

Issue Date: 10/08/2012

OREGON DEPARTMENT OF TRANSPORTATION
INVITATION TO BID FOR THE RENTAL OF GOODS
(FLEET SPECIFIC)



BID NO.:	730-25298-12	CLOSE DATE:	10/23/2012	TIME:	2:00PM Pacific
DESCRIPTION:	Seasonal Wheel Loader & Tool Carrier Rental				
BUYER:	Jon Miller	PHONE:	503-986-0279	FAX:	503-986-5790
		E-MAIL:	jonathan.d.miller@odot.state.or.us		

PREBID CONFERENCE: NO

THIS IS A FORMAL PROCUREMENT. FAXED OR EMAILED BIDS OR E-BIDDING WILL NOT BE ACCEPTED.

BID SUBMITTAL ADDRESS AND BID CLOSING: The Oregon Department of Transportation (hereinafter "ODOT") will receive sealed Bids until the time and closing date shown above, or as amended by Addenda, at the ***ODOT PROCUREMENT OFFICE*** at:

OREGON DEPARTMENT OF TRANSPORTATION
PROCUREMENT OFFICE
455 AIRPORT RD. SE, BUILDING K
SALEM, OREGON 97301-5348

SINGLE POINT OF CONTACT: There will be only 1 point of contact during the procurement process. This includes the bidding process; requests for brand approval, change, clarification, and protests; the award process; and any other questions that may arise. The Single Point of Contact will be the Buyer listed above, unless otherwise stated in ***SECTION F Special Price Agreement Terms and Conditions.*** Any questions or issues that may arise regarding the specifications, the bidding process, or the award process must be directed to the Buyer listed above. ODOT's official response to any questions or requests will be through direct letters (electronic / hard copy) or the addendum process.

FOR MORE INFORMATION please refer to Section B "General Bidding Information and Instructions to Bidders".

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ATTACHMENTS: The following attachments are hereby incorporated by reference:

ATTACHMENT A: ODOT REGION MAP

****Bidder is responsible for completing and returning any page(s) in any attachment(s) which require a response.***

SCHEDULE OF EVENTS

ITB Issue/Release:	10/08/2012
Deadline for Requesting Changes/ Clarifications:	10/16/2012
Closing Date	10/23/2012
Bid Opening Date and Time:	10/23/2012 @ 2PM
Price Agreement Start Date:	TBD

Note: All dates listed are subject to change.

SECTION A - INVITATION TO BID SUMMARY

This Section is included to familiarize potential Bidders with the overall scope of the anticipated procurement, the selection criteria, and the method of award. Refer to detailed Sections identified in the TABLE OF CONTENTS, for complete information.

A.1 PURPOSE OF SOLICITATION: The Oregon Department of Transportation ("ODOT") hereby solicits bids to establish a Price Agreement for the purchase of Services for Seasonal Rental of 4 Wheel Articulated Loaders and/or Tool Carriers with buckets only, of various machine and bucket sizes, as specified in this ITB. These machines will be used throughout all ODOT Regions in multiple locations around the state in winter operations. Bidders are advised to review the provided ODOT Region Map, Attachment A.

Rental period would be from November 1st, through March 31st each year. Rental rates would be charged on a monthly basis with a cap of 200 usage hours for the rental term. Bid will include a, per hour cost if 200 hour cap is exceeded. All usage will be based from unit's hour meter at time of delivery.

Quantity estimates; up to 20 machines per term with no quantity guaranteed.

Units provided under the Agreement may be of new manufacture, demonstration units, rental or return units.

Vendors may bid any or all categories.

All units will be delivered to:

ODOT Fleet Operations
455 Airport Rd. SE, Bldg. L
Salem, OR, 97301

The anticipated initial term of this Contract shall be five (5) years with extension options of up to two (2) additional years. The maximum term of this Contract shall be seven (7) years.

ODOT may allow other Authorized Purchasers use of the resulting Contract in accordance with ORS 279A.200 through 225 (Permissive Cooperative Procurements).

A.2 RESERVED

A.3 METHOD OF BIDDING: Bidders shall submit unit pricing for ALL mandatory bid items to receive award consideration. Bidders shall submit the unit price for all mandatory items listed in **SECTION D PRICING PROPOSAL**. The price of each item must be extended to show the total where required. In case of errors in extension, the unit price will prevail. Bidder may additionally submit unit pricing for optional accessories and any Bid items listed as "if available". Bidders must clearly identify all Goods bid; brand name, model and number, if any, must be shown. Bidders shall provide all requested information, including pricing in U.S. funds, for each bid item. Bids received with incomplete or illegible bid information may be considered non-responsive and may be rejected.

A.4 METHOD OF AWARD:

Multiple Selection: At ODOT's discretion, multiple Agreements may be awarded under the ITB. Award(s) will be made to the lowest responsive and responsible Bidder(s) for Bid Items 1 to 5 (see Section D), on a partial or all

basis. It is anticipated that approximately 1-5 Bidders will be selected for Price Agreement award from this solicitation. Agency, at its sole discretion, may select more or fewer based on the Bids submitted and the results of the evaluation. ODOT reserves the right to withdraw any item(s) from award if it is in the best interest of ODOT.

To ensure complete coverage and availability for the requested Items across all ODOT Regions, ODOT reserves the right to award multiple Price Agreements.

Up to one year following the close of this solicitation, Agency may select one or more additional Responsive and Responsible Bidder(s) (pending agreement by Bidders) for Contract award in the event that a contract previously awarded from this solicitation is terminated, or Agency determines award of additional Contract(s) is necessary to meet Agency's needs for Services and Goods within the scope of this solicitation.

Permissive Cooperative Procurement: ODOT intends to establish a Permissive Cooperative Contract resulting from this solicitation pursuant to ORS 279A.200 through .225 and ORS 137-046-0400 through -0480.

ESTIMATE OF PURCHASES:

A.5.1 ODOT makes no representation or guarantee whatsoever as to the amount or type of purchases to be made under this Price Agreement. All estimated quantities listed in this ITB, including those listed in **SECTION D PRICING PROPOSAL** are estimates of the quantities that may be ordered by ODOT during the initial term of the Price Agreement. These figures are intended to serve only as a general guide to Bidders and a method for bid evaluation, and are not be construed as a representation or guarantee of the number or quantity of items that may actually be purchased by ODOT during the initial term of the Price Agreement. By submitting a bid, each Bidder thereby expressly waives and relinquishes any claim it may have, if awarded the Price Agreement, which arise out of or is related to the quantity of items ODOT actually purchases under the Price Agreement.

A.6 RESERVED

A.7 DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION GOALS:

The utilization of federal funds is not anticipated in this Price Agreement and no DBE Participation goals will be assigned. In the event that federal funding becomes available and will be utilized, the Price Agreement may be amended to require DBE participation and compliance with the DBE provisions.

A.8 NON-DISCRIMINATION: Agency, in accordance with the Title VI of the Civil Rights Act of 1964, 78 Stat. 252. 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all Bidders that it will affirmatively ensure that all business enterprises will be afforded full opportunity to submit Bids in response to this solicitation and will not be discriminated against on the grounds of race, color, sex, or national origin in consideration for an award.

SECTION B - GENERAL BIDDING INFORMATION AND INSTRUCTIONS TO BIDDERS

B.1 GENERAL DEFINITIONS:

"Addendum" or "Addenda" means an addition or deletion to, a material change in, or clarification of, the ITB. Addenda will be labeled as such and will be made available to all interested Bidders in accordance with OAR 137-047-0430 (2).

"Bid" means the Bidder's written offer submitted in response to the ITB, including all necessary attachments and information required to be submitted prior to award. (Refer to **SECTION B.4.**)

"Bid Closing" means the date and time set in the ITB for Bid submission, after which Bids may not be submitted, modified, or withdrawn by Bidder.

"Bid Opening" means the same date and time set for Bid Closing, unless otherwise specified in **SECTION B.10** or by Addendum.

"Bidder" means the person or other legal entity that submits a Bid in response to an ITB.

"Contract" means the entire agreement between the Contractor and ODOT, comprised of the Invitation to Bid, Successful Bidder's Bid, a signed Purchase Order, and Contract amendments, if any.

"Contractor" means the person, organization, or other legal entity with whom ODOT enters into a Contract setting prices, terms, and conditions for the purchase of Goods and delivery of incidental Services pursuant to the ITB.

"F.O.B. Destination" means the price of the goods includes all transportation and handling charges, unless specified otherwise in the solicitation document. Responsibility and liability of loss or damage remains with the Contractor until final inspection and acceptance when responsibility passes to ODOT except as to latent defects, fraud and Contractor's warranty obligations.

"Goods", "Goods and services" or "goods or services" means supplies, equipment, materials, installed components, accessories, services and any personal property, including any tangible, intangible and intellectual property and rights and licenses in relation thereto, that a contracting agency is authorized by law to procure. "Goods and services" or "goods or services" includes combinations of any of the items identified in this paragraph.

"Invitation to Bid" or "ITB" means the entire solicitation document, including all parts, sections, exhibits, attachments, Addenda, and all matter incorporated by reference.

"OAR" means the Oregon Administrative Rules.

"ODOT" or "Agency" or "Authorized Purchaser" means the State acting by and through the Oregon Department of Transportation, a purchaser authorized by ODOT via a Permissive Cooperative agreement or an authorized representative of the Department of Administrative Services having the authority to contract pursuant to this Price Agreement

"ODOT Procurement Office" means the Procurement Office Section of ODOT.

"Oregon Procurement Information Network" or "ORPIN" means the current State of Oregon Automated Procurement System used by the Oregon Department of Transportation. The ORPIN System website is located at: <http://orpin.oregon.gov/open.dll/welcome>

"ORS" means the Oregon Revised Statutes.

"Price Agreement" means a Public Contract for the Procurement of Supplies and Services at a set price

"Purchase Order" means the purchase document submitted to Contractor for the purchase of Goods under the Contract.

"Specifications" means the specific attributes of the Goods to be purchased and incidental Services to be provided, if any.

"Services" means the services, if any, to be performed under the Contract incidental to the purchase of Goods.

"State" means the State of Oregon and its boards, commissions, departments, institutions, branches, and agencies.

"UCC" means the Uniform Commercial Code, ORS chapters 71 and 72, as applicable and as amended from time to time.

"Units" and **"Goods"** may on occasion be used interchangeably; in such cases "Unit" means "Good," as defined in this Section.

"Work" includes all labor, material and services required to complete a Good.

B.2 GENERAL INFORMATION:

SOLICITATION LAW AND RULES: This ITB and the resulting Price Agreement(s) are governed by Oregon Law. Specific laws and rules that govern the solicitation process are found in 279A and 279B of the Oregon Revised Statute ("ORS") and the Attorney General's Model Public Contract Rules, Oregon Administrative Rule ("OAR") 137-046 and 047, as adopted by the Oregon Department of Transportation Rules, OAR 731, Division 146 and 147. This ITB and resulting Price Agreement(s) may be subject to other laws and rules. Bidders should obtain and become acquainted with the applicable provisions of the above laws and rules.

OREGON REVISED STATUTES (ORS 279A and 279B): Can be obtained from Legislative Counsel Committee, 900 Court St NE, S101 State Capitol, Salem, OR 97301-0630. Phone (503) 986-1243, or online at:

<http://www.leg.state.or.us/ors/279a.html>

<http://www.leg.state.or.us/ors/279b.html>

OREGON ATTORNEY GENERAL'S MODEL PUBLIC CONTRACT RULES (OAR 137-046 and 047): Can be obtained from the Department of Justice, Publications Center, 1162 Court St NE, Salem, OR 97301-4096; Phone (503) 378-2402 or online at:

<http://www.leg.state.or.us/ors/279a.htm>

<http://www.leg.state.or.us/ors/279b.htm>

OREGON DEPARTMENT OF TRANSPORTATION RULES (OAR 731-146 and 731-147): Can be obtained online at:

http://arcweb.sos.state.or.us/rules/OARS_100/OAR_137/137_046.html

http://arcweb.sos.state.or.us/rules/OARS_100/OAR_137/137_047.html

B.2.1 OREGON PROCUREMENT INFORMATION NETWORK ("ORPIN"):

B.2.1.1 ADDRESS: <http://orpin.oregon.gov/open.dll/welcome>

B.2.1.2 INFORMATION AVAILABLE: The ITB, all Addenda, and most attachments may be downloaded from ORPIN. Contractor must be registered on ORPIN in order to download attachments. Some attachments may not be available on the ORPIN System, and may be obtained from ODOT Procurement Office per instructions on Page 1 of this ITB. Basic registration on ORPIN is free.

VENDORS ARE RESPONSIBLE FOR ENSURING THAT THEIR VENDOR INFORMATION IS CURRENT AND CORRECT. ODOT will accept no responsibility for incorrect vendor information shown on ORPIN, or information missing from it.

CAUTION: Bidders should consult ORPIN System regularly until Bid Closing to assure that they have not missed any Addenda announcements.

B.2.2. POSTING OF NOTICES: ORPIN is utilized by ODOT for advertising Invitations to Bid and for posting notices of changes to those solicitations (via Addenda). However, Bidders must obtain the actual *solicitation documents themselves either by accessing the ORPIN Internet Web site and downloading them (see B.2.1), or by ordering a hard copy from the ODOT Buyer.*

B.2.2.1 Addenda: Bidders are exclusively responsible for downloading Addenda from the ORPIN website. It is imperative to check the ORPIN website frequently right up to the Bid closing date. By submitting a Bid, each Bidder waives any claims related to its failure to keep so apprised.

B.2.3 TRADE SECRETS: Any information Bidder submits in response to the ITB that Bidder considers a trade secret under ORS 192.501(2) or confidential proprietary information, and that Bidder wishes to protect from public disclosure, must be clearly labeled with the following: "This information constitutes a trade secret under ORS 192.501(2) or confidential proprietary information, and is not to be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192".

Bidders are cautioned that price information submitted in response to an ITB is generally not considered a trade secret under the Oregon Public Records Law. Further, information submitted by Bidder that is already in the public domain is not protected. The State will not be liable for disclosure or release of information when authorized or required by law or court order to do so. The State will also be immune from liability for disclosure or release of information under the circumstances set out in ORS 646.473(3).

B.3 BID FORMAT:

B.3.1 SIGNATURE REQUIRED; BIDDER AFFIRMATIONS: Bids must be signed in ink by an authorized representative of the Bidder. Bidder's signature and submission of a signed Bid in response to the ITB constitutes Bidder's affirmation that:

B.3.1.1 Bidder has completely read and understands all of the provisions of the particular ITB.

B.3.1.2 The Bid submitted is in response to the specific language contained in the ITB, and Bidder has made no assumptions based upon either (a) verbal or written statements not contained in the ITB, or (b) any previously-issued ITB, if any.

B.3.1.3 The Bid was prepared independently from all other Bidders, and without collusion, fraud, or other dishonesty.

B.3.1.4 ODOT will not be liable for any claims or be subject to any defenses asserted by Bidder based upon, resulting from, or related to, Bidder's failure to comprehend all requirements of the ITB.

B.3.1.5 ODOT will not be liable for any expenses incurred by Bidder in preparing and submitting its Bid or in participating in the Bid evaluation/selection process.

B.3.1.6 Bidder accepts and agrees to be bound by the terms and conditions of the Price Agreement and all Contracts entered into thereunder, and agrees to provide all Goods ordered by ODOT under the Price Agreement.

No consideration will be given to any claim resulting from bidding without fully comprehending all requirements of the Invitation to Bid.

B.3.2 IN WRITING: Bids and pricing information must be prepared by typewriter, ink or by computer, but must be signed in ink by an authorized representative of the Bidder. No oral, telephone, e-mail or facsimile Bids will be accepted.

B.3.3 FORMS TO BE USED: Required information must be submitted on the forms specified in the ITB. Any information Bidder submits that is not required to be included on forms prescribed by ODOT must be formatted in the manner called for in the ITB and submitted on Bidder's letterhead or Drawing title block.

B.4 BID CONTENTS:

B.4.1 INFORMATION TO BE INCLUDED; ATTACHMENTS: All ITB submittal copies must be complete in all respects, including necessary signatures, certifications, documentation, responses on pricing and specifications pages, and all other required information. Responses to Detailed Specifications must be complete as to actual numbers for requested weights, sizes, dimensions, part numbers, ratings, capacities, etc. All necessary attachments (e.g., residency statement, references, descriptive literature, manufacturers' warranties, etc.) must be submitted with the Bid in the required format.

B.4.1.1 The information documentation listed below in this section must be submitted with the Bid or by a Bid modification prior to Bid Closing, or the Bid will be found to be non-responsive.

