

MISSOURI DEPARTMENT OF TRANSPORTATION
 GENERAL SERVICES
 910 SPRINGFIELD ROAD
 WILLOW SPRINGS, MO 65793

BID FORM

REQUEST NO.	D9111539R9
DATE	March 23, 2011
PAGE NO.	1 NO. OF PAGES 10

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

 10:00 AM CST – March 30, 2011

 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
 See attachment
 for destinations.

DEFINITE DELIVERY DATE MUST BE SHOWN. SIGN AND RETURN BEFORE TIME SET FOR OPENING. ALL BIDS MUST BE EXTENDED AND TOTALED.

BUYER: Carmella Green

BUYER TELEPHONE: 417-469-6253

ITEM NO.	SUPPLIES OR SERVICES	MFG. NO. OR BRAND	QUANTITY	UNIT	UNIT PRICE	AMOUNT
	<p>Price agreement for bulk oil products beginning upon bid award and ending six months from the date of award. Bids will be accepted on virgin and re-refined products.</p> <p>This bid is to establish a fixed price contract on all subsequent orders that will be placed on an as needed basis. See Scope of Work.</p> <p>See attachments for locations and specifications.</p> <p>Vendor's product specifications must be submitted with bid.</p> <p>Award will be made on an all or none basis.</p>					

(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 quoted within _____ days after receipt of formal purchase order.

Date: _____
Telephone No.: _____
Fax No.: _____
Federal I.D. No. _____

Firm Name: _____
Address: _____
By (Signature): _____
Type/Print Name _____
Title: _____

SCOPE OF WORK:

Supply lubricating products to the locations stated on Page 4 on an as needed basis at the prices set out herein in accordance with the terms, conditions, and specifications of bid. Oil analysis shall be provided upon request regarding lubricant performance and presence of wear materials.

CONTRACT PERIOD:

The contract period will be **six consecutive months beginning upon bid award and ending six months from the date of award**, with an option for three (3) additional six-month extension periods, provided both parties agree to its continuance.

Prices quoted are to remain **firm** for the period of the contract.

DELIVERY REQUIREMENTS:

Lubricant products will be ordered on an as needed basis. The contractor will be responsible for all clean ups on over filled tanks.

It will be necessary for a representative of the Missouri Department of Transportation to be present when the material is delivered. No deliveries will be made on Saturdays, Sundays, and Holidays. In the event a particular facility is working "4-10's", no deliveries will be made on a facilities scheduled day off, unless specifically authorized by the facility supervisor.

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

January 1	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

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**.

All respondents 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. All bidders must be in good standing prior to issuance of "Notice to Proceed". Secretary of State (573) 751-4936 or <http://www.sos.mo.gov/business/corporations/onlineServices.asp>

HB600 Compliance

All respondents must be in compliance with House Bill 600, Section 23.060 RSM0, which states MoDOT is precluded from contracting with a vendor or its affiliate who makes sales at retail of tangible personal property or for the purpose of storage, use or consumption in this state but fails to collect and properly pay the tax as provided in RSM0 144. Department of Revenue (573) 751-9268 or

Bidders are encouraged to obtain minority business enterprise (MBE) and women business enterprise (WBE) participation in this work through the use of subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful participation for M/WBEs. Bidders are encouraged to obtain 10% MBE and 5% WBE participation.

REQUIRED SPECIFICATIONS:

All applicable materials quoted must comply with the attached MoDOT Specifications #MGS-92-12J (dated 9-27-03) and any other provisions outlined in the solicitation documents.

SPECIFICATIONS NOT COVERED IN MODOT SPECS:

Synthetic SAE Grade 85W/140 Gear Oil

Gear lubricant for use in automotive gear units, all heavy-duty truck gear units, and industrial gear units with requirements of API-GL5 and MT-1 service classification.

Viscosity Cst@ 40° C	343.9
Viscosity Cst@ 100° C	25.88
Viscosity	99
Flash Point °C	234
Pour Point °C	-11
Gravity, DEG API	26.8

Multi-Grade SAE 5W30 Lubricating Oil

Oil shall meet most recent API service classification approved by General Motors Corporation, Ford Motor Company and Chrysler Corporation for gasoline engines, that exceeds API SM, SL, SJ, SH, and ILSAC – GF-4 service classifications.

Universal Hydraulic/Transmission Fluid

Used for tractors, heavy-duty equipment, hydraulic systems, transmissions, wet brakes, wet clutches and final drives. Hydraulic fluid shall meet most recent service classifications for John Deere, Ford, New Holland, Elgin Street Sweepers, and Case and must exceed API-GL4 performance requirements.

Multi-vehicle ATF Transmission Fluid

Must meet the most recent API service classification requirements for General Motors Corporation, Ford Motor Company, and Chrysler Corporation, meeting requirements for all transmissions manufactured after 1983.

BID SHEET

I (we) propose to furnish the listed lubricating products to the Missouri Department of Transportation in accordance with the attached proposal, general provisions and specifications, at the **Unit Prices Shown F.O.B. the Destinations** listed. Bids will be received until **10:00 AM CST**.

