North Dakota Department of Transportation **NDDOT Contract #** 50150820

INVITATION TO BID

Bid Number: 745-00-15-050	Bid Opening Date & Time: 03/31/2015 03:00 PM
Items: Bituminous Oil	Buyer: Vanessa Brosten
Bid Mailing Address: 608 East Boulevard Avenue	Telephone Number: 701-328-4466
City, State, Zip: Bismarck, North Dakota, 58505-0700	Email: vbrosten@nd.gov
Contract Period: 04/07/2015 TO 12/31/2015	Date Prepared: 03/17/2015

BID RESPONSE

Please submit your bid response on the attached forms in conformance with the instructions and specifications in the NDAC 04-12-01 – 04-12-16. One copy of your bid response must be returned to the North Dakota Department of Transportation (NDOT) prior to the time and date specified for the bid opening. Bid responses received after the time and day specified for the bid opening will be rejected. Mark envelope with word "BID" and the opening time and date. **If your bid response is accepted by NDDOT, then your bid response will constitute a binding contract.**

CONTRACT

This contract is made and entered into by and between NDDOT for the state of North Dakota (hereinafter state) and

Vendor Name	Vendor Address
CALUMET SUPERIOR LLC	2407 STINSON AVE SUPERIOR, WI 54880

(hereinafter vendor). In consideration of and for the acceptance by the state of the offer made by the vendor pursuant to the bid response, the vendor agrees and promises to sell, furnish, and deliver to the state, at the time, places, and prices specified in the bid response, all goods, merchandise, supplies, commodities, equipment, or other items contained in the bid response and for which the vendor has been awarded this contract by the state. The vendor shall fully perform this contract in accordance with the terms and conditions contained in the bid response including all specifications, rules, or regulations mentioned therein, and shall comply with all applicable provisions of the NDAC 04-12-01 – 04-12-16 promulgated by the State Purchasing Division; such manual being made a part of this contract by reference. The Risk Management Appendix and Appendices A and E of the Title VI Assurances, attached, are hereby incorporated into and made a part of this agreement.

The following must be completed by the vendor; failure to do so may result in the rejection of the vendors bid proposal.

Vendor Name: CALUMET SUPERIOR LLC		
Mailing Address: 2407 STINSON AVE SUPERIOR, WI 54880		
Telephone Number: 715-398-7161 ext 13	Fax Number: 715-398-8246	E-mail Address: Tony.wanta@clmt.com

TONY WANTA MRKT. ASPHALT + RESIDUALS

Name & Title (Type or Print)

Tony Wanta

Signature

3/26/15

Date

To be signed by **Owner; Partner; Corp. Pres., Vice Pres., or other authorized Corp. Officer** or bid may be rejected. (if signed by other authorized Corp. Officer, please attach copy of Power of Attorney or other documentation showing authority to sign.)

FOR ND DEPARTMENT OF TRANSPORTATION USE ONLY Accepted by the state according to provisions of award.

Authorized Signature: Grant Levi		Date: 4/21/15
Recommended for approval	Date: 4-13-15	Approximate contract amount: $998,285.16

NDDOT North Dakota Department of Transportation

APPROVED as to execution this 21st day of April 2015
ATTORNEY GENERAL
By _____
SPECIAL ASST. ATTORNEY GENERAL

CLA 7480 (Div. 50)

MAILING INSTRUCTIONS

Mail only one completed and signed request for bid document per envelope, unless instructed otherwise. Request for bid documents not signed or received after the date and time specified in the request for bid will be rejected.

BID IS: ☒ SEALED ☐ NOT SEALED

Address the envelope containing your response in the following manner:

BID NUMBER - 745-00-15-050
BID OPENING DATE/TIME - March 31, 2015; 3:00 p.m.
N. D. DEPT. OF TRANSPORTATION
PROCUREMENT, RM 222
608 E BOULEVARD AVE
BISMARCK ND 58505-0700

BIDDERS INSTRUCTIONS

1. **Acceptance/Rejection/Waiver.** The state of North Dakota reserves the right to accept or reject any or all bids and to waive minor irregularities or technicalities, provided such waiver does not substantially change the offer or provide a competitive advantage to any vendor, in the judgment of the state.

2. **Affirmative Action.** The contractor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of individuals with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin, or disability.

3. **Assistance to Bidders with a Disability.** Bidders with a disability that need an accommodation must contact the Procurement Officer prior to the deadline for receipt of bids so that reasonable accommodations can be made.

4. **Alterations and/or Corrections.** The person signing the bid response must initial any or all manual alterations and/or corrections to the bid response. Those bid responses with alterations and/or corrections that are not initialed may be rejected.

5. **Awards, Splitting of.** The state reserves the right to make awards by item, groups of items, or on the total low bid for all the items specified as indicated in the detailed specifications. Bidders interested only in the total low bid for all items are to state 'all or nothing' on their bid response.

6. **Bidder Checklist.** HAVE YOU REMEMBERED TO:
   - Bid F.O.B. Destination (Ship To: Address) Freight Prepaid.
   - Mark envelope as indicated.
   - Review Standard Terms and Conditions contained in this solicitation.
   - Sign your bid on the cover sheet.
   - Initial all bid/pricing changes you made.
   - Bid responses must be submitted in ink or type written.
   - Review and complete all requirements contained in this solicitation to ensure compliance.

7. **Bidder's Responsibility and Late Bids.** It is the bidder's responsibility to ensure that a bid response is physically deposited with the NDDOT Procurement Office prior to the date and time specified for the opening. Late bid responses will not be opened and will be rejected and returned regardless of the degree of lateness or the reasons. It is the bidder's responsibility to comply with the State of North Dakota's laws and regulations.

8. **Bid Summary.** Bid summaries are available when the bid has been awarded. When bids are issued using the State's electronic bidding system, the bid summary will be posted and available for download from: http://www.nd.gov/spo/

Bid summaries will be mailed to those bidders who supply a self-addressed, stamped envelope with their bid response. A copy of the bid summary may also be obtained by visiting the NDDOT Procurement Office during normal working hours.

9. **Bid Bond.** Waived in this instance: however, bidder(s) failing to enter into a contract with this office, upon notification of award, may be subject to removal from the bidder's list.

10. **Clarifications, Bid Changes and Questions Deadline.** The Procurement Officer is the point of contact. Any irregularities, lack of clarity, requested bid changes and all questions regarding this bid and the procurement process must be addressed to the Procurement Officer referenced on the first page of this document **not later than end of business March 24, 2015.** (Contact information is indicated on cover page). The bidder is cautioned that the requirement of this solicitation can be altered only by written amendments and that verbal communications from whatever source are of no effect.

11. **Definitions.**

- Bidder - any person or firm submitting a competitive bid in response to a solicitation.
- Bid summary - a summary of all bid responses received by the NDDOT Procurement Office.
- Bid response - the executed document submitted by a bidder in response to a solicitation.
- Contract - a deliberate written agreement between two or more competent persons to perform specific act or acts.
- Contractor - any person or firm having a contract with a governmental body.
- Solicitation - the process of notifying prospective bidders that the state wishes to receive bids for furnishing goods or services.

12. **Deviation from Specifications Supplied by NDDOT.** Unless otherwise indicated by the bidder, it will be assumed that specifications will be met in all respects. Any deviation from the minimum specifications indicated herein must be clearly pointed out PRIOR TO THE DEADLINE FOR RECEIPT OF QUESTIONS; otherwise, it will be considered that the items offered are in strict compliance with these specifications, and the bidder will be held responsible.

