

BID FORM

MISSOURI DEPARTMENT OF TRANSPORTATION

GENERAL SERVICES

830 MoDOT DRIVE – P.O. BOX 270

JEFFERSON CITY, MO 65102

REQUEST NO.	D7-07-039		
DATE	January 30, 2007		
PAGE NO.	1	NO. OF PAGES	17

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

February 9, 2007

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 page 5 for locations

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

BUYER: Chris Stephens

BUYER TELEPHONE: (417) 629-3404

ITEM	SUPPLIES OR SERVICES	MFG. NO. OR BRAND	QUANTITY	UNIT	UNIT PRICE	AMOUNT
	<p>Price agreement for bulk oil products beginning February 1, 2007 and ending July 31, 2007.</p> <p>This bid is to establish a fixed price contract on all subsequent orders that will be placed on an as needed basis.</p> <p>See page 5 for locations</p> <p>See page 7 for product description and estimated quantities.</p> <p>Product Specification must be included with bid</p> <p>Meter abilities are required, see specific delivery requirements on page 6</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 3 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: _____



Request No. D7-07-039

**MISSOURI DEPARTMENT OF TRANSPORTATION
GENERAL SERVICES DIVISION
JOPLIN, MISSOURI**

January 26, 2007

GENERAL SERVICES: Bids for Supplying Lubrication Oil, Hydraulic Oil, Gear Oil, Lithium Grease, and Dexron Transmission Oil & Re-refined 15w40 oil in 55 gal. Drums.

Buyer: Chris Stephens

Sealed bids for supplying the above listed Lubricating Products will be received until 1:00 P.M., Local Time, February 9, 2007.

Lubricating Oil, Hydraulic Oil, and Dexron will be bulk delivery. Gear Oil and Lithium Grease are to be furnished in 120 lb containers, re-refined in 55 gal. Drums.

Delivery will be district wide to the following locations on page 5 of this proposal. All vendors must meet the delivery requirements listed on page 7. Any non-compliance to these terms will need to be identified within your returned bid, otherwise if non-compliance to our delivery requirements are discovered after award of a contract, the contract will be subject to termination.

Bids should be mailed or delivered to Missouri Department of Transportation, 3901 E. 32nd Street, Joplin, Missouri 64804.

Bids are to be returned in an envelope plainly marked **BID ON LUBRICATING PRODUCTS**. A self-addressed envelope is enclosed for convenience.

The proposal submitted shall be for the contract period starting February 1, 2007, and ending July 31, 2007, with the option for extension of another six (6) months period, provided both parties agree to its continuance and all prices remain the same. Either party may cancel the contract at the end of the first thirty days if deemed necessary. The products must comply with attached Specifications MGS-92-12J, Pages 12-18.

BIDS ARE NOT DESIRED AND WILL NOT BE CONSIDERED UPON MATERIALS, WHICH DO NOT MEET THESE SPECIFICATIONS AND DO NOT HAVE THE REQUESTED INFORMATION ATTACHED.

Random samples of the delivered products may be taken by the Department and tested for compliance with the specifications during the contract period.

Each bidder must submit with his bid the information requested in the specifications for the products to be furnished, including the brand name, manufacturer, required qualification numbers and approvals. Upon request the low bidder shall supply samples of the products to the Department for testing, one quart of each type of oil and two pounds of grease.



Each bidder must submit with each proposal a sworn statement, executed by or on behalf of the bidder to whom a contract may be awarded, certifying that such bidder has not, either directly or indirectly, entered into any agreement, participate in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with such proposal, or any contract which may result from its acceptance.

The bidder may withdraw, modify or correct his bid after it has been deposited with the Department provided such request is submitted in writing and received at the location designated for the bid opening prior to the time specified for opening bids. Such a request received as specified will be attached to the bid and the bid will be considered to have been modified accordingly. No bid may be modified after the time specified for the opening of bids.

The date specified for the receiving of bids is a firm deadline and all bids must be received at the designated office by that time.

The Department does not recognize the **U.S. Mail, United Parcel Service, Air Express, or any other organizations**, as its agent for purposes of accepting proposals for sealed bids. Any proposal arriving at the designated office after the deadline specified will not be considered.

The Department of Transportation is exempt from Missouri State Sales Tax and Federal Excise Tax. **DO NOT INCLUDE THESE TAXES IN THE BID, AS AN EXEMPTION CERTIFICATE WILL BE FURNISHED UPON REQUEST.**

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.

The attached form, identified as **“PREFERENC IN PRUCHASING PRODUCTS”** must be on file in this office and must be dated in the current calendar year. Bidders must also complete and return with their bid the form identified as **“MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT”**. Each bidder must complete and return with their bid the attached form identified as **“COMMUNITY RIGHT TO KNOW LAW”**.