SECTION C - SPECIFICATIONS

SECTION D - BID PRICING SECTION

- SECTION G** - INSURANCE REQUIREMENTS
- SECTION H** - BIDDER QUALIFICATIONS AND RESPONSIBILITY INQUIRY / CONTRACTOR REFERENCES;
- SECTION I** - RESIDENCY INFORMATION
- SECTION J** - CERTIFICATION OF COMPLIANCE WITH TAX LAWS
- SECTION K** - CERTIFICATION OF COMPLIANCE WITH NONDISCRIMINATION LAWS
- SECTION N** - ADDENDA ACKNOWLEDGEMENT
- SECTION O** - SIGNATURE OF BIDDER'S DULY AUTHORIZED REPRESENTATIVE;
- ADDENDA** - (IF REQUIRED)

B.4.2 PRODUCT IDENTIFICATION: Bidders shall clearly identify all products bid. Brand name, model, and serial, or identification number, where applicable, must be shown. ODOT reserves the right to reject any Bid when the product information submitted with the Bid is incomplete.

B.4.2.1 "OR EQUAL": Brand names, if any, listed in the Specifications as "or equal" or "or equivalent" establish the minimum requirements for quality, utility, durability, function, purpose, warranty, etc. Other product brands may be offered that are equal to or better than the brand designated. Bidder may show cost differences, alternates, and options in the space provided in the ITB.

B.4.2.2 "OR APPROVED EQUAL": Brand names, if any, listed in the Specifications as "or approved equal" or "or approved equivalent" establish the minimum requirements for quality, utility, durability, function, purpose, etc. Other product brands may be offered if they are equal to or better than the brand designated. **HOWEVER, APPROVAL OF THESE OTHER PRODUCT BRANDS MUST BE REQUESTED IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION B.5.**

B.4.2.3 ODOT WILL DETERMINE, IN ITS SOLE DISCRETION, WHETHER A PRODUCT OFFERED IS "EQUAL". When the designation is "or equal" or "or equivalent," ODOT will make its decision after Bid Closing. When the designation is "or approved equal" or "or approved equivalent," ODOT will consider timely requests for approval and make its decision prior to Bid Closing.

BIDDERS NOTE: IF A DESIGNATED BRAND HAS BEEN AUTHORIZED PURSUANT TO A BRAND-NAME EXEMPTION, AND "OR EQUAL" OR "OR EQUIVALENT" IS NOT SPECIFIED, ALTERNATIVE BRANDS MAY NOT BE OFFERED. BIDDER SHALL BE RESTRICTED TO BIDDING THE DESIGNATED BRAND ONLY.

B.4.3 CORPORATIONS, JOINT VENTURES/PARTNERSHIPS: Corporations, partnerships and joint ventures shall supply, with Bid submission, the name of the contact person for the entity. Prior to award, Bidder must provide a copy of the joint venture agreement, partnership agreement or bylaws evidencing authority to Bid and to enter into the resulting Contract that may be awarded, together with corporate resolutions (if applicable) evidencing corporate authority to participate as a corporation, joint venturer or partner. A contact person must also be designated for purposes of receiving all notices and communications under the Contract, and to act as Contractor's Contract Administrator. All partners and joint venturers shall be required to sign the Contract awarded.

B.4.4 SUBSTANTIAL COMPLIANCE REQUIRED: Incomplete Bids (not in substantial compliance with ITB requirements) cannot be considered, and cannot be supplemented by submissions delivered after Bid Closing. However, ODOT may waive minor informalities and irregularities, and may seek clarification of any response that, in its sole discretion, it deems necessary or advisable. Some or all of the clarifications

or modifications may become part of the final Contract. Clarifications may not be used to rehabilitate a non-responsive Bid.

B.5 METHODS OF SEEKING MODIFICATION OF ITB PROVISIONS:

B.5.1 PROCEDURE: The appropriate means of seeking modifications to provisions of an ITB are through (a) requests for "approved equal" or "approved equivalent" product approval; (b) requests for clarification; (c) formal submittal of requests for changes to Contractual terms or Specifications; and (d) formal submittal of protests of Contractual terms or Specifications.

Any Bid response that includes non-approved alternate product brands where approval is required, or that takes exception to the Specifications or Contractual terms of the ITB, may be deemed non-responsive and may be rejected.

B.5.1.1 REQUEST FOR "APPROVED EQUAL/EQUIVALENT" PRODUCT APPROVAL:

Requests for approval of brands as "approved equals" or "approved equivalents" of the product brand specified in the ITB, if any, will be considered unless the specified brand is identified in the ITB as the subject of a product brand exemption. Requests for brand approval must be submitted in writing to the single point of contact shown on page 1 of the ITB. To be considered, the request for brand approval must be received by ODOT by the deadline specified in **SECTION B.5.2**. The request must include sufficient product information to enable evaluation of equivalency.

B.5.1.2 REQUEST FOR CLARIFICATION: Any Bidder requiring clarification of any provision of the ITB may make a request for clarification in writing, to the single point of contact shown on page 1 of the ITB. To be considered, the request for clarification must be received by ODOT by the deadline specified on page 2 of the solicitation. **PROVIDED, HOWEVER, CLARIFICATIONS, WHETHER VERBAL, IN WRITING, OR INCLUDED IN AN ADDENDUM AS A "CLARIFICATION", DO NOT CHANGE SPECIFICATIONS, CONTRACTUAL TERMS, OR PROCUREMENT REQUIREMENTS OF AN ITB. IF A REQUEST FOR CLARIFICATION RAISES AN ISSUE THAT ODOT DETERMINES SHOULD BE HANDLED BY FORMALLY AMENDING THE ITB, ODOT WILL DO SO ONLY BY ANNOUNCING SUCH A CHANGE IN THE ADDENDUM, NOT THROUGH INFORMATION IDENTIFIED MERELY AS A "CLARIFICATION". (Refer to section B.5.3).**

B.5.1.3 REQUEST FOR CHANGES TO CONTRACTUAL TERMS OR SPECIFICATIONS: Any Bidder may submit a request for changes to Contractual terms or Specifications, in writing, to the single point of contact shown on page 1 of the ITB. To be considered, the request for changes must be received by ODOT by the deadline specified in section **B.5.2**. The request must include the reason for requested changes, supported by factual documentation, and any proposed changes.

B.5.1.3.1 If any omitted specification results in ambiguity as to material characteristics of the Goods, and inclusion is necessary to enable a reasonable person in the particular industry to properly identify such characteristics, an Offeror should seek a formal request for change to the specification, as set forth in this section **B.5.1.3**. Failure to make such a request is at Contractor's risk, and the Offeror awarded a Price Agreement shall be required to provide Goods meeting ODOT's needs with regard to any omitted specification for which change should reasonably have been sought.

B.5.1.4 PROTEST OF CONTRACTUAL TERMS OR SPECIFICATIONS: Any Bidder who believes the procurement process is contrary to law or that a Contractual term(s) or Specification(s) is unnecessarily restrictive, is legally flawed or improperly specifies a brand name, may submit a protest, in writing, to the Single Point of Contact listed on page 1 of the ITB. To be considered, the protest must be received by ODOT by the deadline specified in **B.5.2**. The protest must include the legal and factual grounds for the protest, evidence or supporting documentation that supports the grounds on which the protest is based; and relief sought, including any proposed changes.

B.5.2 METHOD OF SUBMITTING REQUESTS FOR MODIFICATION OF ITB PROVISIONS: Envelopes containing requests for clarification change, and Bid protests must be marked as follows:

Bid Request for Brand Approval
Request for Substitution
Request for Clarification
Request for Change
Protest
ITB Number
Bid Closing Date
Bid Closing Time

and must be received by ODOT no later than 7 days prior to the Bid Closing Date noted on Page 2 of the ITB. Requests submitted via email are acceptable and must be forwarded to the single point of contact buyer listed on page 1 of the solicitation. Unless this specific deadline is extended by subsequent Addenda, no requests for brand name approval, substitution, clarification, or change or protests pertaining to provisions contained in the originally-issued ITB will be considered after the date specified herein.

B.5.3 RESPONSE TO REQUESTS FOR BRAND APPROVAL, REQUESTS FOR CLARIFICATION AND CHANGE, AND PROTEST: ODOT will promptly respond to each properly submitted written request for brand approval, substitution, clarification, and change, and protest.

B.5.3.1 AMENDMENT/REVISION Where appropriate, ODOT will issue revisions and approve product substitutions via Addenda posted on the ORPIN website. ODOT may also informally respond to Bidder questions. HOWEVER, ANY SUCH RESPONSES DO NOT AFFECT THE PROVISIONS OF THE ITB. SPECIFICATIONS, CONTRACTUAL TERMS, AND PROCUREMENT REQUIREMENTS OF THE ITB CAN ONLY BE CHANGED VIA FORMAL ADDENDA ISSUED BY ODOT AND POSTED TO THE ORPIN WEBSITE.

B.5.3.2 OTHER INFORMATION ODOT single point of contact may respond to properly submitted requests for clarification via Addenda (labeled "Clarification"), or through correspondence. ODOT may also respond informally to Bidder questions by phone, or during pre-Bid or Pre-award conferences, site inspections, product demonstrations, etc. However, neither clarifications nor informal responses amend the ITB. SPECIFICATIONS, CONTRACTUAL TERMS, AND PROCUREMENT REQUIREMENTS OF THE ITB CAN ONLY BE MODIFIED THROUGH FORMAL CHANGES ANNOUNCED IN ADDENDA ISSUED BY ODOT AND POSTED ON THE ORPIN SYSTEM (Refer to **SECTIONS B.5.1 - B.5.3**).

B.6 PROTEST OF ADDENDA/REVISION: Requests for clarification, change, and protests of Addenda provisions must be received by ODOT by the date specified in the Addendum, or they will not be considered. ODOT is not obligated by law to consider requests or protests of matters not added or modified by the Addenda.

B.7 BID MODIFICATION: Alterations and erasures made before Bid submission must EACH be INDIVIDUALLY initialed in ink by the person signing the Bid. Bids, once submitted, may be modified in writing before Bid Closing. Modifications made after Bid submission must be prepared on Bidder's company letterhead, be signed by an authorized representative, and state that the modifications amend and supersede the identified portions of the prior Bid. Failure to comply with the provisions of this paragraph **Section B.7** will result in Bid rejection or rejection of the requested Bid modification.

B.7.1 Nothing in the paragraph **B.7** will be construed as allowing the Bidder to alter or otherwise change the form of the Bid, the form of the Contract, the conditions of the Bid, or the Specifications attached to the Bid documents.

B.7.2 Modifications must be submitted in a sealed envelope marked as follows:

Bid Modification
ITB Number
Bid Closing Date
Bid Closing Time

B.7.3 Bidders may not modify Bids after Bid Closing.

B.8 BID SUBMISSION:

B.8.1 NUMBER OF COPIES; SIGNATURE REQUIRED: Bidders shall submit a total of 2 signed copies of the Bid. FAILURE TO SUBMIT A BID BEARING A SIGNATURE WILL RESULT IN REJECTION OF THE BID UNLESS THE "MISTAKE" PROVISIONS OF OAR 137-047-0470(2)(a) ARE APPLICABLE.

B.8.2 SEALED ENVELOPE; ADDRESS AND COVER INFORMATION: Bids must be submitted in sealed packages or envelopes. To ensure proper identification and handling, all packages and envelopes must be clearly marked as follows:

ITB Number
Closing Date
Closing Time

ODOT will not be responsible for the proper handling of any Bid not properly identified, marked and submitted in a timely manner. Any communication or notice given by personal delivery will be effective when actually delivered.

B.9 BID WITHDRAWALS:

B.9.1: IN WRITING: Bids may be withdrawn in writing when submitted on Bidder's letterhead, signed by Bidder's authorized representative, and received by ODOT at the address specified on page 1 prior to Bid Closing. Bid withdrawals must be labeled as such and contain the ITB number.

B.9.2: IN PERSON: Bids may also be withdrawn in person before Bid Closing upon presentation of appropriate identification, submittal of evidence of authorization to act for Bidder, and signature confirmation of Bid withdrawal.

B.9.3: ODOT CANCELLATION: ODOT Reserves the right to cancel the procurement or reject any or all bids in accordance with ORS 279B.100.

B.10 BID OPENING: Bid opening will be held at the ODOT Procurement Office, 455 Airport Rd SE, Bldg. K, Salem, Oregon, at the date and time set for Bid Closing, unless otherwise specified in the solicitation or by Addendum. Award decisions will not be made at Bid Opening, and attendance is optional. Only Bidders' names and extended prices will be read.

B.10.1 TIME FOR BID ACCEPTANCE: Any Bidders Bid is a firm Bid, irrevocable, valid and binding on the Bidder for not less than 30 calendar days from the Bid Closing Date.

B.10.2 EXTENSION OF TIME FOR BID ACCEPTANCE: ODOT may request, orally or in writing, that Bidders extend, in writing, the time during which ODOT may consider their Bid(s) prior to contract execution. If a Bidder agrees to such extension, the Bid will continue as a firm Bid, irrevocable, valid and binding on the Bidder for the agreed-upon extension period.

B.11 REJECTION OF BIDS:

B.11.1 REJECTION OF ALL BIDS: ODOT may reject all Bids for good cause upon its finding that it is in the public interest to do so. ODOT may reject any or all bids in accordance with ORS 279B.100.

B.11.2 REJECTION OF PARTICULAR BIDS: ODOT may reject a particular Bid for any of the reasons listed under OAR 137-047-0640.

B.12 BID EVALUATION CRITERIA: Bids will be evaluated to identify the lowest responsive Bid submitted by a responsible Bidder not otherwise disqualified. [Refer to OAR 137-047-0640(1)] Adjustments made to account for reciprocal or other preferences, if any, will be for Bid evaluation purposes only. (Refer to **SECTIONS B.12.4 and B.12.5**). No such adjustments will operate to amend Bidder's Bid or any Contract awarded pursuant to the solicitation.

B.12.1 RESPONSIVENESS: To be considered responsive, the Bid must substantially comply with all requirements of the ITB and all prescribed public solicitation procedures. In making such evaluation, ODOT may waive minor informalities and irregularities.

B.12.2 RESPONSIBILITY: Prior to award of a Contract ODOT will evaluate whether the apparent successful Bidder meets the applicable standards of responsibility identified in OAR 137-047-0640. In doing so, ODOT may request information in addition to that already required in the ITB, when ODOT, in its sole discretion, considers it necessary or advisable.

B.12.3 OREGON PREFERENCE WHEN EQUAL IN PRICE: Awards will be subject to preference for products produced or manufactured in Oregon, price, fitness and quality being equal (ORS 279A.120).

B.12.4 RECIPROCAL PREFERENCE: For Bid evaluation purposes only, to determine the lowest responsible Bidder, a nonresident Bidder eligible to receive a preference in the state that the Bidder resides, shall have that same percentage preference added to the Bid amount in accordance with OAR 137-046-0310. For example, if the Bidder is from a state that grants a 10 percent preference to local Bidders, ODOT will add 10 percent to that Bidder's Bid price.

B.12.5 RECYCLED MATERIAL: For Bid evaluation purposes only, ODOT will deduct from the Bid price an amount equivalent to the dollar value of the percentage of the Goods offered by Bidder constituting recycled paper and non-paper products, up to a maximum of twelve percent (12%) of the Bid price for recycled paper products, and up to a maximum of 5 percent of the Bid price for recycled non-paper products.

B.12.5.1 Bidder shall supply with their bid, all documentation by the manufacturer, on manufacturer letterhead, which clearly shows percentages of recycled material in the Goods bid. Any Bidder that claims recycled material content but does not provide the required manufacturers documentation with the Bid, shall not receive a deduction for their claim.

B.12.6 - BUY OREGON PREFERENCE:

B.12.6.a ODOT prefers Oregon Goods and Services, and for evaluation purposes, ODOT shall apply a 10% preference for Oregon Goods fabricated or processed entirely in Oregon or Services performed entirely in Oregon (ORS 279A.128).

B.12.6.b If more than one Bidder qualifies for the preference under section **B.12.6.a**, ODOT may give further preference to a qualifying Resident Bidder or Bidder that is Headquartered in Oregon.

B.12.6.b(i) “Resident Bidder” means a Bidder that has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the Bid, has a business address in this state and has stated in the Bid that the Bidder is a Resident Bidder under this paragraph [ORS 279A.120(1)(b)].

B.12.6.b(ii) “Headquartered” means the administrative center of an enterprise.

G.7.4.c The Bidder shall certify in writing (see Bidder’s signature certification form in **Section O** , **line 10**) that the Goods meet the Buy Oregon Preference under **B.12.6**.

B.13 PROCESSING OF BIDS: Acknowledgment that the selection process is complete (whether by posting of a Bid tabulation sheet, issuance of notice of intent to award, or otherwise), does not operate as a representation by ODOT that any Bid submitted was complete, sufficient, lawful in any respect, or otherwise in substantial compliance with the ITB requirements.

