

**BID FORM**

MISSOURI DEPARTMENT OF TRANSPORTATION

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

REQUEST NO.	2-081223SR		
DATE	December 9, 2008		
PAGE NO.	1	NO. OF PAGES	13

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

10:00 AM, LOCAL TIME, December 23, 2008

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 ATTACHED**

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

**BUYER: SHELDON L. REDEL**

**BUYER TELEPHONE: 573-751-2044**

ITEM NO.	SUPPLIES OR SERVICES					
	<p>Contract for furnishing “<b>MOWER PARTS</b>” for a contract period beginning January 1, 2009 through December 31, 2009.</p> <p><b>PLEASE SEE ATTACHED PRICING PAGES AND DELIVERY REQUIREMENTS</b></p> <p><b>Note to Respondent:</b> 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 <b>MUST</b> submit a bid/proposal 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 <b>MUST</b> 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.</p> <p><b>VENDOR MUST SIGN AND SUBMIT THIS FORM WITH THE PRICING PAGES</b></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 THIRTY (30) days 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: \_\_\_\_\_

Is your firm MBE certified?  Yes  No

Is your firm WBE certified?  Yes  No

List all agencies your firm is currently certified with. \_\_\_\_\_

**BID SUBMITTAL:**

Your written bid must be mailed in a sealed envelope or box, or else delivered by hand or courier service (UPS, Federal Express, etc.) to be *received on or before the date and time specified on the front page of this bid document*, at the office of:

Ms. Sheldon Redel  
Missouri Department of Transportation  
General Services - Procurement  
830 MoDOT Drive; P.O. Box 270  
Jefferson City, MO 65102

All documents must be sealed and the outmost wrapping should be clearly marked "**Bid for Mower Parts**".

**DESCRIPTION OF PARTS:**

MoDOT *is not bidding* Original Equipment Manufacturer (OEM) parts. These are specialty-manufactured parts based on specific mower equipment that has been customized by MoDOT personnel.

**PRICES:**

Prices must remain firm for the entire contract period stated herein.

**DESCRIPTIVE LITERATURE AND WARRANTIES:**

All bidders should indicate brand and model number of the product being bid for all items. ***IF YOU ARE BIDDING APPROVED FUNCTIONALLY EQUIVALENT ITEMS*** you *should submit descriptive literature and specifications on the product proposed in the bid, as well as information that pertains to any warranties on the items.*

**SAMPLES:**

MoDOT reserves the right to request a sample of the product from the bidders if deemed necessary before award of bid. Bidder will have five (5) working days, from date of request, to provide sample. Samples shall be furnished to MoDOT at no charge. Unless otherwise stated herein, all samples will become the property of MoDOT and will not be returned. **DO NOT** SUBMIT SAMPLES WITH YOUR BID.

**OPEN COMPETITION / INVITATION FOR BID DOCUMENT:**

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 IFB appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the IFB 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 IFB 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.

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 IFB, of any relevant or pertinent information related to the procurement. Therefore, bidders are advised that unless specified elsewhere in the IFB, any questions received less than three (3) working days prior to the IFB opening date may not be answered.

Bidders are cautioned that the only official position of the State of Missouri is that which is issued by MoDOT in the IFB or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.

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.

**DELIVERY:**

All deliveries shall be FOB-Missouri Department of Transportation to statewide locations. Bidder agrees to furnish and deliver any or all the items on which prices were quoted within THIRTY (30) days after receipt of formal purchase order.

**COMPLIANCE WITH BID REQUIREMENTS:**

Failure to comply with the requirements published in this bid may result in the bid being subject to rejection. Product that does not meet specifications will cause all of the shipments to be returned at the bidders expense.

**INVOICING AND PAYMENT REQUIREMENTS:**

The contractor shall submit an itemized invoice to the applicable requesting address for the completion of deliverables, as specified herein.

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. Other than the payment specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever.

**CONTRACT PRICE ESCALATION:**

In the event the contractor requests a price increase during the contract period (original contract period or contract 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, 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. No price increase shall be granted during the first 3 months of the original contract period, or if applicable, first 3 months of a contract renewal period.
- b. In the event a price increase is granted due to an approved escalation, the renewal percentage shall be based upon the current contract value.

