



**CITY OF WENTZVILLE
WENTZVILLE, MO 63385**

INVITATION FOR BID COVER PAGE

IFB #: 16-282
TITLE: CONCRETE TOOLS & SUPPLIES
Bid Issued: March 21, 2016

CONTACT: Alice Winkelman
PHONE NO.: (636) 639-2026
EMAIL: alice.winkelman@wentzvillemo.org

RETURN BID NO LATER THAN: April 8, 2016, 2:00 PM prevailing Central time

MAILING INSTRUCTIONS: The Bidder is to print or type **IFB Number, Return Due Date, and Title** on the lower left hand corner of the envelope or package. Delivered sealed bids must be in the Procurement Department by return bid date and time.

RETURN BID TO: **CITY OF WENTZVILLE**
 IFB #16-282
 310 W. PEARCE BLVD
 WENTZVILLE, MO 63385

This document constitutes a request for sealed bids from qualified companies, individuals, and/or organizations to furnish the product and services as described herein. The bidder hereby declares understanding, agreement and certification of compliance to provide the product and services, at the prices quoted, in accordance with all requirements and specifications contained herein and the City of Wentzville Terms and Conditions. The bidder further agrees that the language of this IFB shall govern in the event of a conflict with his/her bid. The bidder further agrees upon receipt of an authorized purchase order from the City of Wentzville is issued by an authorized official of the City of Wentzville, a binding contract shall exist between the bidder and the City of Wentzville.

BIDDER SIGNATURE REQUIRED

AUTHORIZED SIGNATURE	DATE
PRINTED NAME	TITLE
COMPANY NAME	(Individual Or Partnership Or Corporation) STATE OF:
MAILING ADDRESS	PHONE NO.
CITY, STATE, ZIP	FAX NO.
FEDERAL EMPLOYER ID NO.	Missouri Charter Number (if licensed in MO)
EMAIL ADDRESS	

CITY OF WENTZVILLE, MISSOURI
PART ONE - STANDARD INSTRUCTIONS TO BIDDERS

1.1 GENERAL INFORMATION

The City of Wentzville is seeking to establish a contract for the purchase of Concrete Tools and Supplies with an established supplier that meets all of the criteria as established within this IFB. Items will be ordered on an as-needed basis.

Contract Period: Date of award or May 12, 2016 (whichever is later) through October 31, 2017.

1.2 CHECKLIST FOR SUBMITTING A BID:

This checklist is provided for the Bidder's information only and is not part of the Specifications and Contract Documents.

Bid package submittal shall consist of 1 original and 1 copy of the following:

- ✓ BID COVER PAGE, Page #1
- ✓ Bid Pricing Page completely filled out, properly executed by Bidder including manual signature
- ✓ Product Specification sheets/ literature
- ✓ Non-Collusive Affidavit filled out on the form provided
- ✓ Any addenda issued to this bid

Bid Quotation and all required attachments enclosed in a sealed envelope and

- ✓ Marked with Bid Number and Bid Title
- ✓ Marked with name of Bidder
- ✓ Due Date of Bid

1.3 FAX / E-MAIL: The City of Wentzville for this IFB will not accept bid submissions by fax or email.

1.4 All bid pricing must be submitted on the City's IFB Pricing Pages.

1.5 QUESTIONS AND UPDATES:

A. Bidders are encouraged to submit written questions through the Procurement Department's contact person shown on the Invitation for Bid Cover Page.

In order to ensure all potential respondents receive the same information, the City will post its response on the City's website

http://www.wentzvillemo.org/departments/procurement/current_bidding_opportunities.php.

Bidders are responsible for checking the City's website for the issuance of any addendums. The Bidding Opportunities website shall be the official site for information as related to this IFB. Any documentation posted elsewhere will not be applicable should a bidder use the information as related to a contract protest. Please visit this site periodically to check for any additional information.

