BID FORM

MISSOURI DEPARTMENT OF TRANSPORTATION
GENERAL SERVICES
1320 CREEK TRAIL DRIVE – P.O. BOX 270
JEFFERSON CITY, MO 65102

REQUEST NO.	2-100208FR
DATE	January 22, 2010
PAGE NO. 1	NO. OF PAGES 8

SEALED BIDS, SUBJECT TO THE ATTACHED CONDITIONS WILL BE RECEIVED AT THIS OFFICE UNTIL

2:00 PM, C.S.T., FEBRUARY 8, 2010

AND THEN PUBLICLY OPENED AND READ FOR FURNISHING THE FOLLOWING SUPPLIES OR SERVICES.

QUOTATIONS TO BE BASED F.O.B. MISSOURI DEPARTMENT OF TRANSPORTATION
Submit net bid as cash discount stipulations will not be considered

Locations Statewide

ALL BIDS SHOULD BE EXTENDED AND TOTALED.

BUYER: FRANKIE J. RYAN **BUYER TELEPHONE:** 573-522-9481

SUPPLIES OR SERVICES

Contract for furnishing **"ROTARY BROOM WAFER REFILLS AND SPACERS"** for a contract period beginning date of award through February 28, 2011.

PLEASE SEE ATTACHED PRICING PAGE

Note to Respondent: A vendor must be in compliance with the laws regarding conducting business in the State of Missouri. The compliance to conduct business in the state shall include but may not be limited to: Registration of business name, vendors MUST submit a bid/proposal that correctly and accurately identifies the company name that is registered to do business in the State of Missouri. All vendors who are required to execute a contractual agreement MUST submit a copy of their certificate with the signed copy of the contract agreement before the purchasing department can proceed with MoDOT legal contract approval.

VENDOR MUST SIGN AND SUBMIT

THIS FORM WITH THE PRICING PAGES

(SEE ATTACHED FOR CONDITIONS AND INSTRUCTIONS)

In compliance with the above invitation for bids, and subject to all conditions thereof, the undersigned bidder agrees to furnish and deliver any or all the items on which prices were quoted within FIFTEEN (15) calendar days after receipt of formal purchase order.

Date: _____ **Firm Name:** _____
Telephone No.: _____ **Address:** _____
Fax No.: _____ _____
Federal I.D. No. _____ **By (Signature):** _____
Email: _____ **Type/Print Name** _____
Title: _____

Is your firm MBE certified? ☐ Yes ☐ No **Is your firm WBE certified?** ☐ Yes ☐ No

List all agencies your firm is currently certified with. _____

Form E-103 (Rev. 11-04)

BID SUBMITTAL:

Your written bid must be mailed in ***a sealed*** envelope or box, or else delivered by hand or courier service (UPS, Federal Express, DHL, etc.) to be *received on or before the date and time specified on the front page of this bid document,* at the office of:

Ms. Frankie Ryan
Missouri Department of Transportation
General Services - Procurement
1320 Creek Trail Drive, P.O. Box 270
Jefferson City, MO 65102

All documents must be sealed and the outmost wrapping should be clearly marked **"Bid for Rotary Broom Wafer Refills and Spacers". THIS IS THE REBID FROM THE REJECTED BID RFB 2-091230FR. Please see updated specifications MGS 07-02B "Rotary Broom Wafer Refill, Bristle Filament" attached herein.**

ADDITIONAL DOCUMENT SUBMITTAL REQUIREMENTS:

For the bid to be considered the three (3) attachments listed below must be submitted to this office prior to any contract being awarded for this bid:

1. "Preference in Purchasing Products"
2. "Missouri Domestic Product Procurement Act"
3. "Missouri Service-Disabled Veteran Business Preference".

SPECIFICATIONS AND ESTIMATED QUANTITIES:

The broom refills and spacers must meet the attached specifications MGS 07-02B "ROTARY BROOM WAFER REFILL". Please see attachment A for estimated quantities for each District. These are estimates only. MoDOT reserves the right to increase or decrease quantities as necessary during the life of the contract.