B.14 WITHDRAWAL BY ODOT OF BID ITEMS OR SPECIFICATIONS PRIOR TO AWARD: ODOT reserves the right to delete Bid Items or Specifications. The deletion of 1 or more items does not affect the method of award. (Refer to Sections D.1 and D.2).

B.15 INTENT-TO-AWARD ANNOUNCEMENT: Pursuant to OAR 137-047-0610, ODOT reserves the right to announce its intent to award prior to formal Contract award by posting the tabulation sheet of Bid results on the ORPIN System, or by letter, fax or email ("Intent-to-Award Announcement"). The Intent-to-Award Announcement serves as notice to all Bidders that ODOT intends to make an award.

B.16 PROTEST OF INTENT TO AWARD: Adversely-affected or aggrieved Bidders shall have 7 calendar days from the date of the Intent-to-Award Announcement within which to file a written protest. Protests submitted after that date will not be considered. Protests must specify the grounds upon which the protest is based (Refer to OAR 137-047-0740).

B.16.1 In order to be an adversely affected or aggrieved Bidder, the Bidder must claim to be eligible for award of the Contract as the lowest responsible and responsive Bidder and that any and all lower Bidders are ineligible to receive Contract award.

B.16.2 An actual Bidder who is adversely affected or aggrieved by the award of the Contract to another Bidder may protest award, in writing, within the timeline established. The written protest must state the grounds upon which the protest is based. No protest of award will be considered after deadline.

B.16.3 Pursuant to OAR 137-047-0740, no protest against award because of the content of Bid Specifications or Contract terms will be considered after the deadline established for submitting protests of Bid Specifications or Contract terms.

B.17 RESPONSE TO INTENT-TO-AWARD PROTESTS: ODOT will respond in writing to intent-to-award protests properly submitted by adversely-affected or aggrieved Bidders. ODOT may also respond to intent-to-award protests submitted by other Bidders for purposes of clarification. However, any response provided by ODOT is not intended to, and will not in and of itself constitute, confirmation that the Bidder is, in fact, adversely affected or aggrieved, and therefore entitled to protest an intent to award, or that the protest was timely or correctly filed.

B.18 AWARD: After expiration of the 7 calendar-day intent-to-award protest period, and the address of all protests, ODOT will proceed with final award. (If ODOT receives only 1 Bid, ODOT reserves the right to dispense with the intent-to-award protest period and proceed with award of a Contract.)

B.19 BID RESULTS: To obtain Bid results, interested parties may attend the public reading of the Bid. After awards are completed, Bidders may download a tabulation of Bid results from the ORPIN System. See Section B.2.1.

B.20 REVIEW OF AWARDED BID FILES: Most information contained in submitted Bid files are public records and available for review at the ODOT Procurement Office noted on page 1 of the ITB by appointment during regular business hours (Monday through Friday).

B.21 INFORMATION TO BE SUPPLIED BY THE APPARENT SUCCESSFUL BIDDER: Each apparent successful Bidder shall provide the following information to ODOT Buyer within 7 calendar days of notification of intent to award: Failure to present the required information within the response period may result in Bid rejection.

B.21.1 PROOF OF INSURANCE: All required proofs of insurance. (Bidders are encouraged to consult their insurance agent(s) about the insurance requirements contained in the ITB prior to Bid submission.)

B.21.2 CONFLICT OF INTEREST:

Bidder must be in compliance with, and make any disclosures required by, the ODOT COI Guidelines:

- **All Bidders must indicate in Section O** that Bidder, its subcontractors and all other Associates are in compliance with all COI disclosure requirements.
- **If there are no COI disclosures required** for Bidder, its subcontractors or other Associates, then submittal of COI Disclosure form(s) is not required.
- **If there are any COI disclosures required** for Bidder (including subcontractors, or any other of Bidder's Associates), Bidder must submit a signed COI Disclosure Form with the Bid. Bidder shall incorporate in each required COI Disclosure Form any COI disclosure information provided by its staff, and attach COI Disclosure Forms from each of its subcontractors that have required disclosures per the ODOT Conflict of Interest Guidelines.

The ODOT Conflict of Interest Guidelines and COI Disclosure Form are available at the following Internet site: <http://www.oregon.gov/ODOT/CS/OPO/AE.shtml#Forms> (under "Misc. Procurement Related Forms").

B.21.3 MANUFACTURER CONFIRMATION: If Bidder is not the Primary Equipment Manufacturer, Bidder shall provide ODOT with confirmation from the manufacturer, in writing, of manufacturer's ability to meet the delivery timeline proposed by Bidder in **SECTION C.5.2**. See Section C.5.5 for additional information regarding delivery requirements.

B.21.4 TAX ID NUMBER: The selected Bidder shall provide their Taxpayer Identification Number (TIN) and backup withholding status on a completed W-9 form if either of the following applies:

- When requested by Agency (normally in an intent to award notice), or
- When the backup withholding status or any other information of Bidder has changed since the last submitted W-9 form, if any.

No payment can be made under the contract until a properly completed W-9 is on file with Agency.

B.22 INVESTIGATION OF REFERENCES: ODOT reserves the right to investigate the references and the past performance of any Bidder with respect to its successful performance of similar services, compliance with specifications and Contractual obligations, and its lawful payment of suppliers, subcontractors, and workers. ODOT may postpone the award or execution of the Contract after the announcement of the apparent successful Bidder in order to complete its investigation. ODOT reserves the right to reject any bid response or to reject all bid responses at any time prior to ODOT's execution of Contract, upon good cause and upon ODOT finding that it is in the public interest.

B.23 DEMONSTRATION OF EQUIPMENT: Bidders may be required to demonstrate equipment offered at a location and time designated by ODOT. Bidders shall supply all necessary equipment, supplies and labor for this demonstration. By submitting its signed Bid, Bidder signifies that it assumes full responsibility for any damages, awards, expenses, and costs, including court costs, and indemnifies the State from any liability of any kind, arising from or related to such demonstration. A request for a demonstration is no indication that a Bidder has been or shall be awarded a Contract.

B.24 MANUFACTURING PROCESS CONFERENCE ("MPC"): Prior to award of a Contract to the apparent successful Bidder, ODOT may conduct a complete point-by-point review of Bidder's data to ensure that the Bidder's response to technical Specifications fulfills the ITB requirements.

The Manufacturing Process Conference may be held at the following address unless otherwise indicated:

Oregon Department of Transportation
Fleet Operations
455 Airport Rd SE, Bldg. K
Salem, Oregon 97301-5348

B.25 COMMENCEMENT OF WORK: Contractor shall commence no work under this Price Agreement until all certificates of insurance, as required in **Section G**, have been provided and a Purchase Order has been issued by ODOT.

B.26 INFORMATION TO BE SUPPLIED BY THE CONTRACTOR AFTER AWARD: Each Contractor shall provide the following information to ODOT upon request:

B.26.1 REPLACEMENT PARTS: A listing of common replacement parts for the Unit(s) bid and all representatives and dealerships carrying such replacement parts within the State. The listing of representatives and dealerships must include company name, street address, and telephone and fax numbers.

B.26.2 SERVICE LOCATIONS: A listing of service locations within the State authorized by the manufacturer to perform Preventive Maintenance and repairs in the State. The listing must include contact names, company name, street address, telephone and fax numbers, and hours of service. (For purposes of this ITB, "Preventive Maintenance" means maintenance recommended or required by the manufacturer in order to ensure proper performance of the Unit and to satisfy the terms and conditions of warranty coverage).

SECTION C - SPECIFICATIONS

C.1 TECHNICAL DEFINITIONS:

"AASHTO" means American Association of State Highway and Transportation Officials
"AISI" means American Iron and Steel Institute.
"AMP" means ampere (a measurement of current).
"ANSI" means American National Standard Institute
"API" means American Petroleum Institute.
"AWG" means American Wire Guide.
"CFR" means U.S. Code of Federal Regulations
"dB" means decibel
"DOT" means Department of Transportation
"°F" means degrees Fahrenheit (measure of temperature).
"FMVSS" means Federal Motor Vehicle Safety Standards.
"FOPS" means Falling Object Protective Structure.
"Heavy Duty" means the component exceeds the usual quantity, quality, or capacity of that supplied with a standard production Unit.
"HP" means horse power.
"ID" means identification
"ISO" means International Organization for Standardization
"LB" means pound.
"LB/CU. FT" means pound per cubic foot
"LED" means light emitting diode
"MHZ" means megahertz (radio frequency unit).
"MPC" means Manufacturing Process Conference.
"MPH" means miles per hour.
"MSHA" means Mine Safety and Health Administration
"OSHA" means Occupational Safety & Health Administration
"PREVENTIVE MAINTENANCE" means maintenance recommended or required by the manufacturer in order to ensure proper performance of the Unit and to satisfy the terms and conditions of warranty coverage.
"PTO" means power take off.
"ROPS" means Rollover Protective Structure.
"RPM" means revolutions per minute.
"SAE" means Society of Automotive Engineers
"SINAD" means Signal plus noise plus distortion to noise plus distortion ratio.
"UV" means Ultra Violet

C.2 GENERAL PROVISIONS:

C.2.1 SILENCE OF SPECIFICATIONS: The apparent silence of the Specifications as to any detail, or the apparent omission of a detailed description concerning any point, will be regarded as meaning that only the best commercial practice is to prevail and that only materials and workmanship of highest quality are to be used.

However, if any omitted Specification results in ambiguity as to material characteristics of the Bid item, or component incompatibility may affect required performance capabilities of a Bid item, and (a) inclusion of a Specification is necessary to enable a reasonable Bidder in the particular industry to properly identify material characteristics, or (b) a reasonable Bidder in the particular industry would recognize component incompatibility, Bidder shall submit a formal request for change as set forth in **SECTION B.5**. Failure to make such a request is at Bidder's risk, and the Bidder awarded a Contract shall be required to provide Goods meeting ODOT's needs with regard to any omitted Specification or component incompatibility for which a request for change should reasonably have been sought.

C.2.2 ADHERENCE TO THE SPECIFICATIONS: *Deviations from any of the Specifications may result in Bid rejection. In the event ODOT determines that a deviation results in quality or characteristics that are equivalent or superior to that required in the Specification, ODOT may consider the deviation to be responsive. However, it is within ODOT's sole discretion to reject the Bid as non-responsive regardless of equivalence or superiority, and Bidder assumes the risk that its deviation renders the Bid non-responsive. Deviations unacceptable to ODOT that are discovered after delivery must be corrected at no cost to ODOT.*

C.2.3 DRAWINGS:

C.2.3.1 INCLUDED IN THE ITB: The purpose of drawings, if included in the ITB, is to clarify the intent of the Specifications. Bidder is cautioned that drawings may NOT be relied upon, and may NOT reflect complete or accurate information contained in the Specifications, including all material requirements. Bidder is also cautioned that if there is a conflict between the drawings and the Specifications, the Specifications take precedence over the drawings. Bidder shall notify ODOT when deviations exist, prior to bid closing.

C.2.3.2 REQUIRED OF BIDDER: Should the Bidder be required to provide drawings, Bidder shall submit them with its Bid with title block, or as otherwise indicated in the solicitation document.

C.2.3.3 PRODUCTION DRAWINGS: If applicable, Contractor must submit production drawings prior to fabrication of unit.

C.2.4 STANDARD COMPONENTS: Unless stipulated elsewhere in the ITB, Goods must include all components and accessories listed by the manufacturer as standard.

C.2.5 COMPONENT SELECTION: The components selected must be rated for the maximum loading they would be subjected to in severe service environments. The torque rating of a driven component must exceed the input torque. The component parts and structure of the Unit must be sized and designed to safely withstand the maximum load imposed, without inducing failure or deterioration. All Units must be constructed from current production components as listed in current manufacturer parts catalogs.

C.2.6 NECESSARY COMPONENTS: The Bidder awarded a Contract shall provide all components, hardware, and parts necessary for proper assembly, installation, and operation of the Unit, even though certain items may not be specifically described in the ITB Specifications. This includes all cables, fittings, couplers, brackets, adapters, etc. Bidder shall include the cost of such components, hardware and parts in the Bid price.

C.2.7 REFERENCED STANDARDS: Certain ISO, SAE, and other consensus standards are referenced in these Specifications. Unless otherwise specified elsewhere in the ITB or required by law, the current version of each standard at time of delivery applies to the Unit and components thereof.

C.3 DEFAULT TECHNICAL SPECIFICATIONS: RESERVED

C.4 DETAILED SPECIFICATIONS:

INSTRUCTIONS TO BIDDERS: A response to each specification statement is required where a line is provided. If requested optional equipment is available, supply additional information as requested. **FAILURE TO CONFORM TO THE SPECIFICATION MAY RESULT IN BID REJECTION.**

C.4.1 Wheel Loader and Tool Carriers requirements:

- Five sizes of wheel loaders and/or tool carriers, all powered by diesel fueled, tier III or IV emissions engine capable of operation on biodiesel blends of up to B5.
- Wheel Loaders and Tool Carriers must be equipped with fully enclosed factory ROPS certified cab with heater/defroster and windshield wipers.
- Wheel Loaders and Tool Carriers may have "power shift" or "hydrostatic" type transmissions.
- Wheel Loaders and Tool Carriers must have power steering.
- Wheel Loaders and Tool Carriers must be no older than 7 year models from current.
- Wheel Loaders and Tool Carriers must be equipped with all necessary options and equipment needed to efficiently and safely operate with a correctly sized bucket attachment.
- Wheel Loaders and Tool Carriers must be equipped with all necessary options and equipment needed to efficiently and safely operate in severe winter weather, (engine coolant block heater, glow plugs or other cold weather starting aids). Note: 120 volt power may not be available at all locations of use.
- ODOT will be responsible for all required daily operational/service checks and maintenance. Any damage costs as a result of accidents, abuse and neglect during rental period will be the Agencies responsibility.
- Contractor will be responsible for all scheduled and unscheduled services, maintenance and repairs. This includes travel time and any other incurred costs. If a unit will be unavailable for use due to down time repairs for more than 48 hours contractor must supply a similar replacement at that location.
- **NOTE:** Bucket capacity may be +/- up to .25 of cubic yard.

C.4.2 Wheel Loader and Tool Carriers Size Configurations: (Height dimensions in feet/inches)

ITEM 1. 10,000 lbs. Minimum full turn tipping weight with minimum 1.5 cubic yard bucket.

Primary Model Provided

Make: _____
 Model: N/A
 Year: _____
 Overall Height: _____
 (Top of Cab or Warning Beacon Light)
 Overall Width: _____
 Maximum Bucket Dump Height: _____
 (Loader arms fully raised, bucket curl fully down,
 dimension from bucket lip edge to ground)

Other Models in this Class

Make: _____
 Model: N/A
 Year: _____
 Overall Height: _____
 (Top of Cab or Warning Beacon Light)
 Overall Width: _____
 Maximum Bucket Dump Height: _____
 (Loader arms fully raised, bucket curl fully down,
 dimension from bucket lip edge to ground)

Other Models in this Class

Make: _____
 Model: N/A
 Year: _____
 Overall Height: _____
 (Top of Cab or Warning Beacon Light)
 Overall Width: _____
 Maximum Bucket Dump Height: _____
 (Loader arms fully raised, bucket curl fully down,
 dimension from bucket lip edge to ground)

ITEM 2. 13,000 lbs. Minimum full turn tipping weight with minimum 1.75 cubic yard bucket.

Primary Model Provided

Make: CASE
 Model: 521 E
 Year: 2012
 Overall Height: 129.0 IN
 (Top of Cab or Warning Beacon Light)
 Overall Width: 100.4 IN
 Maximum Bucket Dump Height: 105.0 IN
 (Loader arms fully raised, bucket curl fully down,
 dimension from bucket lip edge to ground)

Other Models in this Class

Make: _____
 Model: _____
 Year: _____
 Overall Height: _____
 (Top of Cab or Warning Beacon Light)
 Overall Width: _____
 Maximum Bucket Dump Height: _____
 (Loader arms fully raised, bucket curl fully down,
 dimension from bucket lip edge to ground)

Other Models in this Class

Make: _____
 Model: _____
 Year: _____
 Overall Height: _____
 (Top of Cab or Warning Beacon Light)
 Overall Width: _____
 Maximum Bucket Dump Height: _____
 (Loader arms fully raised, bucket curl fully down,
 dimension from bucket lip edge to ground)

ITEM 3. 16,000 lbs. Minimum full turn tipping weight with minimum 2.0 cubic yard bucket.