B. Any information provided to a bidder outside of the procedural guidelines of this IFB shall be considered not to be valid and will not be considered during the evaluation process.

C. To ensure fair consideration for all bidders, the City prohibits communication to or with any City department(s), board member(s), or employee(s) during the submission process, except as provided above. Additionally, the City prohibits communications initiated by a bidder to the City official(s) or employee(s) evaluating or considering the bids prior to the time an award decision is made. Any communication between Bidder and the City will be initiated by the appropriate City official(s) or employee(s) in order to obtain information or clarification needed to develop a proper, accurate evaluation of the bid. Such communications initiated by a bidder may be grounds for disqualifying the offending bidder from consideration for award of the bid and/or any future bid(s).

D. The City may add, delete, or amend services as it may deem advisable. Any and all addendums or amendments as related to this IFB must be processed and approved through the City's Procurement Department to be applicable to this IFB.

1.6 PREPARATION OF BIDS:

A. Bidders are expected to examine the Specifications, delivery schedule, requirements and all instructions of the Invitation for Bid. Failure to do so will be at Bidder's risk. In case of a mistake in extension, the unit price(s) will govern.

B. All supplies and equipment offered in a bid must be new and of current production unless the Invitation for Bid clearly specifies that used or reconditioned supplies or equipment may be offered.

1.7 PRICE:

A. All prices shall be as indicated on the Pricing Page. The City shall not pay nor be liable for any other additional costs including but not limited to fuel, fuel surcharges, taxes, shipping and handling charges, personnel, time, travel, vehicles, mileage, insurance, interest, penalties, termination payments, attorney fees, liquidation damages, etc.

B. Unless otherwise indicated, prices quoted shall be firm for acceptance for ninety (90) calendar days from bid opening and for the specified contract period.

1.8 DEVIATION OF SPECIFICATION: any bidder deviating from the specifications must provide supportive documentation explaining such deviation. The supportive documentation is required with the bid submission.

1.9 OPEN COMPETITION:

Any manufacturer's name, trade names, brand names, information and/or catalog numbers listed in a specification and/or requirement are for informational purposes only and are not intended to limit competition. The bidder may offer any brand of product that meets or exceed the specifications. Determination of equivalency shall rest solely with the City. Bids that do not comply with the requirements and specifications, are subject to rejection without further consideration.

1.10 ESTIMATED QUANTITY: The quantity specified in this IFB is an estimate only. If the City requires more or less material than stated, the Seller shall furnish and deliver the

City's requirements at the contracted unit price. The Seller shall not be entitled to damages and/or additional compensation by reason of quantity reductions.

1.11 MODIFICATION OR WITHDRAWALS OF BIDS:

Bids may be modified or withdrawn by written notice received prior to the official closing date and time specified. A bid may also be withdrawn or modified in person by the Bidder or his authorized representative provided proper identification is presented before the official closing date and time. Verbal phone requests to withdraw or modify a bid will not be considered. After the official closing date and time, no bid may be modified or withdrawn.

1.12 INCURRED EXPENSES:

The City is not responsible for any expenses which bidders may incur in preparing and submitting bids called for in this Invitation for Bid.

1.13 BID OPENING:

The bid opening shall be public on the date and at the time specified on the Invitation for Bid document.

1.14 TABULATIONS: The bid tabulation will be posted on the City's website http://www.wentzvillemo.org/departments/procurement/bid_tabulations.php

1.15 All bids become the property of the City. If any proprietary information is contained in the bid, it should be clearly identified. Marking the entire bid as proprietary will be neither accepted nor honored. If a request is made to view a Bidder's bid submission, the City will comply according to Missouri Sunshine Law.

1.16 PAYMENT:

Bidder shall be paid the amount quoted on the Pricing Page. The Bidder shall submit all invoices complete with necessary support documentation to City and City shall make payment within 30 days of receipt of an invoice after satisfactory performance of the delivery and receipt of the products as shown on the Pricing Page.