13. **Electronic & Facsimile Bids.** Bid responses are not to be email attached or faxed to the NDDOT unless this transmittal method has been authorized by the Procurement Officer or bid document. (Contact the Procurement officer regarding additional requirements and exceptions.) Bid responses electronically submitted or faxed may be rejected as non-responsive.

14. **Freight/F.O.B. Destination.** Freight and transportation charges are to be included in the price of the products, unless otherwise specified in the solicitation. (F.O.B. - Free On Board).

15. **Indemnification.** The attached Risk Management Appendix will be incorporated into the contract. The successful Bidder will be required to furnish proof of insurance, as detailed in the Risk Management Appendix.

16. **Multiple Bid(s).** Bidders may submit more than one bid response(s) for the item(s) specified in the solicitation. Each bid submitted must comply in all aspects with the bid requirements and these instructions.

17. **Negotiation.** NDDOT reserves the right to negotiate with the successful bidder to ensure the best possible consideration is afforded to all concerned.

18. **Open Records.** After award, bid documents will be subject to the North Dakota open records law. Records are closed or confidential only if specifically stated in law. If a request for public information is received, the procurement officer will determine whether the information is an exception to the North Dakota open records law, and the information will be processed appropriately. Those interested in reviewing the bid file, are to make arrangements, with the NDDOT Procurement Office. The NDDOT Procurement Office hours are 8:00 a.m. - 12:00 p.m. and 1:00 p.m. - 5:00 p.m. Monday through Friday.

19. **Performance Bond.** Successful bidders will not be required to furnish a performance bond; however, failure to perform satisfactorily will result in the immediate termination of the contract(s) and bidders may be subject to removal from the bidder's list.

20. **Preparation of Bid.** Bids will be accepted on NDDOT forms only. If the document is located on the State Procurement Office website, then bidder is to download the document and type or write their responses as indicated by the bid document. Alteration of the bid document may be cause for bid rejection. Bidders are cautioned to examine specifications and all instructions. Failure to do so will be at the bidder's risk.

21. **Pricing.** Unit prices are to be stated in United States currency and based on the unit of measurement specified in the solicitation, F.O.B. Destination, to the NDDOT delivery locations specified herein.

In the event of mathematical differences between the unit price and extended total, the unit price will prevail.

22. **Protest of Award.** An interested party may protest the award within seven days after receiving notice in accordance with N.D.C.C. 54-44.4-12 and N.D.A.C. 4-12-14.

23. **Receipt of Bids.** All sealed bids received by the NDDOT Procurement Office will be opened and read in Room 222, 608 East Boulevard Avenue, Bismarck, North Dakota, at the time specified in the solicitation.

24. **Rejection.** Bid responses may be rejected if:

- The bid response is not legible.
- The bid response is not submitted on the form supplied.
- The bid response is not completed as requested.
- The bid response is completed and/or signed in pencil.
- The bid response is faxed to the procurement office.
- The bid response is not signed by an authorized company representative.
- The bid response is not responsive to the specifications or other requirements of the solicitation.
- Changes to the bid response are not initialed.
- The bid response is received after the time and date specified.
- The bidder has not met Vendor Registration requirements or is suspended or debarred.
- The bid document has been altered by the bidder.
- The bidder is determined to be not responsible (N.D.A.C. 4-12-11-04).
- The price is not fair and reasonable
- Or a combination of above.

25. **Signature.** The bid must be signed manually in ink. The name and title of the person signing the bid response must be typed or printed above the signature. The bid must be signed by **Owner, Partner, Corp. Pres., Vice Pres., or other authorized Corp. Officer** or the bid may be rejected. If signed by other authorized Corp. Officer or representative, please attach a letter signed by the Owner, Partner, Corp. Pres., or Vice Pres. indicating the individual has authority to enter into a contract on behalf of the company (or a Power of Attorney).

26. **Supplemental Terms and Conditions.** Bids including supplemental terms and conditions will be accepted, but supplemental conditions that conflict with any conditions contained in this ITB or that diminish the State's rights will be considered null and void. The State is not responsible for identifying conflicting supplemental terms and conditions before issuing a contract award.

After award of contract:

a) If a conflict arises between a supplemental term or condition included in the bid and a term or condition of the ITB, the term or condition of the ITB will prevail, and,
b) If the State's rights would be diminished as a result of application of a supplemental term or condition included in the bid, the supplemental term or condition will be considered null and void.
c) If any supplemental term or condition included in the bid is approved by NDDOT and issued by written amendment(s) that supersede(s) the bid document; then the prior two subsections a) and b) will no longer apply.

Changes, modifications, additions, or alterations to the bid document which have been approved by NDDOT will be issued by written amendments which will supersede the original bid document.

27. **Taxes.** The State does not pay sales tax or federal excise tax. The state sales tax exemption number is E-2001. The federal tax-free transaction number is 45-0309764.

28. **Vendor Registration.** Bids will be accepted from bidders who are not currently Approved Bidders for the State of North Dakota; however, the successful bidder will be required to become approved prior to award, in accordance with N.D.C.C. 54-44.4-09. To become an Approved Bidder, you must: 1) register with the North Dakota Secretary of State (fees apply), and 2) submit a completed Bidder List Application to the ND State Procurement Office. Registration instructions and forms are available on-line at: www.nd.gov/spo/vendor. Contact the ND State Procurement Office at 701-328-2683 or infospo@nd.gov for assistance.

29. **Withdrawal or changes to a bid response prior to the bid opening date and time.** A bidder may withdraw or make a change to his bid response prior to the bid opening date and time. The request to make a change or withdraw must be in writing by a representative of the firm. The request to withdraw or change must be signed by the bidder or his designated representatives.

30. **Withdrawals after the bid opening date and time.** Withdrawals after the bid opening will be allowed only upon written approval from the NDDOT Procurement Office. Vendors continually withdrawing bids after the bid opening may be removed from the Vendor Database.

GENERAL CONTRACT TERMS AND CONDITIONS

1. **Acceptance of Product.** The acceptance of the product will depend upon the product meeting specification. Materials are deemed to be accepted by the State upon payment of invoice.

2. **Applicable Law and Venue.** Any dispute arising out of this agreement will be resolved under the laws of the State of North Dakota.

3. **Attempt To Influence An Award.** No person on a bidders list or who submits or intends to submit a bid shall give or offer to give, directly or indirectly, any money, article, or other thing of value to:

   a. Any employee of the NDDOT
   b. Any employee of any ordering district that has submitted or may submit an order.
   c. Any office or employee of the State of North Dakota who is a member of a committee whose duty it is to recommend or adopt specifications for any commodity or equipment to be bought by the state that is sold by such person.

Any person attempting to influence an award, or making (or offers to make) a gift is prohibited. All bids submitted by this person will be rejected and the firm will be barred from further bidding for period of time as determined by the N.D. State Procurement Office. The office of management and budget will notify the attorney general of any violation of this subsection, for such action as the attorney general may deem appropriate.

4. **Awards as per Specifications.** Awards will be made to the bidder whose bid meets the specifications and other requirements of the bid, and is the lowest and best bid, considering price, responsibility of bidder, and all other relevant factors as stated herein.

NDDOT may reject any or all bids. NDDOT reserves the right to wave minor irregularities and to consider bids varying in minor respects from any specific requirements herein, but judged to meet the intent of this request. NDDOT also reserves the right to negotiate with the successful bidder to ensure the best possible consideration be afforded to all concerned. Contracts are not awarded at the bid opening. Bid responses will be firm for 30 days, unless stated otherwise.

