BID FORM

MISSOURI DEPARTMENT OF TRANSPORTATION
GENERAL SERVICES
830 MoDOT DRIVE – P.O. BOX 270
JEFFERSON CITY, MO 65102

REQUEST NO.	2-091202AS		
DATE	November 13, 2009		
PAGE NO.	1	NO. OF PAGES	16

SEALED BIDS, SUBJECT TO THE ATTACHED CONDITIONS WILL BE RECEIVED AT THIS OFFICE UNTIL

2:00 PM, CST, December 2, 2009

AND THEN PUBLICLY OPENED AND READ FOR FURNISHING THE FOLLOWING SUPPLIES OR SERVICES.

QUOTATIONS TO BE BASED F.O.B. MISSOURI DEPARTMENT OF TRANSPORTATION
Submit net bid as cash discount stipulations will not be considered

F.O.B. Destinations

Per District Purchase Orders

BUYER:	Angela Sutton, Procurement Agent	**BUYER TELEPHONE:**	(573) 526-7929
BUYER EMAIL:	Angela.Sutton@modot.mo.gov		

SUPPLIES OR SERVICES

MoDOT is seeking bids from qualified bidders whom can provide **Temporary Raised Pavement Markers.**

Note to Respondent: The bidder must use the firm name under which he/she is registered to do business in the State of Missouri. The bidder must ensure that his/her firm name is registered with the office of the Secretary of State. Failure to use the correct firm name on all bid documents will result in delaying the contract award.

(SEE ATTACHED FOR CONDITIONS AND INSTRUCTIONS)

In compliance with the above invitation for bids, and subject to all conditions thereof, the undersigned bidder agrees to furnish and deliver any or all the items on which prices were bid within 30 days after receipt of formal purchase order.

Date: _____ **Firm Name:** _____

Telephone No.: _____ **Address:** _____

Fax No.: _____ _____

Federal I.D. No. _____ **By (Signature):** _____

Email Address: _____ **Type/Print Name** _____

Title: _____

Is your firm MBE certified? ☐ Yes ☐ No **Is your firm WBE certified?** ☐ Yes ☐ No

MISSOURI DEPARTMENT OF TRANSPORTATION
JEFFERSON CITY, MISSOURI
Temporary Raised Pavement Markers

Request No. 2-091202AS

1. Introduction

1.1 This solicitation seeks bids from qualified organizations to provide Temporary Raised Pavement Markers (TRPM) throughout the state of Missouri with an effective contract period of January 1, 2010 through December 31, 2010 with three (3) one-year renewal option periods to the Missouri Highways and Transportation Commission (MHTC) and Missouri Department of Transportation (MoDOT).

a. Renewal Period - If the option for renewal is exercised by MoDOT, the contractor shall agree to all terms and conditions of the RFB and all subsequent amendments. Additionally, in the event MoDOT exercises its option(s) to renew the contract, the requirements for future months shall remain the same. The contractor shall understand and agree MHTC does not automatically grant a price increase at the time of renewing the contract. In the event a price increase is granted due to an approved escalation, the renewal percentage shall be based upon the current contract value.

b. Escalation Clause - In the event the contractor requests a price increase during the renewal period, the contractor must provide a written request and documentation justifying the need for a price increase, and the amount of such price increase. MoDOT will review the contractor's written request and documentation for a price increase, and decide if a price increase is to be granted at that particular time. The contractor shall understand and agree that MoDOT's decision shall be final and without recourse.

2. Quantities

2.1 MoDOT does not guarantee any specific quantities that may be required to be provided by the contractor.

2.2 Purchase orders may be issued on an as needed basis.

3. Delivery

3.1 The contractor shall deliver TRPM, as specified herein, to all MoDOT districts located throughout the state as identified by each order.

3.2 The District Engineer or the engineer's representative may issue delivery orders by phone, fax, email, or mail. Orders placed via phone will be confirmed on hard copy.

3.3 Deliveries must be within thirty (30) days after receipt of purchase order.

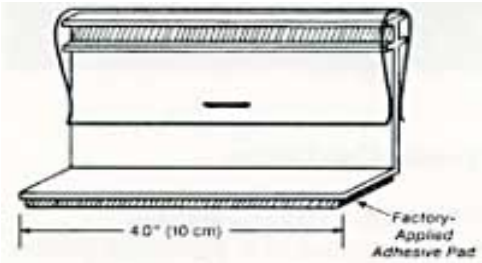
3.4 In the event the vendor does not expect to meet the contract delivery date and time requirements, the ordering district should be notified of the delay.

4. Specifications

4.1 The material shall conform to the **Missouri Standard Specifications for Highway Construction, 2004 Edition,** and any revisions thereto, except as revised herein: **Section 1048.60 Temporary Raised Pavement Markers**. Markers produced under an approved MoDOT QC/QA program will be accepted on that basis. All other markers are subject to the department's conventional inspection and acceptance procedures.

