INVITATION FOR BIDS

IFB # 3160002843 REPLACED BY IFB #3160002864

To Provide: **Elevator Maintenance Services**

For: **Capitol Facilities Buildings in Jackson and Biloxi**

Issue Date: 03/28/2019

Office of Capitol Facilities

Department of Finance and Administration
501 North West Street, Suite 2001-A
Jackson, MS 39201

Contact
Alison Bradford, Bureau Director
Phone: (601) 359-5066
Fax: (601) 359-2875
E-Mail: Alison.Bradford@dfa.ms.gov

Bids Due: 04/29/2019 at 1:00 p.m. CST

SECTION 1

1.1. Bid Acceptance Period

The Original shall be signed and submitted in a sealed envelope or package to 501 North West Street, Suite 2001-A, Jackson, MS 39201 no later than the time and date specified for receipt of bids. Timely submission of the bid is the responsibility of the bidder. Bids received after the specified time shall be rejected and returned to the bidder unopened. The envelope or package shall be marked with the bid opening date and time, and the IFB number to prevent premature opening by the Office of Capitol Facilities. The time and date of receipt will be marked on the outside of the envelope or package by the Office of Capitol Facilities. Failure to submit bid on the bid form provided or to include required documents may be cause for rejection of the bid as non-responsive. The Office of Capitol Facilities may, but is not obligated to, consider the omission of any information requested as an informality, or irregularity, when in their opinion the omitted information does not alter the amounts contained in the submitted bid, or place other bidders at a disadvantage.

1.1.1. Timeline

- Invitation for Bid (IFB) Issue Date: 03/28/2019
- Questions to Office of Capitol Facilities: 04/08/2019, 5:00 p.m. CST
- Anticipated Posting of Written Answers to Questions: 04/12/2019, 5:00 p.m. CST
- Bid Package Submission Deadline/Opening: 04/29/2019, 1:00 p.m. CST
- Anticipated Notice of Intent to Award: 05/02/2019, 5:00 p.m. CST
- Anticipated Post-Award Debriefing Request Date: 05/07/2019, 5:00 p.m. CST
- Post-Award Debriefing Held By Date: 05/12/2019, 5:00 p.m. CST
- Protest Deadline Date: 05/19/2018, 5:00 p.m. CST

1.1.2. Late Submissions

A bid received at the place designated in the solicitation for receipts of bids after the exact time specified for receipt will not be considered unless it is the only bid received, or it is received before award is made and was sent by registered or certified mail no later than the fifth (5th) calendar day before the date specified for receipt of bids. It must be determined by the Department of Finance and Administration that the late receipt was due solely to mishandling by the Department of Finance and Administration after receipt at the specified address.

1.2. Expenses Incurred

The Office of Capitol Facilities accepts no responsibility for any expense incurred by the bidder in the preparation or presentation of a bid. Such expenses shall be borne exclusively by the bidder.

1.3. Bid Form

All pricing must be submitted on the bid form (Attachment A). Failure to complete and/or sign the bid form may result in the bidder being deemed nonresponsive. The bidder agrees that submission of a signed bid form is certification that the bidder will accept an award made to it as a result of the submission and agrees to all contract terms and conditions in the attached proposed form of contract (Attachment D). No oral bids will be considered.

1.4. Registration with Mississippi Secretary of State

By submitting a bid, the bidder certifies that it is registered to do business in the State of Mississippi as prescribed by the Mississippi Secretary of State or, if not already registered, that it will do so within seven (7) business days of being offered an award. Sole proprietors are not required to register with the Mississippi Secretary of State.

1.5. Debarment

By submitting a bid, the bidder certifies that it is not currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State of Mississippi or Federal Government and that it is not an agent of a person or entity that is currently debarred from submitting bids for contracts issued by any political subdivision or agency of the State of Mississippi.