Awards may not be made to any person, firm, or corporation currently in default of a NDDOT contract. Bidders must advise the NDDOT if they are a party in any legal action for any conduct constituting a crime under local, state or federal law which will affect their ability to perform a contract awarded as a result of this bid offering, including pending actions.

5. **Binding Contract.** The acceptance of a bid response in writing by the purchasing agency constitutes a contract between the bidder and the State. Written acceptance from the purchasing agency will be in the form of a purchase order, notification of award, or contract. Any oral agreement or arrangement by a bidder with a State employee or purchasing agency will have no force or effect unless reduced to writing.

6. **Compliance with Laws, Nondiscrimination and Affirmative Action.** The contractor must, in performance of work under this contract, fully comply with all applicable federal, state or local laws, rules, regulations and policies, including those relating to nondiscrimination, affirmative action, accessibility and civil rights including Title VI of the Civil Rights Act of 1964. The contractor agrees to file all required reports on time, to make required payroll deductions, and to pay all taxes and premiums owed on time, including sales and use taxes and unemployment compensation and workers' compensation premiums. The contractor shall have and keep current at all times during the term of this contract all licenses and permits required by law.

7. **Contract Amendments, Waivers.** After a binding contract has been entered into, no changes (i.e. additions, substitutions, subcontracting or a price adjustment) may be made, unless prior approval has been obtained from the purchasing agency and Procurement Officer.

The terms of this contract shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties .Such waiver, consent, modification, or change, if made shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.

8. **Contract Period.** Duration of the contract(s) may vary by contract issued, commencing as early as **the date of last signature through December 31, 2015.**

9.

10. **Contract Price**: Unit prices are to be stated in United States currency and based on the unit of measurement specified in the solicitation, F.O.B. Destination, to the NDDOT delivery locations specified herein.

The total bid price is to include all discounts and deductions, and is to be less federal and state taxes. The contract prices shall be firm for the entire contract period.

In the event of mathematical differences between the unit price and extended total, the unit price will prevail.

11. **Contract Termination.**

a. **Termination without Cause.** This contract may be terminated by mutual consent of both parties, or by either party upon 30 days' written notice.

b. **Termination for Lack of Funding or Authority.** The State may terminate this contract effective upon delivery of written notice to the contractor, or on any later date stated in the notice, under any of the following conditions:
   i. If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term. The contract may be modified by agreement of the parties in writing to accommodate a reduction in funds.
   ii. If federal or state regulations or guidelines are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.
   iii. If any license or certificate required by law or regulation to be held by the contractor to provide the services required by the contract is for any reason denied, revoked or not renewed.

   Any such termination of this contract under (i), (ii), or (iii), above, shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

c. **Termination for Cause.** The State by written notice of default to the contractor may terminate the whole or any part of this contract:
   i. If the contractor fails to provide services required by this contract within the time specified herein or any extension thereof; or
   ii. If the contractor fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms and after receipt of written notice from the State, fails to correct such failures within ten days or such longer period as NDDOT may authorize.
   iii. The rights and remedies of the State provided in the above clause related to defaults by the contractor are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.

d. **Termination, Deliveries.** If the contract is terminated for any reason, the contractor is responsible for delivery of all commodities and services ordered prior to the termination, unless those orders had been canceled by the Purchasing Agency or Entity.

12. **Estimated Volume.** The volume of this contract as listed in the bid response is estimated. Quantity estimates are not to be considered as either a minimum or maximum, but rather an estimate based upon past and anticipated usage. The contractor or contractors will be required to furnish actual requirements upon order. There is a

possibility that no purchases will be made on some of the bids accepted.

13. **Inspection and Investigations.** The State reserves the right to conduct inspections and investigations related to the bidder and offered commodities or services to make determinations regarding compliance with the bid requirements.

14. **Material and Workmanship.** All material and workmanship shall be subject to inspection and testing by the state either at: (1) the point of manufacturer, or; (2) place of storage, or; (3) upon receipt.

15. **Ordering and Billing Procedures.** Orders will be placed by NDDOT District personnel. Individual(s) placing orders will supply the North Dakota delivery instructions at the time of order.

Invoices are to be submitted directly to the ordering districts. Since all billings, invoices, and credits must be processed by individual districts before payment is made, submission of these items to the NDDOT Procurement Office will delay payment.

Payment will normally be made within thirty days after delivery and acceptance of commodities or services under this contract and receipt of a correct invoice.

16. **Subcontracts, Assignment**: The contractor shall not subcontract, assign or transfer the contractor's interests or duties under this contract without express written consent of the purchasing agency.

Third party trucking companies will be allowed. The prime contractor is responsible for ensuring that the subcontracted trucking companies comply with contractual obligations including maintaining the same scope of insurance as is required of the contractor.

17. **Successors in Interest**: The provisions of this agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

18. **Title**. Title transfers when material passes the flange and transfers into a State owned or State designated vessel. The contractor shall be responsible for any loss prior to the actual receipt of the items by the state or its agent.

IMPORTANT INSTRUCTIONS – POSSIBLE CAUSE FOR REJECTION:

1. Bids will be considered irregular and may be rejected for reasons set forth in Section 102.08 of the NDDOT Standard Specifications adopted October 2008 and supplemental specifications effective March 1, 2013.

2. If the Invitation to Bid is not properly signed. It must be signed by a person having apparent legal authority, such as owners, partners, president, or vice president. If signed by other corporate officers then an authorizing letter or a Power of Attorney must be attached.

3. If the entire Invitation to Bid is not submitted, or if the bid is not on Department furnished forms, or if the forms are altered or any part is detached.

4. If the submitted proposal fails to comply with any other requirements of the Invitation to Bid.

5. If there are unauthorized additions, conditional or alternate bids, or irregularities of any kind which may make the bid's meaning incomplete, indefinite, or ambiguous.

6. If the bidder adds any provisions reserving the right to accept or reject an award, or to enter a contract pursuant to an award.

7. It is determined that any of the prices are materially unbalanced to the potential detriment of the Department.

8. The bidder shall indicate shipping point, enter freight price per ton to the district, enter the bid price per ton (including freight price) F.O.B. to the district as indicated in the bid response.

9. If the unit prices are not typed or entered in ink.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

General Provisions and Specifications
for
Supply of Bituminous Materials

General Provisions:

1. Duration of the contract will be from **the date of last signature through December 31, 2015**. The NDDOT recognizes that plant production will affect the time frame in which products are available.

2. Bids for supplying and delivering of bituminous materials will be received by the North Dakota Department of Transportation (NDDOT), Procurement Office, Room 222, 608 East Boulevard Avenue, Bismarck ND 58505-0700. All proposals shall be sealed and marked "PROPOSALS FOR FURNISHING BITUMINOUS MATERIALS" and delivered to the above address no later than **3:00 p.m., on Wednesday, March 31, 2015**, at which time the proposal will be opened and read. All proposals delivered late will be returned unopened to the sender.

3. The bidder agrees to provide all materials at the times and places specified in the Invitation to Bid, all in conformity with the bidder's proposal, NDDOT's Standard Specifications for Road and Bridge Construction, and the current edition of the Supplemental Specifications to the Standard Specifications, all of which are incorporated by reference into the contract.

4. The Standard Specifications and the Supplemental Specifications are intended to be complimentary and to describe and provide for a complete work. In case of discrepancy, the terms and conditions of the Invitation to Bid shall govern over the Standard Specifications and Supplemental Specifications.

