

**REQUEST FOR PROPOSALS (“RFP”) FOR COAL SURFACE MINING LEASE
SPECIFICATIONS**

1.0 GENERAL INFORMATION

1.01 The Board of Trustees of the University of Alabama, for and on behalf of its member institution, the University of Alabama, Tuscaloosa, (the “University”) is seeking proposals for the lease of surface coal mining rights on certain University lands located in Jefferson County, Alabama. The lease being offered will be for the privilege of taking and removing coal by surface mining operations from the Mary Lee Group coal seams (New Castle, Mary Lee and Blue Creek seams).

1.02 The tract of land being offered for coal surface mining (hereafter referred to as the “Property”) is more particularly described as follows:

Fee Simple Ownership located in the N½ of NW¼, of Section 6, Township 17 South, Range 5 West, 80 acres, more or less, Jefferson County, Alabama.

1.03 The successful Proposer will be allowed a term of two (2) years plus one (1) renewal term of one (1) year to mine and remove the coal located on the Property.

1.04 The University does not warrant title to the Property or minerals described in paragraph 1.02 hereof. Each Proposer should satisfy itself as to the University’s title to the Property and as to the accuracy of the acreage being offered for lease.

1.05 Each Proposer shall be solely responsible for satisfying itself as to the presence, quantity, and quality of the coal located on the Property, which will be subject to the lease. The University makes no warranties or representations as to the presence, quality, or quantity of coal, which may be located on the Property.

1.06 The lease awarded to the successful Proposer shall be on the University's current standard surface coal mining lease form.

1.07 The successful Proposer shall be required to reimburse the University for the cost of advertising this request for proposals.

1.08 The specification of a minimum acceptable royalty rate and a minimum acceptable monthly advance minimum royalty, as set forth in Section 2.03 herein, is not to be construed or deemed to be an acceptance of any proposal which may propose a royalty rate and/or an advance royalty equal to or in excess of such minimum rates and royalty.

1.09 Proposals must be made in the official name of a firm or individual under which mining is conducted (showing official business address) and must be signed by a person or persons authorized to legally bind the person, partnership, company, or corporation submitting the proposal. (See Request for Proposals Response form - Attachment A).

1.10 By submitting a proposal, the Proposer agrees to be governed by the terms and conditions set forth in this RFP. Any exceptions to the requirements and specifications set forth herein must be clearly identified in the last section of the proposal.

1.11 If significant errors are found in a proposal, or if a proposal fails to materially conform to the requirements of the RFP, the proposal may be rejected at the sole discretion of the University. Proposals should be prepared in a manner designed to provide the University with a clear and unambiguous presentation of the Proposer's capability of satisfying the requirements of this RFP. The University reserves

the right, in its sole discretion, to seek clarification or supplementation of any proposal.

1.12 Proposers shall be responsible for fully acquainting themselves with the conditions relating to the scope and restrictions attending the surface mining of the coal located on the Property, which will be subject to the lease. Failure of any Proposer to acquaint itself with existing conditions shall in no way relieve it of any obligation with respect to this RFP or the surface coal mining lease. Without limiting the foregoing, the Proposer is responsible for obtaining all outstanding rights needed to mine coal, e.g. surface rights where the University owns mineral rights and surface rights where the University owns mineral rights.

1.13 Every proposal shall be binding upon the Proposer for sixty (60) calendar days following the deadline date for the submission of proposals. Proposals will be on file and open to public inspection. The successful proposal and the surface coal mining lease are subject to the approval the University's Board of Trustees of The University of Alabama.

1.14 As security for its performance of the lease, the successful Proposer will be required to deliver at execution of the lease an irrevocable letter of credit or certificate of deposit payable in the name of The Board of Trustees of The University of Alabama, in the amount in the range of sixty(60%) percent of the anticipated earned royalty but not less than \$100,000 for the term of the lease.

1.15 The primary post reclamation land use shall be timber production. The lease will include provisions for the establishment of 450 loblolly pine seedlings per acre at the end of the third growing season after planting. Sufficient soil from the original in place upper tract soil zone should be spread on all stripped lands following post-mining

slope work.