The right is reserved by the Department of Transportation to reject any or all bids and no award is final until formally approved by the Department.

MISSOURI DEPARTMENT OF TRANSPORTATION

By _____

Chris Stephens
District Procurement Agent



During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the “**Contractor**”) agrees as follows:

- a. Compliance with Regulations: 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. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not be discriminated on the grounds of **race, color, or national origin** in the selection and retention of subcontractor including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by **Section 21.5** of the **Regulations**, including employment practices when the contract covers a program set forth in **Appendix B of Regulations**.
- c. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations whether by competitive bidding or negotiation made by the contractors 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 relative to nondiscrimination on the grounds of race, color or national origin.
- d. Information and Reports: 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 of 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.
- e. Sanctions for Noncompliance: In the event of the contractor’s noncompliance with the nondiscrimination provisions of this contract, the Missouri Department of Transportation shall impose such contract sanctions as or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - (1) **withholding of payments to the contractor under the contract until the contractor complies, and /or**
 - (2) **cancellation, termination or suspension of the contract, in whole or in part.**
- f. Incorporation of Provisions: The contractor shall include the provision of Paragraphs A through E above in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or Directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontractor or procurement as the Missouri Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions of noncompliance: subcontractor or supplier as a result of such direction, the contractor may request the Department of Transportation to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

**Missouri
Department
of Transportation**



3901 E. 32nd Street
Joplin, MO 64804
(417) 629-3404
Fax (417) 629-3226
www.modot.org
D7-07-039

BUILDING	ORG	911 ADDRESS	PHONE
ADRIAN	701	Rte.18, 1/4 mi e/o Rt. 71, Adrian, MO 64720	816-297-2161
ANDERSON	703	5511 State Hwy 59, Anderson, MO 64831	417-845-6111
APPLETON CITY	704	110 S. Mapleton, Appleton City, MO 64724	660-476-5611
AVILLA	706	Mo.St.Hwy.Dept.9786 State Hwy 37, Avilla, MO 64833	417-246-5757
BUTLER	707	Box 223, Butler, MO 64730	660-679-6331
CARL JUNCTION	708	608 E Pennell, Carl Junction, MO 64834	417-649-7224
CARTHAGE	709	16623 Inca Road, Carthage, MO 64836	417-359-1507
CASSVILLE	710	Rt. 5, Box 5357, Cassville, MO 65625	417-847-2612
COLLINS	711	1501 So. Hwy.13, Collins, MO 64738	417-275-4328
ELDORADO SPGS	714	RR2, Box 120, Eldorado Springs, MO 64744	417-876-4232
GOLDEN CITY	715	408 Vine Street, Golden City, MO 64748	417-537-4431
GREENFIELD	717	Rt. 2, Box 38B, Greenfield, MO 65661	417-637-5351
HALLTOWN	718	6265 Hwy D., Halltown, MO 65664	417-749-2203
JASPER	719	19796 So. Rd. 134, Jasper, MO 64755	417-394-2333
JENKINS	720	HCR2, Box 1A, Jenkins, MO 65605	417-574-6458
JOPLIN	721	2800 Stephens Blvd., Joplin, MO 64804	417-629-3169
LAMAR	722	67 SE 1st Lane, Lamar, MO 64759	417-682-2965
LIBERAL	723	197 No. Hwy 43, Liberal, MO 64762	417-843-2515
LONGVIEW	724	16393 State Hwy 76, Rocky Comfort, MO 64861	417-628-3673
MONETT	725	Rte 2 Box 164AA, Monett, MO 65708	417-476-2595
MT. VERNON	726	1001 Spring Park Blvd., Mt. Vernon, MO 65712	417-466-2401
NEOSHO	727	1300 S. Neosho Blvd., Neosho, MO 64850	417-451-7007
NEVADA	728	601 W. Outer Rd. No., Nevada, MO 64772	417-448-1393
OSCEOLA	730	5371 NE Bus Hwy.82, Osceola, MO 64776	417-646-8130
PHELPS	731	8151 Hwy. 96, La Russell, MO 65707	417-452-3848
RICH HILL	733	PO Box 30, Route 2, Rich Hill, MO 64779	417-395-2446
RICHARDS	732	Rte. Z @ Rte. H, Richards, MO 64778	417-927-3411
SENECA	735	Hwy 43, Box 13382, Seneca, MO 64865	417-776-2664
SHELDON	736	307 No. 8th, Sheldon, MO 64784	417-884-5215
STOCKTON	737	13998 W. Hwy 32, Stockton, MO 65785	417-276-3417
WALKER	738	RR1, Box 234, Walker, MO 64790	417-465-2264



Request No. D7-07-039

PROPOSAL

I (We) propose to supply the following material to the Missouri Department of Transportation at the prices set out herein in accordance with the terms and specifications in the bid proposal.