5. The NDDOT reserves the right to waive technicalities in the proposal.

6. Materials used by NDDOT are not subject to North Dakota Sales or Use Tax, or Federal Transportation Tax.

7. The quantities shown are estimates only and are used for the purpose of obtaining unit bid prices. The quantity purchased may be greater or less than the quantity stated in the proposal. Unit price adjustments will not be allowed for an increase or decrease in quantities.

8. Upon bidder's default of award to supply material as specified in the proposal, the Department will move to the next lowest bidder to secure materials needed to support the maintenance effort. The nonperforming awarded bidder will be responsible to the Department for the increased cost the Department incurs in obtaining materials at the higher price. Contractor will receive a written notice of deduction.

9. The NDDOT and all bidders who subcontract are obligated to affirmatively ensure that in any contract entered into pursuant to this advertisement, minority or women's business enterprises will be afforded a full opportunity to participate and to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex, age, or disability in consideration for an award.

Delivery Requirements:

1. All truck transport shipments of liquid bituminous material must be made in insulated tanks.

2. The NDDOT may direct the shipment of liquid bituminous material to any point within that district, at the bid price of the product for the district.

3. All truck transports shall be equipped to unload the liquid bituminous material from the transports to NDDOT trucks or facilities. Outdoor unloading. Connecting and unloading into the tank requires a pump and a 3" diameter 25' length hose with female end. **The supplier's delivery person shall use their own equipment to unload the liquid bituminous oil into NDDOT tanks.**

4. All transports will have sampling devices on the units making delivery to the Department. Two samples will be taken from each transport or tank car. The supplier's delivery person shall extract these samples in the presence of a Department employee. One sample will be tested by NDDOT. The second sample will be retained at the district as a check sample.

5. The supplier is responsible for weighing each shipment at the supply source, sealing the tank, recording the type of bitumen, its specific gravity (or typical specific gravity), and the gross, tare, and net weight on the shipment manifest.

6. The NDDOT reserves the right to weigh any load at the destination.

7. The supplier will be required to meet local haul limitations for roadway systems leading to the point of destination.

8. When ordering product, the NDDOT will indicate to the contractor the necessary destination point and arrival time, the desired product purpose (road application or storage) and the purchase order number. If the supplier is unable to meet the order requirements, the supplier must advise the NDDOT within 24 hours of the time the order was placed by facsimile or e-mail.

9. Two hours of free time for unloading will be allowed by the supplier at the destination point. After the initial two hours per container of free time for unloading, the NDDOT will reimburse the supplier at $60.00 per hour or $15.00 per 15-minute period and any portion thereof. Free time will commence at the supplier's requested arrival time or when the shipment arrives during scheduled work, whichever is later.

10. Liquid bituminous shall meet or exceed the following minimum temperatures, as measured at the destination point.

MATERIAL	DELIVERED TEMPERATURE FOR APPLICATION
MC 70 cutbacks	150^0 F
MC *250 cutbacks	200^0 F
MC *3000 cutbacks	260^0 F
CSS-1H Dilute	100^0 F
Emulsions	125^0 F

*When districts request MC 250 for storage, delivery temperature shall be minimum 185^0 F. When districts request MC3000 for storage, delivery temperature shall be minimum 230^0 F. Districts shall indicate the purpose when ordering.

The NDDOT will assess a price reduction for material delivered and not meeting the above minimum temperature requirements in accordance with the Measurement and Payment section of this proposal.

Measurement and Payment:

1. Measurement, payment, and price reductions for material failing to meet specifications shall comply with section 109 of the NDDOT Standard Specifications for Road and Bridge Construction, adopted October 2008 and supplemental specifications effective March 1, 2013.

If the contractor's testing methods vary from those required by the bid document; then measurement, payment, and acceptance of the product will be based on sampling and testing of the delivered product meeting NDDOT specifications.

2. The cost of the material and all costs of shipping and handling shall be included in the bid.

3. The supplier will bill the NDDOT on a single invoice for supplying and delivering the bituminous material. Cost of material (F.O.B. refinery) and the freight cost shall be listed separately on the invoice. Suppliers will indicate the order number(s) on their invoice.

4. Liquidated damages will be assessed for late delivery of liquid bituminous material, and/or for failure of the product to meet delivery specifications, that result in a work delay for NDDOT personnel. The liquidated damages will be assessed for each type of work delay in accordance with the following schedule:

a.	Roadway sealing operations	$ 400 per hour
b.	All other work activities	$ 80 per hour

Districts will notify the Maintenance Division regarding all late deliveries causing work delay. The contractor will receive a written notice of deduction from the NDDOT.

5. The NDDOT, in consideration for the unit price obtained from the supplier, agrees to purchase from each contract a minimum of $500 of product during the contract period.

Material Specifications:

Specifications for cutbacks and emulsions shall comply with the following provisions:

818.01 GENERAL REQUIREMENTS

The original certificate covering material shipped in each car or tank truck shall be furnished at the time of shipment.

The certificate shall be furnished to the applicable Department's District office and shall contain the following information:

1. Project number
2. Destination
3. Quantity contained in car or tank truck
4. Gross, tare, and net weights, if shipped by truck
5. Train car identification or Truck and trailer identification numbers
6. Type and grade of bitumen
7. Date of shipment
8. Specific gravity
9. Statement that the material meets all of the specifications

818.02 SPECIFIC REQUIREMENTS

A. MEDIUM-CURING CUTBACK ASPHALT - AASHTO M-82

MC3000 shall meet the following requirements:

	AASHT0	MC3000
Kinnematic Visc @ 140^0 F., cs	T-201	3000-7000
Flash Point (TOC), F.	T-79	150 Min
Water, Percent	T-55	0.2 Max
Distillation test:		
Distillate % Volume		
to 437^0 F.		
to 500^0 F.		0-15%
to 600^0 F.		15-75%
% Residue from distill to 680^0 F.	T-78	80 Min
Tests on Residue from Distillation:		
Penetration @ 77^0 F.	T-49	250 Max
Ductility @ 77^0 F.	T-51	100 Min

BIDDER CALUMET SUPERIOR

Tests on Polymerized Base Asphalt:

Ductility@ 77^0 F.	T-51	100 Min
Ductility @ 39^0 F. (5 cm/min, cm)	T-51	50 Min
Toughness, inch-pounds	*	75 Min
Tenacity, inch-pounds	*	50 Min
% Polymer	-	2% Solids Min

*Benson Method for Toughness/Tenacity Inch Pounds @ 77^0 F; 20 inch pull tension head 7/8" diameter.

B. CATIONIC EMULSIFIED ASPHALT

1. **Cationic Emulsified Asphalt** shall meet the requirements of AASHTO M-208 with the following exceptions:

a. Grade CMS-2 shall have 5% to 15% oil distillate by volume of emulsion.

b. Grade CMS-2h and CSS-1h, the maximum penetration permitted at 77^0 F. (25^0 C) 100 gm, 5 sec, in the "Test on Residue from Distillation Test," shall be raised to 120.

c. Footnote "b" of AASHTO M-208 will not apply to either the storage stability or the sieve test requirements.

2. **Polymer Modified Cationic Emulsified Asphalt**. Grade CRS-2P shall meet the requirements of AASHTO M-316.

