

**BID FORM**

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

REQUEST NO.	1-080402AB		
DATE	March 11, 2008		
PAGE NO.	1	NO. OF PAGES	11

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

**2:00 PM, LOCAL TIME, APRIL 02, 2008**

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  
 Jefferson City, MO

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

**BUYER:** Amy Bailey

**BUYER TELEPHONE:** 573-522-6188

ITEM NO.	SUPPLIES OR SERVICES	MFG. NO. OR BRAND	QUANTITY	UNIT	UNIT PRICE	AMOUNT
	<p>Contract for furnishing <b>“Connections” monthly statewide newspaper</b> with an effective date of July 1, 2008 and ending June 30, 2009.</p> <p><b>PLEASE SEE ATTACHED SPECIFICATION, PRICING PAGES AND DELIVERY REQUIREMENTS</b></p> <p><b>Note to Respondent:</b> 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 <b>MUST</b> 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 <b>MUST</b> 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.</p>					

(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 (SEE PRICING PAGES) 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>Type/Print Name</b> _____
	<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. \_\_\_\_\_

# **1. INTRODUCTION AND GENERAL INFORMATION**

## **1.1 Organization:**

This document, referred to as an Invitation for Bid (IFB), is divided into the following parts:

- 1) Introduction and General Information
- 2) Contractual Requirements
- 3) Bid Submission Information
- 4) Pricing Page
- 5) Exhibit A
- 6) Attachment 1
- 7) Terms and Conditions

## 2. CONTRACTUAL REQUIREMENTS

**2.1 General Requirements:** The contractor shall print and deliver the “Connections” monthly statewide newspaper (hereinafter referred to as “*newspaper*”) for Missouri Department of Transportation (hereinafter referred to as the “*state agency*”) in accordance with the provisions and requirements stated herein.

2.1.1 Immediately after contract award, the state agency shall identify a contact person and provide the telephone number of the contact person for the contractor. The contractor must obtain the contact person’s approval for printing of the newspaper as specified herein and shall agree and understand that all services performed shall be to the sole satisfaction of the contact person. In addition, within five (5) days of the effective date of the contract, the contractor shall provide the state agency with the name, address, and telephone number of the contractor’s representative servicing the contract.

2.1.2 Unless otherwise specified herein, the contractor shall furnish all material, labor, facilities, equipment, and supplies necessary to perform the services required herein.

### 2.2 Printing Requirements:

2.2.1 The contractor shall print the newspaper as specified below:

- a. **Composition:** By no later than approximately the 24<sup>th</sup> of each month, the state agency shall provide the contractor with a PDF, per contractor’s PDF settings, generated through Acrobat Distiller from Adobe Acrobat 8 Professional. The contractor must have an FTP site to accommodate files. The contractor shall be required to paginate 12 PDF files totaling 16 pages. The contractor shall compare the electronic document to the printing requirements specified herein. In the event the electronic document differs from the printing requirements specified herein, the contractor shall notify the state agency of such difference(s) and follow the state agency’s instructions concerning the reconciliation of the difference(s).
- b. **Quantity:** The contractor shall print 13,000 copies of the newspaper per month. If requested by the state agency, the contractor shall print additional copies of the newspaper in quantities of 1,000.
- c. **Overruns:** The state agency shall not pay for overruns.
- d. **Pages:** The newspaper will be 16 pages, which shall include the cover pages.
- e. **Size:** *Flat size:* 22 3/4” x 17 1/2” (2% - 3% reduction acceptable)
- f. **Size:** *Final mailing size (with 2 folds):* 11 3/8” x 8 3/4” (2% - 3% reduction acceptable)
- g. **Paper Stock:** The contractor shall print the newspaper on 35# alternative offset, white, 80 brightness.
- h. **Ink:** The contractor shall use soy-based ink. Four-color throughout. No Bleeds.
- i. **Press:** The contractor shall print the newspaper on a cool set web press.
- j. **Construction:** No stapling
  - 1) If requested by the state agency, the contractor shall provide stapling.
- k. **Trim:** No trimming
  - 1) If requested by the state agency, the contractor shall provide trimming.

- l. Margins: Live image area of 10 1/8" x 16 1/2" (2% - 3% reduction acceptable)
- m. Proof: The contractor shall provide the state agency with one full-size set of color proofs for the state agency's review and approval. Proof's will be representative of product contractor can match.
  - 1) The contractor shall make all revisions, changes, and alterations requested by the state agency. In addition, the contractor shall make corrections and revisions to the proofs that are necessary due to contractor error. The contractor shall submit the revised proofs to the state agency.
  - 2) The contractor must receive approval via email from the state agency prior to printing the newspaper.
- n. The contractor shall furnish the state agency a PDF of the final newspaper for use on agency's website.

