

MISSOURI DEPARTMENT OF TRANSPORTATION

**BID FORM**

GENERAL SERVICES  
830 MoDOT DRIVE – P.O. BOX 270  
JEFFERSON CITY, MO 65102

REQUEST NO.	RFB 5-100728FR
DATE	July 13, 2010
PAGE NO.	1
NO. OF PAGES	10

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

**July 28, 2010, 2:00 P.M. Local Time**

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

**QUOTATIONS TO BE BASED F.O.B. MISSOURI DEPARTMENT OF TRANSPORTATION**

Jefferson City, Missouri

DEFINITE DELIVERY DATE MUST BE SHOWN. SIGN AND RETURN BEFORE TIME SET FOR OPENING. **ALL BIDS MUST BE EXTENDED AND TOTALED.**

**BUYER: FRANKIE J. RYAN**

**BUYER TELEPHONE: 573-522-9481**

SUPPLIES OR SERVICES

**STATEWIDE WEATHER FORECAST SERVICES**

**SEE ATTACHED SPECIFICATIONS AND PRICING PAGE.**

**NOTE TO VENDOR**

*The Bidder must be in compliance with the laws regarding conducting business in the State of Missouri. Within ten (10) business days of receipt of notification, the bidder will need to provide verification they are in compliance with RSMo. 34.040.6 and House Bill 600. For additional information, please visit the State of Missouri Department of Revenue's website at: <http://www.dor.mo.gov/tax/business/sales/hb600.htm>.*

**(SEE ATTACHED FOR CONDITIONS AND INSTRUCTIONS)**

*In compliance with the above invitation for bids, and subject to all conditions thereof, the undersigned Offeror agrees to furnish and deliver any or all the items on which prices were quoted within 30 calendar days after receipt of formal purchase order.*

<b>Date:</b> _____	<b>Firm Name:</b> _____
<b>Telephone No.:</b> _____	<b>Address:</b> _____
<b>Fax No.:</b> _____	_____
<b>Federal I.D. No.</b> _____	<b>By (Signature):</b> _____
<b>EMAIL:</b> _____	<b>Type/Print Name</b> _____
Form E-103 (Rev. 11-03)	<b>Title:</b> _____

Is your firm MBE certified?  Yes  No

Is your firm WBE certified?  Yes  No

List all agencies your firm is currently certified with. \_\_\_\_\_

MISSOURI DEPARTMENT OF TRANSPORTATION  
SPECIFICATIONS

STATEWIDE WEATHER FORECAST SERVICES

**General Information**

The Missouri Highways and Transportation Commission (hereinafter referred to as MHTC) intend to secure a contract for weather forecast services for each of the ten (10) Districts located throughout the state of Missouri.

**Services**

The Contractor shall provide the following services for the Missouri Department of Transportation's (MoDOT) ten (10) Districts.

**General Services**

- The Bidder agrees to furnish weather forecast services and related reports to each of MoDOT's ten (10) Districts per these contract specifications. The weather forecast service is to be available to the MHTC twenty-four (24) hours a day, seven (7) days per week during the period starting November 1, 2010 through April 30, 2011. The Bidder also agrees to furnish related meteorological services for the entire effective period of the contract. Such services are to conform to accepted standards and practices employed in the science of meteorology. All weather forecasts shall be produced, reviewed, filtered and/or interpreted by a staff meteorologist prior to being distributed to each District office.
- During the initial contract period, a representative of the Contractor will be required to visit each of the ten (10) District offices as well as the MHTC Central office in Jefferson City, MO. The purpose of these visits will be to develop a professional working relationship between the Contractor and the MHTC and to discuss special winter weather related problems in each District.

**Communications**

- Forecast advisories shall be classified as either "*Routine*" or "*Emergency*". All weather advisories (both Routine and Emergency) will be transmitted to each District by telephone facsimile (FAX) in a format approved by the MHTC Representative. The required information will be submitted in paragraph format. At any time other than the normally scheduled work days or work times, and in addition to the FAX advisories, the Contractor will transmit the *Emergency Weather Advisories* directly to the person, or persons designated by the MHTC Representative. The MHTC Representative will provide the Contractor with a list of normally scheduled workdays and work times, and the telephone numbers of personnel to contact during off-duty hours for each District.
- The Contractor will provide as part of the contract, a twenty-four (24) hour toll free "1-800", or equivalent, telephone service for use by the MHTC in obtaining weather information and forecast clarification from the Contractor. The Contractor shall not limit the number of times MHTC personnel can utilize the toll-free telephone service during the contract period.
- The Contractor will provide a password protected Internet web page for the exclusive use of MHTC personnel. The web page shall post the Routine and Emergency weather advisories by District in written form. The web page shall be updated within thirty (30) minutes after the Routine or Emergency weather advisory is transmitted to each District office. The Contractor shall also update the webpage to reflect any revised weather forecasts in addition to the original *Routine* or *Emergency Weather Advisory*. Each district and the Central office will provide to the Contractor a list of employees that are to receive user id's and passwords to gain access to this web page.

