

JUL 14 2011

MHTC Contract Submittal Form

This form should travel with the contracts. (Cover letter and emails unnecessary.)

Note to Districts: Please route through respective Division for execution by management in Central Office.Date: 7/13/11 To: Ardita Roark From: Warren BlanchardDate: 7-18-11 To: Pam Hartan-CS From: A. Roark-cco

Date: _____ To: _____ From: _____

Date: _____ To: _____ From: _____

Date: 7-18-11 To: Warren Blanchard-CS From: Dana Kruse CSType of Agreement: Equipment Disposal ContractContract With Whom: BCL AuctionJob/Project
Number: _____

Route: _____ County: _____

Contract

Amount Approx \$25,000**I. Specific MHTC Authority:** Was this agreement approved by specific Commission action?Yes No

If Yes, date approved _____

If you answered "yes" to this question, skip remaining questions. Attach to contracts for submittal.

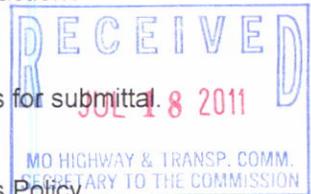
II. Delegation of Authority Policy:To view the policy, go to Intranet, Commission, Policies – Execution of Documents Policy**III. Delegation Letter:**

Attach delegation letter if someone other than individuals listed in A3 of the policy will be signing the contract.

Check and complete the lettered section below (only one), which cites the authority for execution of this document.

- B. Statewide Transportation Improvement Program (STIP)
Type of Contract: Click Arrow for Options
- C. Operating Budget
Type of Contract: 1. Expenditures within Operating Budget Categories
- D. Funds Transfers and Reimbursement Agreements
Type of Contract: Click Arrow for Options
- E. Conveyance of Commission Assets
Type of Contract: Click Arrow for Options
- F. Commission Use of Private and Other Public Assets
Type of Contract: Click Arrow for Options
- G. Operations
Type of Contract: Click Arrow for Options
- H. Administrative Settlements
Type of Contract: Click Arrow for Options

COMMENTS/SPECIAL INSTRUCTIONS:





MEMORANDUM

Missouri Department of Transportation
General Services Division
Central Office

TO: Brenda Morris-fs
CC: Dana Kaiser-cs
FROM: Debbie Rickard
General Services Director
DATE: June 13, 2011
SUBJECT: Delegation of Authority Memorandum

Debbie Rickard

CHIEF COUNSEL'S OFFICE
JUL 14 2011
MO. HIGHWAY & TRANS. COMM.

Per section C.1.s. of the MHTC Delegation of Authority for Approval and Execution of Documents, please consider this my written advisory authorizing additional Central Office General Services staff members the authority to execute documents and expend funds on behalf of the organization.

- Up to \$200,000 – General Services Managers
- Up to \$50,000 – Senior General Services Specialists and Senior Procurement Agents.
- Up to \$25,000 – General Services Specialist, Intermediate General Services Specialist, Procurement Agent, Intermediate Procurement Agents, Technicians, Senior Technicians, Travel Services Supervisor and Facility Operations Supervisor.
- Up to \$3,000 – Any General Services Division employee authorized through the SAMII Access STARTS system or authorized procurement card agreement.

Per section C.2.a. of the MHTC Delegation of Authority for Approval and Execution of Documents, please consider this my written advisory authorizing additional General Services staff members the authority to approve bids and execute contracts for capital improvements.

- Up to \$200,000 – Central Office Facilities Manager
- Up to \$25,000 – District Facilities Managers

It is understood that all procurement actions taken must be in accordance with agency procurement policies and procedures.

CCO Form: GS9A
Approved: 07/05 (BDG)
Revised: 05/11 (AR)
Modified:

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
SURPLUS EQUIPMENT DISPOSAL SERVICES AGREEMENT**

THIS AGREEMENT is entered into by BCL Auction (herein after, "Contractor") and the Missouri Highways and Transportation Commission (herein after, "Commission").

WITNESSETH:

WHEREAS, the Commission has selected the Contractor to perform non-professional services in the nature of surplus equipment disposal; and

WHEREAS, the Contractor represents that it is qualified in its field of expertise to competently provide such services.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and representations contained herein, the parties agree as follows:

(1) SCOPE OF SERVICES:

(A) The services covered by this Agreement shall include furnishing all personnel and the equipment, material and all other things necessary for the sale of MoDOT surplus equipment.

(B) The specific services to be provided by the Contractor are set forth in Exhibit I to this Agreement, titled "Scope of Services," which is attached hereto and made a part of this Agreement.