2.2.2 The contractor shall complete printing of the newspaper within four (4) or five (5) days after receiving state agency approval of the proof. In addition, the contractor should begin mailing the newspaper, as specified on Attachment 1, five (5) days after receiving state agency approval of the proof. The state agency shall provide the contractor with the mailing addresses.

- a. The contractor shall provide and print address labels from the mailing addresses furnished by the state agency.

2.2.3 The contractor shall notify the state agency five (5) working days prior to the beginning of a press run. The state agency shall monitor the production of the newspaper/conduct press checks. The contractor shall be responsible for all travel costs incurred by one state agency representative in monitoring the production of the newspaper, including out-of-state airfare, in-state mileage, rental car and associated costs including rental car insurance, food, and lodging. The contractor shall provide lodging for the state agency representative at a reputable hotel/motel. In the event the state agency representatives are required to stay more than one night, the state agency representatives should stay in the same hotel/motel each night.

### **2.3 Workmanship Requirements:**

2.3.1 The contractor shall ensure that the execution of the prepress, presswork, and binding must be consistent with the best workmanship and practices and must conform to the directions given by the state agency. The newspaper must be well printed; color renditions must be as accurate as is technically possible.

### **2.4 Packaging and Delivery/Mailing Requirements:**

2.4.1 Packaging Requirements – For quantities appropriate for boxing, the contractor shall box newspapers with no more than two hundred (200) newspapers to a carton. The newspapers shall be packed in new 275-pound test cartons. The total weight per carton shall not exceed forty (40) pounds.

- a. The contractor shall label two opposite ends or sides of each carton with the following. The cartons shall have no other printed matter on the outside of the carton.
  - 1) Number of newspapers in each carton, in 3-inch tall type.
  - 2) Publication ID number.
  - 3) Name of publication in 2-inch tall type.
- b. The cartons must be packed full, with padding, if necessary, to fill space to top of carton. There must be no dead air space so that the cartons can be stacked without crushing.

2.4.2 Delivery/Mailing Requirements – The contractor must start the delivery/ mailing of the newspapers by the last day of the month for the following months newspaper. For the newspapers being mailed directly to individuals, the

contractor shall affix an address label to the newspaper in the location designated by the state agency. For the newspapers being mailed in cartons to the various state agency locations, the contractor shall affix an address label to the carton only.

- a. The contractor shall deliver the newspapers to a postal facility. If requested by the state agency, the contractor shall deliver the newspapers to a state agency designated postal facility.
- b. After completing each monthly mailing of the newspapers, which shall include the contractor paying for such postage cost, the contractor must obtain a postage statement/receipt from the postal facility, which states the total postage cost. The contractor must submit such postage statement/receipt to the state agency.
- c. In the event the state agency fails to provide the prepress materials by the date specified herein, the state agency shall review and may extend the delivery schedule. Such extension shall not be more than the number of working days the prepress materials were withheld from the contractor. The state agency shall notify the contractor via email of any extension. When delivery is made later than the date established by such extension, the contractor shall be considered to be late.

**2.5 Liquidated Damages:** The contractor shall agree and understand that the printing, packaging, and delivery/ mailing of the newspaper in accordance with the requirements stated herein is considered critical to the efficient operations of the state agency. However, since the amount of actual damages would be difficult to establish in the event the contractor fails to comply with the printing, construction, packaging, and/or delivery/ mailing requirements, the contractor shall agree and understand that the amount identified below as liquidated damages shall be reasonable and fair under the circumstances.