- The Contractor will provide electronic mail (email) notification of weather forecast information “in addition to” the aforementioned facsimile and telephone communication methods. Each district will provide to the Contractor an email distribution list of employees that are to receive the forecasts via email. For informational purposes only, there may be up to 50 email addresses per district. This number will vary by district.
- Other means of communicating forecast information to the Districts must be approved by the MHTC Representative. All costs in transmitting weather forecasts to the MHTC must be included in the bid price.

### **Routine Weather Advisory**

- The Routine Weather Advisory shall be issued to each of the MHTC's ten (10) District offices twice during each scheduled workday (Monday-Friday), utilizing the following schedule:
  1. The first forecast shall be issued between the hours of 6:30 a.m. to 7:30 a.m. local Missouri time.
  2. The second forecast shall be issued between the hours of 2:00 p.m. to 3:00 p.m. local Missouri time.
- The Routine Weather Advisories shall be issued to each of the MHTC’s ten (10) District offices once each weekend/holiday day, and shall be issued between the hours of 8:00 a.m. to 9:00 a.m. local Missouri time.
- The Routine Weather Advisories shall include the forecast for the five (5) day period succeeding the time of issue, except that advisories issued on days preceding an official holiday, which result in an extended holiday weekend, shall include a general forecast for the entire weekend and/or holiday period, including the first normal workday following the extended holiday weekend.
- The Routine Weather Advisories *shall* contain the following information:
  1. Sky conditions,
  2. Precipitation probability and type, beginning and ending times, and amounts predicted,
  3. Air temperatures, high and low,
  4. Pavement temperatures, high and low, and forecasted time below freezing,
  5. Winds, direction, speed and gusts,
  6. Storm moving in from (direction),
  7. Percent chance for frost on bridges and frost on pavements,
  8. Dew points,
  9. Drifting of snow, when applicable,
  10. Refreeze of melted snow, when applicable, and,
  11. Forecaster’s comments.
- **REVISIONS:** Revisions should be issued to the original forecast when there is a major change anticipated in the frost prediction, temperature, and/or precipitation as originally forecasted. Revisions shall be issued to the appropriate District office during regularly scheduled work hours (7:30 a.m. to 4:00 p.m.), or as requested by the District personnel. The MHTC personnel may request updates to the Routine Weather Advisories on an as needed basis.

### **Emergency Weather Advisory (Snow and/or Ice Storm Warning)**

- The Emergency Weather Advisory is to serve as a winter storm (snow and/or ice) warning. The Emergency Weather Advisory shall contain:
  1. Detailed information on the type of precipitation to expect,
  2. Beginning time,
  3. Ending time,
  4. Amount of precipitation,
  5. Wind speed and direction, during and after the storm,
  6. Air and pavement temperature conditions, during and after the storm. The Advisory should also contain a statement on pavement conditions to expect during the storm and the area(s) of the District that will be affected, by county,

7. Direction storm is coming from and moving towards,
  8. Amount of precipitation that has fallen along the path of the storm at the time of each forecast/update, and,
  9. Forecaster's comments
- An *Emergency Weather Advisory* shall be issued to each District whenever weather conditions are developing which may affect roadway pavement conditions within that District. The initial advisories should be issued at least four (4) hours prior to the start of the storm; however, this may vary depending on the development of the storm.
  - Once issued, the Contractor will update the Emergency Weather Advisories throughout the course of the storm, a minimum of every four (4) hours, or sooner, if conditions change from the previous forecast. Updates or revisions to the initial Advisory will be telephoned and faxed to each District affected by the change.
  - The Contractor will provide an "All Clear", or similar indication, to each district when the winter storm precipitation has ceased or if the predicted storm does not develop as anticipated.