4.2 Pricing will only be accepted on Bunzl Extrusion – TRPM and the TRPMs posted on the Qualified Temporary Raised Pavement Markers list in Field Section 1048T10. See Pages 5-6.

4.3 The adhesive applied to the marker base at the factory, shall be a solid butyl rubber 0.125” (3.2mm) thickness. The minimum 0.75” (19.0 mm) wide on 1.0” (25.4 mm) wide release paper.



4.4 The TRPM shall be 4” x 1.125” x 2” and be Yellow or White in color. The color will be specified on each order.

4.5 The TRPMs shall be packaged in boxes such that the vertical wall will not take a permanent set in excess of 15 degrees from true vertical wall with respect to the base.

4.6 Staples used in attaching a single clear protective cover to the TRPM body shall be heavy-duty type made of high carbon steel. The protective cover shall be made from a clear flexible polyvinyl chloride.

4.7 Reflective tape shall be affixed along the top of vertical section of the TRPM inside the I-Beam on both sides. Reflective tapes shall be a cube corner microprism material with the following minimum optical performance:

Initial Brightmess			
COLOR	**GRADE**	**SI**	**CIL**
Yellow or White	WZ	2.5	230

4.8 MoDOT reserves the right to inspect the material at the point of manufacturer, intermediate storage point or any destination which shall be at the discretion of MoDOT.

5. Invoicing and Payment Requirements

5.1 The contractor shall submit an itemized invoice to the applicable requesting address for the completion of deliverables, as specified herein.

5.2 The contractor shall be paid in accordance with the firm, fixed prices stated on the pricing page of this document after completion of deliverables specified herein and acceptance by MoDOT.

5.3 Other than the payment specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever.

6. Award

6.1 For the purpose of this bid, items will be awarded on an **“Item by Item”** basis of the lowest price meeting the specifications and requirements of this bid for TRPM with butyl pad.

6.2 In the event of tie low bids, the Commission reserves the right to establish the method to be used in determining the award.

6. Bid Submission

6.1 Each bid must be mailed to Ms. Angela Sutton, General Services Procurement Unit, 1320 Creek Trail Drive, P.O. Box 270, Jefferson City, Mo 65102, or hand-delivered in a sealed package to the General Services Procurement Office located at 1320 Creek Trail Drive, Jefferson City, Missouri 65109. All questions regarding the RFB shall be submitted to the RFB Coordinator. All bids must be received at the General Services Procurement Office located at 1320 Creek Trail Drive, no later than **2:00 p.m., CST, December 2, 2009.**

RFB Coordinator:
Ms. Angela Sutton, Procurement Agent
Missouri Department of Transportation
1320 Creek Trail Drive; Jefferson City, MO 65109
P.O. Box 270; Jefferson City, MO 65102
PHONE: 573-526-7929

6.2 All bids must be received in a sealed package clearly marked **"Temporary Raised Pavement Markers".**

6.3 **MHTC reserves the right to reject any and all bids for any reason whatsoever.**

6.4 Bids will be reviewed to determine if the bid complies with the mandatory requirements, and to determine the lowest and responsive bid on each item.

6.5 **Open Competition/Request for Bid Document**

a. It shall be the bidder's responsibility to ask questions, request changes or clarification, or otherwise advise MoDOT if any language, specifications or requirements of an RFB appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFB to a single source. Any and all communication from bidders regarding specifications, requirements, competitive bid process, etc., must be directed to the buyer from the MoDOT, unless the RFB specifically refers the bidder to another contact. Such communication should be received at least five (5) working days prior to the official bid opening date.

PAVEMENT MARKING
FIELD SECTION 1048 TABLE 10
QUALIFIED TEMPORARY RAISED PAVEMENT MARKERS
(1048PMTPRSWH, 1048PMTPRSYL)

Brand Name	Manufacturer
Apex Model 932, TRPM (Type 1, Yellow and White) (8/09)	Apex Universal, Inc. 11033 Forest Place Santa Fe Springs, CA 90670
Bunzl Extrusion TOM (2/02)	Filtrona Extrusion 3110 7th Avenue East Tacoma, WA 87424
DAPCO RPM (Type 2) (9/96)	Filtrona Extrusion (Davidson) 3110 70th Ave. East Tacoma, WA 98424
DAPCO TRPM (Type 1 w/Sleeve) (8/00)	Filtrona Extrusion (Davidson) 3110 70th Ave.East Tacoma, WA 98424
Flex-O-Lite RCM	Flex-O-Lite P. O. Box 4366 St. Louis, MO 63123-0166
PM-24 (Type 2 RPM) (6/96)	Astro Optics Corp. 156 Williams St. Carpentersville, IL 60110
Ennis Paint Inc. Model 66 (Type 2 RPM)	Ennis Paint Inc. (Stimsonite) 7542 North Natchez Ave. Niles, IL 60648
TPM (Yellow and White) (10/08)	ICI Devoe Coatings 1200 Abbott Drive Elgin, IL 60123
TSP-150 (Type 2 RPM) (5/95)	TSP Plastics Division P. O. Box 2501 Winter Haven, FL 33883
Ray-O-Lite Model AA (Type 2 RPM) (2/03)	Pac Tec, Inc. Ray O Lite Division 1010 Brice Street Newark, OH 43055