PRICE ESCALATION CLAUSE:

In the event the Contractor requests a price increase during the contract period (original contract period or contract renewal period, if applicable), the Contractor must provide a written request and documentation justifying the need for a price increase, and the amount of such price increase. MoDOT will review the Contractor's written request and documentation, and decide if a price increase is to be granted at that particular time. The Contractor shall understand and agree that MoDOT's decision shall be final and without recourse.

a. No price increase shall be granted during the first 3 months of the original contract period, or if applicable, first 3 months of a contract renewal period.
b. In the event a price increase is granted due to an approved escalation, the renewal percentage shall be based upon the current contract value.

DELIVERY:

Contractor must notify the District/Recipient 24 hours prior to the delivery of any product ordered. The District/Recipient will have the contact information listed on the purchase orders. All deliveries shall be FOB Missouri Department of Transportation within FIFTEEN (15) calendar days upon receipt of order to the following addresses:

St. Joseph, Missouri 64502
Macon, Missouri 63552
Hannibal, Missouri 63401
Lee's Summit, Missouri 64064-8002
Jefferson City, Missouri 65102
Chesterfield, Missouri 63017-5712
Joplin, Missouri 64802
Springfield, Missouri 65801
Willow Springs, Missouri 65793
Sikeston, Missouri 63801

Failure to comply with quoted delivery schedule may result in cancellation of order and/or contract.

COMPLIANCE WITH BID REQUIREMENTS:

Failure to comply with the requirements published in this bid may result in the bid being subject to rejection. Product that does not meet specifications will cause all of the shipments to be returned at the bidders expense.

PACKAGING AND MARKING:

All wafers are to be packaged as noted on the pricing page. Cartons of straight (poly flat) wafers are to include one (1) spacer for each wafer in the carton. A description of the carton contents must be plainly marked on four (4) upright sides of each carton.

Pallets must be packed with no more than four (4) boxes per pallet. Each pallet must be banded and shrink wrapped. Unless otherwise stated on the purchase order, MoDOT **will not accept mixed types of wafers on a pallet**.

WARRANTY:

The supplier agrees to replace or repair any wafers free of any charge if the components of the wafers fails to meet MGS 07-02B specifications 2.1 through 2.3. This warranty is not intended to cover abuse to or misapplication of the wafers.

ORDERING:

Wafers are to be ordered by type and outside by inside diameter of wafer. Such as a 32" diameter wafer that is mounted on a 10" drive drum would be indicated as 10" x 32". The wafers may require inspection and acceptance by MoDOT Materials at destination, prior to use.

NOTE ON SAMPLES:

MoDOT reserves the right to request up to two (2) samples of each product from the bidders if deemed necessary before award of bid. Bidder will have five (5) working days, from date of request, to provide samples. Samples shall be furnished to MoDOT at no charge, will become the property of MoDOT, and will not be returned. **DO NOT** SUBMIT SAMPLES WITH YOUR BID.

RENEWAL INFORMATION:

In the event MHTC exercises its options to renew the contract for three (3) additional one-year periods, or any portion therein, pursuant to the applicable provisions outlined in this document, the Bidder shall provide on the pricing page the maximum percentage of increase and the maximum percentage of decrease for each renewal period. The Bidder is cautioned the percentages shall be computed against the then CURRENT contract prices in effect during renewal periods. Furthermore, the Bidder is advised the MHTC does not automatically grant increases at the time of renewing the contract and if an increase is requested, documentation of need must be provided at the time of renewal. If renewal percentage is not provided, the prices during renewal periods shall be the same as during the current contract period.

NON-EXCLUSIVITY:

The Missouri Department of Transportation reserves the right to obtain like or similar products of this or other manufacturers when use of such products is deemed in the best interest of MoDOT.

VENDOR NAME REGISTRATION:

On all bid documents, the bidder must use the firm name under which he/she is registered to do business in the state of Missouri. As required by Missouri state statute, the bidder must ensure that his/her firm name is registered with the office of the Secretary of State.

PRICING PAGE
Rotary Broom Wafer Refills and Spacers
One (1) page with 2 items

Complete, *sign where indicated below*, and submit with your signed bid form and other required documentation.