- 2.5.1 In the event the contractor does not package the cartons in accordance with the requirements specified herein, the state agency shall have the right to return the entire shipment to the contractor for repackaging. However, if delivery is critical as determined by the state agency and the state agency elects to accept the shipment, the contractor shall be assessed liquidated damages in the amount of \$1,000.00.
- 2.5.2 In the event the contractor fails to deliver/mail the newspaper in accordance with the delivery/ mailing schedule specified herein, the contractor shall be assessed liquidated damages in the amount of \$250.00 per day for each such delinquent day until the delivery/ mailing of the newspaper.
- 2.5.3 In the event the printed newspaper or the quality of the printing in the newspaper or the construction of the newspaper either fails to comply with the printing and construction requirements specified herein or is not consistent with the quality of printing in the samples submitted with the contractor's awarded bid, the state agency shall have the right to reject all or part of the completed printing. If requested by the state agency, the contractor shall re-print the newspaper at no additional cost to the state agency. However if delivery/ mailing of the newspaper is critical, as determined by the state agency, and the state agency elects to accept the printed newspaper, the contractor shall be assessed liquidated damages in an amount not to exceed 10% of the total amount invoiced. The state agency shall have the final decision concerning (1) the acceptability of the printing and construction, (2) the rejection of the printing and re-printing of the newspaper versus the assessment of liquidated damages, and (3) the amount of the liquidated damages.
- 2.5.4 In the event any of the production material provided by the state agency to the contractor is damaged while in the contractor's care, the contractor shall be responsible for the value or replacement of the material, at a rate not to exceed \$500 per damaged material. The state agency shall solely determine the actual value of the materials.
- 2.5.5 The contractor shall further agree and understand that such liquidated damages shall either be deducted from the total amount due the contractor or paid by the contractor as a direct payment to the state agency, at the sole discretion of the state agency.
- 2.5.6 The contractor shall understand that the liquidated damages described herein shall not be construed as a penalty.

2.5.7 The contractor shall agree and understand that all assessments of liquidated damages shall be within the discretion of the State of Missouri and shall be in addition to, not in lieu of, the rights of the State of Missouri to pursue other appropriate remedies.

## **2.6 Invoicing and Payment Requirements:**

2.6.1 After delivery/ mailing and acceptance of the newspaper, the contractor shall submit an itemized monthly invoice, which includes print cost, shipping cost, etc., to the following address:

Missouri Department of Transportation  
Community Relations  
105 W. Capitol  
Jefferson City, MO 65101

a. With the itemized monthly invoice, the contractor shall return a CD file containing the final paginated PDF file, and submit the postage statement/receipt for that month. The contractor shall not receive payment until the state agency is in receipt of such material.

2.6.2 The contractor shall be paid for the newspaper in accordance with the applicable firm, fixed prices stated on the Pricing Page, subject to the assessment of any liquidated damages. In addition, the contractor shall be reimbursed the actual amount stated on the postage statement/receipt for that month.

a. If revisions to the proof are required due to state agency required changes and/or alterations, the contractor shall be paid for the contractor's time to revise the proof in accordance with the firm, fixed price stated on the Pricing Page. However, if revisions to the proof are required due to contractor errors, even if the state agency also required changes and/or alterations to the proof, the contractor shall not be entitled to payment for the contractor's time to revise the proof.

2.6.3 The state agency will accept overruns however, the contractor shall not be paid for such.

2.6.4 Other than the payment and reimbursement specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever including payments for travel, delivery, telephone service, etc.

## **2.7 Other Contractual Requirements:**

2.7.1 Contract Period: The original contract period shall be as stated in the Invitation for Bid (IFB). The contract shall not bind, nor purport to bind, the state for any contractual commitment in excess of the original contract period.

2.7.2 Termination: The Missouri Department of Transportation reserves the right to terminate the contract at any time, for the convenience of the State of Missouri, without penalty or recourse, by giving written notice to the contractor at least thirty (30) calendar days prior to the effective date of such termination. The contractor shall be entitled to receive just and equitable compensation for services and/or supplies delivered to and accepted by the State of Missouri pursuant to the contract prior to the effective date of termination.

### 3. BID SUBMISSION INFORMATION

**3.1 Evaluation Process** – Bids will be reviewed to determine if the bid complies with the mandatory requirements and to determine the lowest responsible and reliable bidder.

#### 3.1.1 Low Bid Determination:

a. Objective Evaluation of Cost – The objective evaluation of cost shall be conducted as follows:

- 1) The cost evaluation shall be based on a total cost determined using the estimated quantities and the firm, fixed prices stated on the pricing page.
- 2) Bidders shall agree and understand that the quantities used in the evaluation of cost are provided solely to document how cost will be evaluated. The State of Missouri makes no guarantee regarding the accuracy of the quantities stated nor does the State of Missouri intend to imply that the figures used for the cost evaluation in any way reflect actual nor anticipated usage.