It is understood that the quantities shown below are estimated requirements for a (6) month period and that these quantities may be increased or decreased during the (6) month period. Any requirement in excess of the estimated quantities shown Below shall be supplied at the same quoted unit price during the contract period.

The contract will be six (6) consecutive months starting February 1, 2007, and ending July 31, 2007, with the option for extension of another six (6) months period, provided both parties agree to its continuance. Either party may cancel the contract at the end of the first thirty days if deemed necessary.

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

Award will be made on **“All or None”** basis.

Submit net bid as cash discount stipulations will not be considered in making award.

Lubricating products will be ordered on an **“as needed”** basis. Delivery is expected within three (3) working days after the order is placed with the supplier or a penalty of \$100 per day per location will be assessed. Regular delivery schedules by the vendor will be accepted, but are not mandatory.

Payment will be based on meter readings at each drop off location. Contractors must supply a copy of certification by Weights and Measures on the pump meter during the past six months.

Supplier must use separate tanks (containers), separate pumps and hoses for motor oil, hydraulic oil, etc., so as not to contaminate one with another. Supplier will be liable for equipment damages if supplier contaminates oil in this manner.

The supplier will be responsible for all clean up of overfilled tanks and the driver cannot leave the premises until the spill is cleaned up. MoDOT will not pay for oil spilled. Any cleanup required by MoDOT personnel, will be deducted from billing invoices at the rate of \$35.00 per hour.

Delivery will be only during MoDOT regular working hours 7:30p.m. -4:00a.m. Mon.-Fri. unless other arrangements are made.



Request No. D7-07-039

Failure To Furnish Complete and Correct Information May Result in Disqualification of Bid

Multi-Purpose Lithlum Grease & Multi-purpose Gear Oil are to be furnished in non-returnable (120 pound) Drums.

Universal Hydraulic Oil, Dexron III, and Lubricating Oil are to be bulk delivery.

Re-refined 15w40 Oil is to be furnished in non-returnable 55 gal. Drums.

Estimated

<u>Quantity</u>	<u>Product</u>	<u>Brand Name</u>	<u>Manufacturer</u>	<u>Unit Price</u>	<u>Amount</u>
8,360 gals	Lubricating Oil 15w40	_____	_____	\$ _____ gal	\$ _____
275 gals (min)	Lubricating Oil 5w20	_____	_____	\$ _____ gal	\$ _____
	API Service	Bulk Delivery			
880 gals	Universal Hydraulic/ Transmission Oil	_____	_____	\$ _____ gal	\$ _____
		Bulk Delivery			
2,160 lbs.	Multi-Purpose Gear Oil	_____	_____	\$ _____ lbs.	\$ _____
		In quarter drums			
3,240 lbs.	Multi-Purpose Lithlum Complex Grease, NLGI Grade 2	_____	_____	\$ _____ lbs.	\$ _____
		In quarter drums			
4,620 gals	Dexron III Mercon Transmission Oil	_____	_____	\$ _____ gal	\$ _____
		Bulk Delivery			
550 gals	Re-refined 15w40 Lubricating Oil	_____	_____	\$ _____ gal	\$ _____
		55 gal. Drums			

The bidder understands that this project involves state funds and the bidder awarded the contract will be required to comply with Executive Order of the Governor of the State of Missouri dated January 14, 1994.

This order stipulates that there shall be no discriminatory practices by the contractor or his subcontractors, if any based on race, color, religion, creed, national origin, sex or age. The undersigned contractor or his subcontractors, if any, shall give written notice of their commitments under this clause to any labor union with which they have bargaining or other agreements.

Dated _____

Firm Name _____

Telephone Number: _____

Address _____

By _____

Title _____



ANTI-COLLUSION STATEMENT

STATE OF _____)

COUNTY OF _____)

_____ being first duly sworn, deposes and say that he

_____ of
Title of person Signing

Name of Bidder

That all statements made and facts set out in the proposal for the above project are true and correct, and that the bidder (The person, firm, association, or corporation making said bid) has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such bid or any contract which may result from its acceptance. Affiant further certifies that bidder is not financially interested in, or financially affiliated with, any other bidder for the above project.

By _____

By _____

By _____

Sworn to before me this _____ day of _____, 20 _____

Notary Public

My Commission Expires _____



NOTICE TO BIDDERS

"COMMUNITY RIGHT TO KNOW LAW"

In order to implement provision of **Sections 292.600 - 292.620, RSMo.** (1985 Supp.) relating to the communities and employees right to information concerning "toxic substances in the workplace" the Missouri Department of Transportation is required to furnish "Material Safety Data Sheets" to local fire departments and to the Department of Health.

