

BID FORM

MISSOURI DEPARTMENT OF TRANSPORTATION

GENERAL SERVICES

3901 e 32ND STREET

JOPLIN, MO 64801

REQUEST NO.	D7-09-032	
DATE	January 15, 2009	
PAGE NO.	1	NO. OF PAGES

SEALED BIDS, SUBJECT TO THE ATTACHED CONDITIONS WILL BE RECEIVED AT THIS OFFICE UNTIL
January 14, 2009 @2:00 PM

AND THEN PUBLICLY OPENED AND READ FOR FURNISHING THE FOLLOWING SUPPLIES OR SERVICES.
February 3 @ 1:00 PM

QUOTATIONS TO BE BASED F.O.B. MISSOURI DEPARTMENT OF TRANSPORTATION

Submit net bid as cash discount stipulations will not be considered

Missouri Department of Transportation – District 7
General Services Procurement Stockroom
3901 E. 32ND Street
Joplin, MO. 64802

PERIOD OF AGREEMENT:
FROM BID AWARD UNTIL JULY 18, 2010 WITH THE OPTION I
EXTENSIONS.

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

BUYER: Janet Doty**BUYER TELEPHONE:** 417-629-3227

The Missouri Department of Transportation (MoDOT) District 7 desires to enter into an agreement with a vendor who will maintain a consignment inventory of Supplies for use by MoDOT District 7. Under this agreement the Supplies will be stocked at the District 7 General Services Procurement Stockroom but will remain the property of the vendor until taken off the shelf by MoDOT. MoDOT District 7 will supply the shelving necessary for storing these parts.

The vendor can periodically visit the District7 stockrooms to conduct an inventory and restock the parts used, MoDOT will be charged for the cost of the supply (ies) used when parts are replaced. The vendor must specify the frequency in which they will be able to visit the District 7 stockroom (every week, every two weeks, etc.). Visits must be conducted during stockroom working hours (typically, Monday through Friday, 8:00 AM to 3:00 PM, excluding state holidays).

Non-crucial items with a low turn around will not be required to be carried at the MoDOT facility. Items to be stocked will be determined by MoDOT.

Orders for commonly used items will need to be provided in a two-day turn around.

The list attached has a variety of supplies divided into categories that are currently used by MoDOT. The frequently used items listed will be used to make a determination of low bid. When placing the bid the vendor must understand that the bid implies a willingness to work with the D7 stockroom to determine stock items and levels.

The vendor must specify the cost, the percentage above cost that will be charged, and the corresponding MoDOT District 7 unit price for the items listed. More than one brand may be bid, but the percentage and unit pricing will need to be submitted for each brand. The percentage above cost charged and corresponding unit pricing shall be firm until July 15, 2010. At the end of this period, the agreement may be extended for two additional 2-year periods, providing all parties are in agreement.

As need changes through the period of this agreement, items which are no longer required, may be removed from the consignment inventory and/or new types of supplies may be added to the inventory at the same percentage above cost as quoted by the vendor.

As MoDOT is currently between software systems the vendor must also supply a system for MoDOT to track inventory. This will require using MoDOT approved software such as Microsoft or if vendor supplies software, hardware would need to be supplied until MoDOT's new systems are in place.

Reports and forms are attached to this bid for your use and are available electronically in excel format for your use upon request. Questions and tours will be on Tuesdays from 8:30 to 10:30.

The Questions and answers will be posted on the MoDOT web site and will be available upon request from buyer janet.doty@modot.mo.gov phone # (417)-629-3227

