

BID FORM

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

| | |
|--------------|------------------|
| REQUEST NO. | RFB 6-061219 |
| DATE | December 6, 2006 |
| PAGE NO. | 1 |
| NO. OF PAGES | 13 |

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

2:00 p.m., CST, December 19, 2006

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

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

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

DEFINITE DELIVERY DATE MUST BE SHOWN. SIGN AND RETURN BEFORE TIME SET FOR OPENING.

BUYER: Erin Moritz

BUYER TELEPHONE: 573-526-8194

| ITEM NO. | SUPPLIES OR SERVICES | MFG. NO. OR BRAND | QUANTITY | UNIT | UNIT PRICE | AMOUNT |
|----------|---------------------------|-------------------|----------|------|------------|--------|
| | See Attached Information. | | | | | |

(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 15 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: _____

I. GENERAL DESCRIPTIONS & BACKGROUND

- A. Background: The Missouri Department of Transportation (MoDOT) operates under a decentralized organization with headquarters in Jefferson City, and is governed by the MHTC, a six (6) member bi-partisan Commission appointed by the Governor. The Central Office provides staff assistance and functional control for the various departmental tasks in ten (10) geographical districts. Each district contains approximately ten percent (10%) of the total road mileage in the state highway system.

MoDOT employs approximately 6,300 full-time employees. About eighty percent (80%) of those employees work in the ten (10) districts with the remainder working in the various functional units of the Central Office. Approximately 1,300 of these employees are supervisors.

- B. Fiscal Year: The fiscal year runs from July 1- June 30.
- C. Contract Period: Notice to Proceed – December 31, 2007.
- D. Renewals: The MHTC shall have the right, at its sole option, to renew the contract for two (2) additional one-year periods, or any portion thereof. In the event the MHTC exercises such right, all terms and conditions, requirements and specifications of the contract, including all prices, shall remain the same and apply during the renewal period.

II. SCOPE OF WORK

A. SPECIFICATIONS

1. This bid is for the following products:
 - a. Liquid steam cleaning and pressure spraying compounds
 - b. Pre-soak degreasers
 - c. Wettable powder steam cleaning compounds
 - d. Part washer fluid
 - e. Asphalt Removers
2. All of the above products must conform to MGS –94-08 (see Attachment A)
3. All of the above products must be listed on the Approved Products List in Field Section 2060T1 (see Attachment B)

B. QUANTITIES

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

C. DELIVERY REQUIREMENTS

1. The contractor shall deliver various products F.O.B. Destination as specified herein to all MoDOT Districts located throughout the State of Missouri.

D. INVOICING AND PAYMENT REQUIREMENTS

1. The contractor shall submit an itemized invoice to the applicable requesting address for the completion of deliverables, as specified herein.
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.
3. Other than the payment specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever.

E. OTHER CONTRACTUAL REQUIREMENTS

1. Contract Period - The contract shall commence from the date of Notice to Proceed until December 31, 2007 with up to two (2) one-year renewal option periods. Renewal options are at the sole discretion of 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 remain the same.
2. Renewal Periods - In the event MHTC exercises its option to renew the contract for two (2) one-year periods pursuant to the applicable provisions outlined in this document, the contractor shall understand and agree MHTC does not automatically grant a price increase at the time of renewing the contract. In the event a price increase is granted due to an approved escalation, the renewal percentage shall be based upon the current contract value.
3. Escalation Clause - In the event the contractor requests a price increase during the contract period (original contract period or renewal period), the contractor must provide a written request and documentation justifying the need for a price increase, and the amount of such price increase. MoDOT will review the contractor's written request and documentation for a price increase, and decide if a price increase is to be granted at that particular time. The contractor shall understand and agree that MoDOT's decision shall be final and without recourse.
4. Inspection Specifications - MoDOT reserves the right to inspect the material at the point of manufacture, intermediate storage point, or any destination which shall be at the discretion of MoDOT.
5. Bids will be reviewed to determine if the bid complies with the mandatory requirements, and to determine the lowest and best bid on an item by item basis per district.
6. MHTC reserves the right to reject any or all bids, and no award is final until formally approved by the MHTC.
7. **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.

