

BID FORM

MISSOURI DEPARTMENT OF TRANSPORTATION

GENERAL SERVICES

830 MoDOT DRIVE - P.O. BOX 270

JEFFERSON CITY, MO 65101

REQUEST NO.	6-061227
DATE	December 11, 2006
PAGE NO.	1
NO. OF PAGES	19

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

2:00 p.m., Local Time, December 27, 2006

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

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

Submit net bid as cash discount stipulations will not be considered
Various Locations

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

BUYER: Brenda Tyree
BUYER EMAIL:
Brenda.Tyree@modot.mo.gov

BUYER TELEPHONE: 573-751-7482

ITEM NO.	SUPPLIES OR SERVICES	MFG. NO. OR BRAND	QUANTITY	UNIT	UNIT PRICE	AMOUNT
001	To establish a contract to furnish "Mineral Spirits and Double Boiled Linseed Oil" with an effective date of Notice to Proceed and ending December 31, 2007, in accordance with the following pages. Return sealed bid to the address shown at the top of this page.					

(SEE ATTACHED FOR CONDITIONS AND INSTRUCTIONS)

In compliance with the above Request For Bid, and subject to all conditions thereof, the undersigned bidder agrees to furnish and deliver any or all the items on which prices were bid within the timeframe specified herein, after receipt of formal purchase order.

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

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

Title: _____

1. INTRODUCTION AND GENERAL INFORMATION

1.1 Introduction:

- 1.1.1 This Request For Bid seeks bids from qualified organizations to provide mineral spirits and double boiled linseed oil located throughout the State of Missouri with an effective contract period of Notice to Proceed through December 31, 2007, to the Missouri Highways and Transportation Commission (MHTC) and Missouri Department of Transportation (MoDOT), (hereinafter referred to as MoDOT). Each bid must be mailed in a sealed envelope to Ms. Brenda Tyree, General Services Procurement Unit, 830 MoDOT Drive, P.O. Box 270, Jefferson City, Mo 65109, or hand-delivered in a sealed envelope to the General Services Procurement Office in the Department of Transportation Building located at 830 MoDOT Drive, Jefferson City, MO. All questions regarding the RFB shall be submitted to Ms. Brenda Tyree. Bids must be returned to the office of Ms. Brenda Tyree no later than 2:00 p.m., CDT, December 27, 2006.

RFB Coordinator:

Ms. Brenda Tyree, Procurement Agent
Missouri Department of Transportation
830 MoDOT Drive
P.O. Box 270
Jefferson City, MO 65102
PHONE: 573-751-7482
FAX: 573-526-1218

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

NOTE: The bidder must SIGN and RETURN this page with the bid.

BID

- (1) The bidder shall provide firm, fixed prices to MHTC as stated on the PRICING PAGES in accordance with the terms of this Request for Bid.
- (2) The bidder agrees to provide the commodity/services specified herein at the firm, fixed price stated on the Pricing Pages, under the terms of this Request for Bid.

1.2 GENERAL INFORMATION:

- 1.2.1 This document constitutes an invitation for competitive, sealed bids for the procurement of mineral spirits and double boiled linseed oil as set forth herein.
- 1.2.2 Organization - This document, referred to as a Request for Bid (RFB), is divided into the following parts:
- 1) Introduction and General Information
 - 2) Scope of Work
 - 3) Bid Submission
 - 4) Pricing Page(s)
 - 5) Attachment A & B
 - 6) Terms and Conditions
- 1.2.3 **Note to Respondent** - A vendor must be in compliance with the laws regarding conducting business in the State of Missouri. The compliance to conduct business in the state shall include but may not be limited to: Registration of business name, vendors **MUST** submit a bid that correctly and accurately identifies the company name that is registered to do business in the State of Missouri. All vendors who are required to execute a contractual agreement **MUST** submit a copy of their certificate with the signed copy of the contract agreement before the purchasing department can proceed with MoDOT legal contract approval.
- 1.2.4 The Missouri Department of Transportation does not recognize the **U.S. Mail, United Parcel Service, Federal Express, or any other organization**, as its agent for purposes of accepting bids. Any bids arriving at the designated office after the deadline specified shall not be considered for an award.
- 1.2.5 The bidder may withdraw, modify or correct his bid(s) after it has been deposited with MoDOT provided the bidder submits a request in writing to withdraw, modify or correct his bid(s), and that such request is received at the location designated for the bid opening prior to the time specified for opening bids. Such request will be attached to the bid(s) and the bid(s) will be considered to have been modified accordingly. The bidder shall understand and agree that no bid(s) shall be modified after the time specified for the opening of bids.
- 1.2.6 The bidder must submit with each bid 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, 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.
- 1.2.7 By virtue of statutory authority a preference will be given to materials, products, supplies, provisions, and all other articles manufactured, produced, made or grown within the State of Missouri.
- 1.2.8 Historical information for the mineral spirits and double boiled linseed oil may be found on Attachment A herein.