### **Bid Submittals**

In addition to submitting the Pricing Page, the bidder **will supply the following information with the bid documents:**

1. *Experience.* The bid submittal **needs to clearly identify** the Bidder's experience in offering the services requested in this RFB, in the **Midwestern United States**, during the past twelve (12) months. The description shall include a list of the agencies that your company has served or currently serves.
2. *Personnel:* The Bidder **will have a minimum** of four (4) qualified, full time meteorologists on staff. A meteorologist shall be on duty twenty-four (24) hours per day for consultation during the time period(s) the contract is in effect. The Bidders shall submit documentation to verify the professional license/certifications of the four (4) qualified meteorologists heretofore mentioned.
3. *References.* Bids **need to indicate** the name, title and telephone number of at least two (2) clients within the past twelve (12) months.
4. *Submittal of copies:* The Bidder's shall submit an original bid document and *two (2) copies of their bid.* **The Bidder must sign the original and both copies.**

### **Attachments:**

In addition to the other documents mentioned herein, the Bidder needs to submit the following Attachments. Complete, sign where indicated on each attachment and submit with your bid.

- 1.Attachment A: PREFERENCE IN PURCHASING PRODUCTS
- 2.Attachment B: MISSOURI SERVICE-DISABLED VETERAN BUSINESS PREFERENCE
- 3.Attachment C: ANNUAL WORKER ELIGIBILITY VERIFICATION AFFIDAVIT
- 4.Attachment D: APPLICANT AFFIDAVIT FOR SOLE-PROPRIETORSHIP OR PARTNERSHIP

### **Contract Period**

The **entire effective contract period** begins the date the notice to proceed is issued to the Contractor and continues for twelve (12) consecutive months.

The service period for the **weather forecasting services** described herein is November 1, 2010 and will continue through April 30, 2011.

## **Renewal**

MoDOT shall have the right, at its sole option, to renew the contract for four (4) additional twelve-month periods, or any portion therein. In the event MoDOT exercises such right, all terms and conditions, requirements and specifications of the contract shall remain the same and apply during the renewal period.

The Bidder is advised the MoDOT 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 pricing is not provided, the prices during renewal periods shall be the same as during the current contract period.

## **Contract Price & Invoices**

*All prices shall be firm and fixed.* The Department shall not pay nor be liable for any other additional costs including but not limited to taxes, shipping charges, insurance, interest, penalties, termination payments, attorney fees, liquidated damages, travel costs (meals, mileage, lodging), etc.

The Contractor shall not invoice federal excise tax unless otherwise required under federal law or regulation. The Contractor will invoice monthly for those services provided to MoDOT. Payment for all equipment, supplies, and/or services required herein shall be made in arrears. Please review the attached terms and conditions for additional information on invoice requirements.

## **Payments**

At or near the end of each month, during the effective period of the contract, the Contractor shall submit to the State Maintenance Engineer, Missouri Department of Transportation, P.O. Box 270, Jefferson City, Missouri 65102, an invoice for the services provided by the Contractor during the preceding month. Payment will be made on the basis of actual contract services performed. All cost of performing the contract is included in the payment made for the services performed. The monthly payment shall not exceed 1/6 of the contracted price for weather forecast services performed in the preceding month.

## **Award**

Award will be all or none. Award will be based on the original contract period. However, the right is reserved to reject any and all bids or award the bid based on the best interest of the Department. Award of this bid does not constitute final acceptance.

## **Non-Employment Of Unauthorized Aliens**

Pursuant to RSMo 285.530 (1), no business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri. As a condition for the award of any contract or grant in excess of five thousand dollars by the state or by any political subdivision of the state to a business entity, or for any business entity receiving a state-administered or subsidized tax credit, tax abatement, or loan from the state, the business entity shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Every such business entity shall sign an affidavit affirming that it does not knowingly employ any person who is unauthorized alien in connection with the contracted services. [RSMO 285.530 (2)] A copy of the affidavit referenced above is provided within this document.

E-Verify is an example of a federal work authorization program. Acceptable enrollment and participation documentation consists of completed copy of the E-Verify Memorandum of Understanding (MOU). For vendors that are not already enrolled and participating in a federal work authorization program, E-Verify is available at [http://www.dhs.gov/xprevprot/programs/gc\\_1185221678150.shtm](http://www.dhs.gov/xprevprot/programs/gc_1185221678150.shtm).

**PRICING PAGE**

The bidder shall provide firm, fixed prices in the table below for the original contract period and maximum prices for each potential renewal period in accordance with the provisions and requirements stated elsewhere herein. Complete, sign where indicated below, and submit with your other bid documents.