3. **Modified CRS-2 Emulsified Asphalt (Pot Hole Patcher)** The modified CRS-2 will be used for winter season pothole patching and must be available from February 1 through April 31. This contract will begin on the date the contact is awarded in 2015. The emulsion shall meet the following requirements:

TEST	ASTM Test Method	MIN	MAX
Viscosity, Saybolt Furol @ 50oC, SFs	D-88	50	200
Storage Stability test, 24 hr, %	D-244		1
Demulsibility, 35ml 0.8% sodium dioctyl sulfosuccinate, % (a)	D-244	40	
Particle charge test	D-244	Positive	
Sieve test, % (b)	D-244		0.3
Residue (% by mass)	D-244	65	
Oil distillate, % (by volume of emulsion)	D-244	1.5	5.0
Tests on Residue from Distillation:			
Penetration @25°C, 100 g, 5 sec, dmm	D-5	50	200
Ductility @25°C,5 cm/min	D-113	40	
Minimum delivered temperature 125 degrees Fahrenheit			

C. ANIONIC EMULSIFIED ASPHALT - AASHTO M-140

When using SS-1h, the maximum penetration permitted at 77^0 F. (25^0 C) 100 gm, 5 sec, in the "Test on Residue from Distillation", shall be raised to 120.

HFRS-2P emulsified asphalt shall be an emulsified blend of polymerized asphalt, water, and emulsifiers. The asphalt cement shall be polymerized prior to emulsification and shall contain a minimum of three percent polymer by weight of asphalt cement. The emulsion, standing undisturbed for a minimum of 24 hours shall show no white, milky separation, but shall be smooth and homogeneous throughout. The emulsion shall be pumpable and suitable for application through a distributor.

HFRS 2P		
Tests on Emulsions	**Min**	**Max**
Viscosity, Saybolt Furol @ 122°F (50°C)	50	400
*Storage Stability	Passes	
**Cure Test	Passes	
Sieve (%)		0.1
***Demulsibility 50ml 0.10 N $CaCl^2$, %	40	
****Oil Distillate by Volume of Emulsion, %		3.0
Residue by Distillation, %	65	
Tests on Residue from Distillation Tests		
Penetration @ 77°F (25°C)	100	200
Ductility @ 39°F (4°C) 5 cm/min, cm	30	
Softening Point (R & B) Degrees F	100	
Elastic Recovery @ 50°F (10°C)	55	
Float Test @ 140°F (60°C), sec	1200	

*Storage Stability: In addition to requirement of AASHTO T-59, on examination of the test cylinder after the emulsion has been standing undisturbed for 24 hours, the surface shall show no white, milky covered substance but shall be a homogenous brown color throughout.

**The cure test is performed as follows: Pour approximately 1 gram of (HFMS-2P or HFRS-2P) emulsion onto a metal surface (lid of a 3 oz. Ointment tin). Allow the test sample to cure at temperatures of at least 80°F under a heat light for 4 hours. The outdoor sunlight may be used as a testing site. After the 4-hour curing period, the (HFMS-2P or HFRS-2P) emulsion shall show no tackiness or tendency to stick to the fingers when pressed.

***This test not a requirement on representative samples is waived if successful application of the material has been achieved in the field.

****The distillation test for CRS-2P emulsion shall be in accordance with AASHTO T 59, 8-12 except that the distillation temperature shall be what the emulsion manufacturer recommends.

PROPERTY	ASTM TEST	HFMS-2	HFRS-2
Viscosity, Sabolt Furol @ 122^0 F. (50^0 C)	Note #1	35-150	50-200
Sieve Test, Retained on #20, max %	Note #1	0.1	0.1
Storage Stability, 24 hour, max %	Note #1	1.0	1.0
Asphalt Residue by Distillation, min %	Note #2	62	63
Oil Portion of Distillate by volume, max %	D-244	3.0	3.0
Float Test @ 140^0 F., seconds, min	Note #3	1200	1200
Solubility in Trichloroethylene, min %	D-4	97.5	97.5
Penetration, 77^0 F., 100 gm, 5 sec	D-5	140-225	140-225
Apparent Viscosity @ 140^0 F.	D-4957	Note #4	Note #4
Demulsibility, 0.02 N $CaCl_2$, min %	D-244	-	40
Demulsibility, 0.1 N $CaCl_2$, min %	-	30	-

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PROPERTY	ASTM TEST	HFMS-2	HFRS-2
Ductility, 77^{0}F., 5 cm/min, cm, min	AASHTO T-51	-	40
Elastic Recovery, 50^0 F., min %	T-301-Note #5	-	-

Note 1 - AASHTO T-59 shall be used for the Storage Stability, Sieve Test, and the Sabolt Furol Viscosity Test. The test results shall be reported, but the requirements may be waived if successful application of the material has been achieved in the field.

Note 2 - AASHTO T-59 will be used except when testing the HFRS-2P. The test shall be modified to include a 400+ 10^0 F maximum temperature to be held for 15 minutes.

Note 3 - ASTM Method D-139 shall be used to test the float.
When testing HFMS-2, the residue from distillation shall be poured immediately into the float collar at 500^0 F. If the residue has been allowed to cool, it shall be reheated and poured into the collar.

When testing HFRS-2P, the residue from distillation shall be poured into the float collar at 400^0 F.

Note 4 - Viscosity-Penetration results shall fall within the designated area on the chart on pg. 552 of the 2008 NDDOT Standard Specs at a shear rate of 1.0 sec^{-1}. The viscosity will be determined using a Modified Koppers size 100 viscometer tube at 140^0 F. and 300 mm Hg vacuum.

Note 5 - Testing for the Elastic Recovery should be tested according to AASHTO T-301, Elastic Recovery Test of Bituminous Materials by Means of a Ductilometer, with the following changes:

- Section 3.2 - One briquette is required for this test.
- Section 3.3 - Water Bath temperature shall be 50°F.
- Section 3.4 - Use appropriate ASTM thermometer, or equivalent thermometric device.
- Section 4.2 - Emulsified asphalt residue for testing should be obtained via distillation at 400 ± 10°F, that is held for 15 minutes, NOT via oven evaporation as shown.
    - If there is foreign (solid) matter in the distillation residue, pour the material through a No. 50 sieve that has been preheated at 275 ± 9°F prior to pouring into the test mold.
- Section 4.5 - Cut the specimen immediately upon stopping elongation. Do NOT hold in the elongated position for 5 minutes prior to cutting.

ESTIMATED MC3000 REQUIREMENTS IN TONS
DELIVERED TO THE FOLLOWING DISTRICT SECTION LOCATIONS

BISMARCK DISTRICT			VALLEY CITY DISTRICT	
LOCATION	**MC 3000**		**LOCATION**	**MC 3000**
Bismarck			Ashley	
Center	120		Courtenay	
Flasher	60		Edgeley	
Glen Ullin	90		Ellendale	
Linton			Gackle	25
McClusky	90		Litchville	
Napoleon	60		Jamestown	
Selfridge	40		Medina	
Steele			Oakes	
Underwood	90		Valley City	25
			Wishek	
TOTAL	**550 TONS**		**TOTAL**	**50 TONS**

DEVILS LAKE DISTRICT			MINOT DISTRICT	
LOCATION	**MC 3000**		**LOCATION**	**MC 3000**
Cando	25		Bottineau	50
Carrington	25		Garrison	50
Devils Lake	50		Harvey	50
Langdon	25		Kenmare	50
Maddock			Minot	50
Pekin	25		Mohall	50
Rolla	25		Parshall	50
Rugby			Towner	50
Starkweather	25		Velva	50
TOTAL	**200 TONS**		**TOTAL**	**450 TONS**