Commodity Number	Commodity Description	Cost	% above cost	D7 Price Per unit
Mower Parts				
0221570720	CUTTER & SHREDDER: MO SICKLE (ASSY) MO1886, 6' OVER SERRATED			
0221570750	CUTTER & SHREDDER: MO CUTTERBAR MO5705, 6' (MOORE 4140)			
0221581300	CUTTER & SHREDDER: SCHUMACHER HEAD-ASSY. 12766-571140001			
0221591155	CUTTER & SHREDDER: TRI CYLINDER 2401, CURB STOP			
0221591461	CUTTER & SHREDDER: MOTOR HYD. 103-1570 CHAR-LYNN			
0221591765	CUTTER & SHREDDER: TRI SOLE 5855, INNER			
0221591770	CUTTER & SHREDDER: TRI SOLE 1238, OUTER			
	Total			
Lights and Electrical				
0553701155	LIGHT-ASSY.REVOL.12V, #100 (REVOLVING / 12VOLT)			
0553701178	LIGHT-MOUNT "PROTECTIVE" (8' D X 9" H, TRACTOR-STROBE)			
0553701210	HEADLIGHT ACCES. & PARTS: PLUG 7-WAY MALE(TRAILER CONNECTOR)			
0553701245	STROBE-HEAD OVAL, AMBER 2 X 6-3/8 W/GROMMET			
0553745605	HEADLIGHT ACCES. & PARTS: BULB SEAL BEAM H6054			
0555685208	LIGHT, LENS: MINI., AUTO., BULB 12V SPADE BASE, REVOLV.			
0555685545	LIGHTS, LENS: MINIATURE, AUTOMOTIVE, BULB 1157 / 2057			
0555755170	LIGHT & ACCES.: STROBE-CONTROL/POWER-SUPPLY, WHELEN ISP188			
0555785340	LIGHT & ACCES.: STROBE-LIGHT, 01-0683565-A1 "COMPLETE"			
0555785590	LIGHT & ACCES.: STROBE-ENDCAP REPLACE.KIT,01-0416497-01, AMB			
0555785682	LIGHT & ACCES.: STROBE-LIGHT, WHELEN MCEDEGELA			
0555786475	LIGHT & ACCES.: BULB STROBE, 02-0362733-00B, MICRO EDGE			
0555787596	LIGHT & ACCES.: LENS STROBE, 68-3963228-10, A AMBER/NON-OPT			
0557921320	SIRENS, HORNS & BACK-UP ALARMS: SAFE/ALARM BACK-UP			
	Total			
Couplers and Hydraulic Supplies				
0606093010	COUPLER GREASE-GUN, 5852			
0606093015	COUPLER-815, AIR HOSE			
0606135125	COUPLER FEMALE 3/4, FD451003-12-12			
0606135135	COUPLER FEMALE 1", FD451003-16-16			
0606165330	MOTOR HYD 1011008009, 151-2129			
	Total			
Small Auto/shop supplies				
0609726055	WINDSHIELD BLADE 16", WIPER ARCTIC/WINTER			
0609726090	WINDSHIELD BLADE 22", WIPER			
0609755300	WINDSHIELD-WASH, (WASHER-FLUID / CONCENTRATE)			
0609905275	AUTOMOTIVE MAINT./REPAIR PARTS: CLEANER UPHOLSTERY			
0609910030	AUTOMOTIVE MAINT./REPAIR PARTS: INDICATOR SLOPE			
0609915180	AUTOMOTIVE MAINT./REPAIR PARTS: SCRAPER ICE, WINDSHIELD			
0609915345	AUTOMOTIVE MAINT./REPAIR PARTS: TAPE PLASTIC ELECTRICAL 33			
0609915460	AUTOMOTIVE MAINT./REPAIR PARTS: WINDSHIELD DE-ICER, (AEROSOL)			
0754641165	LUBRICATION EQUIPMENT: GREASE-GUN, ONE-HANDED			
0754648180	LUBRICATION EQUIPMENT: HOSE GREASE-GUN 12"			
0756630050	SPECIALTY PRODUCTS: BRAKE CLEANER 'AEROSOL' / (CAN)			
	Total			

	Fuel pump supplies			
7203348050	NOZZLE GAS-HOSE UNL, (11-AP / "UNLEADED" GAS)			
	Total			
	Snow Equipment removal Supplies			
7659900002	CHAIN, 16 FT CONVEYOR CHAIN FOR MONROE/SWENSON SPREADER			
7659900003	CHAIN, 10 FT CONVEYOR CHAIN FOR FLINK SPREADER			
	Total			

Award of this bid/quote/proposal will be made on an "All Or Nothing" basis using the "lowest and best" principle of award. To quantify this request for bid, tabulation will be made by determining the total cost of purchasing one of each of the line items listed above.

All materials quoted upon are F.O.B. Destination (as outlined above). Delivery costs must be included in the unit price quoted and not listed as a separate line item.

However, there are no guarantees of any minimum quantity usage of any part by MoDOT as a part of this agreement.

The following items are provisions of this Bid:

The attachment entitled "**PREFERENCE IN PURCHASING PRODUCTS**" must be completed and returned with this request for Bid.

Pursuant to 285.530 RSMo, the bidder must affirm its enrollment and participation in a federal work authorization program with respect to the employees proposed to work in connection with the services requested herein by

- submitting a completed, notarized copy of EXHIBIT _A_, AFFIDAVIT OF WORK AUTHORIZATION and
- providing documentation affirming the bidder's enrollment and participation in a federal work authorization program (see below) with respect to the employees proposed to work in connection with the services requested herein.

E-Verify is an example of a federal work authorization program. Acceptable enrollment and participation documentation consists of **completed** copy of the E-Verify Memorandum of Understanding (MOU). For vendors that are not already enrolled and participating in a federal work authorization program, E-Verify is available at

http://www.dhs.gov/xprevprot/programs/gc_1185221678150.shtm.

(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. _____ Form E-103 (Rev. 11-04)	Firm Name: _____ Address: _____ _____ By (Signature): _____ Type/Print Name _____ Title: _____
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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.