NOTE ON DESCRIPTIVE LITERATURE AND BRAND IDENTIFICATION: *All bids should indicate the Brand and/or Part Number to be considered.*

#	Description	Manuf/ Brand	Original Contract Period *Firm, Fixed* *Price for orders of 1-50 cartons*	Original Contract Period *Firm, Fixed Per Carton Price for orders of:* *51-99 cartons*	Original Contract Period *Firm, Fixed Per Carton Price for orders of:* *100 + cartons*	Extended Total
1	10" x 32" Broom Wafer Refills, *Poly Flat Type*; to include 1 spacer for each wafer**; no more than 30** wafers and spacers per carton. Indicate the # of wafers ***w/spacers*** (standard package qty) being offered: _____ **# per carton**		$_____ **Cost Per One (1) *CARTON*** $_____ **Cost Per One (1) *WAFER***	$_____ **Cost Per One (1) *CARTON*** $_____ **Cost Per One (1) *WAFER***	$_____ **Cost Per One (1) *CARTON*** $_____ **Cost Per One (1) *WAFER***	$_____ **Cost Per One (1) *CARTON*** $_____ **Cost Per One (1) *WAFER***
2	10" x 32" Broom Wafer Refills, *Poly Convoluted Type*; **no more than 30** wafers per carton. Indicate the # of wafers (standard package qty) being offered: _____ **# per carton**		$_____ **Cost Per One (1) *CARTON*** $_____ **Cost Per One (1) *WAFER***	$_____ **Cost Per One (1) *CARTON*** $_____ **Cost Per One (1) *WAFER***	$_____ **Cost Per One (1) *CARTON*** $_____ **Cost Per One (1) *WAFER***	$_____ **Cost Per One (1) *CARTON*** $_____ **Cost Per One (1) *WAFER***
			GRAND TOTAL (for single wafers)			**$**

PACKAGING AND MARKING: Please refer to page 3 for details on packing and identification of product.

COST DETERMINATION: The low bidder shall be determined by adding together the unit cost per item for one item #1 (poly flat type wafer w/spacer) and one item #2 (poly convoluted type wafer) within each range of the products listed on the pricing page to obtain the extended total. The extended totals from the ranges of each item will be added together for each bidder to determine the lowest bid. The grand total will be used to determine the lowest bid for award purposes. For the purposes of this bid, items will be awarded on an **"ALL OR NONE"** basis to the low, responsive bidder.

RENEWAL INFORMATION: The Bidder shall provide below the maximum percentage of increase and the maximum percentage of decrease for each renewal period.

1st Renewal Period: _____% of maximum increase _____% of maximum decrease
2nd Renewal Period: _____% of maximum increase _____% of maximum decrease
3rd Renewal Period: _____% of maximum increase _____% of maximum decrease

Bidder's Firm Name _____

_____ _____
Signature ***Date***

ATTACHMENT A

ESTIMATED QUANTITIES BY DISTRICT

Description	D1	D2	D3	D4	D5	D6	D7	D8	D9	D10	Total Qtys
10” x 32” Broom Wafer Refills, *Poly Flat Type*; to include 1 spacer for each wafer**; no more than 30** wafers and spacers per carton. INDICATS ESTIMATED # OF CARTONS OF EACH NEEDED FOR ORIGINAL CONTRACT PERIOD (assume 30 refills per carton)	11	45	0	20	50	0	72	25	35	2	**260**
10” x 32” Broom Wafer Refills, *Poly Convoluted Type*; **no more than 30** wafers per carton. INDICATES ESTIMATED # OF CARTONS OF EACH NEEDED FOR ORIGINAL CONTRACT PERIOD (assume 30 refills per carton)	2	28	25	20	25	0	40	58	35	53	**286**

PREFERENCE IN PURCHASING PRODUCTS

DATE: _____

The bidders attention is directed to Section 34.076 RSMo 2000 which gives preference to Missouri corporations, firms, and individuals when letting contracts or purchasing products.

Bids/Quotations received will be evaluated on the basis of this legislation.

All vendors submitting a bid/quotation must furnish ALL information requested below.

FOR CORPORATIONS:

State in which incorporated:

_____

FOR OTHERS:

State of domicile:

_____

FOR ALL VENDORS:

List address of Missouri offices or places of business:

_____

_____

_____

_____

_____

THIS SECTION MUST BE COMPLETED AND SIGNED:

FIRM NAME: _____

ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP:** _____

BY: _____

(signature required) **(printed name)**

Federal Tax I.D. #: _____ **if no Federal Tax I.D. # - list Social Security #:**_____

NOTE: For bid/quotation to be considered, the "Preference in Purchasing Products" form must be on file in the General Services (Procurement) Division and must be dated in the current calendar year.

MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT

The bidder's attention is directed to the Missouri Domestic Products Procurement Act, Sections 34.350 to 34/359, RsMO, which requires all manufactured goods or commodities used or supplied in the performance of this contract or any subcontract to be manufactured or produced in the United States.

Section 34.355, RsMO, requires the vendor or contractor to certify his compliance with Section 34.353 and, if applicable, Section 34.359, RsMO, at the time of bidding **and** prior to payment. Failure to comply with Section 34.353, RsMO, during the performance of the contract **and** to provide certification of compliance prior to payment will result in nonpayment for those goods or commodities.

Section 34.353.2, RsMO, specifies that it does not apply where the total contract is less than Twenty-Five Thousand Dollars ($25,000.00). If your total bid is Twenty-Five Thousand Dollars ($25,000.00) or more, you **must** complete this form as directed below.

Failure to complete and return this document with this bid will cause the State to presume the manufactured goods or products listed in the bid are not manufactured or produced in the United States, and the bid will be evaluated on that basis. Please read the certification appearing below on this form.

[ ] If all the goods or products specified in the attached bid which the bidder proposes to supply to the State shall be manufactured or produced in the "United States" as defined in Section 34.350, RsMO, check the box at left.

[ ] If only one item of any particular goods or products specified in the attached bid is manufactured or produced in the "United States" as defined in Section 34.350, RsMO, check the box at left and list the items (or item number) here:

_____

_____

[ ] If any or all of the goods or products specified in the attached bid which the bidder proposes to supply to the State **<u>are not</u>** manufactured or produced in the "United States" as defined in Section 34.350, RsMO, then: (a) check the box at left; (b) list below, by item (or item number), the country other than the United States where each good or product is manufactured or produced; and (c) check the boxes to the left of the paragraphs below if applicable and list the corresponding items (or item numbers) in the spaces provided.

Item (or number)	Location Where Item Manufactured or Produced

(attach an additional sheet if necessary)

[ ] The following specified goods or products cannot be manufactured or produced in the United States in sufficient quantities or in time to me the contract specifications. Items (or item numbers):

_____

[ ] The following specified goods or products must be treated as manufactured or produced in the United States, in accordance with an existing treaty, law, agreement, or regulation of the United States, including a treaty between the United States and any foreign country regarding export-import restrictions or international trade. Items (or item numbers): _____

CERTIFICATION

By submitting this document, completed as directed above, with a bid, the bidder certifies under penalty of making false declaration (Section 575.060, RsMO) that the information contained in this document if true, correct and complete, and may be relied upon by the State in determining the bidders qualifications under and in compliance with the Missouri Domestic Products Procurement Act.

The bidder's failure to complete and return this document with the bid as directed above will cause the State to presume the manufactured goods or products listed in the bid are not manufactured or produced in the United States, and the bid will be evaluated on that basis pursuant to Section 34.353.3(2), RsMO.

Vendor Name: _____

Vendor Address: _____

MISSOURI SERVICE-DISABLED VETERAN BUSINESS PREFERENCE

By virtue of statutory authority, RSMo 34.074, a preference will be given all contracts for the performance of any job or service to service-disabled veteran business either doing business as Missouri firms, corporations, or individuals; or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing bids, in their entirety, are comparable.

Definitions:

Service-Disabled Veteran is defined as any individual who is disabled as certified by the appropriate federal agency responsible for the administration of veterans' affairs.

Service-Disabled Veteran Business is defined as a business concern:

a. Not less than fifty-one (51) percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than fifty-one (51) percent of the stock of which is owned by one or more service-disabled veterans; and
b. The management and daily business operations of which are controlled by one or more service-disabled veterans.

If an offeror meets the definitions of a service-disabled veteran and a service-disabled veteran business as defined in 34.074 RSMo and is either doing business as a Missouri firm, corporation, or individual; or maintains a Missouri office or place of business, the offeror **must** provide the following with the proposal in order to receive the Missouri service-disabled veteran business preference over a non-Missouri service-disabled veteran business when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing proposals, in their entirety, are comparable:

a. A copy of a letter from the Department of Veterans Affairs (VA), or a copy of the offeror's discharge paper (DD Form 214, Certificate of Release or Discharge from Active Duty) from the branch of service the offeror was in, stating that the offeror has a service-connected disability rating ranging from 0 to 100% disability; and
b. A completed copy of this exhibit

(NOTE: For ease of evaluation, please attach copy of the above-referenced letter from the VA or a copy of the offeror's discharge paper to this Exhibit.)