BIDDER Calumet Superior

ESTIMATED BITUMINOUS MATERIAL REQUIREMENTS
DELIVERED TO THE FOLLOWING DISTRICT SECTION LOCATIONS

DICKINSON DISTRICT			GRAND FORKS DISTRICT	
LOCATION	**MC 3000**		**LOCATION**	**MC 3000**
Beach	27		Adams	
Belfield			Cavalier	
Beulah			Cooperstown	
Bowman			Drayton	25
Dickinson			Finley	
Halliday			Grafton	
Hettinger			Grand Forks	
Killdeer			Larimore	25
Mott			Michigan	25
New England				
Richardton				
TOTAL	**27 TONS**		**TOTAL**	**75 TONS**
WILLISTON DISTRICT			**FARGO DISTRICT**	
LOCATION	**MC 3000**		**LOCATION**	**MC 3000**
Bowbells			Casselton	
Crosby			Fargo	
New Town			Forman	
Stanley	120		Hillsboro & Mayville	
Tioga			Lidgerwood	
Watford City	120		Lisbon	
Williston			Wahpeton	
			Wyndmere	
TOTAL	**240 TONS**		**TOTAL**	**0 TONS**

BIDDER Calumet Superior

BID RESPONSE – BITUMINOUS MATERIAL
MC-3000
BY DISTRICTS (TANKER DELIVERY)

Please indicate a price per TON for the following Districts for delivery as indicated

MC 3000

BID ITEM	Location / Type of Oil	Estimated Quantity (IN TONS) DELIVERED	Shipping Point	Freight Price PerTon Delivered to District	Bid Price Per Ton F.O.B. Dest. (Includes Freight)	Total Amount
No.1	BISMARCK	550	CROOKSTON	$ 69.00	$ 629.23	$ 346,074
No. 2	VALLEY CITY	50	CROOKSTON	$ 43.00	$ 623.23	$ 31,161
No. 3	DEVILS LAKE	200	CROOKSTON	$ 36.00	$ 616.23	$ 123,245
No. 4	MINOT	450	CROOKSTON	$ 59.00	$ 624.23	$ 280,901
No. 5	DICKINSON	27	CROOKSTON	$ 92.00	$ 672.23	$ 18,150
No. 6	GRAND FORKS	75	CROOKSTON	$ 21.00	$ 601.23	$ 45,092
No. 7	WILLISTON	240	CROOKSTON	$ 75.00	$ 640.23	$ 153,645
No. 8	FARGO	0	^	$	$	$
TOTAL ITEMS 1 – 8	1,592 TONS		$ 998,278 . 00			

Off-Season Support. It is possible that there will be a need for MC-3000 during the winter off-season months.

1. Bidder is able to produce MC3000 during the off season? Yes _____ No X
2. Minimum notification required prior to delivery due date? 1 Days
3. Minimum order quantity? 25 Tons / Full truck load
4. Bid price per Ton will be increased by this percentage to offset additional non-seasonal expense: _____ %

BIDDER CALUMET SUPERIOR

BID RESPONSE – BITUMINOUS MATERIAL
CSS-1H
INDIVIDUAL LOCATIONS (BY TANKER IF DELIVERED)

Please indicate a price per TON for the following Districts for pickup as indicated

CSS-1H EMULSION TACK OIL

Bid Item	District	Qty	Shipping Point Or Pick-Up Location	Price Per Ton Fob Origin	Freight Price Per Ton Delivered To District	Bid Price Per Ton F.O.B. Destination (Includes Freight)	Total Amount
9	VALLEY CITY	8 TONS ORIGIN		$	$	$	$
10	FARGO	5 TONS ORIGIN		$	$	$	$
11	FARGO	20 TONS DESTINATION	Wyndmere	$	$	$	$

BIDDER CALUMET SUPERIOR

BID RESPONSE – BITUMINOUS MATERIAL
CRS-2
INDIVIDUAL LOCATIONS

Please indicate a price per TON for the following District for delivery as indicated:

CRS-2 – DELIVERED BY TANKER

Bid Item	District	Estimated Qty	Shipping Point Or Pick-Up Location	Price Per Ton F.O.B Origin	Freight Price Per Ton Delivered To District	Bid Price Per Ton F.O.B. Destination (Includes Freight)	Total Amount
12	N/A				$	$	$

CRS-2 – DELIVERED BY TOTE

Emulsified asphalt shall be delivered to NDDOT District or Section Maintenance yards. The bidder agrees to provide materials at the time and place as specified by orders from the individual Districts. The material shall be shipped in totes with a 250-275 gallon capacity. Please note the shipping point in your response.

These instructions shall apply to all tote requirements indicated in the bid document.

PLEASE PROVIDE PRICING FOR **ALL** DISTRICTS.

Bid Item	District	Estimated Number of Totes per District	Shipping Point Or Pick-Up Location	DELIVERED Price Per Tote	Gallons Per Tote	DELIVERED Price per gallon calculated	Minimum Number of totes for this price
13	BISMARCK			$		$	
14	VALLEY CITY			$		$	
15	DEVILS LAKE	30		$		$	
16	MINOT			$		$	
17	DICKINSON			$		$	
18	GRAND FORKS	8		$		$	
19	WILLISTON			$		$	
20	FARGO	20		$		$	

BIDDER CALUMET SUPERIOR

BID RESPONSE – BITUMINOUS MATERIAL
CRS-2P
INDIVIDUAL LOCATIONS (BY TANKER IF DELIVERED)

Please indicate a price per TON for the following Districts for delivery or origin as indicated

CRS-2P

Bid Item	District	Estimated Qty	Shipping Point Or Pick-Up Location	Price Per Ton Fob Origin	Freight Price Per Ton Delivered To District	Bid Price Per Ton F.O.B. Destination (Includes Freight)	Total Amount
21	DICKINSON	54 TONS DELIVERED			$	$	$

CRS-2P – DELIVERED BY TOTE

PLEASE PROVIDE PRICING FOR **ALL** DISTRICTS.

Bid Item	District	Estimated Number of Totes per District	Shipping Point Or Pick-Up Location	DELIVERED Price Per Tote	Gallons Per Tote	DELIVERED Price per gallon calculated	Minimum Number of totes for this price
22	BISMARCK	10		$		$	
23	VALLEY CITY			$		$	
24	DEVILS LAKE			$		$	
25	MINOT	25		$		$	
26	DICKINSON			$		$	
27	GRAND FORKS	8		$		$	
28	WILLISTON	12		$		$	
29	FARGO			$		$	

BIDDER CALUMET SUPERIOR

BID RESPONSE - BITUMINOUS MATERIAL
MODIFIED CRS-2 EMULSION (POT HOLE PATCHER)
INDIVIDUAL LOCATIONS

Please indicate a price per TON for the following District for delivery as indicated

MODIFIED CRS-2 (POT HOLE PATCHER) – DELIVERED BY TANKER

BID ITEM	DISTRICT	Estimated QTY	Shipping Point	Freight Price PerTon Delivered to District	Bid Price Per Ton F.O.B. Dest. (Includes Freight)	Total Amount
30	DICKINSON	25 TONS DELIVERED		$	$	$

MODIFIED CRS-2 (POT HOLE PATCHER) – DELIVERED BY TOTE

PLEASE PROVIDE PRICING FOR **ALL** DISTRICTS.

Bid Item	District	Estimated Number of Totes per District	Shipping Point Or Pick-Up Location	DELIVERED Price Per Tote	Gallons Per Tote	DELIVERED Price per gallon calculated	Minimum Number of totes for this price
31	BISMARCK			$		$	
32	VALLEY CITY			$		$	
33	DEVILS LAKE			$		$	
34	MINOT	8		$		$	
35	DICKINSON			$		$	
36	GRAND FORKS			$		$	
37	WILLISTON	4		$		$	
38	FARGO	4		$		$	

BID RESPONSE - BITUMINOUS MATERIAL
HFMS-2
INDIVIDUAL LOCATIONS

Please indicate a price per TON for the following District for delivery as indicated.