2. SCOPE OF WORK

2.1 General Requirements:

- 2.1.1 The contractor shall provide mineral spirits and double boiled linseed oil on an as needed, if needed basis for MoDOT, in accordance with the provisions and requirements stated herein.
- 2.1.2 The contractor shall provide all deliverables/services to the sole satisfaction of MoDOT.
- 2.1.3 MoDOT does not guarantee any specific quantities.
- 2.1.4 MoDOT reserves the right to obtain “like or similar” products as specified herein from other manufacturers, exclusive of the contract, when use of such products is deemed in the best interest of MoDOT.
- 2.1.5 Unless otherwise specified herein, the contractor shall furnish all material, labor, facilities, equipment, and supplies necessary to provide the deliverables/services required herein.

2.2 Specific Requirements:

- 2.2.1 The contractor shall provide MoDOT with mineral spirits and double boiled linseed oil, in accordance with the following:
 - a. ***Mineral Spirits and Double Boiled Linseed Oil*** - All materials, equipment, and/or services bid upon must comply with the attached MoDOT Specification #MGS-92-09B and any other provisions outlined in the solicitation documents.
 - 1. The contractor shall complete delivery within 30 days after receipt of purchase order.

2.3 Delivery Requirements:

- 2.3.1 The contractor shall deliver mineral spirits and double boiled linseed oil as specified herein to all MoDOT Districts located throughout the State of Missouri (See Attachment B). The contractor shall deliver such mineral spirits and double boiled linseed oil F.O.B. destination.
- 2.3.2 If requested by MoDOT, the contractor shall deliver the specified mineral spirits and double boiled linseed oil for a specified quantity at an accelerated lead time.
- 2.3.3 The contractor shall notify the District Engineer or his representative, at a minimum of twenty-four (24) hours in advance, regarding the arrival time of each shipment.

2.4 Liquidated Damage Requirements:

- 2.4.1 The contractor shall understand and agree that the mineral spirits and double boiled linseed oil in accordance with the requirements stated herein is considered critical to the efficient operations of MoDOT. However, since the amount of actual damages would be difficult to establish in the event the contractor fails to comply with the contractual requirements, the contractor shall understand and agree that the amount identified below as liquidated damages shall be reasonable and fair under the circumstances.
 - a. In the event the contractor fails to provide the mineral spirits and double boiled linseed oil in accordance with the contractual requirements specified herein, the contractor shall be assessed liquidated damages in the amount of \$250.00 per day, per complete order for each such delinquent day.

- b. The contractor shall further understand and agree that such liquidated damages shall either be deducted from the total amount due the contractor or paid by the contractor as a direct payment to MoDOT, at the sole discretion of MoDOT.
- c. The contractor shall understand that the liquidated damages described herein shall not be construed as a penalty.
- d. The contractor shall understand and agree that all assessments of liquidated damages shall be within the discretion of each District as a separate entity, and shall be in addition to, not in lieu of, the rights of the State of Missouri to pursue other appropriate remedies. The contractor shall understand and agree that each District's decision shall be individual, final, and without recourse.
- e. The contractor shall understand and agree that if a product(s) is rejected due to not meeting specifications, all costs associated with returning the product to the contractor shall be paid by the contractor.