1.17 COMPLIANCE WITH TERMS AND CONDITIONS:

The Bidder is cautioned when submitting pre-printed terms and conditions regarding proprietary information, copyright, usage restrictions, license agreements, etc., to make sure such documents do not contain other terms and conditions which conflict with those of the IFB and its contractual requirements.

1.18 BUY AMERICAN:

Bidders are encouraged to purchase American-made equipment and products.

1.19 BUY STATE OF MISSOURI PREFERENCE: Bidders are encouraged to purchase commodities and tangible property manufactured, produced, or grown within the local area and in State of Missouri and from all firms, corporations, or individuals with licensed businesses in the State of Missouri. This guideline pertains to all commodities and tangible property when quality is equal or better and the delivered price is the same or less, or when competing bids, in their entirety, is comparable.

1.20 CITY SEAL, FLAG AND LOGO:

In accordance with City of Wentzville Ordinance No. 2633, the City of Wentzville logo is a registered trademark. The City logo is not to be used in bid submissions or advertisements. The Bidder agrees that it shall not use in any form or medium the name of the City for any advertising unless it receives the prior written consent of the Board of Aldermen of the City.

1.21 The City of Wentzville hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this solicitation, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

**INVITATION FOR BID # 16-282
CONCRETE TOOLS AND SUPPLIES
PART TWO - SPECIFICATIONS**

2.0 GENERAL INFORMATION

A. Schedule:

The following schedule of events is anticipated by the City. The City may, at its' discretion, revise the schedule of events at any time as may be in the best interests of the City.

Publish the Invitation for Bid	March 21, 2016
Deadline for Questions from Bidders	March 30, 2016
City's Response to Questions	March 31, 2016
Bid Due Date	April 8, 2016

B. Delivery:

The Bidder shall deliver in accordance with the contracted delivery time specified in the bid or City-issued Purchase Order. Noncompliance with this specification may be viewed as noncompliance with the bid specifications. Failure of the Bidder to complete delivery as stated in the bid; the City reserves the right to cancel orders, or any part thereof, without obligation, if delivery is not completed within the time frame(s) specified in the bid. If the Bidder fails to complete authorized deliveries as specified; the City reserves the right to obtain services by any means the City deems necessary to fulfill the City's requirements. The Bidder shall be required to reimburse the City the cost differential of the City's payment for services and that of the contracted price.

Deliver to the following address **F.O.B. Destination:**
Public Works Department
200 E Fourth St.
Wentzville, MO 63385

C. Inspection and Acceptance:

No material received by the City pursuant to this contract shall be deemed accepted until the City has had reasonable opportunity to inspect said material. All material which is discovered to be defective, or which does not conform to any warranty of the Bidder herein, upon inspection, or at any later time if the defects contained in the material were not reasonably ascertainable upon the initial inspection, may be returned at the Bidder's expense for full credit or replacement. Such right to return offer to the City arising from the City's receipt of defective goods shall not exclude any other legal, equitable or contractual remedies the City may have therefore.

D. Warranty:

Bidder expressly warrants that all articles, materials and work covered by this contract will conform to each and every specification, drawing, sample or other description which is furnished to or is adopted by the City and that they will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect. Such warranty shall not be deemed waived either by reason of the City's acceptance of said material or goods or by payment for them.

2.1 SPECIFICATIONS: See Pricing Pages.

**INVITATION FOR BID # 16-282
CONCRETE TOOLS AND SUPPLIES
PART FOUR**

4.0 BID EVALUATION AND AWARD

4.1 Method of Award:

The solicitation shall be awarded to the lowest, responsive, responsible bidder. The City reserves the right to reject any or all bids, or portions thereof, to waive technicalities or deficiencies in any or all the bids. The City of Wentzville reserves the right to cancel this IFB in part or in its entirety. This IFB does not commit the City of Wentzville to award a contract or to pay any costs to bidders in preparation of their bid.