III. PRICING PAGE

A. ORIGINAL CONTRACT PRICING - Provide a firm, fixed price for the products your company can provide to the districts you service.

| Item | D1 | D2 | D3 | D4 | D5 | D6 | D7 | D8 | D9 | D10 |
|--|----|----|----|----|----|----|----|----|----|-----|
| Liquid Steam Cleaning & Pressure Spraying Compounds | | | | | | | | | | |
| Grrr | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| K-Kleen 115 | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Power Gloss | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Zep T'N'T | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Zep Formula 50 | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Zep Car & Truck Touch Free Detergent | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Exterior Bus Wash | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Formula 800 H.S. | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Pre-Soak Degreasers | | | | | | | | | | |
| BioSpan MG Degreaser | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| BioSpan AlkalineCleaner | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |

| Item | D1 | D2 | D3 | D4 | D5 | D6 | D7 | D8 | D9 | D10 |
|---|----|----|----|----|----|----|----|----|----|-----|
| BioSpan Neutral Cleaner Concentrate | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Bull Pen 2X | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Prime | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Purple Heat | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Safe-n-Kleen | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Zep Formula 940 | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Wettable Powder Steam Cleaning Compounds | | | | | | | | | | |
| Zep Formula 4358 | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| VW-44 | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Fleet Wash P | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Ammo | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Base 2 | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| C K Solvent | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Kustom | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Kustom 221 | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Part Washer Solvent | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Tekusolv II Red | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Zep Dyna 143 | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |

| Item | D1 | D2 | D3 | D4 | D5 | D6 | D7 | D8 | D9 | D10 |
|--|----|----|----|----|----|----|----|----|----|-----|
| Asphalt Removers | | | | | | | | | | |
| Agri-Sol | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| BioSpan AR3600 | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Citra-Solv Tar & Asphalt Remover | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Citrasolve-W | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Citrus Klaw | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Creamy Orange Oil | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Cut Thru Ed | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Grrreat Grape | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| NPS (Non Petroleum Solvent) | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Rhoma-Sol | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Sun Solv | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Super Orange Gel | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| U-670 Tiger Citrus Cleaner | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Zep Big Orange | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Zep Big Orange E | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Zep Orange Gel | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |

| Item | D1 | D2 | D3 | D4 | D5 | D6 | D7 | D8 | D9 | D10 |
|---------------------|----|----|----|----|----|----|----|----|----|-----|
| Zep Orange Response | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| Zep Citrus Cleaner | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |

B. RENEWAL INFORMATION - In the event MHTC exercises its options to renew the contract for two (2) additional one-year periods pursuant to the applicable provisions outlined in this document, the Bidder shall provide below the maximum percentage of increase or maximum percentages of decrease for each renewal period. The Bidder is cautioned the percentages shall be computed against the ORIGINAL contract prices during renewal periods. Furthermore, the Bidder is advised the MHTC does not automatically grant increases at the time of renewing the contract and if an increase is requested, documentation of need must be provided at the time of renewal.

First Renewal Period _____ % of maximum increase or
 _____ % of maximum decrease

Second Renewal Period _____ % of Maximum increase or
 _____ % of maximum decrease

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.

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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.

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

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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

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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.

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.

Award

- a. Award of this bid/quote/proposal will be made on an "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.

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

Cancellation of Contract

- a. If the Contractor/supplier fails to carry out the performance of the work with sufficient workers and equipment to insure the completion of the delivery within the time specified or becomes insolvent or is adjudicated a bankrupt or commits any act of bankruptcy or insolvency or allows any final judgment to stand against him for a period of ten (10) days, the Missouri Department of Transportation may give notice in writing by registered mail to the Contractor/supplier and the surety of such delay, neglect or default.
- b. If, within ten (10) days after such notice the Contractor/supplier does not proceed to remedy to the satisfaction of the Department's representatives the faults specified in said notice, or the surety does not proceed to take over the deliveries, the Department shall have full power and authority, without impairing the obligation of the Contractor/supplier under the contract or the surety under the bond, to take over the completion of the work and arrange for the shipment of any materials necessary to complete the work and the Contractor/supplier and the surety will be responsible for any additional costs incurred by the Department in obtaining the completion of the deliveries.