**WORKER ELIGIBILITY VERIFICATION AFFIDAVIT FOR ALL
MHTC/MODOT CONTRACT AGREEMENTS IN EXCESS OF \$5,000**

(for joint ventures, a separate affidavit is required for each business entity)

STATE OF _____)
) ss
COUNTY OF _____)

On this _____ day of _____, 20____, before me appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be a person whose name is subscribed to this affidavit, who being by me duly sworn, deposed as follows:

My name is _____, and I am of sound mind, capable of making this affidavit, and personally certify the facts herein stated, as required by Section 285.530, RSMo, to enter into any contract agreement with the state to perform any job, task, employment, labor, personal services, or any other activity for which compensation is provided, expected, or due, including but not limited to all activities conducted by business entities:

I am the _____ of _____, and I am duly authorized, directed, and/or empowered to act officially and properly on behalf of this business entity.
title business name

I hereby affirm and warrant that the aforementioned business entity is enrolled in a federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, and the aforementioned business entity shall participate in said program with respect to all employees working in connection to work under the within state contract agreement with the Missouri Highways and Transportation Commission (MHTC). I have attached documentation to this affidavit to evidence enrollment/participation by the aforementioned business entity in a federal work authorization program, as required by Section 285.530, RSMo.

In addition, I hereby affirm and warrant that the aforementioned business entity does not and shall not knowingly employ, in connection to work under the within state contract agreement with MHTC, any alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. § 1324a(h)(3).

I am aware and recognize that, unless certain contract and affidavit conditions are satisfied pursuant to Section 285.530, RSMo, the aforementioned business entity may be held liable under Sections 285.525 through 285.550, RSMo, for subcontractors that knowingly employ or continue to employ any unauthorized alien to work within the state of Missouri.

I acknowledge that I am signing this affidavit as a free act and deed of the aforementioned business entity and not under duress.

Affiant Signature

Subscribed and sworn to before me this _____ day of _____, 20_____.

Notary Public

My commission expires:

[documentation of enrollment/participation in a federal work authorization program attached]

Exhibit A

SIGNATURE AND IDENTITY OF BIDDER

The undersigned states that the correct LEGAL NAME and ADDRESS of (1) the individual Bidder, (2) each partner or joint venture (whether individuals or corporations, and whether doing business under a fictitious name), or (3) the corporation (with the state in which it is incorporated) are shown below; that (if not signing with the intention of binding himself to become the responsible and sole contractor) he is the agent of, and duly authorized in writing to sign for the Bidder or Bidders; and that he is signing and executing this (as indicated in the proper spaces below) as the proposal of a

() sole individual () partnership () joint venture

() corporation, incorporated under laws of state of _____

Dated _____.

Name of individual, all partners,
or joint ventures:

Address of each:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

doing business under the name of:

Address of principal place of business in Missouri

(If using a fictitious name, show
this name above in addition
to legal names)

(If a corporation, show its name above)

ATTEST: (SEAL)

_____	_____
Secretary	Title

(NOTE: If the Bidder is doing business under a FICTITIOUS NAME, the Proposal shall be executed in the legal name of the individual, partners, joint ventures, or corporation, with the legal address shown, and REGISTRATION OF FICTITIOUS NAME filed with the Secretary of State, as required by Sections 417.200 to 417.230, RS Mo. If the Bidder is a CORPORATION NOT ORGANIZED UNDER THE LAWS OF MISSOURI, it shall procure a CERTIFICATE OF AUTHORITY TO DO BUSINESS IN MISSOURI, as required by Section 351.570 and following, RS Mo. A CERTIFIED COPY of such Registration of Fictitious Name or Certificate of Authority to do Business in Missouri shall be filed with the Missouri Highways and Transportation Commission, as required by the Standard specifications, Sec 102.6.6 and 102.6.7.

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 Federal Excise Tax Exemption Certificate will be furnished to the successful Bidder/Offeror upon request.
- 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.
- 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

- a. The Contractor shall purchase and maintain such insurance as will protect him from claims under workmen's compensation acts and other employee benefit acts, from claims for damages because of bodily injury, including death, and from claims for damages to property which may arise out of or result from the Contractor's operations under this Contract, whether such operations be by himself or by any Subcontractor or anyone directly or indirectly employed by any of them.

- b. This insurance shall be written for not less than any limits of liability specified as part of this contract, or required by law, whichever is the greater, and shall include contractual liability insurance as applicable to the Contractor's obligations under this contract. Unless otherwise specified, insurance limits shall be as follows:
- 1) Workmen's Compensation: Workers Compensation Insurance, including "Occupational Disease Act" requirements, must be maintained **if** required by law.
 - 2) Public Liability (includes property damage and personal injury):
 - i. Not less than \$400,000 for any one person in a single accident or occurrence.
 - ii. Not less than \$2,500,000 for all claims arising out of a single occurrence.
 - 3) Special Hazard Insurance: As required.
 - 4) Builder's Risk: Not less than the full Contract amount.

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.

Award

- a. Award of this bid/quote/proposal will be made on an "All Or Nothing" basis using the "lowest and best" principle of award.