(2) ADDITIONAL SERVICES: The Commission reserves the right to direct additional services not described in Exhibit I as changed or unforeseen conditions may require. Such direction by the Commission shall not be a breach of this Agreement. In this event, a supplemental agreement will be negotiated and executed prior to the Contractor performing the additional or changed services, or incurring any additional cost therefore.

(3) NONSOLICITATION: The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting

from the award or making of this Agreement. For breach or violation of this warranty, the Commission shall have the right to annul this Agreement without liability, or in its discretion, to deduct from this Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

(4) FEES: The amount to be paid to the Contractor by the Commission as full remuneration for the performance of all services called for in this Agreement is shown in Exhibit II, "Pricing Page", attached hereto and made a part of this Agreement.

(5) NONDISCRIMINATION CLAUSE: The Contractor shall comply with all state and federal statutes applicable to the Contractor relating to nondiscrimination, including, but not limited to, Chapter 213, RSMo; Title VI and Title VII of the Civil Rights Act of 1964 as amended (42 U.S.C. Sections 2000d and 2000e, *et seq.*); and with any provision of the "Americans with Disabilities Act" (42 U.S.C. Section 12101, *et seq.*).

(6) EXECUTIVE ORDER: The Contractor shall comply with all the provisions of Executive Order 07-13, issued by the Honorable Matt Blunt, Governor of Missouri, on the sixth (6th) day of March, 2007. This Executive Order, which promulgates the State of Missouri's position to not tolerate persons who contract with the state engaging in or supporting illegal activities of employing individuals who are not eligible to work in the United States, is incorporated herein by reference and made a part of this Agreement.

(A) By signing this Agreement, the Contractor hereby certifies that any employee of the Contractor assigned to perform services under the contract is eligible and authorized to work in the United States in compliance with federal law.

(B) In the event the Contractor fails to comply with the provisions of the Executive Order 07-13, or in the event the Commission has reasonable cause to believe that the Contractor has knowingly employed individuals who are not eligible to work in the United States in violation of federal law, the Commission reserves the right to impose such contract sanctions as it may determine to be appropriate, including but not limited to contract cancellation, termination or suspension in whole or in part or both.

(7) INCORPORATION OF PROVISIONS: The Contractor shall include the provisions of paragraph 6 of this Agreement in every subcontract. The Contractor shall take such action with respect to any subcontract as the Commission may direct as a means of enforcing such provisions, including sanctions for noncompliance.

(8) DISPUTES UNDER THIS AGREEMENT: The Commission's representative will decide all questions which may arise as to the quality, quantity, and acceptability of services performed by the Contractor and as to the rate of progress of the services; all questions which may arise as to the interpretation of the plans and specifications; all questions as to the acceptable fulfillment of the Agreement on the part of the Contractor; the proper compensation for performance or breach of the Agreement; and all claims of any character whatsoever in connection with or growing out of the services of the Contractor, whether claims under this Agreement or otherwise.

The Commission representative's decisions shall be conclusive, binding and incontestable.

(9) SUCCESSORS AND ASSIGNS: The Commission and the Contractor agree that this Agreement and all agreements entered into under the provisions of this Agreement shall be binding upon the parties hereto and their successors and assigns.

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

(11) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(12) AUDIT OF RECORDS: The Contractor must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at all reasonable times at no charge to the Commission and/or its designees or representatives during the period of this Agreement and any extension thereof, and for three (3) years from the date of final payment made under this Agreement.

(13) WORK PRODUCT: All documents, reports, exhibits, etc. produced by the Contractor at the direction of the Commission and information supplied by the Commission shall remain the property of the Commission.

(14) CONFIDENTIALITY: The Contractor shall not disclose to third parties confidential factual matter provided by the Commission except as may be required by statute, ordinance, or order of court, or as authorized by the Commission. The Consultant shall notify the Commission immediately of any request for such information.

(15) SOLE BENEFICIARY: This Agreement is made for the sole benefit of the parties hereto and nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Commission and the Contractor.

(16) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representative of the Contractor and the Commission.

(17) ASSIGNMENT: The Contractor shall not assign, transfer or delegate any interest in this Agreement without the prior written consent of the Commission.

(18) BANKRUPTCY: Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntarily, or upon the appointment of a receiver,

trustee, or assignee, for the benefit of creditors, the Commission reserves the right and sole discretion to either cancel this Agreement or affirm this Agreement and hold the Contractor responsible for damages.

(19) CANCELLATION: The Commission may cancel this Agreement at any time for a material breach of contractual obligations or for convenience by providing the Contractor with written notice of cancellation. Should the Commission exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Contractor.