3.1.2 Responsible and Reliability Determination - The bidder should submit any of, but not limited to, the information requested herein in order to demonstrate the responsibility and reliability of the bidder. Failure of the bidder to submit sufficient information to document that the bidder is responsive and responsible may cause an adverse impact on the evaluation of the bid.

a. Responsibility and Reliability in Experiences:

- 1) The bidder should provide, on Exhibit A or in any other format, the information listed below related to previous and current services/contracts performed by the bidder's organization and any proposed subcontractors which are similar to the requirements of this document. If the contact person listed on Exhibit A is not available or is otherwise unable to be reached during the evaluation, the listed experience may not be considered.
  - Name, address, and telephone number of client/contracting agency and a representative of that client/agency who may be contacted for verification of all information submitted;
  - Dates of the service/contract; and
  - A brief, written description of the specific prior services performed and requirements thereof.
- 2) If references for current and/or previous contracts are not identified in the bid, Missouri Department of Transportation may request that the bidder identify one or more references. The Missouri Department of Transportation must receive the reference(s) within twenty-four hours of the request. Failure of the bidder to identify one or more references may result in the bid being rejected.

3.1.3 Final Determination - Any bid which does not comply with the mandatory requirements of the IFB will not be considered for an award. In addition, the State of Missouri reserves the right to reject any bid for reasons which may include but not necessarily be limited to: (1) receipt of any information, from any source, regarding unsatisfactory performance of similar services by the bidder within the past three (3) years, (2) inability of the bidder to document responsible and reliable past performances similar to the services required and/or (3) failing to provide a sample, if a sample is deemed necessary by the State of Missouri, or providing an unacceptable sample.

**3.2 Contract Award:** The contract will be awarded to the lowest responsive and responsible bidder determined as specified herein.

**4. PRICING PAGE**

**4.1 Printing: Connections Monthly Statewide Newspaper** - The bidder shall provide firm, fixed prices in the table below for the original contract period for providing the services in accordance with the provisions and requirements of this IFB. All costs associated with providing the required services shall be included in the stated prices.

<b>Item No.</b>	<b>Description</b> 96695 or 96698	<b>Original Contract Period</b> <i>Firm, Fixed Price</i> <i>(7/1/08 – 6/30/09)</i>
001	Connections Monthly Statewide Newspaper - 13,000 newspapers (monthly)	\$ _____ <i>Firm, Fixed Price,</i> <i>Total, Per Month</i>
002	Connections Monthly Statewide Newspaper - (monthly) – Per additional M	\$ _____ <i>Firm, Fixed Price,</i> <i>Per Additional M</i>
003	Stapling, (if requested), Per M	\$ _____ <i>Firm, Fixed Price,</i> <i>Per M</i>
004	Trimming, (if requested), Per M	\$ _____ <i>Firm, Fixed Price,</i> <i>Per M</i>
005	State agency required changes and/or alterations to the Proof	\$ _____ <i>Firm, Fixed Price,</i> <i>Per Hour</i>

**5. EXHIBITS**

**EXHIBIT A**

**PRIOR EXPERIENCE OF BIDDER**

The bidder should copy and complete this form for each reference being submitted as demonstration of the bidder and subcontractor’s prior experience. In addition, the bidder is advised that if the contact person listed for the reference is unable to be reached during the evaluation, the listed experience may not be considered.

<b>Bidder/Subcontractor Name:</b>	
<b>Reference Information (Prior Services Performed For:)</b>	
Name of Reference Company:	
Address of Reference Company:	
Reference Contact Person Name:	
Contact Person Phone #	
Contact Person e-mail address:	
Dates of Prior Services:	
Dollar Value of Prior Services	
Description of Prior Services Performed	

*As the contact person for the reference provided above, my signature below verifies that the information presented on this form is accurate. I am available for contact by the State of Missouri for additional discussions regarding my/my company’s association with the bidder referenced above:*

\_\_\_\_\_  
*Signature of Reference Contact Person*

\_\_\_\_\_  
*Date of Signature*

**Attachment 1**

**Mailing List**

1. Approximately 5,650 individual addresses of retirees, sent presorted standard.
2. 331 bundles of various quantities sent to different addresses, sent presorted standard. Bundles range from two (2) newspapers to 1,000. Majority of bundles contain 4 to 20 newspapers.

**NOTE: The number of individual addresses of retirees changes on a monthly basis.**

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): \_\_\_\_\_

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 are **not** 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 item 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 meet 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 is 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.**

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 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

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

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 Federal Excise Tax Exemption Certificate will be furnished to the successful Bidder/Offeror upon request.
- 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.
  - 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. 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

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

**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.