The City reserves the right to award to one vendor, or to award by to multiple vendors by Section. Bidder must bid all items in a Section in order to be considered for award of that Section.

4.2 Before providing the City with the item(s), Seller must receive a properly authorized Purchase Order.

4.3 Per City of Wentzville Procurement Policy of March 25, 2015, for the purchase of goods valued at or above \$25,000, where a responsive, responsible local proposer meets all specifications and submits a bid that is within 5% of the lowest, responsive, responsible proposer, the local proposer will be provided an opportunity to match the same price, terms and conditions of the lowest, responsive, responsible proposer, and if it does match such bid, then the award will go to the local proposer unless otherwise prohibited by law. A local proposer is defined as having a City Business license as required by Section 605.040 of the Wentzville Municipal Code.

**CONCRETE TOOLS AND SUPPLIES, IFB #16-282
PRICING PAGES**

The Bidder shall provide the following bid prices for providing services in accordance with the provisions and requirements stated herein. All costs (shipping/handling, personnel, time, travel, fuel, fuel surcharge, vehicles, mileage, reporting, or other costs) associated with providing the services listed below shall be considered incidental and are to be included in the bid price. All prices shall be F.O.B. destination.

IF BIDDING OTHER THAN THE BRAND & MODEL SPECIFIED IN THE BID, BIDDER MUST PROVIDE PRODUCT SPECIFICATION SHEET WITH BID.

The City reserves the right to award to one vendor, or to award by to multiple vendors by Section.
Bidder must bid all items in a Section in order to be considered for award of that Section.

SECTION 1: CONCRETE SUPPLIES

ITEM NO.	DESCRIPTION	SIZE	ESTIMATED QUANTITY	UNIT	UNIT PRICE	EXTENDED PRICE	BRAND & PART # YOU ARE BIDDING
1	Joint Material, Fiber Expansion Board	1/2" x 3-1/2" x 5'	2000 Feet	FOOT			
2	Joint Material, Fiber Expansion Board	1" x 6" x 5'	5000 Feet	FOOT			
3	Joint Material, Fiber Expansion Board	1" X12" X 5'	1000 Feet	FOOT			
4	Key Way for 6" concrete with out legs	10'	50	EACH			
5	Bent Bars, 90's - #4	15 x 15	200	EACH			
6	Rebar - #4	20 Feet/EA	2 Ton	TON			
7	Dee Heavy Duty Stake Puller	for 3/4 and 7/8" pins	1	Stake Puller			
8	Concrete Pins	3/4 x 24" W/Holes	10	EACH			
9	Concrete Pins	3/4 x 30" W/Holes	10	EACH			
10	Concrete Pins	3/4 x 36" W/Holes	10	EACH			
11	Toolable Caulk, Vulkem 116 Buff, 10 oz	30 per Case	5 Cases	CASE			

12	Toolable Caulk, Vulkem 116 Limestone, 10 oz	30 per Case	5 Cases	CASE			
13	Semi-Self Leveling, Vulkem 45 SSL, Buff, 29 oz	12 per Case	5 Cases	CASE			
14	Semi-Self Leveling, Vulkem 45 SSL, Limestone, 29 oz	12 per Case	15 Cases	CASE			
15	Release agent for exposed aggregate concrete, Top Etch	5 gal container	5	Container			
16	Special Patch, Conspec, or equal.	50 Lb Bag	10	BAG			
17	SpeChem Spec Plug Hyd. Cement Mortar, or equal	50 Lb Bag	2	BAG			
18	Cerama Foam	1" x 4" x 10'	48	EACH			
19	Backer Rod	3" round x 6'	120	EACH			
20	Conspec cure and seal voc or equal	55 gal drum	2	DRUM			
21	Quickcrete in plastic bags	80 Lb Bag	120	BAG			
22	Mortar Mix	80 Lb Bag	25	BAG			
23	Portland Cement	94 Lb Bag	20	BAG			
24	Concrete Baskets	8"	10	EACH			
25	Rebar Caps	Mushroom style/orange	300	EACH			
26	Silane Penetrating Sealer 20%, water based	5 Gal Bucket	36	EACH			
	TOTAL SECTION 1:						

