

VENDOR'S COPY

FROM:

Craighead County Purchasing Department
 c/o County Judges Office
 511 Union Rm 119
 Jonesboro, AR 72401
 Phone 870-933-4500
 Fax 870-933-4504

PURCHASE ORDER
CRAIGHEAD COUNTY
ARKANSAS

**SHOW THIS NO. ON ALL INVOICES,
 DELIVERY SLIPS, CASES, BOXES, ETC**

PURCHASE ORDER **49623**

TO: *Prostress Services Industries*
1363 Harbor Ave
Memphis, TN 38113

DATE *5-8-17*
 Req. By *Mike Crawford*
 Req. # _____
 Bid No. _____

Gentlemen: Please furnish the following to Craighead County and be governed by the instructions hereon.

Charge to Account No. *2000.200.2030*

ITEM	QUAN.	BRAND, CATALOG NO. AND DESCRIPTION	UNIT PRICE	TOTAL
	12	14'x14" X 23'0" 276 feet	21.71'	5991.96
	5	14'x14" X 25'0" 125 feet	21.71'	2213.75
	4	14'x14" X 35'0" 140 feet	21.71'	3099.40
	8	14'x14" X 30'0" 240 feet	21.71'	5210.40
				<u>16,955.51</u>
<p>⊗ NOTE: County Road Shop is closed on Fridays ⊗ Load trucks for easy off loading ⊗ All freight & delivery charges included in price ⊗ Provide advance notice on shipping 870-933-4510</p> <p>Substitute 25' for 23' piling if necessary</p>				

TOTAL ▶

SHIP TO:
Craighead County Road Dept.
2800 Moore Road
Jonesboro, AR 72401

DEL. PROMISED _____ DEL. REQUIRED _____
 F.O.B. *Destination*

TERMS:
 PRICING:

No purchases over \$100.00 are valid unless covered by this form signed by Purchasing Agent. Submit invoice promptly to County Clerk, Craighead County Court House, P.O. Box 1167, Jonesboro, AR 72401. The above Purchase Order No. must appear on all Invoices, Delivery Slips, Cases, Boxes, Etc. even when shipped direct by your supplier.

I certify that all the above articles or services have been received in good order except as noted.

Dated _____ 20 _____

Signed _____

CRAIGHEAD COUNTY

By *[Signature]*
 Purchasing Agent

PRESTRESS SERVICES INDUSTRIES LLC

Page 1 of 6

5/5/2017

Craighead County Road Department
2800 Moore Rd. Jonesboro, AR 72401

www.prestressservices.com

Attn: All Haines – County Finance Officer
870-933-4500
ahaines@craigheadcounty.org

Re: 14" Square Piling

Bid Proposal

This shall serve as our Bid Proposal ("Proposal") on the above project, establishing basic parameters for our scope of work and for any performance for which we are contracted, and is contingent upon reaching an acceptable written contract among all parties. Any agreement is further subject to the establishment of sufficient financial guaranties from the Purchaser and/or Owner. If agreement cannot be reached Prestress Services Industries, LLC ("PSI") reserves the right to either withdraw this Bid Proposal or adjust the price, as PSI seems fit.

The contents of this Proposal, including the terms and conditions, must be incorporated by reference in any contract agreed to for this project.

PSI proposes to freight on board four loads of 14" square piling of assorted length to Craighead County Road Department at 2800 Moore Rd. Jonesboro, AR 72401 per phone conversation and e-mails exchanged between Al and Chuck on 5/3 and 5/4/2017;

Size	Type	Zone	Length	Qty	LF	
14"	TN	EQ	25	5	125	✓
14"	TN	EQ	30	12	360	8 240
14"	TN	EQ	35	4	140	✓
4"	MS		23	12	276	✓

Base Bid to be delivered upon a mutually agreed schedule in 2017

Total, FOB jobsite:

\$19,560.00

Credits or Deducts:

A payment and performance bond upon our Surety's standard bond form is available for 1% of contract amount.

Delivery: Normal delivery will be between 7:00 AM and 4:00 PM, Monday through Friday.

5/5/2017

General Conditions of the Proposal:

The following terms and conditions have been reviewed by Purchaser and are understood to be included in the Proposal. Purchaser's acceptance of the Proposal constitutes acceptance of these terms and conditions.