By signing below, I certify that I meet the definitions of a service-disabled veteran and a service-disabled veteran business as defined in 34.074 RSMo and that I am either doing business as a Missouri firm, corporation, or individual; or maintain Missouri offices or places of business at the location(s) listed below.

Veteran Information	Business Information
Service-Disabled Veteran's Name, (Please Print)	Service-Disabled Veteran Business Name
Service-Disabled Veteran's Signature	Missouri Address of Service-Disabled Veteran Business

ROTARY BROOM WAFER REFILL MGS 07-02B

1.0 DESCRIPTION. This specification covers rotary broom wafer refills composed of polypropylene bristles crimped into a metal retaining ring.

2.0 MATERIALS.

2.1 General. Wafer refills shall be of the type designated in the bid request, designed to replace worn rotary broom wafer segments.

2.1.1 Type I. Type I shall be for use on rotary broom drums that require a metal spacer between wafer refills. Type I wafers shall have a flat (regular circular) metal retaining ring with a drive lug protruding into the inside diameter of the retaining ring.

2.1.2 Type II. Type II shall be for use on rotary broom drums that do not require a metal spacer ring between wafer refills. Type II wafers shall have a convoluted (irregular or sinusoidal circular) metal retaining ring with a drive lug protruding into the inside diameter of the metal retaining ring.

2.2 Wafer Bristle Retaining Ring. The bristle retaining ring shall be of a quality that will resist warping, bending, splitting or cracking. The retaining ring shall be formed from a minimum of 20 gauge premium grade steel coil stock into a circular ring with a "U" shaped cross section. The sides of the ring shall be crimped so that bristles are firmly held into position during use. The sides of the ring that form the shoulders (or channel) that contains the attachment end of the bristle filament shall be a minimum of ¾" tall and a minimum of 0.534" wide from outside edge to outside edge. The inside diameter of the retaining ring shall be 10" to $10^1/_8$". The retaining ring shall have the standard drive lug protruding into the inside diameter of the metal retaining ring. The drive lug can be either a rectangular lug or steel pin lug. The rectangular lug shall be 20 gauge steel formed into a rectangle to produce a 1" long by ½" tall drive lug that is welded onto the inside diameter of the retaining ring. The steel pin lug shall be at least one ¼" steel pin protruding a minimum of ½" into the inside diameter of the ring.

2.3 Bristle Filament.

2.3.1 The bristle filament shall be constructed from polypropylene.

2.3.1.1 The bristle filament shall have a Rockwell Hardness of "R" 95, and a tensile strength of 4,200 psi as determined by ASTM D 638.

2.3.1.2 The bristle filament shall have a minimum weight of 2.15 lbs for a 32" wafer refill.

2.3.1.3 The bristle filament shall have a specific gravity of 0.90, softening point of 240° F, water absorption ≤ 0.03%, completely resistant to mildew and chemically inert to oil, grease, acids and other common chemicals.

3.0 SAMPLING. At the discretion of the engineer two wafers will be selected at random of each size and type ordered and tested for compliance with this specification.

4.0 ACCEPTANCE.

4.1 The supplier shall furnish to the engineer a manufacturer's certification for each shipment

showing specific test results complying with the material and quality requirements of these specifications for each type of wafer being furnished.

4.2 Acceptance of the wafers will be based on a satisfactory manufacturer's certification and tests deemed necessary by the engineer.

4.3 If any of the requirements and/or specifications are not met, all wafers covered by the purchase order will be subject to rejection.

CERTIFICATION STATEMENT
ROTARY BROOM WAFER REFILL

State Materials Engineer
P. O. Box 270
Jefferson City, Missouri 65102

Dear Sir:

We hereby certify that the rotary broom wafer refills described below comply with all requirements of Specification MGS-07-02B and in accordance with Bid Request No. _____.

The following broom refills manufactured by _____are covered by this certification.

Purchase Order No.	Destination	Quantity & Size	Shipping Date

Following are results of test performed on these blades:

Rockwell Hardness _____
Tensile Strength _____
Bristle Filament Weight _____

Certified By: _____

Title: _____

Date:_____

Results of tests may be shown on attachments rather than on this form, if preferred.

This form is to be completed, signed, and submitted in triplicate for each shipment, at the same time all items are shipped. A shipment is defined as all items represented on one certification and shipped on one date, regardless of various destinations.