1.16 Lessee shall be required to pay to the University a lease administration fee of \$250 per year payable upon the execution date of the lease and thereafter annually on the lease anniversary date.

1.17 The entire surface coal bearing surface of the New Castle, Mary Lee and Blue Creek coal seams are to be surface mined to recover all economically recoverable coal. Lessee shall be required to pay royalty for coal that is left unmined or rendered unrecoverable economically due to Lessee's faulty practices, negligence, or imprudence.

2.0 INSTRUCTIONS

2.0 Proposals will be received until **2:00 p.m., C.S.T., on December 5, 2008**. Proposals received after this time and date will be rejected and not considered for lease award. Proposals may be delivered in person, by United States mail, or other couriers. Facsimile proposals are **not** acceptable. It is the Proposer's responsibility to insure that its proposal is mailed and delivered in sufficient time to arrive at the University's Land Management Office by the submission deadline. Proposals must be submitted in an envelope or package and plainly marked in the lower left-hand corner **"Proposal for Jefferson County Surface Coal Mining Lease, Due December 5 at 2:00 p.m. C.S.T."** Proposals should be delivered to the Office of Land Management, The University of Alabama, Box 870176, Tuscaloosa, Alabama 35487-0176 or delivered to the Office of Land Management, 102 Hayden-Harris Hall, The University of Alabama, Tuscaloosa, Alabama, or express mail delivery, to Office of Land Management, The University of Alabama, 814 Hackberry Lane, Tuscaloosa, Alabama.

2.02 Each proposal must include the Request for Proposals Response Form which is attached hereto as Attachment A. Failure to submit to or fully complete the Request for Proposals Response Form, failure to provide or to complete the information requested in the Form, or failure to sign the Form may result in the rejection of Proposer's response to the RFP.

2.03 Proposer's response to the RFP must provide the following data and information:

2.03.1 The royalty rate to be paid on each ton of merchantable coal of 2,000 pounds mined from the Property. The royalty rate will be the greater of a stated percentage of the gross sales price per ton of coal FOB mine pit or the stockpile or a fixed dollar amount for each ton of coal mined from the Property. "Gross sales price" is defined as the actual sale price per ton paid to Lessee, plus any reimbursements, plus "BTU Bonus" or minus "BTU Penalty" on coal sold, without any deduction for sales commissions, brokerage fees, handling, shipping, transportation, loading or stockpiling charges, or any other charges, expenses, or fees whatsoever; however, in the case of coal mined from the Property and sold FOB some point other than the mine pit (or stockpile), the gross sales price shall be determined by deducting from the gross sale price at which such coal is actually sold all transportation costs beyond the mine pit (or stockpile) actually paid by Lessee but without deduction for sales commissions, brokerage fees, stockpiling or loading fees, marine vessel survey cost, or any other charges, price adjustments, or fees whatsoever. The minimum acceptable royalty rate for Fee Simple Ownership is 12% of the gross sales price per ton of

coal or \$7.20 for each ton of 2,000 pounds of coal, whichever is greater.

Proposals offering less than the minimum royalty rate will not be considered.

2.03.2 In the event Proposer mines and sells any other mineral (clay or shale) from the Property, the royalty rate to be paid on each ton of clay and shale of 2000 pounds mined from the Property. The royalty rate will be the greater of a stated percentage of the gross sales price per ton gravel and any other mineral (clay), or a fixed dollar amount for each ton of gravel and any other mineral (clay), mined from the Property. The minimum acceptable royalty rate is 10% of the gross sales price per ton of clay or shale or \$.25 for each ton of 2000 pounds of clay or shale, whichever is greater.