PAVEMENT MARKING
FIELD SECTION 1048 TABLE 10 (Cont.)
QUALIFIED TEMPORARY RAISED PAVEMENT MARKERS
(1048PMTPRSWH, 1048PMTPRSYL)

Brand Name	Manufacturer
Halftrack (Model 25) (Type 2 RPM) (8/06)	Filtrona Extrusion (Davidson) 3110 70th Avenue East Tacoma, WA 98424
RPM (Model 35) (Type 2 RPM) (8/06)	Fitrona Extrusion (Davidson) 3110 70th Avenue East Tacoma, WA 98424

MISSOURI DEPARTMENT OF TRANSPORTATION
JEFFERSON CITY, MISSOURI
Temporary Raised Pavement Markers

Request No. 2-091202AS

PRICING PAGE

The bidder shall provide firm, fixed prices to MHTC as stated on the PRICING PAGES in accordance with the terms of this Request for Bid. **All costs associated with providing the required deliverables shall be included in the prices, including freight.**

					Provide a unit price for each TRPM.			
			COLOR	**Packaging**	**Type I**		**Type II**	
Item	Brand Name	Manufacturer	Indicate color(s)	Indicate qty per box	**With Butyl Pad**	**Without Butyl Pad**	**With Butyl Pad**	**Without Butyl Pad**
1	APEX MODEL 932	Apex Universal			$	$	$	$
2	Bunzl Extrusion TOM (2/02)	Pexco (Filtrona Extrusion)			$	$	$	$
3	Bunzl Extrusion – TRPM	Pexco (Filtrona Extrusion)			$	$	$	$
3	DAPCO RPM (9/96)	Pexco (Filtrona Extrusion)			$	$	$	$
4	DAPCO RPM (8/00)	Pexco (Filtrona Extrusion)			$	$	$	$
5	Flex-O-Lite RCM	Flex-O-Lite			$	$	$	$
6	PM-24 (6/96)	Astro Optics Corp.			$	$	$	$
7	Ennis Paint Model 66	Ennis Paint (Stimsonite)			$	$	$	$
8	TPM (10/08)	ICI Devoe Coatings			$	$	$	$
9	TSP-150 (5/95)	TSP Plastics Division			$	$	$	$
10	Ray-O-Lite Model AA	Pac-Tec, Inc.			$	$	$	$
11	Halftrack Model 25	Pexco (Filtrona Extrusion)			$	$	$	$
12	RPM Model 35	Pexco (Filtrona Extrusion)			$	$	$	$

In the event that MHTC exercises its options to renew the contract for three (3) additional one-year periods pursuant to the applicable provisions outlined in this document, the Bidder shall provide below the maximum percentage of increase or maximum percentages of decrease for each renewal period. The Bidder is cautioned that the percentages shall be computed against the ORIGINAL contract prices during renewal periods. Furthermore, the Bidder is advised that the MHTC does not automatically grant increases at the time of renewing the contract and that if an increase is requested, documentation of need must be provided at the time of renewal.

First Renewal Period _____**% of maximum increase and/or**
_____**% of maximum decrease**