SECTION 2: CONCRETE TOOLS

ITEM NO.	MATERIAL	SIZE	ESTIMATED QUNATITY	UNIT	UNIT PRICE	EXTENDED PRICE	BRAND & PART # YOU ARE BIDDING
27	STRIP: Replacement broom strip for Weigh-lite concrete finish broom	36"	2	EACH			
28	Concrete finish broom	24"	2	EACH			
29	Goldblatt brass groover, Model G06304		2	EACH			
30	Concrete edger's, stainless	6" x 4" x 3/4" radius	4	EACH			
31	Dee top spreaders	Dee model 301	20	EACH			
32	Hand Float, wood handle	14 inch	6	EACH			
33	Replacement snaps for aluminum poles		6	EACH			
34	Push Button Adaptor, Marshall Town #4819	1-3/4" in	2	EACH			
35	Push Button Adaptor, Marshall Town #4820	1-3/4" in	1	EACH			
36	Aluminum Pole, Snap Type	1-3/4" x 72"	1	EACH			
37	Aluminum Pole, Screw Type	1-3/4" x 72"	1	EACH			
38	Bull float, Channel Type/w Swivel	4' Ft	1	EACH			
39	Concrete Coma, Aluminum - Long/Placer Wood Handle	20 inch	2	EACH			
40	Asphalt Lute, Aluminum	30" blade/ with 7 FT handle	2	EACH			
	TOTAL SECTION 2:						

SECTION 3: GENERAL SUPPLIES

ITEM NO.	MATERIAL	SIZE	ESTIMATED QUNATITY	UNIT	UNIT PRICE	EXTENDED PRICE	BRAND & PART # YOU ARE BIDDING
41	Long Handle Paint Gun for upside down paint		1	EACH			
42	Caution Tape	3" x 1000' roll	30	ROLL			
43	White Locate Flags		500	EACH			
44	Black Plastic, 4 mil	20' x 100'	4	EACH			
45	Marking Paint (Orange), Cans (upside down)	12 ounce	2 cases	Case			
46	Marking Paint (White), Cans (upside down)	12 ounce	2 cases	Case			
47	Orange Safety Fencing, Cortina Brand Model 03 900 or equal	48" x 50'	20	EACH			
48	Sand Blast sand, Coarse	40 lb bags	25	BAG			
	TOTAL SECTION 3:						

SECTION 4: GENERAL TOOLS

ITEM NO.	MATERIAL	SIZE	ESTIMATED QUNATITY	UNIT	UNIT PRICE	EXTENDED PRICE	BRAND & PART # YOU ARE BIDDING
49	Pump Sprayers/plastic Chapin Model 1036 or equal	3 Gal	4	EACH			
50	Long Handle Scrub Brush		2	EACH			
51	Hammer 4 Lb, fiberglass handle	4 LB	4	EACH			
52	Claw hammers, Straight claw, fiberglass handle	20 ounce	4	EACH			
53	String Line and Holder, String-Liner Brand Model 11159	100 FT	3	EACH			
54	Union Tool Spading Fork Model 72139 or equal	Spading Fork	1	EACH			
55	Union Tool Road - Stone Rake Model 63122 or equal	Rake	3	EACH			
56	Union tool round point model 45160 or equal	Round point shovel	3	EACH			
57	Union tool border spade model 46136 or equal	Border spade	3	EACH			
58	Union tool 14" drain spade model 47104 or equal	Drain spade	2	EACH			
59	Union tool post hole digger model 78007	All steel post hole digger	2	EACH			
60	Jackson Flat shovel model BMTDS or equal	Square point d-handle	4	EACH			