2.03.3 A monthly advance minimum royalty. The minimum acceptable monthly advance minimum royalty will be negotiated based on the information supplied required by section 2.03.4. The advance minimum monthly royalty will be determined from the total estimated earned royalty divided by the number of months needed to mine the property. For example, the total estimated earned royalty is \$350,000. The estimated time to mine the property is 2 years or 24 months. Therefore, the advance minimum monthly royalty would be approximately \$14,500. In any event, the advance minimum monthly royalty would not be less than \$14,400. Minimum royalty payments are credited against earned royalty over a 24 month period. **Proposals offering less than the minimum acceptable monthly advance royalty will not be considered.**

2.03.4 Proposer must demonstrate the present ability to surface mine the

coal located on the Property. Such qualifications must include, without limitation, a description of the equipment Proposer will use in its mining operations on the Property, management and technical staff who will be involved with planning, permitting and executing the mining, approximate date of commencing mining operations, sequence of operations, estimate of acres to be disturbed, estimate of acres to be mined, estimate of ultimate reserves, estimate of recoverable coal tonnage, maps or sketches showing adjacent lands under lease (or considered essential to the mining plan) which bear on Proposer's ability to mine the Property effectively and to comply with federal and state reclamation requirements, and copy of Proposer's permit application and reclamation plan, if available.

2.03.5 Proposer must demonstrate possession of a valid Alabama coal mining license and any other licenses required to perform the mining operations on the Property.

2.03.6 Proposer shall provide five (5) business and financial references, a financial statement prepared by an independent certified public accounting firm for the most recently ended fiscal year, a list of names and addresses of the owners, partners, or officers and directors, as applicable, of the Proposer's company or business entity, and a list of surface coal mining operations currently underway or completed within the past five (5) years and the names, addresses, and telephone numbers of the landowners / lessors or other contact persons.

2.03.7 Proposer must provide plans for sale of the coal which should include, without limitation, the identity of proposed buyers and any purchase

contracts that currently exist (include copy of any existing contracts), date and term of any contracts to be used for sale of coal mined from the Property, whether such contracts are to be exclusive or non-exclusive, any price escalation or adjustment clauses, and current list of consumers of coal mined by Proposer. Proposer must provide an estimate of the average sales price for coal which would be mined from the Property during the lease term for coal sold FOB mine pit and FOB washer (if applicable).

2.03.8 Proposer must provide copies and documentation showing Proposer's ownership of or right of ingress and egress and to access, enter upon, cross over and utilize all other real property necessary for the purpose of mining the coal on the Property subject to the lease. If Proposer has not obtained such rights, please disclose.

2.04 Each proposal must be accompanied by a bank or cashier's check in the amount of the minimum advance monthly minimum royalty, which payment shall constitute and be applied as the first minimum monthly advance royalty payment (recoverable from actual production royalties) should the Proposer be awarded the lease. If Proposer is awarded the lease and if Proposer fails to or refuses to enter into the coal surface mining lease within 60 days from approval by The Board of Trustees, then the University shall be entitled to retain said payment. The checks of unsuccessful Proposers shall be returned promptly after the award is made to the successful Proposer.

2.05 Questions concerning the RFP must be submitted in writing on or before December 1, 2008 to Mr. Douglas D. Behm, Office of Land Management, The

University of Alabama, Box 870176, Tuscaloosa, Alabama 35487-0176. The responses to questions, if any, will be sent by December 3, 2008 to all Proposers who request a copy of the RFP.

3.0 PROPOSAL EVALUATION AND AWARD

3.01 This RFP does not commit the University to award a lease for the surface mining of the coal located on the Property or to pay any costs incurred by any Proposer in preparation of a proposal.

3.02 The award made shall be in the best interests of the University, as solely determined by the University. The University reserves the right to accept or reject any and all proposals, to waive any informalities in a proposal, and, unless otherwise specified in writing by the Proposer, to accept any items in the proposal. The University may require oral presentation of one or more Proposers for the purposes of discussion or clarification. The award document will be the University's standard surface coal mining lease form, which shall incorporate all of the requirements, terms and conditions of the RFP solicitation and the Proposer's proposal as negotiated. Only proposals from financially responsible organizations, as determined by the University, presently engaged in the surface coal mining business shall be considered. Representatives of the University reserve the right to inspect the Proposer's current operations and to contact references prior to lease award.