1.6. Withdrawal of Bid

A bidder may withdraw a bid, prior to the time set for the opening of bids, upon request; however, no bid may be withdrawn after such time except when notice of a claim of error by bidder is submitted in writing to the Office of Capitol Facilities within two (2) working days after the bid opening and all of the following conditions are met:

1.7.1 The bid is submitted in good faith;

1.7.2 The bid price is substantially low than those of other bidders because of a mistake;

1.7.3 The mistake is a clerical error, not an error of judgment; and,

1.7.4 Objective evidence is drawn from original work papers, documents, and other materials used in the preparation of the bid demonstrates clearly that the mistake was an unintentional error in arithmetic or an unintentional omission of a quantity.

1.7. Additional Information

Questions about the contract portions of the procurement shall be submitted in writing to Judy Miller by Mail at 501 North State Street, Suite 1301-B, Jackson, MS 39201, or by

E-Mail at judy.miller@dfa.ms.gov. Questions concerning the technical portions of the procurement document should be directed to Alison Bradford by Mail at 501 North State Street, Suite 2001-A, Jackson, MS 39201, by Fax: (601) 359-1342, or by E-Mail at Alison.Bradford@dfa.ms.gov. Bidders are cautioned that any statements made by contact persons that cause a material change to any portion of the procurement documents shall not be relied upon unless subsequently ratified by a formal written addendum amending the procurement documents.

1.8. Amendments

Should an amendment to the IFB be necessary, it will be issued as an addendum and posted on the DFA website (http://www.dfa.ms.gov) in a manner that all bidders will be able to view. Further, bidders must acknowledge receipt of any addendum to the solicitation by identifying on the applicable space on the bid form provided (Attachment A). Failure to acknowledge any such addendum shall cause bid to deemed non-responsive. It is the bidder's sole responsibility to monitor the website for amendments to the IFB.

1.9. Form of Contract

Contract shall be a firm fixed-price agreement Department of Finance and Administration Personal Services Contact (Attachment D).

SECTION 2

2.1 Purpose

The Department of Finance and Administration, Office of Capitol Facilities is seeking to establish a contract for Elevator Maintenance Services at various buildings under their supervision and care in Jackson and Biloxi, Mississippi. It is understood that any contract resulting from IFB #3160002843/replaced by IFB #3160002864 requires approval by the *Public Procurement Review Board Office of Personal Service Contract Review (PPRB) Rules and Regulations*. If any contract is not so approved, it is void and no payment shall be made.

2.2 Scope of Contractor Services

The work shall consist of elevator maintenance services at DFA buildings located in the Capitol Complex (Jackson, MS) and Biloxi, MS listed in Attachment A. All work of this contract shall be performed under the direct supervision of experienced and qualified Contractor personnel.

scaffolding, machinery, hoists, employee safety equipment, equipment, lubricants, supervision, applicable taxes, and all other work, equipment and materials expressly required under an agreement with DFA and the Contractor or services reasonably inferred from such an agreement. The contractor shall regularly and systematically examine, adjust, lubricate as required and if conditions warrant, repair or replace machine, motor, generator, brushes, brush holder, controller parts, work gear, thrust bearings, roller bearings, brake magnet coil, or brake motor, brake shoes, motor windings, commutator, rotating element, drive sheave, drive sheave bearings, contacts, coils, resistance for operating any motor circuits, magnetic frames, pumps, pump motors, operating valves, vale motors leveling valves, plunger packing, lifting piston, any exposed piping, hydraulic fluid tanks, leveling devices and cams, all relays, resistors, condensers, transformers, leads, timing devices, operating circuit rectifiers automatic power door operators, auxiliary door closing devices, hoist way door interlocks, car door contacts, door protective devices, all bells, car frames, platforms, guide rails, hoist way switches, all indicating and/or signal lamps and sockets, all solid state components, dashpots, computer devices, selector tapes, and other mechanical or electrical parts.

The contractor agrees to renew guide shoes, jibs or guide rollers when necessary to insure smooth and quite operation. He shall renew all wire ropes as often as necessary to maintain an adequate factor of safety; to equalize the tension on all hoisting ropes and repair or replace conductor cables when necessary.