Primary Model Provided

Make: CASE
 Model: 521 E
 Year: 2012
 Overall Height: 129.0 IN
 (Top of Cab or Warning Beacon Light)
 Overall Width: 100.4 IN
 Maximum Bucket Dump Height: 105.0 IN
 (Loader arms fully raised, bucket curl fully down,
 dimension from bucket lip edge to ground)

Other Models in this Class

Make: _____
 Model: _____
 Year: _____
 Overall Height: _____
 (Top of Cab or Warning Beacon Light)
 Overall Width: _____
 Maximum Bucket Dump Height: _____
 (Loader arms fully raised, bucket curl fully down,
 dimension from bucket lip edge to ground)

Other Models in this Class

Make: _____
 Model: _____
 Year: _____
 Overall Height: _____
 (Top of Cab or Warning Beacon Light)
 Overall Width: _____
 Maximum Bucket Dump Height: _____
 (Loader arms fully raised, bucket curl fully down,
 dimension from bucket lip edge to ground)

ITEM 4. 18,500 lbs. Minimum full turn tipping weight with minimum 2.75 cubic yard bucket.

Primary Model Provided

Make: CASE
 Model: 621 F
 Year: 2012
 Overall Height: 133.7 IN
 (Top of Cab or Warning Beacon Light)
 Overall Width: 102.4 IN
 Maximum Bucket Dump Height: 112.1 IN
 (Loader arms fully raised, bucket curl fully down,
 dimension from bucket lip edge to ground)

Other Models in this Class

Make: CASE
 Model: 621 E
 Year: 2011
 Overall Height: 133.6 IN
 (Top of Cab or Warning Beacon Light)
 Overall Width: 102.4 IN
 Maximum Bucket Dump Height: 108.2 IN
 (Loader arms fully raised, bucket curl fully down,
 dimension from bucket lip edge to ground)

Other Models in this Class

Make: _____
 Model: _____
 Year: _____
 Overall Height: _____
 (Top of Cab or Warning Beacon Light)
 Overall Width: _____
 Maximum Bucket Dump Height: _____
 (Loader arms fully raised, bucket curl fully down,
 dimension from bucket lip edge to ground)

ITEM 5. 25,000 lbs. Minimum full turn tipping weight with minimum 3.5 cubic yard bucket.

Primary Model Provided

Make: CASE
 Model: 821 F
 Year: 2012
 Overall Height: 135.8 IN
 (Top of Cab or Warning Beacon Light)
 Overall Width: 119.3 IN
 Maximum Bucket Dump Height: 121.5 IN
 (Loader arms fully raised, bucket curl fully down,
 dimension from bucket lip edge to ground)

Other Models in this Class

Make: CASE
 Model: 821 E
 Year: 2011
 Overall Height: 135.8 IN
 (Top of Cab or Warning Beacon Light)
 Overall Width: 115.3 IN
 Maximum Bucket Dump Height: 121.5 IN
 (Loader arms fully raised, bucket curl fully down,
 dimension from bucket lip edge to ground)

Other Models in this Class

Make: _____
 Model: _____
 Year: _____
 Overall Height: _____
 (Top of Cab or Warning Beacon Light)
 Overall Width: _____
 Maximum Bucket Dump Height: _____
 (Loader arms fully raised, bucket curl fully down,
 dimension from bucket lip edge to ground)

C.5. DELIVERY:

All ODOT units will be delivered to:

ODOT Fleet Operations
455 Airport Rd. SE, Bldg. L
Salem, OR, 97301

The cost for unit delivery will be entered into Section D, Bid Pricing Section.

Delivery Under Permissive Cooperative Procurements: (ORS 279A.200 through .225 and ORS 137-046-0400 through -0480), delivery may be made to other agency locations as mutually agreed upon between the Contractor and said agency.

C.5.1 DELIVERY TIMELINE REQUIRED BY ODOT: Bid Items shall be delivered within 30 calendar days from date of order. Early delivery is acceptable and encouraged.

C.5.2 DELIVERY TIMELINE PROPOSED BY BIDDER: 30 calendar days from date of order.

C.5.2.1 Failure to insert a delivery date proposal indicates a Contractor commitment to deliver within the time specified in **SECTION C.5.1**. Submittal of proposed delivery timelines later than those required may result in Bid rejection. Submittal of delivery timelines providing for earlier delivery than required by ODOT binds the Bidder, should it be awarded the Contract.

IS CONTRACTOR THE PRIMARY EQUIPMENT MANUFACTURER? (circle one): YES NO

See Section B.21.3 for additional submission requirements for Contractors that are not Primary equipment Manufacturers.

Contractor agrees that time is of the essence for Contractor's performance obligations under the Contract. The Contractor shall notify ODOT immediately, in writing, if at any time Contractor finds that delivery cannot be completed as required. Upon receipt of such notice from the Contractor or upon Contractor's failure to deliver Goods within the timeline as specified, ODOT reserves the right to cancel the order and make the purchase from another source, without further obligation to the Contractor.

C.5.3 RESERVED

C.5.4 DELIVERY COMPONENTS: The following items (collectively referred to as "Delivery Components") must be included in the Bid price, and must be delivered with the Unit.

C.5.4.1 RESERVED

C.5.4.2 RESERVED

C.5.4.3 RESERVED

C.5.4.4 Three (3) sets of keys for all locks.

C.5.4.5 RESERVED

C.5.4.6 RESERVED

C.5.4.7 RESERVED

C.5.4.8 RESERVED

C.5.4.9 Contractor shall provide 1 copy of current **operator's manual** and all other operator information and instructions available from the manufacturer with each unit ordered.

C.5.4.10 RESERVED

C.5.4.11 RESERVED

C.5.4.12 RESERVED

C.5.4.13 RESERVED

C.5.4.14 RESERVED

C.5.4.15 RESERVED

C.5.4.16 RESERVED

C.5.5 RESERVED

C.6 RENTAL REPAIRS

Contractor will be responsible for all scheduled and unscheduled services, maintenance and repairs. This includes travel time and any other incurred costs. If a unit will be unavailable for use due to down time repairs for more than 48 hours contractor must supply a similar replacement at that location.

C.6.1 ODOT will be responsible for all required daily operational/service checks and maintenance. At ODOT's discretion, consumables such as lamps, lights, and batteries may be repaired and replaced by ODOT. Any damage costs as a result of accidents, misuse, abuse, vandalism or operator or maintenance neglect during rental period will be the Agencies responsibility.

C.6.2 EMERGENCY REPAIRS: In an emergency, if the Contractor is unable to furnish a service representative and parts to the on-site location of a Unit within the time frame required by ODOT under the circumstances, ODOT may elect to have emergency rental repairs completed by other means and hold the failed parts for the Contractor's inspection, together with sufficient documentation to verify the repairs. The Contractor shall reimburse ODOT for all repair costs incurred by ODOT in completing such emergency repairs. In the alternative, ODOT may rent substitute equipment from another source until rental repairs can be completed, and obtain from Contractor reimbursement for all costs incurred. As used in this section, "costs" include substitute equipment, parts, labor, testing, transportation and shipping costs, insurance, travel, meals, accommodations, and all other expenses related to rental of substitute equipment.

C.7 RENTAL RETURNS:

The return "pick up" of units could be from alternative locations other than Salem. "Pick up" of units may be from ODOT Region jobsites and facilities. Costs for the "pick up" of a return unit from each region must be entered into Section D, Bid Pricing Section. Please see Attachment A: ODOT Region Map.

Rental Returns Under Permissive Cooperative Procurements: (ORS 279A.200 through .225 and ORS 137-046-0400 through -0480) Other return locations may be required by other agencies as mutually agreed upon between the Contractor and said agency.

SECTION D - BID PRICING SECTION

D.1 INSTRUCTIONS: Bidders must submit all pricing information as instructed or the Bid may be rejected. DOT makes no representation or guarantee whatsoever as to the amount or type of purchases to be made under this Price Agreement. All estimated quantities listed in this ITB, including those listed in this **SECTION D PRICING PROPOSAL** are estimates of the quantities that may be ordered by ODOT during the initial term of the **Price Agreement**.

D.2 MANDATORY BID ITEMS: Items 1 through 8 must be bid. If a proposer cannot provide the requested equipment, the space must be filled out with "**N/A**". Bidders are required to circle the applicable ODOT Regions their pricing will encompass under the column "Regions Served." Bidders may be required to "pick up" the returned units at the end of the rental period from alternative locations other than Salem. Please see Section C.7 – Rental Returns, and Attachment A – ODOT Region Map.

WHEEL LOADER & TOOL CARRIER SIZE CONFIGURATION MONTHLY PRICING

ITEM	DESCRIPTION (Section C.4.2)	MONTHLY COST	COST/HR OVER 200Hrs	Regions Served (circle regions)
1.	10,000 lbs. Minimum full turn tipping weight with minimum 1.5 cubic yard bucket	\$ <u>N/A</u>	\$ <u>N/A</u>	1 2 3 4 (5)
2.	13,000 lbs. Minimum full turn tipping weight with minimum 1.75 cubic yard bucket	\$ <u>2000⁰⁰</u>	\$ <u>12⁰⁰</u>	1 2 3 4 (5)
3.	16,000 lbs. Minimum full turn tipping weight with minimum 2.0 cubic yard bucket.	\$ <u>2000⁰⁰</u>	\$ <u>12⁰⁰</u>	1 2 3 4 (5)
4.	18,500 lbs. Minimum full turn tipping weight with minimum 2.75 cubic yard bucket.	\$ <u>2300⁰⁰</u>	\$ <u>14⁰⁰</u>	1 2 3 4 (5)
5.	25,000 lbs. Minimum full turn tipping weight with minimum 3.5 cubic yard bucket.	\$ <u>2800⁰⁰</u>	\$ <u>16⁰⁰</u>	1 2 3 4 (5)

ITEM	DESCRIPTION	EST. QTY.	UNIT	UNIT PRICE	TOTAL PRICE
7.	Delivery to ODOT Fleet Operations (Section C.5)	20	EA	\$ <u>200⁰⁰</u>	\$ <u>4000⁰⁰</u>
8.	Rental Returns (Section C.7):				
	Region 1		EA	\$ <u>250⁰⁰</u>	
	Region 2		EA	\$ <u>350⁰⁰</u>	
	Region 3		EA	\$ <u>550⁰⁰</u>	
	Region 4		EA	\$ <u>800⁰⁰</u>	
	Region 5		EA	\$ <u>1200⁰⁰</u>	

821 E
821 F

SECTION E - STANDARD PRICE AGREEMENT TERMS AND CONDITIONS

E.1 CONTRACT DOCUMENTS: The Contract consists of (a) ITB **SECTION C Specifications**; (b) ITB **SECTION D Bid Pricing Section**; (c) ITB **SECTION E Standard Contract Terms and Conditions**; (d) ITB **SECTION F Special Contract Terms and Conditions**, if any; (e) ITB **SECTION G Insurance**; (f) ITB **SECTIONS J THROUGH P**; (g) the Bid; (h) **Purchase Orders**; and (i) **all Contract addendum and amendments**.

E.2 ORDER OF PRECEDENCE: Whenever possible, all terms and conditions are to be harmonized. However, in the event of a conflict, the Contract is interpreted utilizing the following order of precedence: (a) Price Agreement amendments; (b) the Special Price Agreement Terms and Conditions, if any; (c) these Standard Price Agreement Terms and Conditions; (d) the Specifications; (e) Drawings; (f) Purchase Order(s); and (g) the Bid. Provided, however, if a particular term is required by law, it takes precedence over any conflicting terms. For purposes of this **SECTION E.2**, to "take precedence" means to supersede. "Order of precedence" refers to the order in which conflicting Contract provisions supersede each other.

E.3 TERM OF PRICE AGREEMENT: The initial term of the Price Agreement is for 5 years, beginning on the date the Price Agreement is awarded. Upon concurrence of the parties, the Price Agreement may be extended for additional terms ("*Extension Terms*"). Provided, however, that the maximum duration of the Price Agreement, including all extensions, must not extend beyond 7 years.

E.4 EXTENSIONS: ODOT will notify Contractor in writing of ODOT's intent to extend the Price Agreement ("*Renewal Notice*") at least 30 days prior to the expiration of the then-current term. If Contractor consents to the extension, it shall sign and return the Renewal Notice to ODOT within the time period specified therein. If Contractor does not consent, the Price Agreement expires according to its terms, unless earlier terminated.

E.5 PRICE ADJUSTMENTS: Contractor may seek a Unit price adjustments to decrease or increase prices. If increasing costs, the increase must reflect increased operating or raw material costs or both ("*Production Costs*") for a Term by submitting a written request to ODOT, including all appropriate price documentation. If approved, the Unit price increase will be firm for the duration of the Term. Provided, however, no more than 1 Unit price increase is allowed during any twelve-month period regardless of the number of Extension Terms entered into during that time.

E.5.1 Notwithstanding **SECTION D.3**, the maximum percentage increase based upon increased Production Costs must not exceed the percentage of increase in manufacturer's then current list price over the prior year's list price.

E.5.2 ODOT reserves the right in its sole discretion to determine whether to agree to a price increase for a Term. It further reserves the right to require additional documentation, or to independently verify the basis for and validity of any proposed price increase utilizing its internal price review and analysis protocols. ODOT may accept or reject a requested increase or offer a lesser amount.

E.5.3 In the event ODOT offers some compromise amount or rejects the requested price increase, Contractor may elect to accept the Term under those conditions, or allow the Price Agreement to expire. However, Contractor has no right to receive, or claim for failure to receive, a price increase for any Term.

E.6 ONE MONTH EXTENSION OPTION: Notwithstanding the foregoing **SECTIONS E.3 through E.5**, ODOT reserves the right in its sole discretion to extend the Price Agreement for a maximum of 1 calendar month beyond any term. ODOT will notify Contractor in writing of the 1-month extension prior to the expiration of the then-

current term. Price adjustments are not available for 1-month extensions obtained pursuant to this **SECTION E.6**. Consecutive 1-month extensions under this Section are also not allowed.

E.7 GOODS AND SERVICES TO BE FURNISHED: During the term of the Contract, Contractor agrees to deliver all Goods and provide all services ordered by ODOT in accordance with the terms and conditions of the Contract.

E.8 PURCHASE ORDERS: ODOT will order Goods, if any by Purchase Order. Contractor shall not accept any Purchase Order that does not comply with the following requirements:

E.8.1 ODOT will use the ODOT-approved Purchase Order form(s) to order Goods under the Contract. Purchase Orders will incorporate the Contract by reference, and identify the Contract number, the ITB number, and Bid item number(s) of the Unit(s) and options ordered. However, no language in a Purchase Order submitted will vary, amend, modify, or add terms or conditions to the Contract. Operative provisions in Purchase Orders will be limited to: designation of ODOT and its authorized representative; identification of Goods and order quantities; optional Services, equipment and accessories offered under the terms of the Contract; delivery schedules in accordance with the terms of the Contract; and Delivery Destination and invoicing address.

E.8.2 MANDATORY PURCHASE ORDER LANGUAGE:

THIS PURCHASE ORDER AND THE TERMS AND CONDITIONS OF THE PARENT PRICE AGREEMENT BETWEEN AGENCY AND CONTRACTOR, CONSTITUTE THE ENTIRE AGREEMENT BETWEEN THE PARTIES ABOUT THE GOODS/SERVICES. THERE ARE NO OTHER UNDERSTANDINGS, AGREEMENTS OR REPRESENTATIONS, ORAL OR WRITTEN, RELATED TO THE GOODS/SERVICES.

E.8.3 In the event a court of competent jurisdiction determines that the Purchase Order constitutes an offer rather than an acceptance, then acceptance by Contractor shall be limited to the terms of the Contract as stipulated in the ITB.

E.9 SHIPPING/DELIVERY DESTINATION: Goods, including all Delivery Components, must be delivered F.O.B. destination to the address or location specified in the Purchase Order ("Delivery Destination"), together with all warranty documentation, inspection reports, and certifications, where applicable, unless specified otherwise in the Contract. Responsibility and liability for loss or damage remains with Contractor until final inspection and acceptance.

E.10 DELIVERY DATE REQUIRED BY ODOT: Delivery must be completed, including all Back Orders, within 30 days after receipt of Purchase Order. All shipping and handling charges are to be paid by Contractor, unless specified otherwise in the Contract.

E.10.1 The Contractor shall notify ODOT, in writing, within 5 business days of receipt of Purchase Order if delivery cannot be completed as required. Upon receipt of such notice from the Contractor, ODOT reserves the right to cancel the order and make the purchase from another source, without further obligation to the Contractor.

E.11 DELIVERY TIME: Delivery is accepted Monday through Friday, excluding weekends or legal holidays as recognized by the State. Delivery hours are 7:30 AM to 3:00 PM. Any exceptions to this time frame is at the discretion of ODOT.