61	4' Heavy Duty Level w/top sight	4'	1	EACH			
62	Street Broom, Poly/w handle	18" in	6	EACH			
63	Keson G100 Pro-Line 100' Little Giant Chalk Line Reel		1	EACH			
64	Tape Measure	25' Ft	6	EACH			
65	Rolling Tape, all metal	12" in Wheel	1	EACH			
	TOTAL SECTION 4:						

SECTION 5: SAW BLADES

ITEM NO.	MATERIAL	SIZE	ESTIMATED QUNATITY	UNIT	UNIT PRICE	EXTENDED PRICE	BRAND & PART # YOU ARE BIDDING
66	(356) x .125 x 1 DP 20mm B, #542774541, Hard Material	14 inch	4	EACH			
67	Target Millennium, C2, (500) x .125 x 1 DP, #770626, Cured Concrete	20 inch	2	EACH			
68	Target HS5 Dri Disc, 16" x .125 x 1", Diamond Blade, Hard Material	16 inch	4	EACH			
69	Target Millennium, 03 (600) x .165 x 1 DP #770336, Asphalt Overlay	24 inch	2	EACH			
	TOTAL SECTION 5:						

All items will be ordered on an as-needed basis.

Estimated Delivery Date after receipt of order: _____ days

Company Legal Name: _____

Address: _____

Signature: _____

Print Name: _____

Phone: _____

Fax: _____

Email: _____

State in which bidding company is incorporated: State of _____ and the

State Registration Number: _____

**IF BIDDING OTHER THAN THE BRAND & MODEL SPECIFIED IN THE BID, BIDDER
MUST PROVIDE PRODUCT SPECIFICATION SHEET WITH BID.**

NON-COLLUSIVE AFFIDAVIT OF PRIME BIDDER

State of Missouri)
S.S.
County of _____)

_____, being first duly sworn, deposes and says that:

1. They are the (owner, partner, officer, representative, or agent) of _____, the Bidder that has submitted the attached Bid;
2. They are fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
3. Such bid is genuine and is not a collusive or sham bid; and that all statements made and fact set out in the Proposal are true and correct;
4. Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest including this affidavit, has in any way colluded, considered, connived, or agreed, directly or indirectly with any other bidder, firm, or person, to submit a sham bid in connection with the Contract for which the attached bid has been submitted or to refrain from bidding in connection with such Contract; or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, firm, or person to fix the price or prices in the attached Bid or of any other bidder, or to fix the overhead, profit, or cost element of the Bid price of the other bidder, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against the City of Wentzville or any person interested in the Proposed Contact.
5. The price or prices quoted in the attached Bid are fair and proper, and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affidavit; and
6. They further certify that bidder is not financially interested in or financially affiliated with any other Bidder on this project.

Signed: _____

Title: _____

Subscribed and sworn to before me this _____ day of _____, 2016.

Notary Public

My Commission expires: _____

Presented as Sample
AGREEMENT FOR THE SALE OF GOODS
CONCRETE TOOLS AND SUPPLIES
CONTRACT #16-282

THIS AGREEMENT FOR THE SALE OF GOODS (this "Agreement"), is made and entered into as of this ____ day of _____, 2016, by and between _____, a _____ having a principal office at _____ (the "Seller"), and the City of Wentzville, a Missouri municipal corporation located in St. Charles County (the "City"). *All capitalized terms used and not defined herein shall have the meanings ascribed to them in the Contract Documents (as hereinafter defined).*

RECITALS

- A. In response to INVITATION FOR BID #16-282 of the City requesting bids for certain concrete tools and supplies, the Seller has submitted a certain bid in accordance with the Bid Documents to perform the Services.
- B. After due consideration, the City has accepted the bid response of the Bidder, and the parties hereto desire to enter into this Agreement whereby the Bidder shall undertake the performance of the Services in accordance with the Contract Documents and the City shall pay the Bidder as hereinafter specified.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual promises hereinafter set forth the City and the Bidder hereby agree as follows:

1. **Contract Documents.** This Agreement shall consist of: (i) IFB #16-282 including, without limitation:
 - a. Bid Cover Page
 - b. Bid Pricing Page(s) completely filled out
 - c. Non-Collusive Affidavit filled out on the form provided
 - d. Any addendums issued to the bid
 - e. Invitation for Bids
 - f. Supporting Documentation
 - g. Executed Agreement for Sale of Goods
 - h. Terms and Conditions
 - i. Notice of Award issued by City

2. **Term:** Date of award or May 12, 2016 (whichever is later) through October 31, 2017, subject to the "Multi-year contracts; Non-appropriation" paragraph below.

3. **Description of Goods.** Seller agrees to transfer and deliver to Buyer, on or before _____ [date], the goods described in Seller's PRICING PAGE incorporated herein by reference.

4. *Payment Terms*: Seller shall be paid the amount quoted on Exhibit A. The Seller shall submit all invoices complete with necessary support documentation to City and City shall make payment within 30 days of receipt of an invoice after satisfactory performance of the delivery and receipt of the products as shown on Exhibit A. Payment Terms are net 30 days. Remit Address is City of Wentzville, Accounts Payable, 5 W. Pearce Blvd., Wentzville, MO 63385.

5. *Multi-year contracts; Non-appropriation*. Notwithstanding any provision herein to the contrary, the City is obligated only to make the payments set forth in the attached contract as may lawfully be made from funds budgeted and appropriated for that purpose during the City's then current fiscal year at the discretion of the City. If no funds are appropriated or otherwise made legally available to make the required payments for this Agreement during the next occurring fiscal year (an "Event of Nonappropriation"), this Agreement will terminate at the end of the then current fiscal year as if terminated expressly. The failure or inability of the City to appropriate funds for this Agreement in any subsequent fiscal year shall not be deemed a breach of this Agreement by any party. If applicable, this Agreement may be annually renewed at each fiscal year by inclusion of specific appropriation for this Agreement, from year to year not to exceed the maximum renewal period or term as set forth in the Agreement.

6. *Termination*. The City shall have the right to terminate the Agreement at any time for any reason by giving Seller written notice to such effect. City shall pay to Seller in full satisfaction and discharge of all amounts owing to Seller under the Contract an amount equal to the cost of all Services performed by Seller up to such termination date, less all amounts previously paid to Seller. Seller shall submit to City its statement for the aforesaid amount, in such reasonable detail as City shall request, within thirty (30) days after such date of termination. City shall not be liable to Bidder for any damages on account of such termination for loss of anticipated future profits with respect to the remainder of the Services.

7. *Delivery*. Seller will arrange for delivery through a carrier chosen by Seller, the costs of which shall be F.O.B. City of Wentzville.

8. *Risk Of Loss*. The risk of loss from any casualty to the Goods, regardless of the cause, will be the responsibility of the Seller until the Goods have been received and accepted by the City.

9. *Acceptance*. City will have the right to inspect the goods upon receipt, and within ten (10) business days after delivery, City must give notice to Seller of any claim for damages on account of condition, quality, or grade of the goods, and City must specify the basis of the claim in detail. All notices between the parties must be in writing and delivered by courier or by U.S. mail.

10. *Charges*. Seller shall invoice City upon and for each shipment. City shall pay all charges on terms of the PRICING PAGE.

11. *Warranty*. Seller warrants that the goods sold hereunder are new and free from substantive defects in workmanship and materials. Seller warrants that the goods are free from any and all security interests, liens, and encumbrances.

12. *Taxes*. The City is exempt from sales tax.

13. *Governing Law*. This Agreement shall be governed by the laws of the State of Missouri. Any disputes hereunder will be heard in the appropriate federal and state courts located in or serving St. Charles County, Missouri.