1. **Definitions.**

- a. "Proposal" is the offer set forth on one or more preceding pages and includes these terms and conditions as well as any specification, drawing, plan or other document provided to PSI by Purchaser prior to the date of the Proposal and expressly identified on a prior page or referenced in these terms and conditions.
- b. "PSI" is Prestress Services Industries, LLC
- c. "Purchaser" is the Purchaser accepting the Proposal and purchasing the products and services offered by PSI in the Proposal
- d. "Owner" is the party for whose benefit Purchaser is performing work to include the products and services being acquired from PSI.

2. **Contract.** The Proposal may not be modified or amended by Purchaser, and any revision to it must be set forth in a revised Proposal issued by PSI. The last Proposal issued by PSI constitutes the entire contract between PSI and Purchaser which supersedes all prior and contemporaneous written and/or oral negotiations, offers, proposals, understandings and agreements. No term or condition other than ones set forth in the last Proposal shall become a part of the initial contract. No future document or provision (including Purchaser's form of subcontract, purchase order, change order, shipping release, instruction, request, or a specification, drawing or plan) which differs from, conflicts with, or purports to modify or supplement the Proposal shall become part of the contract or constitute a new or amended agreement unless expressly accepted and approved by PSI in writing with an explicit statement of intent to affect this contract. In the event of any conflict between the provisions, terms and conditions, products, services or prices contained in the Proposal and any other document not issued or accepted in writing by PSI, the language set forth in the Proposal shall govern.

3. **Price:** The offer and prices set forth in the Proposal are subject to acceptance by Purchaser's signature on a mutually agreeable contract document, delivered to PSI prior to the earlier of notice of withdrawal by PSI or 30 days from the date of the Proposal, which is further subject to the establishment of sufficient financial guarantees from Purchaser and/or Owner. If mutually agreeable contract document cannot be reached within 30 days PSI reserves the right to either withdraw the Proposal or adjust the Proposal price, as PSI seems fit. Pricing is based upon continuous delivery of all items commencing at a mutually agreed date or, in the absence of agreement, not later than thirty (30) days following the completion of fabrication of the items. PSI may increase the prices upon notice for any interruption or delay in delivery requested or caused by Purchaser.

5/5/2017

4. **Payments and Defaults:** Purchaser shall make payment in full to PSI no later than the earlier of (a) 10 days after Purchaser's receipt of payment from its customer or the Owner or (b) 30 days after the date of PSI's invoice. PSI rejects all clauses in any agreements that stipulates receipt of payment by Purchaser for PSI's non-defective work is a condition precedent to payment to PSI. All amounts not timely paid shall be assessed interest at the lesser of 1.5% per month or the highest rate permitted by applicable law. PSI will invoice and be paid for progress increments, which included but is not limited to the plant value of finished products stored at PSI's plants, with freight being invoiced upon delivery. Purchaser shall not assert any setoff for a claim, penalty, back charge, loss, damage or liability arising from the contract or any other transaction or relationship with PSI to reduce, defer or avoid a payment to PSI. PSI may suspend work and delivery to Purchaser or any affiliate of it on any contract, refuse to honor any warranty or claim, and/or terminate this or any other contract with any of them effective upon notice to Purchaser or any affected affiliate of it in the event of Purchaser's or an affiliate's failure to make any payment to PSI when due, but in all such events Purchaser and its affiliates shall remain liable for all prior invoices and all accrued costs of PSI plus its unrealized gross profit on the full scope of the contract. PSI rejects all clauses in any agreements that stipulates receipt of a payment by PSI constitutes a waiver or release of unpaid claims for which Purchaser has received notice. **THE PRICE IS SUBJECT TO CHANGE IF THESE CONDITIONS CANNOT BE MET.**
5. **Delivery/Schedule:** A mutually agreed delivery schedule and erecting schedule confirmed in a writing signed by PSI shall constitute part of the Proposal and contract. In the absence of an agreed and confirmed schedule, PSI may produce, deliver and erect the product as is most convenient for its production and transportation schedules. Unless otherwise expressly stated in the Proposal, delivery of all products is f.o.b. the site of the stated project. Notwithstanding an agreed and confirmed schedule, Purchaser shall provide PSI with a minimum of four weeks advance written notice of its requested delivery date(s) and, in any event, allow sufficient time to obtain permits and for reasonable truck and escort scheduling, loading and inspection of loaded trucks. PSI shall not be liable for any project delay, penalty or additional cost caused by PSI's failure to provide delivery in advance of the agreed and confirmed schedule or resulting from Purchaser's failure to provide a minimum of four weeks advance written notice of its requested delivery date(s).
6. **Delivery Delay Charges:** Purchaser shall pay a storage charge of \$10/piece/day for all products not delivered (a) according to a previously established agreed and confirmed schedule; or (b) in the absence of an agreed and confirmed delivery schedule, within 30 days of fabrication. For any delay at the jobsite preventing PSI's truck from leaving the jobsite within four (4) hours arrival or otherwise preventing PSI's truck from completing its loading, delivery and return to PSI's plant within fourteen (14) hours which is due to any condition beyond the reasonable control of PSI (including, but not limited to, malfunction of Purchaser's or third party's equipment, unsuitable access and/or the action or inaction of a government entity or authority, patrolman or inspector), Purchaser shall pay \$150 per diem for lodging and meals, cost plus 15% for rented or leased vehicles or equipment, and the following hourly rates:

Driver and tractor unit	\$110
Driver and tractor unit (idle)	80
Trailer, flat/pup (5-6 axle)	25
Trailer, steer/triquad (7-8axle)	32
Trailer, super load (>9 axle)	100

5/5/2017

If PSI does not deliver products and services in accordance with the date or dates that are established pursuant to paragraph 5 of these Agreed Terms and Conditions, PSI will be responsible to Purchaser for the direct costs incurred for any resulting delay to the critical path of Purchaser's work under its contract. Purchaser shall provide PSI with written notification of any alleged PSI caused delay with 24 hours of its occurrence or any claim for said delay shall be deemed waived. Purchaser shall also provide PSI a written claim with alleged direct costs and all supporting documentation within 30 days of the end of the alleged PSI caused delay or any claim for the alleged PSI caused delay shall be deemed waived.

7. **Access Road/Crane Pads:** Purchaser shall provide a sound, dry, sufficient size (typically 40' to 50' wide), unobstructed level access road(s) to the unloading point that is capable of supporting loaded tractor-trailer delivery trucks operating under their own power. The Purchaser shall maintain the access roads and crane pads throughout delivery and erection. PSI shall not be liable for any delay or damages of any kind resulting from unsuitable access, inadequate Purchaser provided site equipment, the action or order of a government entity or authority, the unavailability or failure to timely provide escort and/or inspection of loaded delivery trucks, or weather unsuitable for transportation or unloading. Risk of loss or damage to the products transfer to Purchaser upon arrival at the entry point to the Purchaser provided access.
8. **Subcontracting:** PSI may subcontract all or part of its obligations under the Proposal, however, such subcontracting will not relieve PSI of those obligations.
9. **Assignment:** PSI may assign any of its rights or obligations under the Proposal to a subsidiary or affiliate by notice at any time to Purchaser, and in that event PSI's assignee shall be substituted for PSI on the contract. Purchaser may not assign its rights or delegate its obligations under the Proposal without the prior written consent of PSI
10. **Limitation of Claims and Damages:** PSI shall not be liable to the Purchaser, Owner or other 3rd parties for any indirect, special, incidental or consequential damages or punitive damages, whether foreseeable or not, nor for liquidated damages, loss of business, loss of profit or contribution, loss of contracts, or anticipated savings, and without regard to their basis in contract, tort (including negligence), breach of statutory duty, product liability or otherwise, related to or arising out the Proposal, the contract PSI's work, products, services, and notwithstanding any notice or previous warning of the possibility of such injuries or damages.
11. **LIMITATION OF LIABILITY/REMEDIES:** PURCHASER AND PSI HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING PSI'S PRICE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE ASSOCIATED RISKS TO THE FULLEST EXTENT PERMITTED BY LAW. THE TOTAL MAXIMUM AGGREGATE LIABILITY OF PSI (AND ITS RELATED CORPORATIONS AND CONSULTANT'S SUBCONSULTANTS, AND SUBPURCHASERS AND THE OFFICERS, DIRECTORS, MANAGERS, MEMBERS, SHAREHOLDERS, AGENTS, REPRESENTATIVES AND EMPLOYEES OF ALL OF THE FOREGOING) TO PURCHASER, OWNER AND OTHER THIRD PARTIES IS LIMITED TO (\$0) FOR ANY AND ALL DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF THIS PROPOSAL AND/OR PSI'S WORK, PRODUCTS, SERVICES FURNISHED FOR THE PROJECT. THIS LIMITATION SHALL APPLY REGARDLESS OF AVAILABLE INSURANCE COVERAGE, CAUSE(S) OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, STATUTORY, CONTRACTUAL OR EQUITABLE CONTRIBUTION OR

