 24 Site.



JD 120 excavator is being utilized to dig out burning coal at the Bennie Pier Cross 24 Site.



The fractured and slumping overburden at the Burns 10 Site



The excavator removing overburden above the coal seam at the Burns 10 Site.



Smoke from the burning coal seam at the Burns 10 Site.



The exposed burning coal seam at the Burns 10 Site.



The excavator is being utilized to dig out burning coal at the Burns 10 Site.

Remaining Burning Coal Seam Sites

U.S. Forest Service - National Grasslands Burning Coal Seam Information

North Dakota Public Service Commission - 2007 Remaining Sites

Updated in May 2007

Site (size)	Legal Description	Lat.	Long.	Previous Action	Comments
Burns 9 (1/4 acre)	148-104, Sec. 9, NW, NE	47 39 33	103 56 22	Mechanical	
Wambach 13 (1/10 acre)	148-104, Sec. 13, NE, SW	47 38 01	103 52 24	Scratchline/Monitor	
Roedeseke 4 (1/4 acre)	148-104, Sec. 4, SW, SW	47 39 49	103 56 37	Monitor	
Horseshoe 20 (1/4 acre)	148-102, Sec. 20, SW, SE	47 37 19	103 42 36	Burn/Monitor	
Wambach 26-B (1/10 acre)	148-104, Sec. 26, NE, SW	47 36 47	103 53 30	Scraped around	
Big Buck 29 (1/4 acre)	148-103, Sec. 29, NE, SW	47 36 49	103 49 43	Mech. / Monitor	
Sather 10 (1/10 acre)	148-103, Sec. 10, SW, NE	47 39 11	103 47 31	Mechanical	
Old Highway 25 (1/10 acre)	145-98, Sec. 25, SE, NW	47 21 17	103 06 05	Mechanical	
Crighton (1/4 acre)	147-102, Sec. 26, NW, NE	47 31 38	103 38 45	Monitor	
McPeak/Klandl 27 (1/4 acre)	148-104, Sec. 27, NE, SW	47 36 49	103 54 46	Mechanical	
McPeak/Klandl 27 NE (1/4 acre)	148-104, Sec. 27, NE, NE	47 36 56	103 54 27	Mechanical	
Cummings B (1/10 acre)	148-103, Sec. 30, NW, SE	47 36 54	103 51 15	Monitor	
Hart Draw 30 (1/4 acre)	148-103, Sec. 30, SW, NE	47 36 44	103 50 53	Scraped around	
* Additional sites are expected to be discovered					

Project Appreciation



United States
Department of
Agriculture

Forest
Service

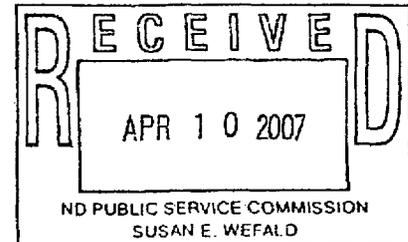
Dakota Prairie Grasslands

240 W. Century Ave.
Bismarck, ND 58503

File Code: 5130/1600

Date: April 5, 2007

Susan Wefald
Public Service Commission
State of North Dakota
600 E. Boulevard Ave. Dept. 408
Bismarck, ND 58505



Dear Ms. Wefald:

On behalf of the U.S. Forest Service-Dakota Prairie Grasslands, I would like to express my appreciation for the work and assistance the Public Service Commission has provided in suppressing coal seam fires on the national grasslands in western North Dakota. This spring, personnel from the Abandoned Mine Lands Division of the Public Service Commission administered the OSM funding for coal fire suppression, awarded the contract, and oversaw excavation and extinguishment of coal fires in Slope and McKenzie Counties. I would like to personally recognize the help, support and leadership of Jim Deutsch, Bill Dodd, Mark Knell and Bruce Beechie on this project.

The local public is very concerned about these fires and their potential to ignite above ground fires. Largely through the efforts of the Public Service Commission, there are currently only 8 actively burning coal seam fires out of 32 coal seam fires on the National Grasslands that have been discovered over the past eight years. Again, thank you for your support and assistance and we look forward to continued future cooperative efforts to mitigate burning coal seam hazards.

Sincerely,

DAVID M. PIEPER
Grasslands Supervisor

Cc: Region One Regional Forester, ND Governor Hoeven, ND Forest Service