**NON-EXCLUSIVITY:**

The Missouri Department of Transportation reserves the right to obtain like or similar products of this or other manufacturers when use of such products is deemed in the best interest of MoDOT.

**VENDOR NAME REGISTRATION:**

On all bid documents, the bidder must use the firm name under which he/she is registered to do business in the state of Missouri. The bidder must ensure that his/her firm name is registered with the office of the Secretary of State.

**ADDITIONAL DOCUMENT SUBMITTAL REQUIREMENTS:**

For the bid to be considered the two (2) attachments "Preference in Purchasing Products" and "Missouri Domestic Product Procurement Act" must be submitted to this office prior to any contract being awarded for this bid.

**PRICING PAGE**

**(Eight (8) pages with a total of 51 items)**

Contract for furnishing “Mower Parts” for a contract period beginning January 1, 2009 through December 31, 2009. **COMPLETE AND SUBMIT WITH YOUR SIGNED BID FORM AND OTHER REQUIRED DOCUMENTATION.**

**RENEWAL PERIOD:** The contract will provide for one (1) 12-month contract extension, or any part therein. The bidder shall provide below the maximum percentage of increase or minimum percentage of decrease for the renewal period. The percentage shall be computed against the **current contract price** during the renewal period. If renewal price percentages are not provided, the prices during renewal period shall be the same as during the current contract period.

One-Year Renewal Period \_\_\_\_\_ % of maximum increase or,

**QUANTITIES AND BRAND IDENTIFICATION:** The quantities shown are estimated for the period specified. MoDOT reserves the right to increase or decrease the quantity as needed. All bids should indicate the Brand & Part Number to be considered.

**PACKAGING:** Product shall be shipped in the original OEM packaging and be clearly marked as to manufacturer, quantity, brand, and size.

**AWARD:** For the purposes of this bid, items **will be awarded on an “Item by Item”** basis on products meeting the specifications.

**SAMPLES:** MoDOT reserves the right to request samples from the bidders if deemed necessary before award of bid. Bidder will have five (5) working days, from date of request, to provide samples. Samples shall be furnished to MoDOT at no charge, will not be returned, and will become the property of MoDOT. Failure to submit the sample(s), as requested, may be cause for bidder disqualification. **DO NOT SUBMIT SAMPLES WITH YOUR BID.**

No.	Description	Current Mfg. No. or Brand Used by MoDOT	Mfg. or Brand Bid	Est. Qty	Unit	Unit Price	Extended Total
1	0221566065 JC Mono Blade, 6' Mower - #MO 12601 or equivalent.	Moore #12601		85	EA.		
2	0221566085 Stump Jumper, Blot Kit, Attaching Blades 34" x 24" - #MO 120113 or equivalent.	Moore #120113		55	EA.		
3	0221566170 Gearbox, 6' Mower, complete - #MO 250404 or equivalent.	HMI JC 15001		5	EA.		

No.	Description	Current Mfg. No. or Brand Used by MoDOT	Mfg. or Brand Bid	Est. Qty	Unit	Unit Price	Extended Total
4	0221566345 Tail wheel assembly, yoke pin, collar, JC Built Mower - #MO 1375 or equivalent.	Moore #1375		20	EA.		
5	0221570452 Shaft with clutch, Bondioli drive shaft - #MO 1950 or equivalent.	Bondiolo		15	EA.		
6	0221591738 Section, under-serrated, packaged 25 per Box - #MO 0646 or equivalent.	HMI 7-646		5	BX.		
7	0221570515 Section, over-serrated, packaged 25 per Box - #MO 0747 or equivalent.	Alamo #02982800		145	BX.		
8	0221570600 Moore center guard position - #MO 5937 or equivalent.	Alamo #0593700		745	EA.		
9	0221570607 Moore inner guard, left position - #MO 5935 or equivalent.	HMI JC 11020		60	EA.		
10	0221570612 Moore outer guard, right position - #MO 5936 or equivalent.	HMI JC 11019		60	EA.		
11	0221570672 Flanged lock nut, packaged 10 per box - #MO 1683 or equivalent.	Moore 1683		225	BX.		