E.12 DAMAGED SHIPMENT: It is the Contractor's sole responsibility to insure that the shipment arrives at its destination undamaged. If there is any damage to goods upon delivery, ODOT reserves the right to return the shipment in whole or in part at the Contractor's expense. If the Contractor is unable to supply a replacement shipment within the allotted period of time (Refer to Section C.5), ODOT may cancel the order in whole or in part and purchase needed items from another source.

E.13 INSPECTIONS/ACCEPTANCE:

E.13.1 PRE-DELIVERY INSPECTION: ODOT may request to have a pre-delivery inspection at Contractor's location to insure specification compliance PRIOR TO DELIVERY.

E.13.2 ODOT may reject any shipment or cancel any Purchase Order which does not meet all of the requirements of the specifications and warranties. ODOT will have 21 calendar days from date of delivery of the entire order within which to inspect and accept or reject the Goods. If the Goods are rejected, ODOT will provide Contractor with written notification of rejection. Notice of rejection will include itemization of apparent defects, including but not limited to (i) discrepancies between the Goods and the applicable Specifications or warranties (including variance from sample characteristics where samples or prototypes have been provided), and (ii) other apparent defects in design, materials, or manufacture, or (iii) otherwise nonconforming Goods (including late delivery). Notice of rejection will also indicate whether cure will be allowed.

E.13.3 CURE: If ODOT elects to allow cure, Contractor shall complete cure within 14 calendar days of date of notice of rejection and opportunity to cure (the "Cure Period"). If a missing part, component, or accessory cannot be provided and installed within 14 calendar days, ODOT will have the right to buy the item or part from another source and bill the Contractor or deduct the cost from Contractor's invoice for the Goods, including costs of installation. With regard to defective Goods, ODOT may elect to have the Contractor deliver substitute Goods within the Cure Period that comply with the Contract Specifications and warranties. Failure to complete cure within the Cure Period may constitute an event of default under **SECTION E.**

E.13.4 REMOVAL/REIMBURSEMENT: If the Goods are rejected or acceptance is revoked, the Contractor shall refund any Contract payments that have been made with regard to such Goods, and, at Contractor's sole cost and expense, remove the Goods within 14 calendar days of date of notice of rejection or revocation of acceptance. Contractor shall return all Agency owned items to Agency in like condition initially received.

Nothing in this **SECTION E.13** in any way affects or limits ODOT's rights as buyer under UCC, including the rights and remedies relating to rejection under ORS 72.6020 and revocation of acceptance under ORS 72.6080.

E.13.5 PERFORMANCE EVALUATIONS: Agency may conduct performance evaluation(s) on the selected Contractor(s) during the Contract term. Any completed evaluations will be compiled and maintained by Agency, and become a written record of Contractor's performance. Agency also may maintain as part of that written record information obtained from Contractor during an exit interview following Contract expiration or termination. Upon request, Agency will provide copies of any performance evaluation documentation to the affected Contractor and third parties, unless the requested material is lawfully exempt from disclosure.

Agency may, at its sole discretion, use performance evaluation findings and conclusions in any way deemed necessary by Agency, including, but not limited to, determining eligibility for future contract assignments, and as a criterion of selection for future Agency contracts.

E.14 PAYMENT; OVERDUE ACCOUNT CHARGES: Payment is due and owing no later than 45 days from date of acceptance or expiration of the inspection and acceptance period, whichever occurs first. Contractor may only assess overdue account charges, in accordance with the provisions of ORS 293.462, up to a maximum rate of 2/3 percent per month (up to 8 percent per annum) starting 45 days from the date of acceptance or expiration of the inspection and acceptance period, whichever occurs last (per Oregon Accounting Manual [OAM] 15.40.00 PR).

E.15 PAYMENT ADDRESS: Payment will be sent to Contractor at the address specified in the invoice.

E.16 INVOICES: Contractor shall invoice ODOT upon delivery of the entire order. Training must be invoiced separately at actual hours after training is completed. Each invoice must include the Contract and applicable Purchase Order number. All items included on a single invoice must be delivered, inspected, approved and released prior to payment. Separate invoices may be sent for each unit to facilitate release of invoice payment. Invoices must be sent to the Fleet Inspector address specified in the Purchase Order.

E.17 RESERVED

E.18 MOST FAVORABLE PRICES AND TERMS: Contractor represents that all prices, terms and benefits offered by Contractor are equal to or better than the equivalent prices, terms and benefits being offered by Contractor to any other state or local government unit or commercial customer.

E.18.1 Should Contractor, during the term of the Price Agreement, enter into any Contract, agreement or arrangement that provides lower prices, more favorable terms or greater benefits to any other such government unit or commercial customer, the Contract is thereupon deemed amended to provide the same price or prices, terms and benefits to ODOT. This provision applies to comparable Goods and services, and to purchase volumes by ODOT that are not less than the purchase volumes of the government unit or commercial customer that has received the lower prices, greater benefits or more favorable terms.

E.18.2 Donations of Goods or services to charitable, nonprofit or government entities, if the donations are recognized as such and are deductible under the federal Internal Revenue Code, are not considered contracts, agreements, sales or arrangements with other government units or commercial customers that call for the application of this paragraph.

E.19 WARRANTIES:

E.19.1 AUTHORITY; BINDING OBLIGATION: Contractor represents and warrants that Contractor has the power and authority to enter into and perform the Contract, and that the Contract, when executed and delivered, is a valid and binding obligation of Contractor enforceable in accordance with its terms.

E.19.2 RESERVED

E.19.3 RESERVED

E.19.4 RESERVED

E.19.5 RESERVED

E.19.6 RESERVED

E.19.7 RESERVED

E.19.8 RESERVED

E.19.9 RESERVED

E.19.10 RESERVED.

E.19.11 RESERVED

E.19.12. UPGRADES / RECALLS: Contractor shall ensure that all of the most recent, applicable upgrades and recalls have been conducted on the equipment prior to unit delivery.

E.20 FUNDS AVAILABLE AND AUTHORIZED; PAYMENTS: ODOT has sufficient funds available and authorized within its biennial appropriation or limitation to finance the purchase of Goods and Services, if any, under the Contract prior to the end of the current biennium. Contractor understands and agrees that ODOT's payment of amounts under the Contract attributable to purchases of Goods and Services made after the last day of the current biennium is contingent on ODOT's receiving from the Oregon Legislative Assembly appropriations, limitations, or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to continue to make payments under the Contract.

E.21 COMPLIANCE WITH APPLICABLE LAWS AND STANDARDS:

E.21.1 SAFETY AND HEALTH REQUIREMENTS: Contractor warrants that Goods and services provided under the Contract comply with all applicable federal health and safety standards, including but not limited to, Occupational Safety and Health Administration (OSHA), and with all Oregon safety and health requirements, including, but not limited to, those of the State Workers' Compensation Division.

E.21.2 RESERVED

E.21.3 Contractor shall comply with all federal, State and local laws, regulations, executive orders and ordinances applicable to the Contract. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract: (i) Titles VI and VII of Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) The Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vi) The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (vii) ORS Chapter 659, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and State civil rights and rehabilitation statutes, rules and regulations. All laws, regulations and executive orders applicable to the Contract are incorporated by reference where so required by law. ODOT's performance is conditioned upon Contractor's compliance with ORS 279B.220, 279B.235 and 279B.230, the terms of which are incorporated by reference into the Contract.

E.21.4 Non-Discrimination (Title VI)

During the performance of this Contract, Contractor, for itself, its assignees and successors in interest, agrees as follows:

E.21.4.1 Compliance with Regulations: 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.

E.21.4.1.2. Nondiscrimination: Contractor, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations.

E.21.4.1.3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, sex, or national origin.

E.21.4.1.4 Information and Reports: 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 Oregon Department of Transportation (ODOT), the Federal Highway Administration (FHWA) or the Federal Transit Administration (FTA) as appropriate, to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of Contractor is in the exclusive possession of another who fails or refuses to furnish this information, Contractor shall so certify to ODOT, FHWA or FTA as appropriate, and shall set forth what efforts it has made to obtain the information.

E.21.4.1.5 Sanctions for Noncompliance: In the event of Contractor's noncompliance with the nondiscrimination provisions of this Contract, ODOT shall impose such Contract sanctions as it, FHWA or FTA may determine to be appropriate, including, but not limited to:

- (a) Withholding of payments to Contractor under the Contract until Contractor complies, and/or
- (b) Cancellation, termination or suspension of the Contract, in whole or in part.

E.21.4.1.6. Incorporation of Provisions: Contractor shall include the provisions of paragraphs E.21.4.1.1 through E.21.4.1.6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. Contractor shall take such action with respect to any subcontract or procurement as ODOT, FHWA or FTA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, Contractor may request ODOT, and, in addition, Contractor may request the United States to enter into such litigation to protect the interests of the United States.

E.22 NONCOMPLIANT GOODS: In the event of a conflict between the Specifications and applicable federal or State laws, the federal or State laws prevail. Provided, however, in the event of any conflict based solely upon minimum standards, such as quality or safety, the higher or more stringent standard apply.

E.22.1 Contractor shall be responsible for making any modifications required to achieve compliance with the required laws and standards. Contractor shall notify ODOT of any such required modifications upon receipt of knowledge or notification of such, and shall complete all necessary modifications or provide substitute compliant Goods at no cost to ODOT within 14 calendar days of receipt of such notice. As used in this Section, "cost" includes substitute equipment, labor, transportation and shipping costs, insurance, travel, meals, accommodations, etc.

E.22.1.1 In the event required modifications impair the utility of the Good for its intended purpose or level of function, in the reasonable opinion of ODOT, ODOT may elect to cancel any order and terminate the Contract in whole or in part, based on such non-compliance. Contractor shall refund any Contract payments that have been made with regard to the rejected Goods, and shall (at Contractor's sole cost and expense) remove the Goods within 14 calendar days of receiving notice of rejection or revocation of acceptance.

E.22.2 RECALLED GOODS:

E.22.2.1 In the event any Good, component, or accessory is recalled by a regulatory body or the manufacturer, Contractor shall immediately notify ODOT of the recall, and shall provide copies of the notice or other documentation ODOT may require. Contractor (at Contractor's sole cost and expense) shall complete all necessary modifications or provide substitute non-defective Goods and remove recalled Goods, wherever located, within 14 calendar days of receipt of such notice.

E.22.2.2 In the event required modifications impair the utility of a Good for its intended purpose or level of function in the reasonable opinion of ODOT, ODOT may elect to cancel any order or terminate the Contract, in whole or in part, at no cost or penalty to the State based on such recall. Contractor shall (at Contractor's sole cost and expense) promptly remove all recalled Goods, wherever located, and reimburse ODOT all amounts paid for recalled Goods, less the value of the use of such recalled Goods while in ODOT's possession.

As used in this Section, "cost" includes substitute equipment, labor, transportation and shipping costs, insurance, travel, meals, accommodations, etc.

E.22.3 Nothing contained in this **SECTION E.22** precludes ODOT from other remedies to which it may be entitled upon rejection or revocation of acceptance

E.23 SALES TO UNAUTHORIZED PURCHASERS. This Price Agreement is intended for use by ODOT. It is the Contractor's responsibility to verify that the purchaser is a purchaser authorized by ODOT or an authorized representative of the Department of Administrative Services having the authority to contract pursuant to this Price Agreement. If Contractor is found to have entered into two or more contracts with an entity other than an authorized purchaser, pursuant to this Price Agreement, Contractor shall be deemed to be in material breach of this Price Agreement.

E.24 FOREIGN CONTRACTOR: If the amount of the Contract with ODOT exceeds \$10,000, and if Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the

Oregon Department of Revenue all information required by that Department relative to the Contract. ODOT will be entitled to withhold final payment under the Contract until Contractor has met this requirement.

E.25 RECYCLED PRODUCTS: Contractor shall use recycled and recyclable products to the maximum extent economically feasible in performance of the Contract set forth in this document. These products include recycled paper, recycled PETE products, as defined in ORS 279A.010(1)(hh), and other recycled plastic resin products. **If used, Contractor shall specify the minimum percentage of recycled and recyclable product used and submit with Bid.** See Section L – RECYCLED PRODUCTS CERTIFICATION.

E.26 TIME IS OF THE ESSENCE: Contractor agrees that time is of the essence for Contractor's performance obligations under the Contract.

E.27 FORCE MAJEURE: Neither ODOT nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, war, or any other cause which is beyond the party's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under the Contract. ODOT may terminate the Contract upon written notice after reasonably determining that such delay or default likely prevents successful performance of the Contract.

E.28 EVENTS OF DEFAULT:

E.28.1 CONTRACTOR: Contractor shall be in default under the Contract if:

E.28.1.1 Contractor breaches any Contract covenant, warranty, certification, or obligation; or

E.28.1.2 Contractor institutes an action for relief in bankruptcy or has instituted against it an action for insolvency; makes a general assignment for the benefit of creditors; or ceases doing business on a regular basis of the type identified in Contractor's obligations under the Contract;

E.28.1.3 Contractor attempts to assign rights in, or delegate duties under, the Contract.

E.28.2 ODOT: ODOT will be in default under the Contract if it breaches any Contract covenant, warranty, certification, or obligation.

E.29 TERMINATION:

E.29.1 MUTUAL CONSENT: The Contract may be terminated at any time by mutual written consent of the parties.

E.29.2 ODOT:

E.29.2.1 ODOT may, at its sole discretion, terminate the Contract, in whole or in part, for convenience.

E.29.2.2 ODOT will be excused from performance and may terminate the Contract, in whole or in part, immediately upon notice to Contractor, or at such later date as ODOT may establish in such notice, upon the occurrence of any of the following events:

(i) ODOT fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to pay for the Goods to be purchased under the Contract; or

(ii) federal or State laws, regulations, or guidelines are modified or interpreted in such a way that either the purchase of Goods and Services offered under the Contract is prohibited, or ODOT is prohibited from paying for such Goods and Services from the planned funding source; or

(iii) Contractor is in default of a material provision of the Contract. Pursuant to this **SECTION E.29.2.2**, upon receipt of written notice of termination, Contractor shall stop performance under the Contract as directed by ODOT.

E.29.3 CONTRACTOR: Contractor may terminate the Contract, in whole or in part, immediately upon notice to ODOT, or at such later date as Contractor may establish in such notice, upon ODOT's default of a material provision of the Contract.

E.30 INDEMNIFICATION:

E.30.1 Contractor shall defend, save, hold harmless, and indemnify the State, ODOT, and its officers, employees and agents from and against all claims, suits, actions, proceedings, losses, damages, liabilities, and costs and expenses of any nature whatsoever (collectively, "Claims") resulting from, arising out of, or relating to the Contract, including but not limited to (i) the activities of Contractor or its officers, employees, subcontractors, or agents, (ii) the Goods delivered, and (iii) the Services provided pursuant to the Contract.

E.30.2 The Oregon Attorney General must give written authorization to any legal counsel purporting to act in the name of, or represent the interests of, the State and/or its officers, employees and agents prior to such action or representation. Further, the State, acting by and through its Department of Justice, may assume its own defense, including that of its officers, employees and agents, at any time when, in the State's sole discretion it determines that (i) proposed counsel is prohibited from the particular representation contemplated; (ii) counsel is not adequately defending the interests of the State, and/or its officers, employees and agents; (iii) important governmental interests are at stake; or (iv) the best interests of the State are served thereby. Contractor's obligation to pay for all costs and expenses include those incurred by the State in assuming its own defense and/or that of its officers, employees, or agents pursuant to (i) and (ii) above.

E.31 REMEDIES:

E.31.1 ODOT: In addition to the remedies afforded elsewhere herein, ODOT will be entitled to recover for any and all damages suffered as the result of Contractor's default, including but not limited to direct, indirect, incidental and consequential damages in accordance with ORS 72.7110 through 72.7170. ODOT will also be entitled to any equitable remedies to which it may show itself entitled.

E.31.2 CONTRACTOR: Subject to specific remedies afforded elsewhere herein, Contractor's remedy shall be restricted to recovery of actual damages incurred as a result of ODOT's default (Section E.28.2). In the event ODOT terminates the Contract for convenience, or in the event ODOT is in default (Section E.28.2), and whether or not Contractor elects to exercise its right to terminate the Contract, Contractor's sole remedy shall be (a) A claim against ODOT for the unpaid purchaser price for Goods delivered and

accepted by ODOT (b) with respect to Services compensable on an hourly basis, a claim for unpaid invoices, hours worked but not yet billed and authorized expenses for services completed and accepted by ODOT (c) with respect to deliverable-based Services, a claim for the sum designated for completing the deliverable multiplied by the percentage of Services completed and accepted by ODOT, less previous amounts paid and any claim(s) which ODOT has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under this Section, Contractor shall pay any excess to ODOT upon written demand.

E.31.3 ATTORNEY'S FEES: Neither party shall be entitled to recover attorney's fees, court and investigative costs, or any other fees or expenses associated with pursuing a remedy for damages arising out of or relating to the Contract.