<u>PRODUCT</u>	<u>BRAND NAME</u>	<u>MANUFACTURER</u>	<u>UNIT PRICE</u>
Lubricating Oil, 15W-40	_____	_____	\$ _____ Gal
	Bulk		
	_____	_____	\$ _____ Gal
	2.5 Gallon Container		
	_____	_____	\$ _____ Qt
	5-Quart Container		
	_____	_____	\$ _____ Qt
	Quart		
5W30 Motor Oil	_____	_____	\$ _____ Gal
	5-Quart Container		
	_____	_____	\$ _____ Qt.
	Quart		
Universal Hydraulic / Transmission Oil	_____	_____	\$ _____ Gal
	Bulk		
	_____	_____	\$ _____ Gal
	55 Gallon Drum		
	_____	_____	\$ _____ Gal
	5-Gallon Container		
	_____	_____	\$ _____ Gal
	2.5 Gallon Container		
MP Gear Oil, 85/140	_____	_____	\$ _____ Gal
	5-Gallon Container		
	_____	_____	\$ _____ Qt.
	Quart		
MP Gear Oil, 75W-90 100% Synthetic	_____	_____	\$ _____ Gal
	5-Gallon Container		
	_____	_____	\$ _____ Qt.
	Quart		
GC-L8 #2 Grease- Show Me	_____	_____	\$ _____ Lb
Tube			
Multi-Vehicle Synthetic Blend Transmission Fluid	_____	_____	\$ _____ Qt.
Quart			

MISSOURI DEPARTMENT OF TRANSPORTATION

District 9

Facility Address / Physical Location Cross-Reference Listing

Facility	County	Address	Location
Alton	Oregon	Rt. 1, Box 1822, Alton, MO 65606	Rt. 160, 1 Mile East of Rt. 19
Belleview	Iron	HC 63, Box 1120, Belleview, MO 63623	Jct. 21 & Rt. O
Bunker	Dent	Route 2, Box 124C, Bunker, MO 63629	Rt. A, 0.4 Mile West of Rt. 72
Centerville	Reynolds	Route 1, Box 99, Lesterville, MO 63654	Rt. 21 at Rt. N
Cuba	Crawford	7149 Old Route 66, Cuba, MO 65453	Exit 210, I-44 at Rt. UU
Doniphan	Ripley	Rt. 3, Box 25, Doniphan, MO 63935	Rt. 21 at Rt. 160 East Junction
Edgar Springs	Phelps	27800 Hwy 63 S, Edgar Springs, MO 65462	Rt. 63, 0.3 Mile South of Rt. H
Ellington	Reynolds	Rt. 4, Box 800, Ellington, MO 63638	Rt. 21, 0.2 mile North of Rt. 106
Ellsinore	Carter	Rt. 2, Box 2198, Ellsinore, MO 63937	Rt. 60 at Rt. 21 East Junction
Houston	Texas	1540 North Hwy. 63, Houston, MO 65793	1 Mile North of Houston on Rt. 63
Licking	Texas	11875 Hwy. 137, Licking, MO 65542	Rt. 137, 1.5 Mile South of Rt. 32
Potosi	Washington	Route 2, Box 2272, Cadet, MO 63630	Rt. E, 0.5 Mile West of Rt. E
Rolla	Phelps	10201 CR 8110, Rolla, MO 65401	Sally Rd. 0.5 Mi. N. of Bus. Lp I-44
Salem	Dent	Route 1, Box 2785, Salem, MO 65560	Rt. 19 South at Truman Street
St. James	Phelps	7855 Hwy 8 East, St. James, MO 65559	Rt. 63, 1.5 Mile South of Rt. DD
St. Robert	Pulaski	115 Plattner Ave, St. Robert, MO 65583	Bus Lp. I-44, 0.5 mi. W. of Rt. YY
Steelville	Crawford	69 E. Highway 8, Steelville, MO 65565	Rt. 8, 0.5 Mile East of Rt. 19
Success	Texas	11118 Hwy M, Success, MO 65570	Rt. M, 0.25 Mile West of Rt. 17
Summersville	Texas	235 S. Hwy 17, Summersville, MO 65571	Rt. 17, 0.3 Mile South of Rt. 106
Thayer	Oregon	Route 1, Box 2319, Thayer, MO 65791	Rt. 00, 0.1 Mile East of Rt. 63
Van Buren	Carter	HCR 1, Box 99, Van Buren, MO 63965	Rt. 60 Approx. 2 mile East of Rt. 63
West Plains	Howell	1287 CR 8690, West Plains, MO 65775	63 Bypass 0.4 Mile South of Rt. ZZ
WS Garage	Howell	3956 E. Main, Willow Springs, MO 65793	
WS Maint.	Howell	3952 E. Main, Willow Springs, MO 65793	
Winona	Shannon	P.O. Box 241, Winona, MO 65588	Rt. 60, 0.4 Mile West of Rt. 19 West

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 1986 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 ALL 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.

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. Bidders are encouraged to obtain minority business enterprise (MBE) and women business enterprise (WBE) participation in this work through the use of subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful participation for M/WBEs. Bidders are encouraged to obtain 10% MBE and 5% WBE participation.
- b. 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

Insurance

The Contractor shall maintain or cause to be maintained at Contractor's own expense commercial general liability, automobile liability, worker's compensation insurance against negligent acts, errors or omissions of the Contractor, or its subcontractors and anyone directly or indirectly employed by any of them. Any insurance policy required as specified in this Section shall be written by a company that is licensed and authorized to issue such insurance in the state of Missouri and shall provide insurance coverage for not less than the following limits of liability:

- a. General Liability: Not less than \$500,000 for any one person in a single accident or occurrence, and not less than \$3,000,000 for all claims arising out of a single occurrence;
- b. Automobile Liability: Not less than \$500,000 for any one person in a single accident or occurrence, and not less than \$3,000,000 for all claims arising out of a single occurrence;
- c. Missouri State Workmen's Compensation policy or equivalent in accordance with state law.

Upon request from the Commission, the Contractor shall provide the Commission with certificates of insurance evidencing the required coverage and that such insurance is in effect.