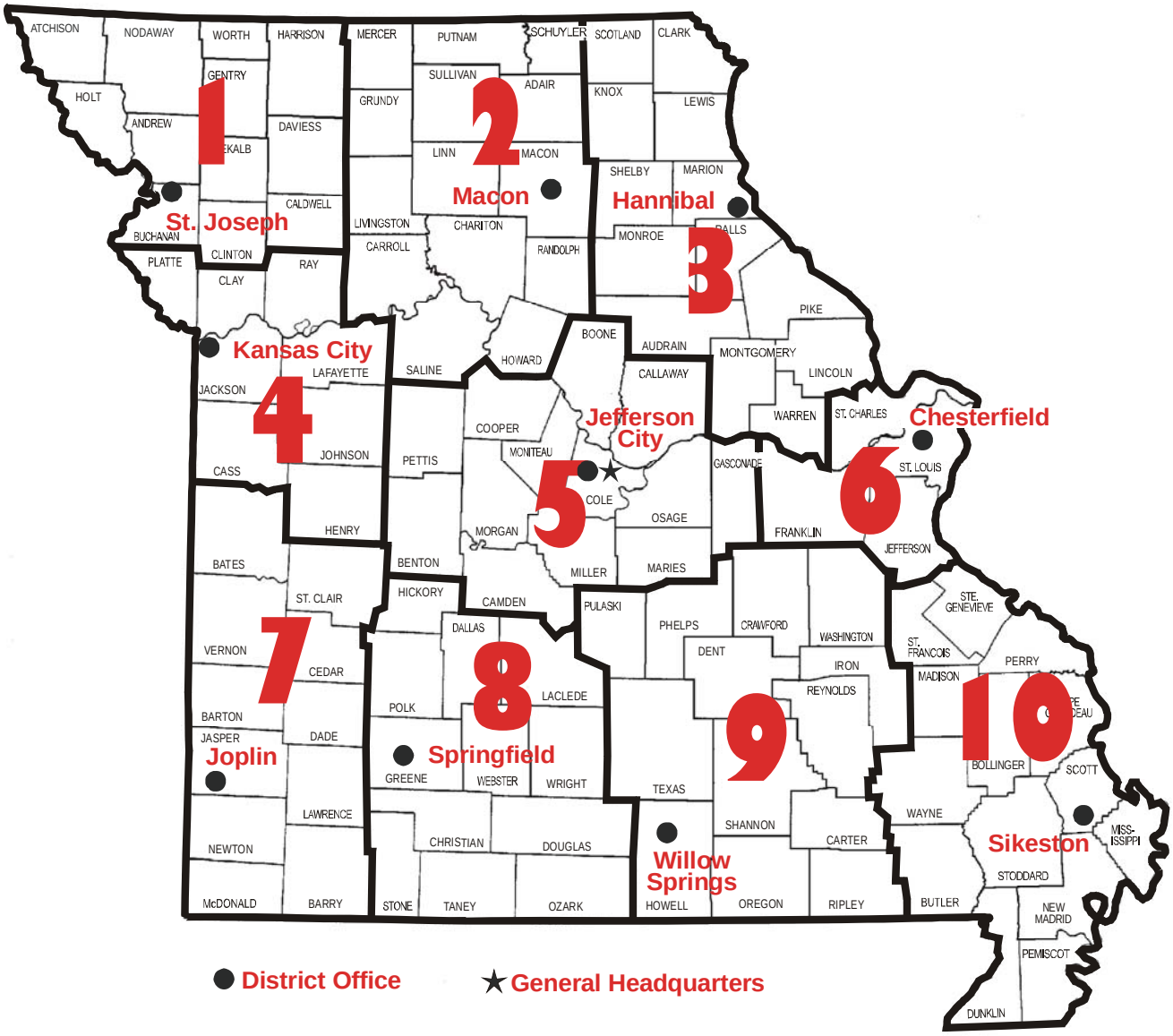
Second Renewal Period _____**% of Maximum increase and/or**
_____**% of maximum decrease**

Third Renewal Period _____**% of Maximum increase and/or**
_____**% of maximum decrease**

Signature: _____

Title: _____

Missouri Department of Transportation
District Outline Map



COUNTY	DIST.
Adair	2
Andrew	1
Atchison	1
Audrain	3
Barry	7
Barton	7
Bates	7
Benton	5
Bollinger	10
Boone	5
Buchanan	1
Butler	10
Caldwell	1
Callaway	5
Camden	5
Cape Girardeau	10
Carroll	2
Carter	9
Cass	4

COUNTY	DIST.
Cedar	7
Chariton	2
Christian	8
Clark	3
Clay	4
Clinton	1
Cole	5
Cooper	5
Crawford	9
Dade	7
Dallas	8
Daviess	1
Dekalb	1
Dent	9
Douglas	8
Dunklin	10
Franklin	6
Gasconade	5
Gentry	1

COUNTY	DIST.
Greene	8
Grundy	2
Harrison	1
Henry	4
Hickory	8
Holt	1
Howard	2
Howell	9
Iron	9
Jackson	4
Jasper	7
Jefferson	6
Johnson	4
Knox	3
Laclede	8
Lafayette	4
Lawrence	7
Lewis	3
Lincoln	3

COUNTY	DIST.
Linn	2
Livingston	2
McDonald	7
Macon	2
Madison	10
Maries	5
Marion	3
Mercer	2
Miller	5
Mississippi	10
Moniteau	5
Monroe	3
Montgomery	3
Morgan	5
New Madrid	10
Newton	7
Nodaway	1
Oregon	9
Osage	5

COUNTY	DIST.
Ozark	8
Pemiscot	10
Perry	10
Pettis	5
Phelps	9
Pike	3
Platte	4
Polk	8
Pulaski	9
Putnam	2
Ralls	3
Randolph	2
Ray	4
Reynolds	9
Ripley	9
St. Charles	6
St. Clair	7
St. Francois	10
Ste. Genevieve	10

COUNTY	DIST.
St. Louis	6
Saline	2
Schuyler	2
Scotland	3
Scott	10
Shannon	9
Shelby	3
Stoddard	10
Stone	8
Sullivan	2
Taney	8
Texas	9
Vernon	7
Warren	3
Washington	9
Wayne	10
Webster	8
Worth	1
Wright	8

MISSOURI SERVICE-DISABLED VETERAN BUSINESS PREFERENCE

By virtue of statutory authority, RSMo 34.074, a preference will be given all contracts for the performance of any job or service to service-disabled veteran business either doing business as Missouri firms, corporations, or individuals; or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing bids, in their entirety, are comparable.