ATTACHMENT A

REQUEST FOR PROPOSALS RESPONSE FORM

In compliance with this Request for Proposals, the undersigned acknowledges that he/she has read and understands all of the conditions imposed herein and offers and agrees to perform in accordance with the attached proposal or as mutually agreed upon by subsequent negotiation. The undersigned represents that he/she is authorized to submit the foregoing proposal on behalf of the Proposer's company or business entity.

Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone: _____ Contact Person: _____

State Tax I.D. Number: _____

Federal Tax I.D. Number: _____

FOR EACH ITEM LISTED BELOW PROVIDE THE INFORMATION REQUESTED:

A. ROYALTY RATE:

Proposer agrees to pay as earned royalty on all merchantable coal mined from the Fee Simple Ownership Property (FOB pit or the stockpile) a royalty rate of _____ percent of the gross sales price per ton or _____ (\$ _____) per ton of 2,000 pounds, whichever is greater.

(NOTE: Minimum acceptable royalty rate is 12% or \$7.20 per ton).

Proposer agrees to pay as earned royalty on all clay or shale mined from the property, if any, a royalty rate of _____ percent of the gross sales price per ton or _____ (\$ _____) per ton of 2000 pounds, whichever is greater.

(NOTE: Minimum acceptable royalty rate is 10% or \$0.25 per ton).

B. ADVANCE MINIMUM ROYALTY:

Proposer agrees to pay an advance minimum royalty of \$ _____ per month.

(NOTE: The minimum acceptable advance minimum royalty rate is \$14,400 per month).

C. Attach a copy of valid Alabama Mining License.

D. Attach pertinent and relevant information that demonstrates that Proposer has the ability to surface mine all of the coal on the Property including, without limitation, the following information:

1. Equipment that will be used in Proposer's mining operations on the Property.
2. Approximate date Proposer will commence mining operations.
3. Description of the sequence of mining operations on the Property.
4. Estimate of acreage to be disturbed.
5. Estimate of acreage to be mined.
6. Estimate of ultimate coal reserves on the Property.
7. Estimate of recoverable tons of coal from the Property.
8. Maps or sketches showing adjacent lands under lease (or considered essential to the mining plan) which bear on Proposer's ability to mine the Property effectively and to comply with federal and state reclamation requirements.
9. Copy of permit application and reclamation plan.
10. Copy of documentation showing Proposer's ownership of or right of ingress and egress and to access, enter upon, cross over and utilize all other real property necessary for the purpose of mining the coal on the Property subject to the lease.
11. List of management and technical staff who will be involved with planning, permitting and executing the mining.

E. Attach a copy of a financial statement prepared by an independent certified public accounting firm for the most recently ended fiscal year.

- F. **Attach a list of five (5) business and financial references, including the names, addresses and telephone numbers of the appropriate contact persons.**
- G. **Attach a list of the names and addresses of the officers, directors, partners, or owners, as applicable, of Proposer's company or business entity.**
- H. **Attach a list of other surface coal mining operations currently underway or completed within the past five (5) years and the names, addresses and telephone numbers of the landowners/lessors or other contact persons.**
- I. **Provide an estimate of the average sales price of coal which would be mined from the Property during the lease term for coal sold FOB mine pit and FOB washer (if applicable).**
- J. **Provide plans for sale of coal which should include, without limitation, the identity of proposed buyer of the coal, any existing contracts for the purchase of the coal (furnish complete copy of existing contracts), date and term of contracts which may be used for sale of coal, whether contracts are exclusive or non-exclusive, any price escalation or adjustment clauses, and list of current consumers of coal mined by Proposer.**

RESPONSES TO THE REQUEST FOR PROPOSAL MUST BE RECEIVED BY THE UNIVERSITY'S LAND MANAGEMENT OFFICE ON OR BEFORE 2:00 P.M. C.S.T. ON December 5, 2008. BIDS RECEIVED AFTER THE SUBMISSION DEADLINE WILL NOT BE CONSIDERED.

PROPOSER

Name: _____

Signature: _____

Title: _____

Date: _____