If the product(s) you (**the bidder**) propose to furnish in response to the attached "Invitation to Bid" contains a "toxic substance" as defined by **Section 292.600 RSMo.** (1985 Supp.) please so indicate and, if **YES**, attach a current "Material Safety Data Sheet".

Yes _____ No _____

Signed

Title

Company _____



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.



If checked (X), the following items are a provision of this quotation:

- The attachment entitled **"PREFERENCE IN PURCHASING PRODUCTS"** must be completed and returned with this request for quotation.
- Award of this request for quotation will be made on an "All Or Nothing" basis using the "lowest and best" principle of award.
- Award of this request for quotation will be made on an "Item By Item" basis using the "lowest and best" principle of award.
- All materials/equipment/services quoted upon are F.O.B. Destination (as outlined above). Freight costs must be included in the unit price quoted and not listed as a separate line item.
- All materials/equipment/services quoted upon must comply with the attached MoDOT Specification # **MSG-92-12J** and any other provisions outlined in this request for quotation.
- If this quotation is accepted, the vendor will be required to comply with the prevailing wages as fixed by the Missouri Department of Labor and Industrial Relations, in effect as of the date of this request for informal quotation, for each affected craft and type of workmen in the following county(ies): _____ . The Annual Wage Order # _____ may be inspected at any District Headquarters Office or at the Headquarters Office in Jefferson City. The contractor shall submit weekly payroll documentation included with the project request for payment.
- If this quotation is accepted, the quoting firm will be required to secure a performance bond in the amount of 100% of the contract sum within two weeks of quote acceptance and prior to a Notice to Proceed by the Owner. The bond shall be issued by Surety, acceptable to the Owner. Costs of such bonds will be the responsibility of the quoting firm.
- 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 and Subcontractor or anyone directly or indirectly employed by any of them. 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: Full coverage, including "Occupational Disease Act" requirements.
 2. Public Liability (includes property damage and personal injury):
 - a. Not less than \$400,000 each individual per accident or occurrence.
 - b. Not less than \$2,000,000 each accident or occurrence.
 3. Special Hazard Insurance: As required.
 4. Builder's Risk: Not less than the full Contract amount.
- The contractor will pay all sales and use taxes, which constitute a legal obligation arising out of this work. The contract price shall include any necessary permits and licenses required by law incidental to the work. Local ordinances requiring building permits are not applicable to state agencies. The contractor will comply with local laws involving safety in the prosecution of the work.

VENDOR NAME: _____



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. If provided, these bids/proposals should be returned in the MoDOT solicitation return envelope.
- g. If a solicitation return envelope is provided by MoDOT, the bid/quote/proposal should be returned in the envelope provided with the Bid/RFQ/RFP Request Number plainly indicated thereon.
- h. 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.

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. 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 Contractor shall be responsible for injury or damages as a result of any services and/or goods rendered under the terms and conditions of this Agreement.

b. In addition to the liability imposed upon the Contractor on the account of personal injury, bodily injury, including death, or property damage, suffered as a result of the Contractor's performance under this Agreement, the Contractor assumes the obligation to save harmless the Commission, including its agents, employees and assigns, and to indemnify the Commission, including its agents, employees and assigns, from every expense, liability or payment arising out of such wrongful or negligent act or omission, including legal fees.

a. The Contractor also agrees to hold harmless the Commission, including its agents, employees and assigns, from any wrongful or negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the Contractor for any purpose under this Agreement, and to indemnify the Commission, including its agents, employees and assigns, from every expense, liability or payment arising out of such wrongful or negligent act or omission.

Contract/Purchase Order

c. 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.

c. Contractor's obligations under this contract and the Regulations, will be relative to nondiscrimination on the grounds of race, color, or national origin.

2) 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:

- iii. withholding of payments to the Contractor under the contract until the Contractor complies, and/or,
- iv. cancellation, termination or suspension of the contract, in whole or in part.

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 \$2,000,000 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.

Permits, Licenses and Safety Issues

- a. The contract price shall include any necessary permits and licenses required by law incidental to the work. Local ordinances requiring building permits are not applicable to state agencies.
- b. The Contractor will comply with local laws involving safety in the prosecution of the work.

Environmental Issues

- a. Attention of the bidder is invited to the **Land Reclamation Act, Chapter 444, Laws of 1971, (House Bill 519)** and the necessity for compliance if applicable.
- b. The Contractor shall take necessary precautions and shall schedule and conduct his operations so as to avoid or minimize siltation of streams while removing gravel there from.
- c. The material to be supplied under the contract will comply with the quality and gradation requirements of the **Missouri Standard Specifications for Highway Construction, Edition of 2004**, and any revisions thereto, unless modified by these specifications.