Definitions:

Service-Disabled Veteran is defined as any individual who is disabled as certified by the appropriate federal agency responsible for the administration of veterans' affairs.

Service-Disabled Veteran Business is defined as a business concern:

a. Not less than fifty-one (51) percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than fifty-one (51) percent of the stock of which is owned by one or more service-disabled veterans; and
b. The management and daily business operations of which are controlled by one or more service-disabled veterans.

If an offeror meets the definitions of a service-disabled veteran and a service-disabled veteran business as defined in 34.074 RSMo and is either doing business as a Missouri firm, corporation, or individual; or maintains a Missouri office or place of business, the offeror **must** provide the following with the proposal in order to receive the Missouri service-disabled veteran business preference over a non-Missouri service-disabled veteran business when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing proposals, in their entirety, are comparable:

a. A copy of a letter from the Department of Veterans Affairs (VA), or a copy of the offeror's discharge paper (DD Form 214, Certificate of Release or Discharge from Active Duty) from the branch of service the offeror was in, stating that the offeror has a service-connected disability rating ranging from 0 to 100% disability; and
b. A completed copy of this exhibit

(NOTE: For ease of evaluation, please attach copy of the above-referenced letter from the VA or a copy of the offeror's discharge paper to this Exhibit.)

By signing below, I certify that I meet the definitions of a service-disabled veteran and a service-disabled veteran business as defined in 34.074 RSMo and that I am either doing business as a Missouri firm, corporation, or individual; or maintain Missouri offices or places of business at the location(s) listed below.

Veteran Information	Business Information
Service-Disabled Veteran's Name, (Please Print)	Service-Disabled Veteran Business Name
Service-Disabled Veteran's Signature	Missouri Address of Service-Disabled Veteran Business

PREFERENCE IN PURCHASING PRODUCTS

DATE: _____

The bidders attention is directed to Section 34.076 RSMo 2000 which gives preference to Missouri corporations, firms, and individuals when letting contracts or purchasing products.

Bids/Quotations received will be evaluated on the basis of this legislation.

All vendors submitting a bid/quotation must furnish <u>ALL</u> information requested below.

FOR CORPORATIONS:

State in which incorporated: _____

FOR OTHERS:

State of domicile: _____

FOR ALL VENDORS:

List address of Missouri offices or places of business:

_____

_____

_____

_____

_____

_____

THIS SECTION MUST BE COMPLETED AND SIGNED:

FIRM NAME: _____

ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP:** _____

BY (signature required): _____

Federal Tax I.D. #: _____ **if no Federal Tax I.D. # - list Social Security #:** _____

NOTE: For bid/quotation to be considered, the "Preference in Purchasing Products" form must be on file in the General Services (Procurement) Division and must be dated in the current calendar year.

MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT

The bidder's attention is directed to the Missouri Domestic Products Procurement Act, Sections 34.350 to 34/359, RsMO, which requires all manufactured goods or commodities used or supplied in the performance of this contract or any subcontract to be manufactured or produced in the United States.

Section 34.355, RsMO, requires the vendor or contractor to certify his compliance with Section 34.353 and, if applicable, Section 34.359, RsMO, at the time of bidding **and** prior to payment. Failure to comply with Section 34.353, RsMO, during the performance of the contract **and** to provide certification of compliance prior to payment will result in nonpayment for those goods or commodities.

Section 34.353.2, RsMO, specifies that it does not apply where the total contract is less than Twenty-Five Thousand Dollars ($25,000.00). If your total bid is Twenty-Five Thousand Dollars ($25,000.00) or more, you **must** complete this form as directed below.

Failure to complete and return this document with this bid will cause the State to presume the manufactured goods or products listed in the bid are not manufactured or produced in the United States, and the bid will be evaluated on that basis. Please read the certification appearing below on this form.

[ ] If all the goods or products specified in the attached bid which the bidder proposes to supply to the State shall be manufactured or produced in the "United States" as defined in Section 34.350, RsMO, check the box at left.

[ ] If only one item of any particular goods or products specified in the attached bid is manufactured or produced in the "United States" as defined in Section 34.350, RsMO, check the box at left and list the items (or item number) here:
_____
_____

[ ] If any or all of the goods or products specified in the attached bid which the bidder proposes to supply to the State are **not** manufactured or produced in the "United States" as defined in Section 34.350, RsMO, then: (a) check the box at left; (b) list below, by item (or item number), the country other than the United States where each good or product is manufactured or produced; and (c) check the boxes to the left of the paragraphs below if applicable and list the corresponding items (or item numbers) in the spaces provided.