*Price shall be based on the total cost for six (6) months of statewide weather forecast services as noted below.*

<b>Site Location</b>	<b>Original Contract Price</b> 11/1/10 through 4/30/11	<b>1<sup>st</sup> Renewal Price</b> 11/1/11 through 4/30/12	<b>2<sup>nd</sup> Renewal Price</b> 11/1/12 through 4/30/13	<b>3<sup>rd</sup> Renewal Price</b> 11/1/13 through 4/30/14	<b>4<sup>th</sup> Renewal Price</b> 11/1/14 through 4/30/15	<b>Total for five (5) years of service</b>
<b>Statewide</b>	\$	\$	\$	\$	\$	\$

**NOTE ON RENEWAL:** If renewal pricing is not provided, the prices during renewal periods shall be the same as during the current contract period.

**HOURLY RATE:** List the PER HOUR RATE for which payment would be sought for any additional work requested by MoDOT that is outside the scope of services associated with the bid (i.e.: weather diagram maps, additional reports, etc.).

\$ \_\_\_\_\_ -- Hourly Rate

Maximum percentage of increase per yearly renewal for the hourly rate \_\_\_\_\_ %

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Name of the Bidder's Firm                      Signature of Authorized Representative                      Date Signed

**ATTACHMENT A  
PREFERENCE IN PURCHASING PRODUCTS**

(Sign and return with bid documents)

DATE: \_\_\_\_\_

The bidders attention is directed to Section 34.076 RsMO 1986 which gives preference to Missouri corporations, firms, and individuals when letting contracts or purchasing products.

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

**All vendors submitting a bid 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 DOCUMENT SHOULD BE COMPLETE, SIGNED AND SUBMITTED WITH  
BID:**

**FIRM NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**CITY:** \_\_\_\_\_ **STATE:** \_\_\_\_\_ **ZIP:** \_\_\_\_\_

**BY (signature required):** \_\_\_\_\_

**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.

**ATTACHMENT B**  
**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

**ATTACHMENT C**

**ANNUAL WORKER ELIGIBILITY VERIFICATION AFFIDAVIT**  
(for joint ventures, a separate affidavit is required for each business entity)

STATE OF \_\_\_\_\_)  
) ss  
COUNTY OF \_\_\_\_\_)

On the \_\_\_\_ day of \_\_\_\_\_, 2010, before me appeared \_\_\_\_\_,  
personally known to me or proved to me on the basis of satisfactory evidence to be a person <sup>Affiant name</sup> whose name is subscribed to this  
affidavit, who being by me duly sworn, stated as follows:

•I, the Affiant, am of sound mind, capable of making this affidavit, and personally certify the facts herein stated, as required by Section 285.530, RSMo, to enter into any contract agreement with the state to perform any job, task, employment, labor, personal services, or any other activity for which compensation is provided, expected, or due, including but not limited to all activities conducted by business entities.

•I, the Affiant, am the \_\_\_\_\_ of \_\_\_\_\_, and I am duly  
authorized, directed, and/or empowered to act officially and properly on behalf of this business entity.  
title business name

•I, the Affiant, hereby affirm and warrant that the aforementioned business entity is enrolled in a federal work authorization program operated by the United States Department of Homeland Security, and the aforementioned business entity shall participate in said program to verify the employment eligibility of newly hired employees working in connection with any services contracted by the Missouri Highways and Transportation Commission (MHTC). I have attached documentation to this affidavit to evidence enrollment/participation by the aforementioned business entity in a federal work authorization program, as required by Section 285.530, RSMo.

•I, the Affiant, also hereby affirm and warrant that the aforementioned business entity does not and shall not knowingly employ, in connection with any services contracted by MHTC, any alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. § 1324a(h)(3).

•I, the Affiant, am aware and recognize that, unless certain contract and affidavit conditions are satisfied pursuant to Section 285.530, RSMo, the aforementioned business entity may be held liable under Sections 285.525 through 285.550, RSMo, for subcontractors that knowingly employ or continue to employ any unauthorized alien to work within the state of Missouri.

•I, the Affiant, acknowledge that I am signing this affidavit as a free act and deed of the aforementioned business entity and not under duress.

\_\_\_\_\_ Affiant Signature

Subscribed and sworn to before me in \_\_\_\_\_, \_\_\_\_\_, the day and year first above-written.  
city (or county) state

Notary Public  
My commission expires:

*[documentation of enrollment/participation in a federal work authorization program attached]*



Missouri Highways and Transportation Commission  
Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions

**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

Missouri Highways and Transportation Commission  
Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions

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 (6<sup>th</sup>) 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.
- 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.

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- 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.