No.	Description	Current Mfg. No. or Brand Used by MoDOT	Mfg. or Brand Bid	Est. Qty	Unit	Unit Price	Extended Total
12	0221570715 Sickle knife assembly, 6', under-serrated, bolted - #MO 1876 or equivalent.	HMI-8-1876		5	EA.		
13	0221570720 Sickle knife assembly, 6', over-serrated, bolted - #MO 1886 or equivalent.	Alamo #0187600		45	EA.		
14	0221570750 Cutterbar, 6' - #MO 5705 or equivalent.	Moore #5706B		10	EA.		
15	0221570810 Clip, low spring, holddown - #MO 1016 or equivalent.	HMI JC 11021		315	EA.		
16	0221570815 Clip, high spring, holddown - #MO 1026 or equivalent.	Moore #1026		70	EA.		
17	0221570905 Wear plate, 6' cutterbar - #MO 47954 or equivalent.	Moore #47954		75	EA.		
18	0221570925 Wear strip, packaged 10 per box - #MO 1050 or equivalent.	Moore #1050		10	BX.		
19	0221591525 Pitman assembly - #MO 1828 or equivalent.	HMI 8-1828		15	EA.		
20	0221591130 Knife heap cap, rear - Triumph #450 or equivalent.	Alamo #0045000		25	EA.		

No.	Description	Current Mfg. No. or Brand Used by MoDOT	Mfg. or Brand Bid	Est. Qty	Unit	Unit Price	Extended Total
21	0221591140 Carriage - Triumph #3416 or equivalent.	Alamo #0341600		10	EA.		
22	0221591147 Pitman connector – Triumph #1908 or equivalent.	Alamo #0190800		50	EA.		
23	0221591155 Cylinder, curb stop, hydraulic - Triumph #2401 or equivalent.	Alamo #0693400A		10	EA.		
24	0221591158 Cylinder, lift bar, hydraulic - Triumph #2402 or equivalent.	Alamo #0693500		10	EA.		
25	0221591180 Side outlet elbow. ¼”, hydraulic fitting - Triumph #5850 or equivalent.	Alamo #0585000		45	EA.		
26	0221591200 Fly wheel assembly, with nut - Triumph #1858 or equivalent.	Alamo #0185800		5	EA.		
27	0221591247 Motor guard – Triumph #5860 or equivalent.	Alamo #0586000		5	EA.		
28	0221591258 Knife head cap, front – Triumph #1883 or equivalent.	Moore		5	EA.		
29	0221591445 Knuckle - Triumph #1130 or equivalent.	Alamo #0113000		5	EA.		

No.	Description	Current Mfg. No. or Brand Used by MoDOT	Mfg. or Brand Bid	Est. Qty	Unit	Unit Price	Extended Total
30	0221591465 Motor mount – Triumph #1827 or equivalent.	Alamo #0182700		5	EA.		
31	0221591470 Motor mount support – Triumph #2701 or equivalent.	Alamo #0270100		5	EA.		
32	0221591530 Pin, release, Triumph #1139 or equivalent (NOTE: to be used with Triumph cutterbar support #1128 (stock #0221591790)).	Alamo #0113900		25	EA.		
33	0221591553 Pin, clevis, Triumph #4242 or equivalent (NOTE: to be used with Triumph hydraulic cylinders #2401 (stock # 0221591155) and #2402 (stock # 0221591158)).	Alamo #0424200		30	EA.		
34	0221591555 Pin, carriage – Triumph #1127 or equivalent.	Alamo #0112700		30	EA.		
35	0221591556 Pin, rocker, Triumph #1141 or equivalent (NOTE: to be used with Triumph motor mount support #2701 (stock #0221591470)).	Alamo #0114100		20	EA.		