The contractor agrees to repair or replace when necessary deflector or secondary sheave, bearings, car and counterweight buffers, car and counterweight guide rails, top and bottom limit switches, governor tension sheave assembly, compensation sheave assembly, counterweight guide shoes including rollers or jibs, hoist way wiring, traveling cables, car wiring, and machine room wiring that is associated with the elevator equipment.

The contractor shall furnish all lubricants and hydraulic oil, as required. Lubricants shall meet or exceed the original manufacturer's specifications. The contractor shall clean periodically and remove dirt, lint, excess oil or grease from the pits and pit equipment, hoist way, guide rails and supports, divider beams, doors, sills, machine room floors, pumps, pump motors, tanks, plunger packing glands, strainers, control equipment, valves and valve operators, guide shoes, roller guides, door operators, tops of cars and bottom of platforms. The machine room shall be kept in a clean orderly fashion. The contractor shall not be responsible for installation of new attachments on elevators required as a part of a code change after the signing of this contract, without proper compensation therefore.

2.2.2 Contractor shall coordinate and follow the directives of Purchaser with respect to scheduling Services and any deliveries or at time or times further specified in the agreement between DFA and Contractor.

2.2.3 Services shall be performed as follows:

2.2.3.1 In conformance with all provisions of this agreement.

2.2.3.2 In conformance with all legal statutes and Code requirements.

2.2.3.3 In conformance with all applicable original equipment manufacturer's specifications.

2.2.3.4 In conformance with Purchaser's rules, policies, regulations, and requirements for work at the Property, as modified and supplemented during the term of this Agreement.

2.2.3.5 In conformance with Purchaser's requirements for cleanup using containers supplied by Contractor.

2.2.3.6 To Purchaser's satisfaction.

2.2.3.7 By qualified, careful and efficient employee(s) in conformity with best industry practices.

2.2.3.8 Diligently and in a first class, complete and workmanlike manner, free of defect or deficiency.

2.2.3.9 In such manner as to minimize any annoyance, interference, or disruption to occupants of Property and their invitees.

2.2.3.10 Materials: The term "materials" shall include all tangible property, whether designated as materials, goods, parts, or otherwise. All such materials shall be:

2.2.3.10.1 New

2.2.3.10.2 Best quality and suitable for their intended uses.

2.2.3.10.3 Obtained from or recommended by original manufacturer(s) of equipment for replacement or repair, including parts redesigned by and recommended as replacement parts by the original equipment manufacturer(s). Equivalent parts may be used if approved by Purchaser in writing.

2.2.3.10.4 Parts requiring repair shall be rebuilt to "like new" condition.

2.2.3.10.5 All lubricants shall be suitable for purpose intended and shall meet or exceed minimum requirements specified by original equipment manufacturer to which lubricant is applied.

2.2.3.10.6 All materials delivered and stored at the property which are intended to become part of the completed Services shall pass to purchaser upon installation

2.2.3.10.7 Provide metal cabinets of suitable size in machine rooms for storage of materials in as required. No open storage of materials shall be permitted. Contractor shall stock cabinets with adequate renewal parts and lubricants to maximize beneficial usage of equipment covered by this agreement.

2.2.3.10.8 Lubricants, cleaning fluids and all combustible liquids shall be stored in a metal cabinet in machine room and shall be disposed of in accordance with Federal or local jurisdiction guidelines. A metal can with lid shall be provided in each machine room for temporary storage of oily rags.

2.2.3.10.9 Consideration shall be given in regard to obsolescence of systems, materials or parts only when both the original equipment manufacturer(s) and after-market elevator industry suppliers no longer manufacture or rebuild required parts or assemblies. Rebuilt parts and/or assemblies are acceptable when documentation is provided indicating parts and/or assembly meets all design requirements of the original parts/materials as utilized.

2.2.3.11 No parts or equipment required by services may be removed from the Property without written approval of Purchaser. This does not include renewal parts stocked onsite by Contractor, which shall remain Contractor's sole property until installed on the equipment. Expeditiously replenish parts/materials utilized.

2.2.3.12 Initiate, maintain, and supervise all safety precautions and programs in connection with the Services and comply with all applicable safety laws. Take all reasonable precautions for safety of Purchaser, Purchaser's tenants, Purchaser's employees, Contractor's employees, and other persons on or about Property.