STANDARD SOLICITATION PROVISIONS

a. The Missouri Department of Transportation (MoDOT) reserves the right to reject any or all bids/quotes/proposals, and to accept or reject any items thereon, and to waive technicalities. In case of error in the extension of prices in the bid/quote/proposal, unit prices will govern.

b. All bids/quotes/proposals must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.

c. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown, within the State of Missouri.

d. Time of delivery is a part of the consideration and, if not otherwise stated in the solicitation documents, must be stated in definite terms by the Bidder/Offeror and must be adhered to. If time varies on different items, the Bidder/Offeror shall so state.

e. If providing bids/quotes/proposals for commodities, the Bidder/Offeror will state brand or make on each item. If bidding or proposing other than the make, model or brand specified, the manufacturer's name, model number or catalog number must be given.

f. **For bids/proposals of $25,000** or more, no bids/proposals by telephone, telegram or telefax will be accepted.

g. The date specified for the returning of bids/quotes/proposals is a firm deadline and all bids/quotes/proposals must be received at the designated office by that time. The Department does not recognize the U.S. Mail, Railway Express Agency, Air Express, or any other organization, as its agent for purposes of accepting proposals. All proposals arriving at the designated office after the deadline specified will be rejected.

GENERAL TERMS AND CONDITIONS

General Performance

a. This work is to be performed under the general supervision and direction of the Missouri Department of Transportation (MoDOT) and, if awarded any portion of the work, the Contractor agrees to furnish at his own expense all labor and equipment required to complete the work, it being expressly understood that this solicitation is for completed work based upon the price(s) specified and is not a solicitation for rental of equipment or employment of labor by MoDOT, and MoDOT is to have no direction or control over the employees used by the Contractor in performance of the work.

Deliveries

a. Unless otherwise specified on the solicitation documents or purchase order, suppliers shall give at least 24 hours advance notice of each delivery. Delivery will only be received between the hours of 8:00 a.m. to 3:00 p.m., Monday through Friday. Material arriving after 3:00 p.m. will not be unloaded until the following workday. No material will be received on Saturday, Sunday or state holidays.

b. If the prices bid herein include the delivery cost of the material, the Contractor agrees to pay all transportation charges on the material as FOB - Destination. Freight costs must be included in the unit price bid and not listed as a separate line item.

c. Any demurrage is to be paid by the Contractor direct to the railroad or carrier.

Nondiscrimination

a. The Contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

b. 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 the Contractor's obligations under this contract and the Regulations, will be relative to nondiscrimination on the grounds of race, color, or national origin.

1) Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, MoDOT shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

i. withholding of payments to the Contractor under the contract until the Contractor complies, and/or,

ii. cancellation, termination or suspension of the contract, in whole or in part.

Contract/Purchase Order

a. By submitting a bid/quote/proposal, the Bidder/Offeror agrees to furnish any and all equipment, supplies and/or services specified in the solicitation documents, at the prices quoted, pursuant to all requirements and specifications contained therein.

b. A binding contract shall consist of: (1) the solicitation documents, amendments thereto, and/or Best and Final Offer (BAFO) request(s) with any changes/additions, (2) the Contractor's proposal and/or submitted pricing, and (3) the MHTC's acceptance of the proposal and/or bid by purchase order or post-award contract.

c. A notice of award does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services, the Contractor must receive a properly authorized purchase order and/or notice to proceed.

d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the Contractor and the duly authorized representative of the MHTC, by a modified purchase order prior to the effective date of such modification. The Contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification.

Subcontracting

a. It is specifically understood that no portion of the material or any interest in the contract, shall be subcontracted, transferred, assigned or otherwise disposed of, except with the written consent of MoDOT. Request for permission to subcontract or otherwise dispose of any part of the work shall be

in writing to MoDOT and accompanied by documentation showing that the organization which will perform the work is particularly experienced and equipped for such work.

b. Consent to subcontract or otherwise dispose of any portion of the work shall not be construed to relieve the Contractor of any responsibility for the production and delivery of the contracted work and the completion of the work within the specified time.

c. All payments for work performed by a subcontractor shall be made to the Contractor to whom the contract was awarded and the purchase order issued.