E.32 TRADE SECRETS: Contractor shall label the information and documentation qualifying as trade secrets under ORS 192.501(2) that it wishes to protect from disclosure to third parties with the following: "This data constitutes a trade secret under ORS 192.501(2) and is not to be disclosed except as required by law." ODOT will take reasonable measures to hold in confidence all such labeled information and documentation. Provided, however, the State will not be liable for release of any information when required by law or court order to do so, *whether pursuant to Oregon Public Records Law or otherwise. Further, the State will also be immune from liability for disclosure or release of information under the circumstances set out in ORS 646.473(3).*

E.33 NOTICES: All notices required under the Contract must be in writing and addressed to the ODOT point of contact as identified in the ITB. All notices required to be given by the State must be in writing, addressed to the Contractor's representative, and sent to the address specified in the Bid. Mailed notices will be deemed given 5 days after post marked, when deposited, properly addressed and prepaid, into the U.S. postal service. Faxed notices will be deemed given upon electronic confirmation of successful transmission to the designated fax number, *or the first State-recognized business day thereafter, if confirmation occurs outside normal business hours (8:00 a.m. to 5:00 p.m., excluding weekends and State-recognized holidays).* Email notices will be deemed received upon electronic confirmation of message sent. Personal delivery will be effective upon delivery.

E.34 ACCESS TO RECORDS: Contractor shall maintain all fiscal records relating to the Contract in accordance with generally-accepted accounting principles, and shall maintain all other records relevant to Contractor's performance of the Contract (collectively, "Records"). ODOT and its duly authorized representatives will have access to Records for purposes of examination and copying. Contractor shall retain and keep accessible all Records for a minimum of 6 years, or such longer period as may be required by applicable law following expiration or termination of the Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to the Contract, whichever date is later.

E.35 SEVERABILITY: If any provision of the Contract is declared by a court of competent jurisdiction to be illegal or otherwise invalid, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

E.36 SURVIVAL: Termination of the Contract will not extinguish or prejudice ODOT's right to enforce the warranty, indemnification, access to records, governing law, venue, consent to jurisdiction, and remedies provisions.

E.37 ASSIGNMENT/SUBCONTRACT/SUCCESSORS: Contractor shall not assign, sell, transfer, or subcontract rights, or delegate responsibilities under the Contract, in whole or in part, without ODOT's prior written approval. Further, such written approval will not relieve Contractor of any obligations under the Contract, and any assignee,

transferee, or delegate shall be considered the agent of Contractor. The provisions of the Contract shall be binding upon and shall inure to the benefit of the parties to the Contract and their respective successors and permitted assigns.

E.38 GOVERNING LAW: The Contract shall be governed by and construed in accordance with the internal laws of the State of Oregon, without regard to conflicts of law with regards to Goods. The UCC, as modified, if so, by the terms of the Contract, shall govern this transaction.

E.39 VENUE; CONSENT TO JURISDICTION: Any claim, action, suit or proceeding (collectively, "Claim") between ODOT and Contractor that arises from or relates to the Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon. Provided, however, if a Claim must be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CONTRACTOR, BY SUBMITTAL OF ITS SIGNED BID, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Nothing herein shall be construed as a waiver of the State's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or jurisdiction based thereon.

E.40 MERGER CLAUSE; AMENDMENT; WAIVER: The Contract constitutes the entire agreement between Contractor and ODOT on the subject matter thereof. There are no understandings, agreements, or representations, oral or written, not specified therein regarding the Contract. No waiver, consent, modification or change of terms of the Contract (collectively, "Amendment") shall bind either party unless in writing and signed by both parties, and all necessary approvals have been obtained. Amendments shall be effective only in the specific instance and for the specific purpose given. The failure of ODOT to enforce any provision of the Contract will not constitute a waiver by ODOT of that or any other provision.

E.40.1 VERBAL COMMUNICATIONS: Verbal communications shall not be construed as or have the effect of signifying ODOT's waiver, or consent or agreement to amend, any Contract provision. All such changes must be in writing, signed by both parties and all necessary approvals obtained, including approval by the ODOT Fleet Operations Manager.

E.41 INSURANCE: Contractor shall obtain the insurance required under **SECTION G** prior to performing any work under the Contract, and shall maintain all such insurance for the duration specified in that Section.

With regard to workers' compensation insurance, all employers, including Contractor, that employ subject workers who work under the Contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall require and ensure that each of its subcontractors complies with these requirements.

E.42 AMENDMENT OF CONTRACT. Within the general scope of the Price Agreement, the parties may by amendment to Purchase Order modify any or all of the following and related payment obligations as necessary but not to exceed the price established in the Price Agreement: the expiration date of the Contract; time, place, quantity or form of delivery; and technical specifications or additional or substituted Goods, Services, or other work. No waiver, consent, modification or change of terms of a Contract binds a party unless in writing, signed by Contractor and ODOT, and approved as required by applicable laws and rules. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given and shall not vary, amend, modify, or add Price Agreement provisions. By providing a substitution with consent of ODOT, Contractor represents that Contractor: has personally investigated the proposed substitute product; provides the same warranty for the substitution that the Contractor provides for the product originally specified;

waives all claims for additional costs related to the substitution; and will make such changes as may be required by the substitution for the Goods to conform in all respects with the Price Agreement specifications and warranties.

E.43 PURCHASE ORDERS: ACKNOWLEDGEMENTS: The parties acknowledge and agree that other than designation of order quantities, types of Goods, delivery destination, dates of order and scheduled delivery of other performance, any Purchase Orders or acknowledgement documents are simply for the convenience of the parties to initiate or confirm an order of Goods under this Contract and that no other terms or conditions contained in those documents shall be of any force or effect or be binding upon the parties.

SECTION F - SPECIAL PRICE AGREEMENT TERMS AND CONDITIONS

F.1. DISCLOSURE OF SOCIAL SECURITY NUMBER OR TAXPAYER IDENTIFICATION NUMBER: Pursuant to ORS 305.385 and OAR 150-305.100, the selected Bidder shall provide either their Social Security number or their Taxpayer Identification Number (TIN) and backup withholding status on a completed W-9 form if either of the following apply:

- When requesting Agency (normally in an intent to Award Notice), or
- When the backup withholding status or any other information of Bidder has changed since the last submitted W-9 form, if any.

No payment can be made under the Contract until a properly completed W-9 is on file with Agency. Numbers provided will be used for the administration of state, federal and local tax laws.

F.2 CONTRACTOR'S SOLE REMEDY: For its sole remedy, after exhausting any provisions for resale under Oregon's UCC (ORS Chapters 71 & 72), Contractor is limited to the difference between market price and Contract price at the time and place for tender, less expenses saved, without incidental damages. For the avoidance of doubt, Contractor specifically disclaims and otherwise waives any right or privilege to recover consequential, exemplary, incidental, nominal, special, punitive or other statutory damages, and specifically shall not recover damages for lost opportunity or profits, or pursue any remedy in equity, by specific performance or otherwise.

F.3. INDEPENDENT CONTRACTOR; RESPONSIBILITY FOR TAXES AND WITHHOLDING:

F.3.1 Contractor shall perform all required Work (for example, training) as an independent Contractor. Although ODOT reserves the right (i) to determine (and modify) the delivery schedule for the Work to be performed and (ii) to evaluate the quality of the completed performance, ODOT cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work.

F.3.2 If Contractor is currently performing work for the State of Oregon or the federal government, Contractor by signature to this Contract declares and certifies that: Contractor's Work to be performed under this Contract creates no potential or actual conflict of interest as defined by ORS Chapter 244 and no rules or regulations of Contractor's employing agency (state or federal) would prohibit Contractor's Work under this Contract. Contractor is not an "officer", "employee", or "agent" of ODOT, as those terms are used in ORS 30.265. Contractor shall be responsible for all federal or state taxes applicable to compensation or payments paid to Contractor under this Contract and, unless Contractor is subject to backup withholding, ODOT will not withhold from such compensation or payments any amount(s) to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Contractor under this Contract, except as a self-employed individual.

F.4. PURCHASE ORDER ASSIGNMENT: POs will be assigned as needed by Agency, and there is no guarantee that any specific amount of Services or overall dollar amounts will be assigned to Contractor.

F.4.1 SELECTION METHOD: PO assignments will be made to the lowest responsive and responsible Contractor for each item meeting all requirements of the qualifications, references, and offering the lowest contract price per month combined with the cost of rental returns. If the assigned lowest priced Contractor cannot supply the requested and required items at the time of order; Agency reserves the right to re-assign the Purchase Order for that requested item(s) to the next lowest priced Contractor.

F.4.2 TIE PRICES: If there is a tie in contract bid pricing, Agency will assign the PO based on the following order of precedence:

- Preference to goods or services that have been manufactured or produced in Oregon pursuant to ORS 279A.120.
- Preference to the bidder whose principal offices or headquarters are located in Oregon.

If a tie remains, the assignment is determined by drawing lots among any tied Oregon bidders.

SECTION G - INSURANCE REQUIREMENTS

Bidder shall indicate below the method that will be used to deliver goods:

 X COMMERCIAL/COMMON CARRIER OTHER

If Bidder is using anything other than commercial/common carriers to deliver Goods, an insurance certificate for Automobile Liability as listed below must be provided prior to the issuance of a Notice to Proceed.

The following are the minimum insurance requirements for this Price Agreement:

G.1 ☒ Required by Agency of Contractors with one or more workers, as defined by ORS 656.027.

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide **Workers' Compensation Insurance** coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). **Contractor shall include these requirements in each of its subcontractor contracts.**

G.2 ☒ Required by Agency ☐ Not required by Agency. (May substitute Garage Liability)

Commercial General Liability insurance with a per occurrence limit, or the equivalent, of not less than

☐ \$200,000, ☐ \$500,000, ☒ \$1,000,000, or ☐ \$2,000,000 covering "bodily injury" and "property damage." Any annual aggregate limits shall not be less than ☐ \$100,000, ☐ \$500,000, ☒ \$1,000,000, or ☐ \$2,000,000. This insurance shall include personal and advertising injury liability coverage, as well as coverage for products and completed operations. This coverage may be written in combination with the Automobile Liability insurance required under this Price Agreement (with separate limits).

G.3 ☒ Required by Agency ☐ Not required by Agency.

Automobile Liability insurance covering Contractor's business-related automobile use, with a combined single limit, or the equivalent, of not less than ☐ Oregon Financial Responsibility Law (ORS 806.060), ☐ \$200,000, ☐ \$500,000, or ☒ \$1,000,000, each accident for "bodily injury" and "property damage," including coverage for all owned, non-owned, rented or hired vehicles. This coverage may be purchased by Contractor from a rental company, as appropriate, or written in combination with the Commercial General Liability insurance required under this Price Agreement (with separate limits).

G.4 Notice of cancellation or change. There shall be no cancellation, material change (one that would adversely impact the protection of Agency provided through the insurance coverages required in this Price Agreement), reduction of limits or intent not to renew the insurance coverage(s) without 30 calendar days prior written notice from Contractor or its insurer(s) to the Department of Transportation (Agency).

G.5 Certificates of Insurance. As evidence of the insurance coverages required by this Price Agreement, Contractor shall furnish acceptable insurance certificates to Department of Transportation (Agency) prior to Price Agreement execution. Throughout the life of this Price Agreement, Contractor shall submit updated certificates of insurance prior to the policy expiration date(s) indicated for the required coverages. If Agency has on file current certificates of insurance that meet all requirements of this Price Agreement, and Agency provides such notification to Contractor, then submittal of certificates pursuant to this Price Agreement will not be required.

- i) **Blanket Coverage.** Unless otherwise approved by Agency, the certificate submitted for this Contract must not reference a specific Price Agreement name or number with regard to any of the required liability coverages or Additional Insured Endorsement (contact the Agency's Procurement Specialist if this is not available from the insurance provider).

- ii) **Additional Insureds.** The certificate must specify **"The State of Oregon, the Oregon Transportation Commission and its members, and the Department of Transportation, its officers, agents and employees"** as Additional Insureds for Automobile and General Liability. **The certificate must be submitted with the blanket Additional Insureds Endorsement page(s).**
- iii) **State Acceptance.** All insurance providers are subject to State acceptance. If requested by Agency, Contractor shall either: a) provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to Agency; or, b) make such insurance policies, endorsements, self-insurance documents and related insurance documents available for inspection by Agency's representatives at a location in the State of Oregon that is reasonably convenient for Agency's representatives responsible for verification of the insurance coverages required under this Price Agreement. In the event Contractor elects to have Agency representatives inspect the insurance policies, endorsements, self-insurance documents and related insurance documents, Agency representative shall be entitled to make written notes regarding the documents inspected, for the purpose of verifying the coverages required under this Price Agreement.
- iv) **Financial Responsibility.** Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and self-insurance.

G.6 ☒ Required by Agency ☐ Not required by Agency.

Tail Coverage. If any of the required liability insurance is arranged on a "claims made" basis, "tail" coverage shall be required at the completion of the Price Agreement for a duration of: ☒ 24 months, or ☐ 12 months. If "tail" coverage is required by Agency, Contractor will be responsible for furnishing certification of "tail" coverage as described, or continuous "claims made" liability coverage, for the time period required in this Contract following Price Agreement expiration. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of the Contract. Evidence of suitable coverage will be a condition of final payment under the Price Agreement.

G.7 ☒ Required by Agency ☐ Not required by Agency.

Garagekeepers' Legal Liability Coverage: Contractor shall obtain, at Contractor's expense and keep in effect during the term of this Contract and any applicable warranty periods, Garagekeepers' Legal Liability Coverage for "Autos left for service, repair, storage or safekeeping." **The deductible for this coverage will be determined prior to Price Agreement award** Coverage limits per occurrence must not be less than \$1,000,000.

SECTION H - BIDDER QUALIFICATIONS & RESPONSIBILITY INQUIRY

ODOT reserves the right, pursuant to OAR 137-047-0640(1)(c)(F), to investigate and evaluate, at any time prior to award and execution of the Contract, the apparent successful Bidder's responsibility to perform the Contract. Submission of a signed offer constitutes approval for ODOT to obtain any information ODOT deems necessary to conduct the evaluation. ODOT will notify the apparent successful Bidder, in writing, of any other documentation required, which may include, but is not limited to, recent profit-and-loss history; current balance statements; assets-to-liabilities ratio, including number and amount of secured versus unsecured creditor claims; availability of short and long-term financing; bonding capacity; credit information; material; equipment; facility and personnel information; performance record of Contract performance; etc. Failure to promptly provide this information will result in offer rejection.

ODOT may postpone the award of the Contract after announcement of the apparent successful Bidder in order to complete its investigation and evaluation. Failure of the apparent successful Bidder to demonstrate Responsibility, as required under OAR 137-047-0640(1)(c)(F), will render the Bidder non-responsible and will constitute grounds for offer rejection, as required under OAR 137-047-0640.

H.1 NUMBER OF YEARS IN BUSINESS OF SELLING AND RENTING EQUIPMENT OF THE KIND MADE THE SUBJECT OF THIS ITB:

16 years

H.2 NUMBER OF PENDING CONTRACTS FOR SALE OR RENTAL OF EQUIPMENT AND ASSOCIATED SERVICES EQUIVALENT IN VOLUME AND VALUE TO THOSE REQUIRED UNDER THIS ITB:

5

H.3 NUMBER OF FACTORY-AUTHORIZED SERVICE REPRESENTATIVES IN THE STATE AVAILABLE TO PROVIDE WARRANTY SERVICES AND REPAIRS UNDER THE CONTRACT TO BE AWARDED:

3

H.4 LOCATIONS OF REPRESENTATIVES IDENTIFIED IN H.3, INCLUDING CONTACT NAMES, COMPANY NAMES, PHYSICAL ADDRESSES, PHONE NUMBERS, FAX NUMBERS AND HOURS OF SERVICE (Refer to B.21.3):

(USE SEPARATE SHEET)

H.5 WITHIN THE PAST FIVE YEARS, HAS BIDDER HAD ANY LAWSUITS FILED AGAINST IT INVOLVING CONTRACT DISPUTES? YES/NO. IF "YES," INDICATE DATES AND ULTIMATE RESOLUTION OF SUIT. (WITH REGARD TO JUDGMENTS, INCLUDE JURISDICTION AND DATE OF FINAL JUDGMENT OR DISMISSAL.).

No

(USE SEPARATE SHEET IF ADDITIONAL SPACE IS NEEDED)

H.6 WITHIN THE PAST TWENTY-FOUR MONTHS, HAS BIDDER FILED A BANKRUPTCY ACTION, FILED FOR REORGANIZATION, MADE A GENERAL ASSIGNMENT OF ASSETS FOR THE BENEFIT OF CREDITORS, OR HAD AN ACTION FOR INSOLVENCY INSTITUTED AGAINST IT? YES/NO. IF "YES," SUPPLY FILING DATES, JURISDICTIONS, TYPE OF ACTION, ULTIMATE RESOLUTION, AND DATES OF JUDGMENT OR DISMISSAL, IF APPLICABLE.