Item (or item number)	Location Where Item Manufactured or Produced

(attach an additional sheet if necessary)

[ ] The following specified goods or products cannot be manufactured or produced in the United States in sufficient quantities or in time to me the contract specifications. Items (or item numbers): _____
_____

[ ] The following specified goods or products must be treated as manufactured or produced in the United States, in accordance with an existing treaty, law, agreement, or regulation of the United States, including a treaty between the United States and any foreign country regarding export-import restrictions or international trade. Items (or item numbers): _____
_____

CERTIFICATION

By submitting this document, completed as directed above, with a bid, the bidder certifies under penalty of making false declaration (Section 575.060, RsMO) that the information contained in this document if true, correct and complete, and may be relied upon by the State in determining the bidders qualifications under and in compliance with the Missouri Domestic Products Procurement Act.

The bidder's failure to complete and return this document with the bid as directed above will cause the State to presume the manufactured goods or products listed in the bid are not manufactured or produced in the United States, and the bid will be evaluated on that basis pursuant to Section 34.353.3(2), RsMO.

COOPERATIVE PROCUREMENT

The Department is interested in assisting Missouri counties, cities, special road districts, etc. in purchasing equipment, various materials and supplies that meet the Missouri Department of Transportation specifications.

Each bidder is asked to indicate below whether they would be willing to offer **Temporary Raised Pavement Markers** listed in the attached "Request for Bid" for sale to these local political entities at the same bid price offered to this Department.

It is understood the Department will not issue purchase orders, accept delivery nor make payment for these items ordered by any of these agencies. It is further understood the price is based on the **Temporary Raised Pavement Markers** meeting the Department specifications. Any added options, deletions, or extra freight costs would be negotiated between the local agency and the successful vendor.

Indicate below whether your company is willing to offer such cooperative purchasing for Missouri counties, cities or other political entities.

YES _____ **NO** _____

If the price varies throughout the state on Department bids because of different delivery destinations, please indicate the price f.o.b. your location that would be offered as described.

F.O.B. Location _____

Indicate the deadline date that orders will be accepted. _____

COMPANY NAME _____

ADDRESS _____

PHONE NUMBER _____

SIGNATURE _____

TITLE _____

DATE _____

(Each vendor must complete the appropriate sections of this form and submit with their bid.)

STANDARD SOLICITATION PROVISIONS

a. The Missouri Department of Transportation (MoDOT) reserves the right to reject any or all bids/quotes/proposals, and to accept or reject any items thereon, and to waive technicalities. In case of error in the extension of prices in the bid/quote/proposal, unit prices will govern.

b. All bids/quotes/proposals must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.

c. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown, within the State of Missouri.

d. Time of delivery is a part of the consideration and, if not otherwise stated in the solicitation documents, must be stated in definite terms by the Bidder/Offeror and must be adhered to. If time varies on different items, the Bidder/Offeror shall so state.

e. If providing bids/quotes/proposals for commodities, the Bidder/Offeror will state brand or make on each item. If bidding or proposing other than the make, model or brand specified, the manufacturer's name, model number or catalog number must be given.

f. **For bids/proposals of $25,000** or more, no bids/proposals by telephone, telegram or telefax will be accepted.

g. The date specified for the returning of bids/quotes/proposals is a firm deadline and all bids/quotes/proposals must be received at the designated office by that time. The Department does not recognize the U.S. Mail, Railway Express Agency, Air Express, or any other organization, as its agent for purposes of accepting proposals. All proposals arriving at the designated office after the deadline specified will be rejected.

GENERAL TERMS AND CONDITIONS

General Performance

a. This work is to be performed under the general supervision and direction of the Missouri Department of Transportation (MoDOT) and, if awarded any portion of the work, the Contractor agrees to furnish at his own expense all labor and equipment required to complete the work, it being expressly understood that this solicitation is for completed work based upon the price(s) specified and is not a solicitation for rental of equipment or employment of labor by MoDOT, and MoDOT is to have no direction or control over the employees used by the Contractor in performance of the work.

Deliveries

a. Unless otherwise specified on the solicitation documents or purchase order, suppliers shall give at least 24 hours advance notice of each delivery. Delivery will only be received between the hours of 8:00 a.m. to 3:00 p.m., Monday through Friday. Material arriving after 3:00 p.m. will not be unloaded until the following workday. No material will be received on Saturday, Sunday or state holidays.

b. If the prices bid herein include the delivery cost of the material, the Contractor agrees to pay all transportation charges on the material as FOB - Destination. Freight costs must be included in the unit price bid and not listed as a separate line item.

c. Any demurrage is to be paid by the Contractor direct to the railroad or carrier.

Nondiscrimination

a. The Contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

b. All solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of the Contractor's obligations under this contract and the Regulations, will be relative to nondiscrimination on the grounds of race, color, or national origin.

1) Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, MoDOT shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

i. withholding of payments to the Contractor under the contract until the Contractor complies, and/or,

ii. cancellation, termination or suspension of the contract, in whole or in part.