14. *Force Majeure.* City or Seller may, without liability, delay performance or cancel this Agreement on account of force majeure events or other circumstances beyond its control, including, but not limited to, strikes, acts of God, political unrest, embargo, or casualty.

15. *Miscellaneous.* This Agreement contains the entire agreement between the parties and supersedes and replaces all such prior agreements with respect to matters expressly set forth herein. No modification shall be made to this Agreement except in writing and signed by both parties. This Agreement shall be binding upon the parties and their respective heirs, executors, administrators, successors, assigns and personal representatives.

SELLER

By: _____
Signature

Name & Title

Date

CITY OF WENTZVILLE, MISSOURI

By: _____

Date

ATTEST:

City Clerk

**CITY OF WENTZVILLE, MISSOURI
TERMS AND CONDITIONS**

A. This contract expresses the complete agreement of the parties and performance shall be governed solely by the terms and conditions contained herein. Changes, additions or modifications hereto must be writing and signed by the Procurement Director.

B. **DELIVERY:** Time is of the essence of this order. If deliveries or completion time are not made at the time agreed upon, the City reserves the right to cancel or to purchase elsewhere and hold Seller liable for any re-procurement costs.

C. **SHIPMENT:** Deliveries shall be FOB Destination unless otherwise specified by the City.

D. **EQUIPMENT:** The unit shall be new, and of current production model. All equipment, parts, special tools and features not specifically mentioned which are considered to be standard and/or necessary for the unit to be complete and ready for day-to-day operation shall be included. The equipment and/or materials provided shall comply or exceed all applicable Federal and State of Missouri safety, health, lighting and noise regulations and standards in effect and applicable to equipment furnished at the time of manufacture and comply with SAE definitions and standards. The equipment furnished under this specification shall be the latest improved model in current production, as offered to commercial trade, and shall be of quality workmanship and material. All parts shall conform in strength, quality, and represents that all equipment offered under this specification shall be new. USED, SHOPWORN, DEMONSTRATOR, PROTOTYPE, OR DISCONTINUED MODELS ARE NOT ACCEPTABLE.

E. **INSPECTION AND ACCEPTANCE:** No material received by the City pursuant to this contract shall be deemed accepted until the City has had reasonable opportunity to inspect said material. All material which is discovered to be defective, or which does not conform to any warranty of the Seller herein, upon inspection, or at any later time if the defects contained in the material were not reasonably ascertainable upon the initial inspection, may be returned at the Seller's expense for full credit or replacement. Such right to return offer to the City arising from the City's receipt of defective goods shall not exclude any other legal, equitable or contractual remedies the City may have therefore.

F. **WARRANTY:** Seller expressly warrants that all articles, materials and work covered by this contract will conform to each and every specification, drawing, sample or other description which is furnished to or is adopted by the City and that they will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect. Such warranty shall not be deemed waived either by reason of the City's acceptance of said material or goods or by payment for them.

G. **DELIVERY PERFORMANCE:** The Seller shall deliver in accordance with the contracted delivery time specified in the Contract or City-issued Purchase Order. **All orders must be shipped FOB Destination.** Noncompliance with this specification may be viewed as noncompliance with the bid specifications.

H. **NONCOMPLIANCE WITH DELIVERY:** Failure of the Seller to complete delivery as stated in paragraph G above; the City reserves the right to cancel orders, or any part thereof, without obligation, if delivery is not completed within the time frame(s) specified in the referenced paragraph. If the Seller fails to complete authorized deliveries as specified; the City reserves the right to obtain services by any means the City deems necessary to fulfill the City's requirements. The Seller shall be required to reimburse the City the cost differential of the City's payment for services and that of the contracted price.

I. **SUBSTITUTIONS:** The Seller shall not substitute any item(s) that has been awarded to the Seller without the prior written approval of the City's applicable Director and executed by the Procurement Director. Any product substitution must be of equal or better functionality and of equal or lower pricing.