2.5 Invoicing and Payment Requirements:

- 2.5.1 The contractor shall submit an itemized invoice to the applicable requesting address for the completion of deliverables, as specified herein.
- 2.5.2 The contractor shall be paid in accordance with the firm, fixed prices stated on the pricing page of this document after completion of deliverables specified herein and acceptance by MoDOT.
- 2.5.3 Other than the payment specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever.

2.6 Other Contractual Requirements:

- 2.6.1 Contract Period - The contract shall commence from the date of Notice to Proceed until December 31, 2007 with two (2) one-year renewal option periods. Renewal options are at the sole discretion of the MoDOT. If the option for renewal is exercised by MoDOT, the contractor shall agree to all terms and conditions of the RFB and all subsequent amendments. Additionally, in the event MoDOT exercises its option(s) to renew the contract, the requirements for future months shall be basically similar.
- 2.6.2 Renewal Periods - In the event that MHTC exercises its option to renew the contract for two (2) one-year renewal periods pursuant to the applicable provisions outlined in this document, the contractor shall understand and agree that MoDOT does not automatically exercise the renewal option(s) based upon the maximum renewal price of increase without documented justification supporting an increase/decrease, and reserves the right to offer or to request an extension of the contract at a price less than that price derived from the contractor's renewal amounts, if any.
- 2.6.3 Escalation Clause - In the event the contractor requests a price increase during the contract period (original contract period or renewal periods), the contractor must provide a written request and documentation justifying the need for a price increase and the amount of such price increase. MoDOT will review the contractor's written request and documentation for a price increase, and decide if a price increase is to be granted at that particular time. The contractor shall understand and agree that MoDOT's decision shall be final and without recourse.
 - a. In the event a price increase is granted due to an approved escalation, the renewal percentage shall be based upon the current contract value.
- 2.6.4 Inspection Specifications - MoDOT reserves the right to inspect the material at the point of manufacture, intermediate storage point, or at a destination which shall be at the discretion of MoDOT.

3. BID SUBMISSION

3.1 Bid Submission Information:

3.1.1 All bids must be received in a sealed envelope clearly marked “**Mineral Spirits and Double Boiled Linseed Oil**”.

3.1.2 All bids must be received at the following address no later than December 27, 2006 at 2:00 p.m., CDT.

Missouri Department of Transportation
General Services – Procurement Division
Attn: Brenda Tyree
830 MoDOT Drive
Jefferson City, MO 65109

3.1.3 Open Competition / Request For Bid Document:

- a. It shall be the bidder's responsibility to ask questions, request changes or clarification, or otherwise advise MoDOT if any language, specifications or requirements of an RFB appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFB to a single source. Any and all communication from bidders regarding specifications, requirements, competitive bid process, etc., must be directed to the buyer from MoDOT, unless the RFB specifically refers the bidder to another contact. Such communication should be received at least three (3) working days prior to the official bid opening date.
- b. Every attempt shall be made to ensure that the bidder receives an adequate and prompt response. However, in order to maintain a fair and equitable bid process, all bidders will be advised, via the issuance of an amendment to the RFB, of any relevant or pertinent information related to the procurement. Therefore, bidders are advised that unless specified elsewhere in the RFB, any questions received less than three (3) working days prior to the RFB opening date may not be answered.
- c. Bidders are cautioned that the only official position of the State of Missouri is that which is issued by MoDOT in the RFB or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.
- d. MoDOT monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among bidders, price-fixing by bidders, or any other anticompetitive conduct by bidders which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General's Office for appropriate action.

3.1.4 Failure to Execute Contract - Failure to execute the contract within 15 days after the contract has been mailed to the bidder shall be just cause for the cancellation of the award and the forfeiture of the proposal guaranty. Award may then be made to the next lowest responsible bidder, or the work may be re-advertised and performed under contract or otherwise, as the Commission may decide. No contract shall be considered effective until it has been executed by all parties thereto.

3.1.5 Bids will be reviewed to determine if the bid complies with the mandatory requirements, and to determine the lowest and best bid.

3.1.6 Cost Determination - The low bid shall be determined by adding the bidder's line items within each range of mineral spirits and each range of double boiled linseed oil. The totals from the three (3) ranges of mineral spirits will be added together for each bidder to determine the lowest bid, and the totals from the three (3) ranges of double boiled linseed oil will be added together for each bidder to determine the lowest bid.