NO

(USE SEPARATE SHEET IF ADDITIONAL SPACE IS NEEDED)

H.7 WITHIN THE PAST TWENTY-FOUR MONTHS, HAS BIDDER HAD ANY LAWSUITS FILED AGAINST IT BY CREDITORS? YES / NO. IF "YES," INDICATE DATES AND ULTIMATE RESOLUTION OF SUIT (WITH REGARD TO JUDGMENTS, INCLUDE JURISDICTION AND DATE OF FINAL JUDGMENT OR DISMISSAL).

NO

NOTE: A Bidder Qualifications and Reference form is provided within this Invitation to Bid. Bidders must complete this form and return it with their bid.

H.8 BIDDER QUALIFICATIONS & REFERENCES: Provide the following:

H.8.1 Three (3) current end user references (must not include reseller, dealers, or vendors) that the Bidder has Contracted with to provide a similar level of service and support, as referenced in this Invitation to Bid, within the last 2 years. **Provide at least 1 of the professional references from a county agency, city agency or state agency other than ODOT.**

H.8.2 ODOT reserves the right to check the references to determine if they are supportive of the Contractors ability to comply with the requirements of the Invitation to Bid.

H.8.3 Failure to provide complete and accurate information may be cause for bid rejection.

H.8.3.1 Bidder must provide customer references that can be contacted regarding the quality of workmanship and service provided to current and past customers.

H.8.3.2 Each reference must be under separate Contracts [for example, it is not acceptable to have 3 State of Oregon government agencies which use the same Contract to count as 3 separate references].

H.8.3.3 ODOT reserves the right to investigate any customer references whether or not furnished by the Bidder and past performance of any Bidder in respect to its successful performance of similar projects, compliance with specifications and Contractual obligations, its completion or delivery of a product or service on schedule, and its lawful payment of suppliers, subcontractors, and employees.

H.8.3.4 ODOT may reject a bid if, in the opinion of ODOT, overall reference responses indicate inadequate performance.

H.8.3.5 ODOT may postpone the award or execution of the Contract after the announcement of the apparent successful bidder in order to complete its investigation. ODOT reserves its right to reject any bid response or to reject all bid responses at any time prior to ODOT's execution of a Contract.

BIDDER QUALIFICATIONS AND REFERENCE FORM

1. BIDDER INFORMATION:

- a. Business Name: CASE Power & Equipment
b. Business Address: 1665 Silverton Rd. NE Salem OR 97303
c. Owner Name: CASE Power & Equipment LLC.
d. Business Phone 503-362-1371 Evening/Weekend: 503-449-9000
Daytime:
e. Number of Employees: 95 Annual Sales \$: 30 million Year
f. Date Business Established: 2008

2. REFERENCES:

- a. Firm Name: Bethel Excavating
Address: 6976 Little Road SE. Turkey OR. 97392
Name of Contact Person: Dennis Bethel
Position Title: owner
Telephone Number: 503-743-2343 Fax Number: _____
Name of Project: VARIOUS PROJECTS
Address: _____
Dates: _____
Make / Model provided: CASE, Backhoe, excavators, Dozers, Loaders
- b. Firm Name: Moore Excavation
Address: 17090 NE. Saw Rafael
Name of Contact Person: Joel Weller
Position Title: Manager
Telephone Number: 503-252- Fax Number: _____
Name of Project: VARIOUS PROJECTS
Address: _____
Dates: _____
Make / Model provided: CASE 621E, 521E
- c. Firm Name: Barker Trucking
Address: 4211 Kopp Butte Albany OR, 97321
Name of Contact Person: Low Barker
Position Title: owner
Telephone Number: 541-928-7609 Fax Number: _____
Name of Project: Arti wash Churng
Address: 1600 old Salem Rd NE. Albany OR
Dates: _____
Make / Model provided: CASE 621E

EACH BIDDER MUST READ AND COMPLY WITH THE FOLLOWING SECTIONS I THROUGH O. FAILURE TO DO SO MAY RESULT IN BID REJECTION.

SECTION I - RESIDENCY INFORMATION

ORS 279A.120(2)(b) states that in determining the lowest responsible Bidder, a Contracting agency shall, for the purpose of awarding the Contract, add a percent increase to the bid of a nonresident Bidder equal to the percent, if any, of the preference given to that Bidder in the state in which the Bidder resides.

"Resident bidder" means a bidder that has paid unemployment taxes or income taxes in this state during the twelve calendar months immediately preceding submission of the bid/proposal, has a business address in this state and has stated in the bid/proposal whether the bidder is a "resident bidder". [ORS 279A.120(1)(b)]

"Non-resident bidder" means a bidder who is not a "resident bidder" as defined above. [ORS 279A.120(1)(a)]

a. Check one: Bidder is a ☒ resident bidder () non-resident bidder.

b. If a resident bidder, enter your Oregon business address (physical and mailing address):

1665 Silverton Rd NE Salem 97303
P.O. BOX 7304 Salem 97303

c. If a non-resident bidder, enter state of residency: _____

d. If a non-resident bidder, do you or your firm receive, or are you or your firm eligible for, any preference in award of Contracts with your state's government or with other governmental bodies in your state?

Check one: () Yes () No

If yes: state the preference percentage: _____%

If yes, but not a percentage of bid/proposal price, describe the preference:

If yes, state the law or regulation that allows the preference described
(legal citation): _____

SECTION J - CERTIFICATION OF COMPLIANCE WITH OREGON TAX LAWS

By my signature in **SECTION O** of this ITB, I, hereby attest or affirm under penalty of perjury: That I am authorized to act on behalf of the Contractor in this matter, that I have authority and knowledge regarding the payment of taxes, and that Contractor is, to the best of my knowledge, not in violation of any Oregon Tax Laws.

For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250, ORS Chapters 118, 314, 316, 317, 318, 320, 321, 323 and the elderly rental assistance program under ORS 310.630 to 310.706, and any local taxes administered by the Department of Revenue under ORS 305.620.

SECTION K - CERTIFICATION OF COMPLIANCE WITH NONDISCRIMINATION LAWS

By my signature in **SECTION O** of this ITB, I, hereby attest or affirm under penalty of perjury that I am authorized to act on behalf of Bidder in this matter, and to the best of my knowledge the Bidder has not discriminated against minority, women or emerging small business enterprises in obtaining any required subcontracts, and that the Bidder is not in violation of any Discrimination Laws.

SECTION L - RECYCLED PRODUCTS CERTIFICATION

Vendors shall use recyclable products to the maximum extent economically feasible in the performance of the Contract work set forth in this document. If recycled products are used, submit percentage used and type of recycled product with bid submission. Bidders are required to submit this information if applicable. See Section B.12.5 RECYCLED MATERIAL.

SECTION M - RESERVED

SECTION N - ADDENDA ACKNOWLEDGEMENT

N.1 ODOT reserves the right to make changes to the Invitation to Bid and the resulting Contract, by written Addenda, prior to the closing time and date. Addenda will be advertised on the ORPIN System. ODOT is not responsible for a Bidders failure to receive notice of Addenda if such are advertised in the foregoing manner. Addenda will only be issued by ODOT and upon issuance are incorporated into the Invitation to Bid or the resulting Contract. If required by the Addenda, Bidders shall sign and return the Addenda prior to the Closing time/date.

N.2 By Bidders signature in **Section O** it ACKNOWLEDGES, AGREES and CERTIFIES TO THE FOLLOWING:

N.2.1 If any Addenda are issued in connection with this ITB, Bidder has received and duly considered such Addenda, and has completed the blanks below identifying all Addenda issued, and acknowledging and agreeing to the terms of all such Addenda as those terms revise the terms, conditions, Plans and Specifications of this ITB.

AMENDMENT(s): No. 1 to No. 3 inclusive.

SECTION O - SIGNATURE OF BIDDER'S DULY AUTHORIZED REPRESENTATIVE

THIS BID MUST BE SIGNED IN INK BY AN AUTHORIZED REPRESENTATIVE OF THE BIDDER; ANY ALTERATIONS OR ERASURES TO THE BID MUST BE INDIVIDUALLY INITIALED IN INK BY THE UNDERSIGNED AUTHORIZED REPRESENTATIVE.

The undersigned acknowledges, attests and certifies individually and on behalf of the Bidder that:

- (1) He/she is a duly authorized representative of the Bidder, has been authorized by Bidder to make all representations, attestations, and certifications contained in this Bid and all Addenda, if any, issued, and to execute this Bid on behalf of Bidder;
- (2) Bidder, acting through its authorized representatives, has read and understands all Bid instructions, Specifications, and terms and conditions contained in this Bid document (including all listed attachments and Addenda, if any, issued);
- (3) Bidder certifies that this Bid has been arrived at independently and has been submitted without any collusion designed to limit independent bidding or competition;
- (4) Bidder is bound by and shall comply with all requirements, Specifications, and terms and conditions contained in this Bid document (including all listed attachments and Addenda, if any, issued);
- (5) Bidder shall furnish the designated Goods in accordance with the Bid Specifications and requirements, and shall comply in all respects with the terms of the resulting Contract upon award; and
- (6) BIDDER SHALL PROVIDE/FURNISH FEDERAL EMPLOYEE IDENTIFICATION NUMBER OR SOCIAL SECURITY NUMBER WITH BID SUBMISSION.

(7) BIDDER'S CONTRACT ADMINISTRATOR: Identify the name of the individual who shall function as Bidder's authorized representative and Contract Administrator in the event Bidder is awarded the Contract. The Contract Administrator shall act for and bind the Contractor in all things relating to performance of the Contract. Include the address, e-mail, fax and telephone numbers to be used in providing any notices required or authorized under the Contract, and in contacting the Contract Administrator.

(8) All affirmations contained in Section B.3.1 are true and correct. False Claims: Bidder understands that any statement or representation it makes, in response to this solicitation, that constitutes a "claim" (as defined by the Oregon False Claims Act, ORS 180.750(1)), shall be subject to the Oregon False Claims Act, ORS 180.750 to 180.785, and to any liabilities or penalties associated with the making of a false claim under that Act.

(9) All Contractors, subcontractors or other Associates are in compliance with all COI disclosure requirements per Section B.21.2.

(10) Check one of the following:

- a. ☒ The Goods meet the Buy Oregon Preference under section B.12.6, which can be further substantiated upon request.
- b. ☐ The Goods do not meet the Buy Oregon Preference under section B.12.6.

CASE POWER & Equipment

Bidder (COMPANY) Name

1665 Silverton Rd. NE Salem OR 97303

Bidder Address

Tom Burros

Contract Administrator

Signature of Authorized Representative

503-362-1371

503-362-8047

Phone

Fax

10-23-12

Date

Tom Burros @ casepower.com

Email

SECTION P – PRICE AGREEMENT AS A RESULT OF INVITATION TO BID

THIS SECTION TO BE COMPLETED BY THE STATE OF OREGON

The State of Oregon hereby awards a Price Agreement to the above Bidder for the Good(s) designated in Section D of the ITB.

Issued by	Title	Date
-----------	-------	------

Authorized Signature	Title	Date
----------------------	-------	------

Legal Sufficiency Approval (if required)	Date
--	------

Price Agreement No. _____

Initial Expiration Date: _____

Not to Exceed Expiration Date: _____

 DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF THE ASSISTANT SECRETARY FOR
REGULATORY AFFAIRS
WASHINGTON, D.C. 20201

This Purchase Order and (select "a" or "b" as applicable) (a) ☐ the attached terms and conditions and any items incorporated by reference, or (b) ☐ the terms and conditions of the parent Price Agreement between Agency and Contractor, constitute the entire agreement between the parties about the Goods Services. There are no other understandings, agreements or representations, oral or written, related to the Goods Services.

[illegible]

EXHIBIT B: PERFORMANCE EVALUATIONS

The Agency may conduct performance evaluations on the Contractor during the Price Agreement term, be compiled and maintained by Agency, and become a written record of Contractor's performance, including information gained during the exit interview. The Agency will provide copies of any performance evaluation to the affected Contractor and third parties, unless lawfully exempt.

The following information describes the Agency's use of the performance evaluation documentation:

Performance Evaluation Process:

- a. Agency's Right to Evaluate.** Agency may, at its sole discretion, conduct performance evaluations. The Agency reserves the right to negotiate the criterion of the Performance Evaluation Form prior to execution of the Price Agreement.
- b. Evaluation Process.** The performance evaluation results may be used as written documentation for addressing areas of Contractor's performance throughout the term of the resulting Price Agreement. Agency reserves the right to conduct performance evaluations on an interim basis throughout the term of the Price Agreement.
- c. Contractor's Review/Response.** The Agency will provide a copy of the performance evaluation form results to Contractor within 10 business days following completion. Contractor may respond, in writing, and request a meeting to address any or all findings contained in the completed Contractor's performance evaluation form within 5 business days following receipt.
- d. Agency's Use of Performance Evaluation.** Agency may, at its sole discretion, use performance evaluation findings and conclusions in any way deemed necessary by Agency, including, but not limited to, as a criterion of selection for future Agency contracts.

SAMPLE CONTRACTOR PERFORMANCE EVALUATION FORM

CONTRACTOR PERFORMANCE EVALUATION

[] Final or [] Interim – Period Report: From / / To / /

1. Contractor

Name

Address:

2. Price Agreement
Number:

3. Current value to date: \$

4. Award Date:

Purchase Order
Number:

Expiration Date:

5. Type of Price Agreement: Seasonal Rental of 4 Wheel Articulated Loaders and/or Tool Carriers

6. Ratings. After commenting, score (in column on the left) using 1 for unsatisfactory, 2 for marginal, 3 for satisfactory, 4 for very good, and 5 for exceptional.

Quality of
Workmanship

Comments

Timeliness

Comments

Pickup and
Delivery

Comments

Customer Service

Comments

Total Score

(sum of scores from each area)

Mean Score

(sum of scores divided by number of areas evaluated):

7. List Key Personnel of Contractor

Name/Title

Employment Dates

Comments:

Name/Title Comments:	Employment Dates
Name/Title Comments:	Employment Dates
8. Would you select the Contractor again? Yes _____ No _____ Is/Was the contractor committed to customer satisfaction? Yes _____ No _____	
9. Evaluator Name/Org. ID	Signature:
Phone/Fax Number:	
Date Sent to Contractor:	Evaluator's Initials:
10. Contractor's Review. Were comments, rebuttals, or additional information provided? ☐ No ☐ Yes. Please attach comments.	
11. Returned by (print name): Phone Fax Internet Address	Signature Date
12. Agency Review. Were contractor comments reviewed at a level above the Contract Administrator? ☐ No ☐ Yes. Please attach comments. Number of pages	
13. Final Ratings. Re-assess the Block 6 ratings based on contractor comments and agency review. Validate or revise as appropriate.	
Quality	Timeliness
Pickup and Delivery	Customer Service
Mean Score (Add the ratings above and divide by the number of areas rated)	
0.00	
14. CA's Name Phone Fax Internet Address	Signature Date

Release of Information: This Contractor Performance Report may be used to support future award decisions, and will be treated as *source selection information* in accordance with FAR 3.104-4(k)(1)(x) and 42.1503(b). The completed report shall not be released to other than Government personnel and the contractor whose performance is being evaluated during the period the information is being used to provide source selection information.

SAMPLE CONTRACTOR PERFORMANCE REPORT INSTRUCTIONS

Block 1: Contractor Name and Address.

Block 2: Price Agreement number / Purchase Order number being evaluated.

Block 3: Cumulative Price Agreement value to date.

Block 4: Price Agreement award date and Price Agreement expiration date.

Block 5: Type of Price Agreement: Check all that apply.

Block 6: Indicate rating in far left column under section topic. In the comment area, provide rationale for the rating. Indicate the Price Agreement requirements that were exceeded or were not met by the contractor and by how much.

Block 7: Identify contractor key personnel.

Block 8: Explain why you would or would not select the contractor for this Price Agreement again.

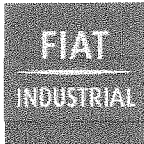
Block 9: Provide information indicated.

Blocks 10-11: The contractor may provide comments but must sign block 13 to indicate it has reviewed the rating.

Block 12: If the contractor and Contract Administrator are unable to agree on a final rating, the contractor may seek review at a level above the Contract Administrator, as required. Provide information indicated.

Block 13: Adjust the ratings assigned in block 6, if appropriate, based on any comments, rebuttals, or additional information provided by the contractor and, if necessary, by agency review. Calculate a mean score.