(20) COMMISSION REPRESENTATIVE: "The Central Office **General Services Manager**" is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(21) SECTION HEADINGS: All section headings contained in this Agreement are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

(22) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the state of Missouri. The Contractor shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(23) CONTRACT PERIOD: The initial contract period is from July 6, 2011 to October 31, 2012.

(24) RENEWAL INFORMATION: The contract shall not bind, not purport to bind, the Commission for any contractual commitment in excess of the original contract period. The Commission shall have the right, at its sole option, to extend the contract for 3 one-year periods, or any portion thereof. In the event that the Commission exercises its options to extend the contract, such extension must be accomplished by a formal contract amendment signed and approved by the duly authorized representative of the Contractor and the Commission.

(25) INSURANCE: The Contractor shall maintain commercial general liability, automobile liability, and worker's compensation and employer's liability insurance in full force and effect to protect the Contractor from claims under Worker's Compensation Acts, claims for damages for personal injury or death, and for damages to property arising from the negligent acts, errors, or omissions of the Contractor and its employees, agents, and Subcontractors in the performance of the services covered by this Agreement, including, without limitation, risks insured against in commercial general liability policies.

(A) The Contractor shall also maintain professional liability insurance to protect the Contractor against the negligent acts, errors, or omissions of the Contractor

and those for whom it is legally responsible, arising out of the performance of professional services, if any, under this Agreement.

(B) The Contractor's insurance coverage's shall be for not less than the following limits of liability:

1. Commercial General Liability: \$500,000 per claim up to \$3,000,000 per occurrence:

2. Automobile Liability: \$500,000 per claim up to \$3,000,000 per occurrence;

3. Workers Compensation in accordance with the statutory limits; and Employer's Liability: \$1,000,000

(C) The Contractor shall, upon request at any time, provide the Commission with certificates of insurance evidencing the Contractor's commercial general, automobile and/or professional liability ("Errors an Omissions") policies and evidencing that they and all other required insurance is in effect, as to the services under this Agreement.

(D) Any insurance policy required as specified under this paragraph shall be written by a company which is incorporated in the United States of America or is based in the United States of America. Each insurance policy must be issued by a company authorized to issue such insurance in the State of Missouri. The Commission will be named as additional insured on the policies referred to in paragraphs (25)(B)1 and (25)(B)2, above.

(26) PROOF OF LAWFUL PRESENCE FOR SOLE PROPRIETORSHIPS AND PARTNERSHIPS: If the business entity is a sole proprietorship or partnership, pursuant to Section 208.009, RSMo., each sole proprietor and each general partner shall provide affirmative proof of lawful presence in the United States. Such sole proprietorship or partnership is eligible for temporary public benefits upon submission by each sole proprietor and general partner of a sworn affidavit of his/her lawful presence on the United States until such lawful presence is affirmatively determined, or as otherwise provided by Section 208.009, RSMo. A copy of the affidavit reference herein is provided within this document, attached as Exhibit III. If applicable, the Contractor shall comply with the requirements of this paragraph (26) by providing the required documentation prior to the execution of this Agreement.

(27) STATUS AS INDEPENDENT CONTRACTOR: The parties agree and acknowledge that the Contractor is not a current employee of the Commission. The Contractor's status is that of and independent contractor.

(28) CONTRACTOR DRIVERS: Should the Contractor be called upon to transport Commission vehicles pursuant to the Scope of Services, the Contractor shall

only allow employees that have valid driver's license and may lawfully operate motor vehicles in the state of Missouri, Illinois and the state of Kansas to drive the Commission's vehicles.

(29) TITLE CERTIFICATE HANDLING: The Contractor is hereby authorized to take all actions necessary in the disposition of the Commission owned equipment/vehicles, as outlined in the Original Agreement. In order to facilitate the quick disposal of the equipment/vehicles at the auction sites, Commission may elect, in its sole discretion, to deliver to the Contractor, and the Contractor agrees to accept and hold in escrow all title certificates to the equipment/vehicles accepted by the Contractor for disposition at the auction disposal sites that are already signed by the Commission's authorized personnel pursuant to the Commission's Execution of Documents policy (hereinafter, "Signed Title Certificate"). The Contractor shall sign a Vehicle Receipt Form in the form attached hereto as Exhibit A and incorporated herein, documenting the receipt of the Signed Title Certificate for each respective vehicle accepted by the Contractor for disposition at the auction site. The Contractor shall deliver the Signed Title Certificate to the purchaser of the vehicle upon receiving full price for the vehicle disposed in accordance with the terms set out in the Original Agreement and relinquishing physical possession of the vehicle to the purchaser. In no event shall the Contractor deliver the Signed Title Certificate to anyone who is not prepared to take immediate delivery and physical possession of the vehicle at the time of the delivery of the Signed Title Certificate. The Contractor hereby accepts all responsibility for any mishandling of Signed Title Certificates to the Commission equipment/vehicles, including but not limited to the loss, misplacement, erroneous distribution, or other acts or omissions of the Contractor resulting in the Signed Title Certificate being delivered to, or in possession of anyone other than the rightful purchaser of the vehicle. The Contractor shall indemnify and hold the Commission harmless against all loss, direct or indirect, arising out of the Contractor's actions or omissions resulting in the Signed Title Certificates being mishandled, delivered to, or in possession of anyone other than the rightful purchaser.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below:

Executed by the Contractor the 6th day of July, 2011.