2.2.3.13 Repair, to satisfaction of Purchaser, any damage to the Property and adjacent areas caused by performance of Services.

2.2.3.14 Additional services covered by this agreement, but at an additional price per occurrence:

2.2.3.15 Performance of routine preventive maintenance procedures and scheduled repairs of any unit designed by the

Purchaser during other than the normal operating hours of the property.

2.2.3.16 Standby time requested for special events.

2.2.3.17 All work resulting in additional billing must be reviewed and approved by Purchaser prior to commencing work.

2.2.4 Contractor's Employees

2.2.4.1 This Agreement is not one of agency, partnership, master-servant, or joint employer, but one with the Contractor engaged in the business of providing services hereunder as an Independent Contractor. Contractor shall have sole responsibility for means, methods, techniques, procedures, and safety precautions in connection with the performance of Services.

2.2.4.2 Contractor shall assign one (1) full time technician to this agreement. The service technician assigned to this agreement by the Contractor shall be able to respond within the time specified herein.

2.2.4.3 Contractor shall be responsible for the supervision and execution of Services by its employees. A partial onsite condition review shall be conducted by a designated Supervisor of Contractor on a quarterly basis to ensure that all Services hereunder are properly performed. Contractor shall inform Purchaser of the name of its Supervisor responsible for the execution of Services and Supervisor shall have the authority to act as Contractor's agent. Supervisor shall notify Purchaser of site inspection and provide Purchaser with written summary of findings within ten (10) working days after completion of site review.

2.2.4.4 Contractor shall employ a sufficient number of trained and capable employees to properly, adequately, safely, and promptly provide Services. All matters pertaining to employment, training, supervision, compensation, promotion and discharge of Contractor's employees are the responsibility of the Contractor, who is in all respects the employer, and Purchaser shall have no liability with respect thereto.

2.2.4.5 All service personnel assigned to perform work on campus shall wear uniforms provided by the Contractor, which shall be identified with company colors and logos. All uniforms shall be kept neat and clean at all times.

2.2.4.6 Contractor agrees that each of its employees is properly qualified (possessing a mechanics card or CET certification) and will use reasonable care in the performance of Services. If Purchaser, in Purchaser's sole

opinion, determines for any reason, that the qualifications, actions or conduct of any particular Contractor employee has violated this Agreement by performing unsatisfactory Services, interfering with operation of Property, bothering or annoying any occupants, other Contractors or subcontractors then at Property, or that such actions or conduct is otherwise detrimental to Purchaser, then upon receipt of Purchaser's written notice, Contractor shall immediately provide qualified replacement person(s).

2.2.4.7 Contractor shall not engage any subcontractors or other parties to perform Services unless first approved in writing by Purchaser. Purchaser's acceptance of subcontractors or other parties shall not relieve, release, or affect in any manner any of Contractor's duties, liabilities or obligations hereunder, and Contractor shall at all times be and remain fully liable hereunder.

2.3 Contractors Hours and Manner of Work

Services, except as otherwise noted under this Agreement, including unlimited emergency call back services, shall be performed between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday. Provide one (1) dedicated technician who shall be onsite to perform maintenance, repair, and callbacks for forty (40) hours per week. The technician assigned to this agreement shall not be used for maintenance, repairs, or callbacks on equipment not covered under this agreement during these hours. Should it be found that the technician is being used for work on equipment outside of this agreement during these hours; the monthly invoice amount shall be reduced by the number of hours multiplied by the labor rates proposed by the Contractor. Continuing occurrence of this practice shall be grounds for termination of this agreement.

2.3.1 Contractor shall provide the necessary manpower for any preventive maintenance task, repair, or test covered under this Agreement that requires more than one (1) technician, at no additional cost to the Purchaser.