Block 14: The Contract Administrator's signature indicates concurrence with the initial and final ratings.



W. Steven Price
Product Specialist

October 23, 2012

To: Whom It May Concern

Re: Recycling Manufacturing Process

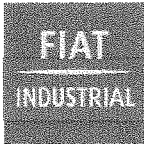
Case Wheel Loaders are manufactured in Fargo, North Dakota. Steel, the largest component of the manufacturing process, is delivered on flat bed trucks without any additional packaging except the supplier's returnable dunnage.

The other components, for the most part, are received in containers that are either returned for future deliveries or re-used in the plant for storage or shipping. The containers of metal or wood that are not used in the plant are recycled.

Environmental concerns are a priority at the manufacturing facilities of Case and are constantly reviewed to make sure we are in compliance with all applicable laws and local ordinances.

Regards;

W. Steven Price
Product Specialist
Case Construction



W. Steven Price
Product Specialist

October 23, 2012

To: Whom It May Concern

Re: End of Useful Machine Life

When a Case Wheel Loader reaches the end of its useful life, virtually all of the machine's components can be recycled providing proper facilities are available. Case does not use any lead based paint in the painting processes. In theory, all of the following materials can effectively be recycled utilizing current technology:

Plastics
Glass
Rubber
Oils
Metals

Regards;

W. Steven Price
Product Specialist
Case Construction

October 9, 2012

OREGON DEPARTMENT OF TRANSPORTATION

**INVITATION TO BID
ADDENDUM NO. 1**



BID NO.: **25298** CLOSE DATE: **October 23, 2012** TIME: **2:00 PM**
DESCRIPTION: **Seasonal Wheel Loader & Tool Carrier Rental**
BUYER: **Jon Miller** PHONE: **503-986-0279** FAX: **503-986-5790**
E-MAIL: jonathan.d.miller@odot.state.or.us

This addendum forms a part of the contract documents and modifies, as noted below, the original bidding documents dated October 9, 2012, and becomes a part of the contract documents.

***Acknowledge receipt of this addendum in the space provided on the bottom of this page and return with bidding documents. Failure to do so may be subject to disqualification.**

If you have already submitted your bid documents and should this addendum affect your bid price, the following information on pre-opening modification applies:

137-030-0060 (1) Modifications. An Offeror may modify its Offer in writing prior to the Closing. An Offeror shall prepare and submit any modification to its Offer to the Agency in accordance with OAR 137-030-0020 and 137-030-0030, unless otherwise specified in the Solicitation Document. Any modification must include the Offeror's statement that the modification amends and supersedes the prior Offer. The Offeror shall mark the submitted modification as follows:

BID MODIFICATION

BID #, BID DUE DATE & TIME: MM/DD/YY XX: XX

RETURN BIDS/ADDENDA/MODIFICATIONS TO: DEPARTMENT OF TRANSPORTATION
PURCHASING AND CONTRACT MANAGEMENT
455 AIRPORT ROAD SE, BLDG. "K"
SALEM, OR 97301

The State shall not be responsible for the proper identification and handling of any bid not submitted in a timely manner.

SINGLE POINT OF CONTACT: There will be only one point of contact for this Invitation to Bid. The contact point is the ODOT Purchasing Office, and the contact person is the Buyer listed above. Any questions or issues that may arise regarding the specifications, the bidding process, and/or the award process shall be directed to the Buyer listed above. The State's official response to any questions or requests will be through direct letters or the addendum process.

DESCRIPTION OF BID CHANGES

1. This addendum hereby adds the referenced "Attachment A: ODOT Region Map."

*I hereby acknowledge having received and duly considered the preceding addendum to the specification.

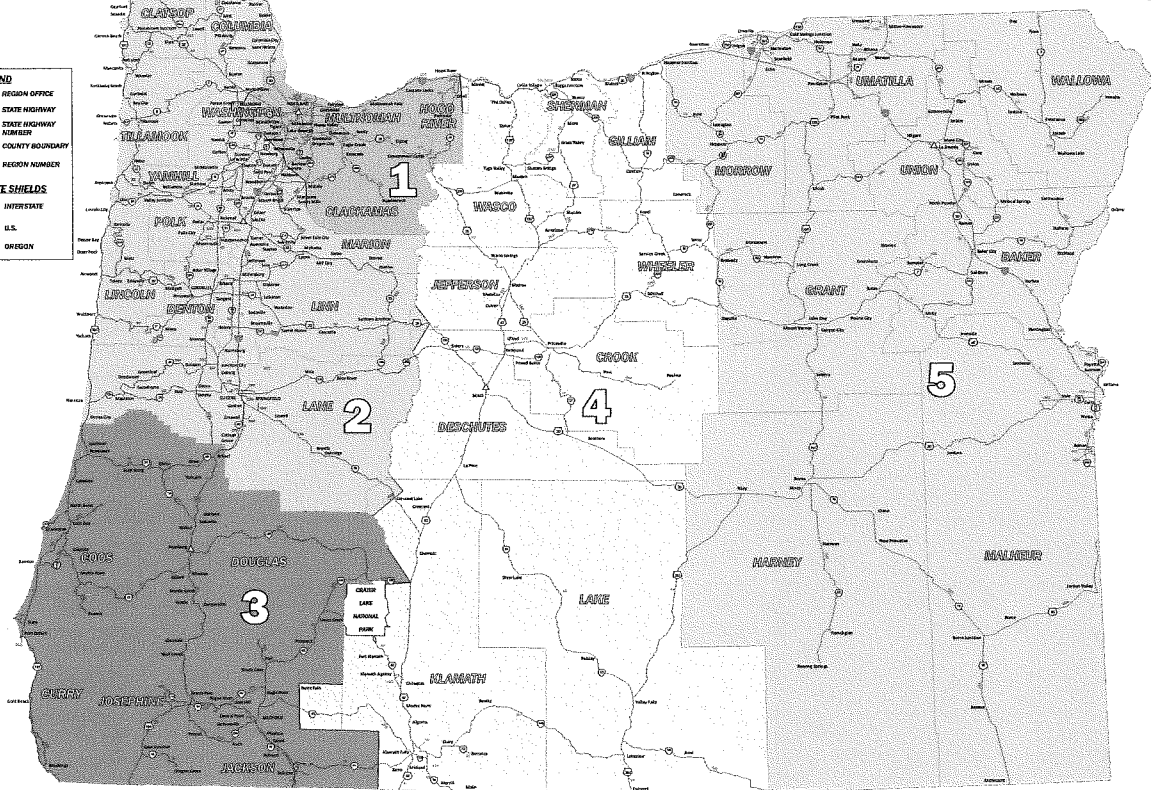
Bidder Name: CASE Power & Equipment
Authorized Signature: Tom Burns

OREGON DEPARTMENT OF TRANSPORTATION REGION MAP



LEGEND

- REGION OFFICE
- STATE HIGHWAY
- STATE HIGHWAY NUMBER
- COUNTY BOUNDARY
- REGION NUMBER
- ROUTE SHIELDS
- INTERSTATE
- U.S.
- OREGON



October 12, 2012

OREGON DEPARTMENT OF TRANSPORTATION

**INVITATION TO BID
ADDENDUM NO. 2**



BID NO.: **25298** CLOSE DATE: **October 23, 2012** TIME: **2:00 PM**
DESCRIPTION: **Seasonal Wheel Loader & Tool Carrier Rental**
BUYER: **Jon Miller** PHONE: **503-986-0279** FAX: **503-986-5790**
E-MAIL: jonathan.d.miller@odot.state.or.us

This addendum forms a part of the contract documents and modifies, as noted below, the original bidding documents dated October 9, 2012, and becomes a part of the contract documents.

***Acknowledge receipt of this addendum in the space provided on the bottom of this page and return with bidding documents. Failure to do so may be subject to disqualification.**

If you have already submitted your bid documents and should this addendum affect your bid price, the following information on pre-opening modification applies:

137-030-0060 (1) Modifications. An Offeror may modify its Offer in writing prior to the Closing. An Offeror shall prepare and submit any modification to its Offer to the Agency in accordance with OAR 137-030-0020 and 137-030-0030, unless otherwise specified in the Solicitation Document. Any modification must include the Offeror's statement that the modification amends and supersedes the prior Offer. The Offeror shall mark the submitted modification as follows:

BID MODIFICATION

BID #, BID DUE DATE & TIME: MM/DD/YY XX: XX

RETURN BIDS/ADDENDA/MODIFICATIONS TO: DEPARTMENT OF TRANSPORTATION
PURCHASING AND CONTRACT MANAGEMENT
455 AIRPORT ROAD SE, BLDG. "K"
SALEM, OR 97301

The State shall not be responsible for the proper identification and handling of any bid not submitted in a timely manner.

SINGLE POINT OF CONTACT: There will be only one point of contact for this Invitation to Bid. The contact point is the ODOT Purchasing Office, and the contact person is the Buyer listed above. Any questions or issues that may arise regarding the specifications, the bidding process, and/or the award process shall be directed to the Buyer listed above. The State's official response to any questions or requests will be through direct letters or the addendum process.

DESCRIPTION OF BID CHANGES

1. This addendum hereby adds the following bullet point to Section C.4.1 Wheel Loader and Tool Carriers requirements:
 - **NOTE:** Item weight size configurations may have a variance +/- up to 300 lbs. for each of the weight category sizes.

*I hereby acknowledge having received and duly considered the preceding addendum to the specification.

Bidder Name: Case Power & Equipment

Authorized Signature: _____

October 17, 2012

OREGON DEPARTMENT OF TRANSPORTATION

**INVITATION TO BID
ADDENDUM NO. 3**



BID NO.: 25298 **CLOSE DATE:** October 23, 2012 **TIME:** 2:00 PM
DESCRIPTION: Seasonal Wheel Loader & Tool Carrier Rental
BUYER: Jon Miller **PHONE:** 503-986-0279 **FAX:** 503-986-5790
E-MAIL: jonathan.d.miller@odot.state.or.us

This addendum forms a part of the contract documents and modifies, as noted below, the original bidding documents dated October 9, 2012, and becomes a part of the contract documents.

***Acknowledge receipt of this addendum in the space provided on the bottom of this page and return with bidding documents. Failure to do so may be subject to disqualification.**

If you have already submitted your bid documents and should this addendum affect your bid price, the following information on pre-opening modification applies:

137-030-0060 (1) Modifications. An Offeror may modify its Offer in writing prior to the Closing. An Offeror shall prepare and submit any modification to its Offer to the Agency in accordance with OAR 137-030-0020 and 137-030-0030, unless otherwise specified in the Solicitation Document. Any modification must include the Offeror's statement that the modification amends and supersedes the prior Offer. The Offeror shall mark the submitted modification as follows:

BID MODIFICATION

BID #, BID DUE DATE & TIME: MM/DD/YY XX: XX

RETURN BIDS/ADDENDA/MODIFICATIONS TO:

**DEPARTMENT OF TRANSPORTATION
PURCHASING AND CONTRACT MANAGEMENT
455 AIRPORT ROAD SE, BLDG. "K"
SALEM, OR 97301**

The State shall not be responsible for the proper identification and handling of any bid not submitted in a timely manner.

SINGLE POINT OF CONTACT: There will be only one point of contact for this Invitation to Bid. The contact point is the ODOT Purchasing Office, and the contact person is the Buyer listed above. Any questions or issues that may arise regarding the specifications, the bidding process, and/or the award process shall be directed to the Buyer listed above. The State's official response to any questions or requests will be through direct letters or the addendum process.

DESCRIPTION OF BID CHANGES

1. This item is to clarify and answer questions received in response to the ITB:
 - a. Can ODOT give some guidance of the anticipated quantity of each size of machine? Does ODOT intend to rent more of one size than another?

Answer

Currently there is not an anticipated quantity of each size of machine, and there is not a need of more of one type of machine.

- b. Will ODOT allow additional delivery time from the Notice of Intent to Award until the issuance of the purchase order for the first year of the contract? This will insure that our inventory of machines is sufficient for the order. During the remaining years of the contract, the 30-day requirement is acceptable.

Answer

No, this is why this ITB is anticipated to be a multiple award. It is expected that not all vendors will be able to supply all of the equipment needed at one time.

- c. Will the Addendum No. 2 limits of the maximum full turn tipping weight to 300 lbs. above the minimum weight specified? Original specification Item No. 1 called for a minimum full turn tipping weight of 10,000 lbs. Addendum No. 2 amends that requirement to specify that the weight may have a variance of +/- 300 lbs. Does this mean that the maximum full turn tipping weight allowable is now 10,300 lbs.? For example, if we propose a machine for Item No. 1 that has a 12,000 lb. rating, would this be allowable?

Answer

The intention of Addendum No. 2 is that it would allow a slightly lower limit on the weight requirement. If the item submitted exceeds the specification then it is acceptable so long as it does not fall into the next weight class.

- d. Pg 41, Section G.7 "Insurance Requirements / Garagekeepers' Legal Liability Coverage" - should not have the box checked. There is no garage keeper exposure here, so no need to provide any garagekeepers legal liability coverage. And, if we did provide it, note that our limits are note \$1mm - they are \$300k.

Answer

That is correct. Garagekeepers' Legal Liability Coverage is not required. This has been changed per item No. 2 of this Addendum.

- e. Pg 48, Section O (10); [Please] verify with your contacts we can select box "a" on basis that all our "services are performed entirely in Oregon" as defined on pg 14, section B.12.6 "Buy Oregon Preference," Can we get preference? Our services will all be in Oregon?

Answer

Per Section B.12.6.a – Buy Oregon Preference, ODOT prefers Oregon Goods and Services, and for evaluation purposes, ODOT shall apply a 10% preference for Oregon Goods fabricated or processed entirely in Oregon or Services performed entirely in Oregon (ORS 279A.128). It is the Bidders responsibility to verify if your services are performed entirely in Oregon. ODOT will not verify if a Bidder meets the criterion until after Bid responses are received. Please also see Section B.2 General Information, Solicitation Law and Rules, OAR 137-046 and 137-047 apply to this ITB and resulting Price Agreement(s). For Contracting Preferences see 137-046-0300, Preference for Oregon Goods and Services.

2. Section G – Insurance Requirements, G.7 Garagekeepers' Legal Liability Coverage, is hereby revised as follows:

G.7 ☒ Required by Agency ☐ Not required by Agency.

Garagekeepers' Legal Liability Coverage: Contractor shall obtain, at Contractor's expense and keep in effect during the term of this Contract and any applicable warranty periods, Garagekeepers' Legal Liability Coverage for "Autos left for service, repair, storage or safekeeping." **The deductible for this coverage will be determined prior to Price Agreement award** Coverage limits per occurrence must not be less than \$1,000,000.

3. Administrative changes for typographical errors in Addendums 1 and 2 have been issued. Bidders are hereby notified to re-download Addendums 1 and 2.

*I hereby acknowledge having received and duly considered the preceding addendum to the specification.

Bidder Name: CASE Power & Equipment

Authorized Signature: [Signature]



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
09/04/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
MARSH USA INC.
540 W. MADISON
CHICAGO, IL 60661
Attn: PH: 312-627-6994; FAX: 877 855 7274

CONTACT
NAME:
PHONE
(A/C, No, Ext):
E-MAIL
ADDRESS:

FAX
(A/C, No):

401962-Std-Std-2012

XS

INSURED
CASE POWER & EQUIPMENT
PO BOX 7304
SALEM, OR 97303

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A : ACE American Insurance Company

22667

INSURER B : ACE INA Insurance

1560515

INSURER C : Indemnity Ins Co Of North America

43575

INSURER D : N/A

N/A

INSURER E :

INSURER F :

COVERAGES**CERTIFICATE NUMBER:**

CHI-004097665-08

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR / WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PROJECT ☐ LOC		HDOG26438044	12/31/2011	12/31/2012	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 2,000,000 MED EXP (Any one person) \$ --- PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ALL OWNED AUTOS HIRED AUTOS		ISAH08692580 (AOS) CAC387107 (CANADA)	12/31/2011 12/31/2011	12/31/2012 12/31/2012	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB EXCESS LIAB DED RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	WLRC46780231 (AOS) WLRC46780243 (CA,AZ,MA) DEDUCTIBLE: \$500,000	12/31/2011 12/31/2011	12/31/2012 12/31/2012	☒ WC STATUTORY LIMITS E.L. EACH ACCIDENT \$ 2,000,000 E.L. DISEASE - EA EMPLOYEE \$ 2,000,000 E.L. DISEASE - POLICY LIMIT \$ 2,000,000
A	EXCESS WORK COMP		WCUC46780255	12/31/2011	12/31/2012	SIR: \$1,000,000(IL,WI) SIR: \$500,000(KS)

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
of Marsh USA Inc.

Manashi Mukherjee

Manashi Mukherjee