5/5/2017

INDEMNITY OBLIGATION OR ANY OTHER THEORY OF RECOVERY. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER CONSULTANT'S COMMERCIAL GENERAL LIABILITY POLICY.

12. **Warranties:** All work will be completed in a workmanlike manner according to standard industry practices and project specifications included in the Proposal. Any alteration or deviation from the above specifications, regardless of the involvement of additional costs, will only be executed upon receipt of a written order, and will be incorporated into the contract by way of a change order. All items purchased under this Proposal are warranted by the PSI, for one (1) year from substantial completion, to be free from major defects in materials and workmanship at the time of delivery. Upon delivery, Purchaser will inspect products purchased hereunder and will notify PSI within ten (10) days in writing of any claimed defects, and the failure to do so shall void all warranties. PSI will, at its option, repair or replace f.o.b. jobsite any items with said major defects. THESE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
13. **Cancellation:** Purchaser may not cancel the accepted Proposal, or any change order accepted by PSI, without PSI's prior written consent.
14. **Waiver:** Failure of PSI to enforce any provision of the Proposal or this contract shall not be deemed a waiver of its rights to future enforcement of that or any other provision, and PSI may require full performance by Purchaser of all of its obligations under this contract. Any inconsistent instruction, consent or failure to enforce a provision by Purchaser shall be deemed to be a waiver of its right to enforce that provision.
15. **Indemnity:** In addition to Purchaser's undertakings above to indemnify PSI, Purchaser shall indemnify, defend and hold harmless PSI from any and all actions, suits, claims, costs, losses, damages and liabilities of any kind or nature, including damage to property (whether or not owned, leased or used by Purchaser) and injuries to or death of persons (whether or not employees or agents of Purchaser, persons subject to workers compensation, or others) arising out of the project or resulting in whole or in part from any act or omission of Purchaser, its officer, director, employee, agent or representative, except to the extent caused by the negligence of PSI or those for whom it is liable.
16. **Equitable Adjustment:** Purchaser shall grant PSI an equitable adjustment in price and time for any and all delays, changes, interferences or disruptions to PSI work caused by the Purchaser and/or Owner or those for whom either is responsible and/or liable. PSI rejects all clauses in any agreements that stipulate "no damage for delay" and/or that limit damages and remedies available at law for delays, changes, interference or disruptions to PSI work caused by the Purchaser and/or Owner or those for whom either is responsible and/or liable.
17. **Insurance:** PSI's pricing is based upon its current insurance coverage and limits. A certificate of insurance showing PSI's current coverage is available upon written request. PSI's pricing also excludes providing a waiver of subrogation or additional insured coverage for any entities own acts, omissions or negligence.
18. **Builders Risk:** Purchaser and/or Owner shall carry a Builder's Risk insurance written on an "all risk" policy form which covers PSI work. PSI shall not be responsible for the payment of any deductible, or its equivalent,

Page 6 of 6

5/5/2017

unless the resulting claim is due to the sole fault or negligence of the PSI, and then the deductible shall not exceed \$10,000 per claim.

19. **Bond:** Any payment and performance bond provided by PSI shall be upon our Surety's standard bond form and terms and conditions.

20. **The Proposal is based on the following documents:** per phone conversations and e-mails exchanged between Al and Chuck on 5/3 and 5/4/2017 shared files:

Respectfully submitted,

Chuck Lee

5/5/2017

Charles Lee
Prestress Services Industries, LLC.
330-600-4178