Invoicing and Payment

a. MoDOT is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the Contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Project Tax Exemption Certificate will be furnished to the successful Bidder/Offeror upon request if applicable.

b. Each invoice should be itemized in accordance with items listed on the purchase order and/or contract. The statewide financial management system has been designed to capture certain receipt and payment information. Therefore, each invoice submitted must reference the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.

c. Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The Missouri Highways and Transportation Commission (MHTC) shall not make any advance deposits.

d. The MHTC assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any authorized quantity is subject to the MHTC's rejection and shall be returned at the Contractor's expense.

e. The MHTC reserves the right to purchase goods and services using the state-purchasing card.

Applicable Laws and Regulations

a. The contract shall be construed according to the laws of the State of Missouri. The Contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract.

b. The Contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations. Prior to the issuance of a purchase order and/or notice to proceed, the Contractor may be required to submit to MoDOT a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.

1) Prior to the issuance of a purchase order and/or notice to proceed, all **out-of-state** Contractors **providing services** within the state of Missouri must submit to MoDOT a copy of their current Transient Employer Certificate from the Department of Revenue, in addition to a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.

c. The exclusive venue for any legal proceeding relating to or arising, out of the contract shall be in the Circuit Court of Cole County, Missouri.

Executive Order

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

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

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

3) The Contractor shall include the provisions of this paragraph in every subcontract. The Contractor shall take such action with respect to any subcontract as the Commission may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Preferences

a. In the evaluation of bids/quotes/proposals, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.

b. By virtue of statutory authority, RSMo. 34.076 and 34.350 to 34.359, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri. Such preference shall be given when quality is equal or better and delivered price is the same or less.

1) If attached, the document entitled **"PREFERENCE IN PURCHASING PRODUCTS"** should be completed and returned with the solicitation documents.

2) If attached, the document entitled **"MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT"** should be completed and returned with the solicitation documents**. Applies if bid is Twenty-Five Thousand Dollars ($25,000.00) or more.**

c. By virtue of statutory authority, RSMo 34.074, a preference will be given all contracts for the performance of any job or service to service-disabled veteran business either doing business as Missouri firms, corporations, or individuals; or which maintain Missouri offices or places of business, when

the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing bids, in their entirety, are comparable.

1) If attached, the document entitled **"MISSOURI SERVICE-DISABLED VETERAN PREFERENCE"** should be completed and returned with the solicitation documents.

d. In the event of a tie of low bids, the MHTC reserves the right to establish the method to be used in determining the award

Remedies and Rights

a. No provision in the contract shall be construed, expressly or implied, as a waiver by the MHTC of any existing or future right and/or remedy available by law in the event of any claim by the MHTC of the Contractor's default or breach of contract.

b. The Contractor agrees and understands that the contract shall constitute an assignment by the Contractor to the MHTC of all rights, title and interest in and to all causes of action that the Contractor may have under the antitrust laws of the United States or State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or produced by the Contractor in the fulfillment of the contract with the MHTC.

c. In the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request MoDOT to enter into such litigation to protect the interests of the MHTC, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Cancellation of Contract

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

b. If the MHTC cancels the contract for breach, the MHTC reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the MHTC deems appropriate and charge the Contractor for any additional costs incurred thereby.

Bankruptcy or Insolvency

a. Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assigned the benefit or creditors, the Contractor must notify MoDOT immediately. Upon learning of any such actions, the MHTC reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the Contractor responsible for damages.

Inventions, Patents, and Copyrights

a. The Contractor shall defend, protect, and hold harmless the MHTC, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the Contractor's performance or products produced under the terms of the contract.

Inspection and Acceptance

a. No equipment, supplies, and/or services received by MoDOT pursuant to a contract shall be deemed accepted until MoDOT has had reasonable opportunity to inspect said equipment, supplies, and/or services.

b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the Contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.

c. The MHTC reserves the right to return any such rejected shipment at the Contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.

d. The MHTC's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the MHTC may have.

Warranty

a. The Contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by MoDOT, (2) be fit and sufficient for the purpose expressed in the solicitation documents, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.

b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the MHTC's acceptance of or payment for said equipment, supplies, and/or services.

Status of Independent Contractor

a. The Contractor represents itself to be an independent Contractor offering such services to the general public and shall not represent itself or its employees to be an employee of the MHTC. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save and hold the MHTC, its officers, agents and employees harmless from and against any and all losses (including attorney fees) and damage of any kind related to such matters.

Indemnification

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