Executed by the Commission the 18 day of July, 2011.

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

By [Signature]

Title: Central Office Technical Services Manager

CONTRACTOR NAME

BCL AUCTION

By Bill Cochran

Title: OWNER

ATTEST:

[Signature]

Secretary to the Commission

ATTEST:

[Signature]

Title: BUSINESS Development

APPROVED AS TO FORM:

[Signature]
Commission Counsel

APPROVED AS TO FORM:

Title: _____

CONTRACTOR SEAL

Exhibit I

Scope of Services

Contractor will perform the minimum following services as requested by the MoDOT District where the surplus equipment is located.

- a. Pickup of surplus equipment
- b. Preparation of equipment for sale
- c. Advertisement of sale
- d. All paperwork to be provided to district after sale showing all prices of equipment sold with detailed pricing of deductions for services rendered. Example: (Gross sale minus selling fee, pickup fee, etc. = net sale price.)

Exhibit II

Pricing Page

Detailed pricing sheet:

- a. Equipment transport fee: \$60 first 50 miles, \$12 each additional 12 miles
- b. Detailing of equipment: \$50 for on-road, \$100 for off-road.
- c. Sales commission or fee:

For combination Internet / Live Auction: 10% buyers premium, 5% commission from MoDOT, pre-determined marketing costs and \$500 for Bidspotter services providing the Online Internet Streaming services.

For on and off-road vehicles: 5% commission from MoDOT and 10% buyers premium.

Option 1 Internet Only auction: 0% commission from MoDOT, 15% charged to buyer, pre-determined advertising costs.

EXHIBIT III

APPLICANT AFFIDAVIT FOR SOLE-PROPRIETORSHIP OR PARTNERSHIP

(a separate affidavit is required for each owner and general partner)

STATE OF Missouri)
COUNTY OF St Charles)^{ss}

On this 6th day of July, 2011, before me appeared Bill Cockrum, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instruments, who being by me duly sworn, deposed as follows:

My name is Bill Cockrum, and I am of sound mind, capable of making this affidavit, and personally certify the facts herein stated, as required by Section 208.009, RSMo, for failure to provide affirmative proof of lawful presence in the United States of America:

I am the owner of BCL AUCTION, which is applying for a public benefit (grant, contract, and/or loan) administered/provided by the Missouri Highways and Transportation Commission (MHTC), acting by and through the Missouri Department of Transportation (MoDOT).

I am classified by the United States of America as: (check the applicable box)

- a United States citizen.
 an alien lawfully admitted for permanent residence.

I am aware that Missouri law provides that any person who obtains any public benefit by means of a willfully false statement or representation, or by willful concealment or failure to report any fact or event required to be reported, or by other fraudulent device, shall be guilty of the crime of stealing pursuant to Section 570.030, RSMo, which is a Class C felony for stolen public benefits valued between \$500 and \$25,000 (punishable by a term of imprisonment not to exceed 7 years and/or a fine not more than \$5,000 – Sections 558.011 and 560.011, RSMo), and is a Class B felony for stolen public benefits valued at \$25,000 or more (punishable by a term of imprisonment not less than 5 years and not to exceed 15 years – Section 558.011, RSMo).

I recognize that, upon proper submission of this sworn affidavit, I will only be eligible for temporary public benefits until such time as my lawful presence in the United States is determined, or as otherwise provided by Section 208.009, RSMo.

I understand that Missouri law requires MHTC/MoDOT to provide assistance in obtaining appropriate documentation to prove citizenship or lawful presence in the United States, and I agree to submit any requests for such assistance to MHTC/MoDOT in writing.

I acknowledge that I am signing this affidavit as a free act and deed and not under duress.

Bill Cox
Affiant Signature

27-4516894
Affiant's Social Security Number or
applicable Federal Identification Number

Subscribed and sworn to before me this 6th day of JULY, 20 11.

Donna R. Jackson
Notary Public

My commission expires:



DONNA R. JACKSON
My Commission Expires
September 25, 2014
St. Charles County
Commission #10943029