HFMS-2

BID ITEM	DISTRICT	Estimated QTY	Shipping Point	Freight Price PerTon Delivered to District	Bid Price Per Ton F.O.B. Dest. (Includes Freight)	Total Amount
39	FARGO	5 TONS ORIGIN		$	$	$

BIDDER CALUMET SUPERIOR

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

Specify where orders are placed:

Business Name: CALUMET SUPERIOR - CROOKSTON TERMINAL

Address: 2525 US HWY 75 SOUTH

City/State/Zip: CROOKSTON, MN 56716

Contact Person: MIKE KNOTT OR JOSH HANSON

Telephone No: 218-281-7722

Fax No: 218-281-4722

E-mail Address: MICHAEL.KNOTT / JOSHUA.HANSON @CLMT.COM

Who will be the Service Representative for this Contract:

Service Representative: TONY WANTA

Telephone No: 715-398-7161 EXT 13

Fax No: 715-398-8246

E-mail Address: TONY.WANTA@CLMT.COM

Specify where payments are mailed:

Business Name: CALUMET SPECIAL PRODUCTS

Address: 2780 WATERFRONT PRKWY EAST DR

City/State/Zip: INDIANAPOLIS, IN 46214

Contact Person: BOB GRAMMAN

Telephone No: 317-328-5656 EXT 223

Fax No: 317-328-2357

E-mail Address: ROBERT.GRAMMAN@CLMT.COM

BIDDER CALUMET SUPERIOR

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX A OF THE TITLE VI ASSURANCES

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees as follows:

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. Non-discrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

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

4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

   a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
   b. cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX E OF THE TITLE VI ASSURANCES

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.),* (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.),* as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.),* (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.P.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

Risk Management Appendix

Service Contracts with Private Individuals, Companies, Corporations, Etc.:

Contractor agrees to defend, indemnify, and hold harmless the state of North Dakota, its agencies, officers and employees (State), from and against claims based on the vicarious liability of the State or its agents, but not against claims based on the State's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by Contractor to the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Contractor also agrees to defend, indemnify, and hold the State harmless for all costs, expenses and attorneys' fees incurred if the State prevails in an action against Contractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Contractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota, the following insurance coverages:

1) **Commercial general liability** and **automobile liability** insurance – minimum limits of liability required are **$250,000 per person** and **$1,000,000 per occurrence.**
2) **Workers compensation** insurance meeting all statutory limits.
3) The State of North Dakota, its agencies, officers, and employees (State) shall be endorsed as an **additional insured** on the commercial general liability and automobile liability policies.
4) Said endorsements shall contain a **"Waiver of Subrogation"** in favor of the state of North Dakota.
5) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

Contractor shall furnish a certificate of insurance evidencing the requirements in 1, 3, and 4, above to the undersigned State representative prior to commencement of this agreement.

The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time. Any attorney who represents the State under this contract must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08.

When a portion of a Contract is sublet, the Contractor shall obtain insurance protection (as outlined above) to provide liability coverage to protect the Contractor and the State as a result of work undertaken by the Subcontractor. In addition, the Contractor shall ensure that any and all parties performing work under the Contract are covered by public liability insurance as outlined above. All Subcontractors performing work under the Contract are required to maintain the same scope of insurance required of the Contractor. The Contractor shall be held responsible for ensuring compliance with those requirements by all Subcontractors.

Contractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the State. Any insurance, self-insurance or self-retention maintained by the State shall be excess of the Contractor's insurance and shall not contribute with it. The insolvency or bankruptcy of the insured Contractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Contractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the policy(ies) shall be the sole responsibility of the Contractor. This insurance may be in a policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The State will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above.

RM Consulted 2007
Revised 5-09

NDDOT
North Dakota
Department of Transportation

Ordering Instructions

Calumet has contracted with Wayne Transports this year as our carrier to deliver the MC's to the various NDDOT Districts from our Crookston terminal. In the interest of streamlining the ordering/confirmation process and assuring timely deliver to your projects, your District Engineers should contact the Wayne Transports dispatcher directly. The contact and order information is included below. Note that Wayne and Calumet have established contracts for delivering MC to NDDOT, but that specific load/location/scheduling info should be communicated directly to Wayne from the District, as indicated below. Attempting to relay this project-specific information to Wayne through Calumet serves no purpose, and may potentially cause unnecessary delivery delays. Please distribute this information to your appropriate District Personnel.

Wayne contact/order info:

NDDOT can call our office directly when placing orders.
Below is our info and order procedures:

Office Hours: 7am – 7pm | 7 days per week
PH: 701-356-3220 - Phone is answered 24 hours per day (after hours by an "on-call" dispatcher)
FAX: 701-356-3225

Email:	Jason Boushey	(Terminal Manager)	JasonB@WayneTransports.com
	Kirby Kyllo	(Dispatcher)	KirbyK@WayneTransports.com
	Joe Boushey	(Dispatcher)	JoeB@WayneTransports.com
	Gary Cassady	(Dispatcher)	GaryC@WayneTransports.com

- Orders must be received a minimum of 24 hours before requested delivery date/time & must be received during our normal office hours
  - Cancellations and/or changes can be made anytime thereafter
- **Preferred method of order receipt is via phone**
- When ordering please have the following information ready:
  - Load Origin
  - Delivery Date & Time
  - Product
  - Contract/Agreement number
  - Proper Consignee Name
  - Destination including directions
  - Unloading details (i.e. Unloading Pump? Unloading Hose? Etc...)

  Delivery location contact info (Name & Phone Number)

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 7/2/2014

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
John L. Wortham & Son, L.P.
P. O. Box 1388
Houston, TX 77251-1388

CONTACT NAME: John L. Wortham & Son, L.P.
PHONE (A/C, No, Ext): 713-526-3366 FAX (A/C, No): 713-521-1951
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : ACE American Insurance Co.	22667
INSURER B :	
INSURER C : ACE Fire Underwriters Insurance Company	20702
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Calumet Superior, LLC
2780 Waterfront Pkwy E., Dr., Suite 200
Indianapolis IN 46214

COVERAGES **CERTIFICATE NUMBER:** 20782644 **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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	✓ COMMERCIAL GENERAL LIABILITY			XSLG27334714	7/1/2014	7/1/2015	EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE ✓ OCCUR			$1,000,000 -			DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
				Self Insured Retention			MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 4,000,000
	✓ POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 4,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY			ISAH08821331	7/1/2014	7/1/2015	COMBINED SINGLE LIMIT (Ea accident)	$ 2,000,000
	✓ ANY AUTO						BODILY INJURY (Per person)	$
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS / NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB / OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$
	DED / RETENTION $							$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			WLRC48012206	7/1/2014	7/1/2015	✓ PER STATUTE / OTH-ER	
C	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N N	N/A		SCFC48012218	7/1/2014	7/1/2015	E.L. EACH ACCIDENT	$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000

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

The State of North Dakota, its agencies, officer and employees are included as additional insured and afforded waiver of subrogation per the attached endorsements

CERTIFICATE HOLDER

North Dakota Department of Transportation
608 East Boulevard Avenue
Bismark ND 58505-0700

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
John L. Wortham & Son, L.P. John L. Wortham & Son L.P.

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WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS

Named Insured Calumet GP, LLC				Endorsement Number
Policy Symbol	Policy Number ISAH08821331	Policy Period 7/1/2014	7/1/2015	Effective Date of Endorsement
Issued By (Name of Insurance Company) ACE American Insurance Co.				