Contract/Purchase Order

a. By submitting a bid/quote/proposal, the Bidder/Offeror agrees to furnish any and all equipment, supplies and/or services specified in the solicitation documents, at the prices quoted, pursuant to all requirements and specifications contained therein.

b. A binding contract shall consist of: (1) the solicitation documents, amendments thereto, and/or Best and Final Offer (BAFO) request(s) with any changes/additions, (2) the Contractor's proposal and/or submitted pricing, and (3) the MHTC's acceptance of the proposal and/or bid by purchase order or post-award contract.

c. A notice of award does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services, the Contractor must receive a properly authorized purchase order and/or notice to proceed.

d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the Contractor and the duly authorized representative of the MHTC, by a modified purchase order prior to the effective date of such modification. The Contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification.

Subcontracting

a. It is specifically understood that no portion of the material or any interest in the contract, shall be subcontracted, transferred, assigned or otherwise disposed of, except with the written consent of MoDOT. Request for permission to subcontract or otherwise dispose of any part of the work shall be in writing to MoDOT and accompanied by documentation showing that the organization which will perform the work is particularly experienced and equipped for such work.

b. Consent to subcontract or otherwise dispose of any portion of the work shall not be construed to relieve the Contractor of any responsibility for the production and delivery of the contracted work and the completion of the work within the specified time.

c. All payments for work performed by a subcontractor shall be made to the Contractor to whom the contract was awarded and the purchase order issued.

Invoicing and Payment

a. MoDOT is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the Contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Project Tax Exemption Certificate will be furnished to the successful Bidder/Offeror upon request if applicable.

b. Each invoice should be itemized in accordance with items listed on the purchase order and/or contract. The statewide financial management system has been designed to capture certain receipt and payment information. Therefore, each invoice submitted must reference the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.

c. Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The Missouri Highways and Transportation Commission (MHTC) shall not make any advance deposits.

d. The MHTC assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any authorized quantity is subject to the MHTC's rejection and shall be returned at the Contractor's expense.

e. The MHTC reserves the right to purchase goods and services using the state-purchasing card.

Applicable Laws and Regulations

a. The contract shall be construed according to the laws of the State of Missouri. The Contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract.

b. The Contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations. Prior to the issuance of a purchase order and/or notice to proceed, the Contractor may be required to submit to MoDOT a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.

1) Prior to the issuance of a purchase order and/or notice to proceed, all **out-of-state** Contractors **providing services** within the state of Missouri must submit to MoDOT a copy of their current Transient Employer Certificate from the Department of Revenue, in addition to a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.

c. The exclusive venue for any legal proceeding relating to or arising, out of the contract shall be in the Circuit Court of Cole County, Missouri.

Executive Order

a. The Contractor shall comply with all the provisions of Executive Order 07-13, issued by the Honorable Matt Blunt, Governor of Missouri, on the sixth (6th) day of March, 2007. This Executive Order, which promulgates the State of Missouri's position to not tolerate persons who contract with the state engaging in or supporting illegal activities of employing individuals who are not eligible to work in the United States, is incorporated herein by reference and made a part of this Agreement.

1) "By signing this Agreement, the Contractor hereby certifies that any employee of the Contractor assigned to perform services under the contract is eligible and authorized to work in the United States in compliance with federal law."

2) In the event the Contractor fails to comply with the provisions of the Executive Order 07-13, or in the event the Commission has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States in violation of federal law, the Commission reserves the right to impose such contract sanctions as it may determine to be appropriate, including but not limited to contract cancellation, termination or suspension in whole or in part or both.

3) The Contractor shall include the provisions of this paragraph in every subcontract. The Contractor shall take such action with respect to any subcontract as the Commission may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Preferences

a. In the evaluation of bids/quotes/proposals, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.

b. By virtue of statutory authority, RSMo. 34.076 and 34.350 to 34.359, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri. Such preference shall be given when quality is equal or better and delivered price is the same or less.

1) If attached, the document entitled **"PREFERENCE IN PURCHASING PRODUCTS"** should be completed and returned with the solicitation documents.

2) If attached, the document entitled **"MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT"** should be completed and returned with the solicitation documents**. Applies if bid is Twenty-Five Thousand Dollars ($25,000.00) or more.**

c. By virtue of statutory authority, RSMo 34.074, a preference will be given all contracts for the performance of any job or service to service-disabled veteran business either doing business as Missouri firms, corporations, or individuals; or which maintain Missouri offices or places of business, when

the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing bids, in their entirety, are comparable.