- 3.1.7 Contract Award – One (1) contract award shall be made for mineral spirits, and one (1) contract award shall be made for double boiled linseed oil, for a total of two (2) contract awards.
- 3.1.8 MHTC reserves the right to reject any or all bids, and no award is final until formally approved by the MHTC.
- 3.1.9 **NOTE:** The bidder must be in compliance with the laws regarding conducting business in the State of Missouri. Within ten (10) business days of notification, the bidder will need to provide a copy of his/her Missouri Secretary of State’s “Certificate of Good Standing” prior to the issuance of any contract or initial purchase order by MoDOT.

4. PRICING PAGE

4.1 Mineral Spirits and Double Boiled Linseed Oil - The bidder shall provide firm, fixed prices in the tables below for the original contract period for providing the deliverables/services in accordance with the provisions and requirements of this RFB. All costs associated with providing the required deliverables/services shall be included in the prices stated below.

<i>Mineral Spirits</i>					
Item #	Commodity Code	Description	Original Contract Period <i>Firm, Fixed Per 55 Gallon Drum Price (Range for # of Drums) 50 - 1000</i>	Original Contract Period <i>Firm, Fixed Per 55 Gallon Drum Price (Range for # of Drums) 1001 - 2000</i>	Original Contract Period <i>Firm, Fixed Per 55 Gallon Drum Price (Range for # of Drums) 2001 & OVER</i>
001	6309070300	Mineral Spirits - <i>Subtotal</i>	\$ _____	\$ _____	\$ _____
GRAND TOTAL			\$ _____		

<i>Double Boiled Linseed Oil</i>					
Item #	Commodity Code	Description	Original Contract Period <i>Firm, Fixed Per 55 Gallon Drum Price (Range for # of Drums) 50 - 1000</i>	Original Contract Period <i>Firm, Fixed Per 55 Gallon Drum Price (Range for # of Drums) 1001 - 2000</i>	Original Contract Period <i>Firm, Fixed Per 55 Gallon Drum Price (Range for # of Drums) 2001 & OVER</i>
002	6304205055	Double Boiled Linseed Oil - <i>Subtotal</i>	\$ _____	\$ _____	\$ _____
GRAND TOTAL			\$ _____		

4.2 Circle below which district(s) the bidder's bid is being proposed. (Districts are identified on Attachment B – State of Missouri Map.)

District 1	District 2	District 3	District 4	District 5	District 6	District 7	District 8	District 9	District 10
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4.3 Accelerated Lead Time - The bidder shall provide firm, fixed percentages below for the original contract period and renewal period for providing the deliverables/services at an accelerated lead time After Receipt of Order (ARO). The percentages shall be computed against the **ORIGINAL CONTRACT PRICE** during the original contract period and renewal period. All costs associated with providing the required deliverables/services at an accelerated lead time shall be included in the following percentages.

15 days Lead Time - _____ % above prices stated above

4.4 State place of manufacture and point that material will be available for inspection:



MINERAL SPIRITS AND DOUBLE BOILED LINSEED OIL MGS-92-09B

1.0 DESCRIPTION. This specification covers mineral spirits and double boiled linseed oil for surface sealing of bridge decks and other concrete structures as required.

2.0 MATERIALS.

2.1 Mineral Spirits Mineral spirits shall comply with the requirements of ASTM D 235, Type I, Class A and shall have an infrared spectrum typical of mineral spirits.

2.2 Double Boiled Linseed Oil. Double boiled linseed oil shall comply with the requirements of ASTM D 260, Type II, and shall have an infrared spectrum typical of double boiled linseed oil.

3.0 PACKAGING. The containers shall be 55 gallon non-returnable drums.

4.0 MARKING. The drums shall be marked with the manufacturer's name and net quantity in gallons.

5.0 SAMPLING.

5.1 The material will be sampled and tested at destination as deemed necessary by the engineer.

6.0 CERTIFICATION AND ACCEPTANCE.

6.1 The manufacturer shall submit to the engineer at destination a certification, for each shipment, stating that the material supplied complies with all requirements of this specification.