No.	Description	Current Mfg. No. or Brand Used by MoDOT	Mfg. or Brand Bid	Est. Qty	Unit	Unit Price	Extended Total
36	0221591562 Plate, knife wear, rear – Triumph #445 or equivalent.	Alamo #0044500		35	EA.		
37	0221591743 Shim, knife head cap – Triumph #453 or equivalent.	Alamo #0045300		50	EA.		
38	0221591765 Sole, inner shoe – Triumph #5855 or equivalent.	Alamo #0585500		25	EA.		
39	0221591770 Sole, outer shoe – Triumph #1238 or equivalent.	Moore #MO1238		20	EA.		
40	0221591779 Subframe – Triumph #6547 or equivalent.	Alamo #0654700		5	EA.		
41	0221591790 Support, cutterbar – Triumph #1128 or equivalent.	Alamo #0112800		10	EA.		
42	0221591795 Support, spring with spring - Triumph #1190 or equivalent.	Alamo #0119000		20	EA.		
43	0221566070 JC stump jumper, approximately 34” diameter, for 6’ mower – JC 16004 or equivalent.	HMI-JC 16004		5	EA.		
44	0221566155 JC drive shaft, for JC built mower - JC14001 or equivalent (NOTE: torque limiter not included – order separately)	HMI JC 14001		5	EA.		

No.	Description	Current Mfg. No. or Brand Used by MoDOT	Mfg. or Brand Bid	Est. Qty	Unit	Unit Price	Extended Total
45	0221566360 JC torque limiter (slip clutch), for use with JC drive shaft – JC 13001 or equivalent.	HMI JC 13001		10	EA.		
46	0221566337 JC spider - JC #2065 or equivalent (replacement part for use with JC flex coupler #2211).	HMI 2065		5	EA.		
47	0221591015 Shoe assembly, inner, complete assembly includes inner shoe, wear plate, and rivets – Triumph #5713 or equivalent.	Alamo #5713		15	EA.		
48	0221591016 Shoe assembly, outer, complete assembly includes outer shoe, ledger plate and rivets – Triumph #5709 or equivalent.	Moore MO5709		40	EA.		
49	0221591025 Bolt, knuckle – Triumph #1443 or equivalent (For use with Triumph knuckle bolt nut #1421 (stock #0221591475) (NOTE: grease zerk not included)	Alamo #0144300		30	EA.		

No.	Description	Current Mfg. No. or Brand Used by MoDOT	Mfg. or Brand Bid	Est. Qty	Unit	Unit Price	Extended Total
50	0221591460 Hydraulic Motor – fits Triumph 2500 Hydro-Clipper, Triumph #1886 (mounting bolt not included).	Alamo #02977145		25	EA.		
51	TBD Hydraulic Motor – fits Triumph 2500 Hydro-Clipper	Alamo #02977145		10	EA.		
<b>TOTAL FOR ALL ITEMS</b>						<b>\$</b>	

**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

**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.

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

**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 contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws and Executive Order 07-13 for work performed in the United States.
- d. 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.

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

**Cancellation of Contract**

- a. The MHTC may cancel the contract at any time for a material breach of contractual obligations or for convenience by providing the Contractor with written notice of cancellation. Should the MHTC exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Contractor.
- b. If the MHTC cancels the contract for breach, the MHTC reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the MHTC deems appropriate and charge the Contractor for any additional costs incurred thereby.

**Bankruptcy or Insolvency**

- a. Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assigned the benefit or creditors, the Contractor must notify MoDOT immediately. Upon learning of any such actions, the MHTC reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the Contractor responsible for damages.

**Inventions, Patents, and Copyrights**

- a. The Contractor shall defend, protect, and hold harmless the MHTC, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the Contractor's performance or products produced under the terms of the contract.

**Inspection and Acceptance**

- a. No equipment, supplies, and/or services received by MoDOT pursuant to a contract shall be deemed accepted until MoDOT has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the Contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
- c. The MHTC reserves the right to return any such rejected shipment at the Contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. The MHTC's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the MHTC may have.

**Warranty**

- a. The Contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by MoDOT, (2) be fit and sufficient for the purpose expressed in the solicitation documents, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
- b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the MHTC's acceptance of or payment for said equipment, supplies, and/or services.

**Status of Independent Contractor**

- a. The Contractor represents itself to be an independent Contractor offering such services to the general public and shall not represent itself or its employees to be an employee of the MHTC. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save and hold the MHTC, its officers, agents and employees harmless from and against any and all losses (including attorney fees) and damage of any kind related to such matters.

**Indemnification**

- a. The Offeror shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Offeror's performance of its obligations under this Agreement.