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This Endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MOTOR CARRIERS COVERAGE FORM
AUTO DEALERS COVERAGE FORM

We waive any right of recovery we may have against the person or organization shown in the Schedule below because of payments we make for injury or damage arising out of the use of a covered auto. The waiver applies only to the person or organization shown in the SCHEDULE.

SCHEDULE

Any person or organization against whom you have agreed to waive your right of recovery in a written contract, provided such contract was executed prior to the date of loss

John L. Wortham & Son L.P.

Authorized Representative

CERT NO.: 23782641 CLIENT CODE: 15CALUMSPE (HOU) Marlena Aleman 7/2/2014 10:00:01 AM (CDT) Page 6 of 7

Workers' Compensation and Employers' Liability Policy

Named Insured CALUMET GP, LLC 2780 WATERFRONT PARKWAY SUITE 200	Endorsement Number Policy Number Symbol: Number: WLRC48012206
Policy Period 7/1/2014 7/1/2015	Effective Date of Endorsement
Issued By (Name of Insurance Company) ACE American Insurance Co.	
Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy	

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

Schedule

ANY PERSON OR ORGANIZATION AGAINST WHOM YOU HAVE AGREED TO WAIVE YOUR RIGHT OF RECOVERY IN A WRITTEN CONTRACT, PROVIDED SUCH CONTRACT WAS EXECUTED PRIOR TO THE DATE OF LOSS.

For the states of CA, UT, TX, refer to state specific endorsements.
This endorsement is not applicable in KY, NH, and NJ.

Authorized Agent

ADDITIONAL INSURED –
DESIGNATED PERSONS OR ORGANIZATIONS

Named Insured Calumet GP, LLC			Endorsement Number
Policy Symbol	Policy Number ISAH08821331	Policy Period 7/1/2014 7/1/2015	Effective Date of Endorsement
Issued By (Name of Insurance Company) ACE American Insurance Co.			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
AUTO DEALERS COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
EXCESS BUSINESS AUTO COVERAGE FORM
EXCESS TRUCKERS COVERAGE FORM

Additional Insured(s): Any person or organization whom you have agreed to include as an additional insured under a written contract, provided such contract was executed prior to the date of loss

A. For a covered "auto," Who Is Insured is amended to include as an "insured," the persons or organizations named in this endorsement. However, these persons or organizations are an "insured" only for "bodily injury" or "property damage" resulting from acts or omissions of:

1. You.
2. Any of your "employees" or agents.
3. Any person operating a covered "auto" with permission from you, any of your "employees" or agents.

B. The persons or organizations named in this endorsement are not liable for payment of your premium.

John L. Wortham & Son LP

Authorized Representative

CERT NO.: 20782641 CLIENT CODE 10CALUMSPR (HOU) Marlena Aleman 7/2/2014 10:08:03 AM (CDT) Page 5 of 7

ADDITIONAL INSURED - DESIGNATED PERSON OR ORGANIZATION

Named Insured Calumet GP, LLC				Endorsement Number
Policy Symbol	Policy Number XSLG27334714	Policy Period 7/1/2014	7/1/2015	Effective Date of Endorsement
Issued By (Name of Insurance Company) ACE American Insurance Co.				

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

EXCESS COMMERCIAL GENERAL LIABILITY POLICY

SCHEDULE

Name of Person or Organization:

Any person or organization whom you have agreed to include as an additional insured under a written contract, provided such contract was executed prior to the date of loss.

A. **Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance And Retained Limit:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

John L. Wortham & Son LP

Authorized Representative

CERT NO . 20783644 CLIENT CODE: 10CALUMGPE HOU, Marlena Aleman 7/2/2014 10:00:03 AM (CDT) Page 2 of 7

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

Named Insured				Endorsement Number
Calumet GP, LLC				
Policy Symbol	Policy Number	Policy Period		Effective Date of Endorsement
	XSLG27334714	7/1/2014	7/1/2015	
Issued By (Name of Insurance Company)				
ACE American Insurance Company				

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

EXCESS COMMERCIAL GENERAL LIABILITY POLICY

SCHEDULE

Name of Person or Organization: Any person or organization against whom you have agreed to waive your right of recovery in a written contract, provided such contract was executed prior to the date of loss.

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

John L. Worthan + Son LP

Authorized Agent

CERT NO.: 20782641 CLIENT CODE: 16CALUMSPE (HOU) Marlena Aleman 7/1/2014 10:00:03 AM (CDT) Page 3 of 7

NON-CONTRIBUTORY ENDORSEMENT FOR ADDITIONAL INSUREDS

Named Insured				Endorsement Number
Calumet GP, LLC				
Policy Symbol	Policy Number XSLG27334714	Policy Period 7/1/2014	7/1/2015	Effective Date of Endorsement
Issued By (Name of Insurance Company) ACE American Insurance Company				

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCESS COMMERCIAL GENERAL LIABILITY COVERAGE

Schedule

Organization	Additional Insured Endorsement
Any additional insured with whom you have agreed to provide such non-contributory insurance, pursuant to and as required under a written contract executed prior to the date of loss.	

(If no information is filled in, the schedule shall read: "All persons or entities added as additional insureds through an endorsement with the term "Additional Insured" in the title)

For organizations that are listed in the Schedule above that are also an Additional Insured under an endorsement attached to this policy, the following is added to Section IV.4:

If other insurance is available to an insured we cover under any of the endorsements listed or described above (the "Additional Insured") for a loss we cover under this policy, this insurance will apply to such loss and we will not seek contribution from the other insurance available to the Additional Insured. Your "retained amount" still applies to such loss, and we will only pay the Additional Insured for the "ultimate net loss" in excess of the "retained limit" shown in the Declarations of this policy.

John L. Worthan + Son Ltd.

Authorized Agent

CERT NO.: 20782644 CLIENT CODE: 10CALUMSPE (HCU) Marlena Alexan 7/2/2014 10:00:03 AM (CDT) Page 7 of 7

North Dakota Department of Transportation

Grant Levi, P.E.
Director

Jack Dalrymple
Governor

April 16, 2015

TONY WANTA, TECHNICAL LEADER RESIDUALS
CALUMET SUPERIOR LLC
2407 STINSON AVENUE
SUPERIOR, WI 54880

Dear Contractor:

You have submitted to the North Dakota Department of Transportation (NDDOT), in connection with your certificate of insurance, additional pages or language on the certificate which either purports to limit or qualify the information reflected on the certificate of insurance or which purports to change, modify or amend your company's insurance policies. NDDOT policy is to not solicit, review or approve contractors' insurance policies, endorsements or amendments to insurance policies, or insurance documents other than properly completed certificates of insurance. NDDOT contracts specify that contractors are responsible for acquiring and maintaining specified coverages and proof of insurance.

Please have a company executive authorized to execute contract documents sign and date the statement below attesting that your company has insurance coverage consistent with the contract provisions and immediately fax and mail it back to us.

Be advised that execution of this contract will be delayed until these issues have been resolved.

Sincerely,

Shannon Sauer, Division Director
Financial Management Division

INVITATION TO BID: 745-00-15-050
CALUMET SUPERIOR, LLC. hereby states that the company has, and will maintain in force, insurance coverages (including proof of coverages) consistent with the contract specifications.

April 20, 2015 Date

John R. Krutz VP-Finance Type or Print Name & Title

Signature

Must be signed by Owner; Partner; Corp. Pres., Vice Pres., or other authorized Corp. Officer. (If signed by other authorized Corp Officer, please attach copy of Power of Attorney or other documentation showing contract signature authority.