1) If attached, the document entitled **"MISSOURI SERVICE-DISABLED VETERAN PREFERENCE"** should be completed and returned with the solicitation documents.

d. In the event of a tie of low bids, the MHTC reserves the right to establish the method to be used in determining the award

Remedies and Rights

a. No provision in the contract shall be construed, expressly or implied, as a waiver by the MHTC of any existing or future right and/or remedy available by law in the event of any claim by the MHTC of the Contractor's default or breach of contract.

b. The Contractor agrees and understands that the contract shall constitute an assignment by the Contractor to the MHTC of all rights, title and interest in and to all causes of action that the Contractor may have under the antitrust laws of the United States or State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or produced by the Contractor in the fulfillment of the contract with the MHTC.

c. In the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request MoDOT to enter into such litigation to protect the interests of the MHTC, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Cancellation of Contract

a. The MHTC may cancel the contract at any time for a material breach of contractual obligations or for convenience by providing the Contractor with written notice of cancellation. Should the MHTC exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Contractor.

b. If the MHTC cancels the contract for breach, the MHTC reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the MHTC deems appropriate and charge the Contractor for any additional costs incurred thereby.

Bankruptcy or Insolvency

a. Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assigned the benefit or creditors, the Contractor must notify MoDOT immediately. Upon learning of any such actions, the MHTC reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the Contractor responsible for damages.

Inventions, Patents, and Copyrights

a. The Contractor shall defend, protect, and hold harmless the MHTC, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the Contractor's performance or products produced under the terms of the contract.

Inspection and Acceptance

a. No equipment, supplies, and/or services received by MoDOT pursuant to a contract shall be deemed accepted until MoDOT has had reasonable opportunity to inspect said equipment, supplies, and/or services.

b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the Contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.

c. The MHTC reserves the right to return any such rejected shipment at the Contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.

d. The MHTC's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the MHTC may have.

Warranty

a. The Contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by MoDOT, (2) be fit and sufficient for the purpose expressed in the solicitation documents, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.

b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the MHTC's acceptance of or payment for said equipment, supplies, and/or services.

Status of Independent Contractor

a. The Contractor represents itself to be an independent Contractor offering such services to the general public and shall not represent itself or its employees to be an employee of the MHTC. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save and hold the MHTC, its officers, agents and employees harmless from and against any and all losses (including attorney fees) and damage of any kind related to such matters.

Indemnification

a. The Offeror shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Offeror's performance of its obligations under this Agreement.

SPECIAL TERMS AND CONDITIONS

Information and Reports

a. The Contractor shall provide all information and reports required by the Regulations, or Directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Missouri Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or Directives. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information the Contractor shall so certify to the Missouri Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

Notice to Proceed

a. Within **30 days** after the execution of the contract, a **"Notice to Proceed"** will be issued by the Department. A purchase order will be attached to the "Notice to Proceed," which will specify the date or dates that the Contractor can start delivery, roadway or stockpile delivery and will also include the completion dates. These dates will be in accordance with the dates shown in the proposal.

Delivery – Additional Requirements

a. The following days shall be construed as **official holidays** under the terms of the contract:

January l	New Year's Day
Third Monday in January	Martin Luther King, Jr.'s Birthday
February 12	Lincoln's Birthday
Third Monday in February	Washington's Birthday
May 8	Truman's Birthday
Last Monday in May	Memorial Day
July 4	Independence Day
First Monday in September	Labor Day
Second Monday in October	Columbus Day
November 11	Veteran's Day
Fourth Thursday in November	Thanksgiving Day
December 25	Christmas Day

b. When any of the above **holidays falls** on a **Sunday,** the holiday will be observed on the following **Monday**; when any of the above **holidays falls** on a **Saturday**, the **holiday** will be observed on the immediately preceding **Friday.**

Cancellation of Contract

a. If the Contractor/supplier fails to carry out the performance of the work with sufficient workmen and equipment to insure the completion of the delivery within the time specified or becomes insolvent or is adjudicated a bankrupt or commits any act of bankruptcy or insolvency or allows any final judgment to stand against him for a period of ten (10) days, the Missouri Department of Transportation may give notice in writing by registered mail to the Contractor/supplier and the surety of such delay, neglect or default.

b. If, within ten (10) days after such notice the Contractor/supplier does not proceed to remedy to the satisfaction of the Department's representatives the faults specified in said notice, or the surety does not proceed to take over the deliveries, the Department shall have full power and authority, without impairing the obligation of the Contractor/supplier under the contract or the surety under the bond, to take over the completion of the work and arrange for the shipment of any materials necessary to complete the work and the Contractor/supplier and the surety will be responsible for any additional costs incurred by the Department in obtaining the completion of the deliveries.

Liquidated Damages

a. In the event the successful Contractor fails to deliver the material within the time specified, the Department and the public will sustain damages because of such delay in delivery, the exact extent of which would be difficult to ascertain, and in order to liquidate such damage in advance it is agreed that the **sum of twenty -five dollars ($25.00) per day, per item,** for each assessable calendar day on which the delivery has not been completed, is reasonable and the best estimate which the parties can arrive at as liquidated damages, and it is therefore agreed that said amount will be withheld from payments due the Contractor or otherwise collected from the Contractor as liquidated damages.

b. **Saturdays, Sundays, holidays and days whereas the Department has suspended work** shall not be assessable days.