6.2 Acceptance of the material will be based on a satisfactory manufacturer's certification and on tests performed by the engineer.

5. ATTACHMENT A

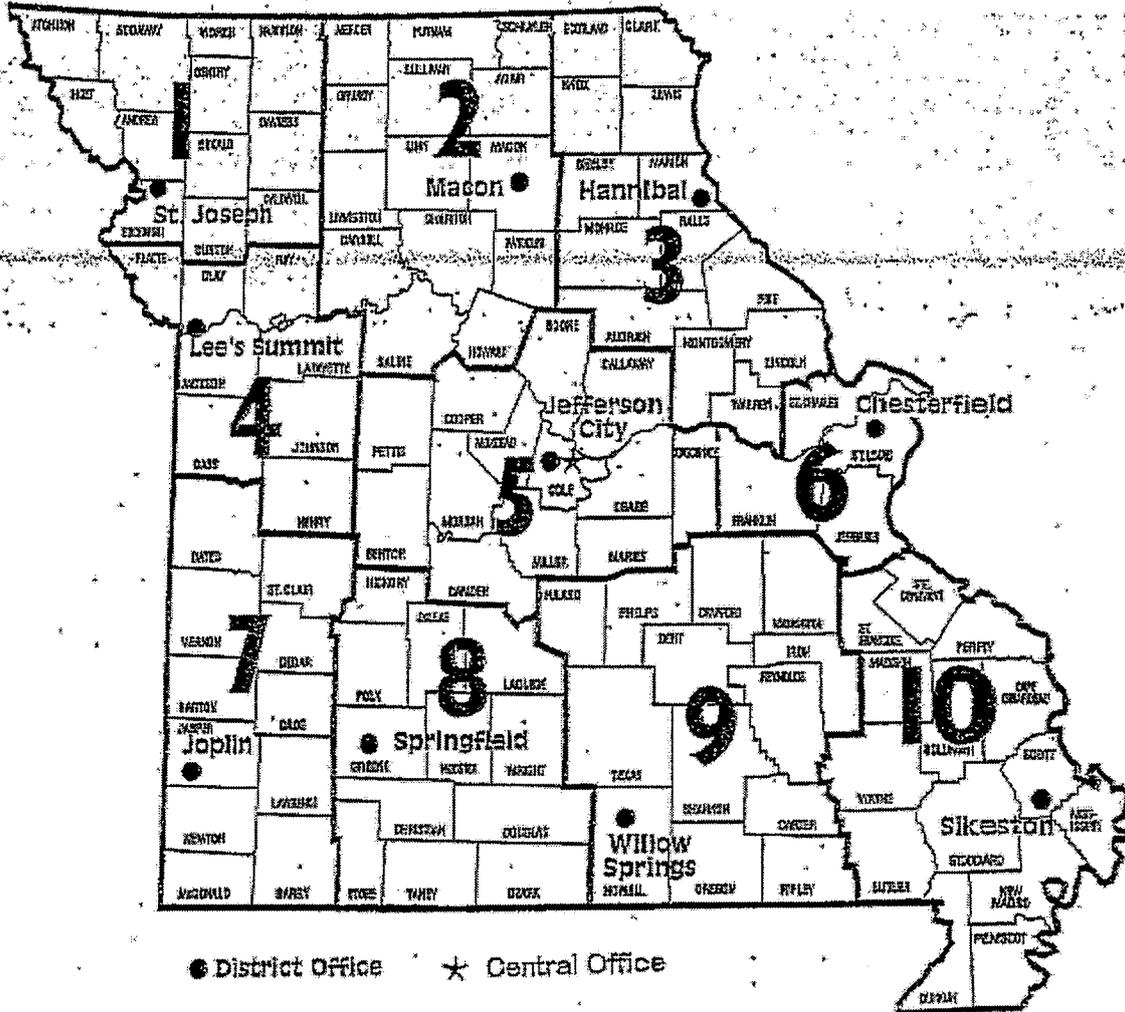
PAST USAGE FOR MINERAL SPIRITS AND DOUBLE BOILED LINSEED OIL

Mineral Spirits	1977 gallons
Double Boiled Linseed Oil	770 gallons

ATTACHMENT B

Retain this insert for your information

Missouri Department of Transportation District Outline Map



COUNTY	DIST.	COUNTY	DIST.	COUNTY	DIST.	COUNTY	DIST.	COUNTY	DIST.	COUNTY	DIST.
Adair	3	Cedar	7	Carver	8	Lin	2	Ozark	9	St. Louis	6
Anderson	1	Chariton	2	Cassidy	2	Clay	2	Pemisco	10	St. Louis	2
Atchison	1	Christian	8	Earlston	1	Madison	7	Perry	10	Schuyler	2
Audrain	3	Clark	3	Henry	4	Macon	2	Putnam	5	Scott	3
Barry	7	Clay	4	Hickory	8	Madison	10	Phelps	9	Scott	10
Barton	7	Clinton	1	Holt	1	Maries	5	Pike	5	Shannon	9
Beaumont	7	Coal	5	Howard	2	Marion	3	Platte	4	St. Charles	3
Boonville	5	Copper	5	Howell	9	Merger	3	Polk	8	Stoddard	10
Bullinger	10	Crawford	9	Iron	5	Miller	5	Pulaski	9	Stoddard	8
Butte	5	Dade	7	Jackson	7	Mississippi	10	Pulaski	2	Sullivan	2
Butler	1	Dallas	8	Jasper	7	Monroe	5	Ralls	3	Taney	4
Caldwell	1	Daviess	1	Jefferson	6	Monroe	2	Randolph	2	Texas	9
Callaway	5	DeKalb	1	Johnson	4	Montgomery	3	Ray	4	Vernon	7
Carter	5	Denton	9	Knox	5	Morgan	5	Reynolds	9	Warren	3
Cass	1	Douglas	8	Laclede	2	New Madrid	10	Ripley	9	Washington	9
Cass	1	Franklin	10	Lafayette	7	New Madrid	10	St. Charles	6	Wayne	10
Cass	1	Franklin	10	Layman	1	Paducah	1	St. Clair	7	Webster	8
Cass	1	Gasconade	5	Lewis	3	Oregon	9	St. Francois	10	Worth	1
Cass	1	Geny	1	Lincoln	1	Oregon	3	St. Genevieve	10	Wright	8

NOTICE

THE DEPARTMENT IS INTERESTED IN ASSISTING MISSOURI GOVERNMENTAL ENTITIES, ETC. IN PURCHASING EQUIPMENT, VARIOUS MATERIALS AND SUPPLIES THAT MEET THE HIGHWAY AND TRANSPORTATION DEPARTMENT SPECIFICATIONS.

Each bidder is asked to indicate below whether they would be willing to offer **Mineral Spirits and Double Boiled Linseed Oil** listed in the attached "Request for Bid" for sale to these local political entities at the same bid price offered to this Department.

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

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

YES _____

NO _____

Indicate the deadline date that orders will be accepted. _____

COMPANY NAME _____

ADDRESS _____

PHONE NUMBER _____

SIGNATURE _____

TITLE _____

DATE _____

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

PREFERENCE IN PURCHASING PRODUCTS

DATE: _____

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

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

All vendors submitting a bid/quotation must furnish 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.

MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT

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

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

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

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

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

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

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

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

(attach an additional sheet if necessary)

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

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

CERTIFICATION

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

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

Missouri Highways and Transportation Commission
Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions
6. 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

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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.

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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.
- c. 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.

SPECIAL TERMS AND CONDITIONS

Information and Reports

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

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Award

- a. Award of this bid/quote/proposal will be made on a "Item-by-Item" basis using the "lowest and best" principle of award.

Notice to Proceed

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

Delivery – Additional Requirements

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

January 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

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

Legal Weights

- a. Provisions of the Missouri Statutes relative to legal weights in regard to axle and gross weights, gross weights in relation to axle spacing and Supplementary Bridge limits all contained in **Sections 304.180 and 304.190 RSMo** are understood and will be abided by. The Department will not accept loads, which exceed legal weights.
- b. It is understood and agreed that the Missouri Department of Transportation may prohibit the use of large trucks hauling heavy loads of material over low type bituminous roads and during adverse weather conditions.