2.3.2 Provide overtime callback service at no additional cost under the following conditions:

2.3.2.1 Passenger entrapments

2.3.2.2 Elevator group control malfunctions

2.3.2.3 Two (2) or more elevators out of service in any elevator group.

2.3.3 Response time for callback service:

2.3.3.1 During the hours identified in Item 2.3, Contractor shall arrive at property within thirty (30) minutes from time of notification of equipment problem or failure by Purchaser

2.3.3.2 During the hours identified in Item 2.3, Contractor shall arrive at Property in response to passenger entrapment calls within fifteen (15) minutes from time of notification by Purchaser

2.3.3.3 After hours, Contractor shall respond to callback service within sixty (60) minutes from the time of notification by Purchaser

2.3.3.4 Purchaser, at its sole discretion, may reduce monthly Agreement amount by $300/occurrence for Contractor's repeated failure to meet callback response time.

2.3.4 Callback is defined as any request for service or assistance by Purchaser or Purchaser's representative when any unit is not available for beneficial usage due to equipment shutdown or malfunction.

2.3.5 If a unit is shut down due to equipment failure for more than seventy-two (72) continuous hours, excluding scheduled equipment repairs that would under normal circumstances take longer than (72) hours to complete, maintenance billing for that unit shall be suspended until unit is restored to beneficial usage.

2.3.6 Removal of units from beneficial usage to facilitate Services shall be coordinated with and approved by the Purchaser, unless removal is necessitated for emergency repair or adjustment. Purchaser agrees to permit Contractor to remove units from service for a reasonable time during hours identified in Item 2.3, to perform Services.

2.4 Contractor's Execution of Services

2.4.1 Regularly scheduled and systematically examine, clean, lubricate, adjust, and as conditions warrant, repair or replace all vertical transportation equipment covered under this Agreement. Consistently maintain machine room(s), wellway(s), hoist way(s), pit(s), car top(s) and equipment in or on these areas in a clean condition. During the cleaning process, test and adjust all safety switches. Elevator clean downs should be scheduled with the Office of Capitol Facilities.

2.4.2 Check and adjust individual and/or elevator group operational system(s) at planned intervals to ensure all control circuits and time settings are properly adjusted to minimize system response time to registered car and hall calls and maximize car and/or group operational performance.

2.4.3 Lubricate equipment at intervals recommended by original equipment Manufacturer, or as dictated by equipment use or adverse environmental conditions.

2.4.4 Provide replacement lamps to maintain adequate lighting in elevator machine room, secondary sheave level(s), overhead sheave space(s), pit(s), and car interior lighting.

2.4.5 Repair damage to car and hoist way door finish when caused by improper adjustment or maintenance of associated door equipment.

2.4.6 When, as a result of examination or testing of equipment, Contractor identifies corrective action is required, Contractor shall proceed expeditiously to make required repairs, replacements, and adjustments. If Contractor believe such work is not Contractor's responsibility, a written report signed by Contractor shall be delivered to Purchaser for further action with exception of a safety or potential safety situation, in which case, Contractor shall expeditiously correct the problem.

2.4.7 Should, during examination or testing of equipment, Contractor observe a condition that would compromise safety of the riding public, the Contractor shall shut the equipment down and notify DFA immediately of the unit number (if applicable), building, reason for shutting the equipment down, and plans for necessary repairs.

2.4.8 Services shall be all inclusive with the following exclusions only:

2.4.8.1 Installation of new attachments of performance of newly mandated tests recommended or directed by inspecting entities; insurance companies; and federal, state or municipal governmental authorities subsequent to the date of this Agreement. In the event or new or retroactive requirements, required by such Authorities, Contractor shall provide written notice and proposal to Purchaser within ten (10) working days of effective date.

2.4.8.2 Callbacks, repairs, modifications, adjustments or replacements required due to negligence, vandalism, accident or misuse of equipment by anyone other than the Contractor, its employees, subcontractors, servants or agents, or other causes beyond the Contractor's control except ordinary wear.

2.4.8.3 Repair or replacement of Property items, such as hoist way or machine room walls, floors, car interior finishes, car finish floor material, hoist way entrance frames, car and hoist way door panels, care and hoist way door sills, signal fixture faceplates, and fire alarm initiating devices.

2.4.8.4 Mainline and auxiliary disconnecting means, fuses and electrical feeders to equipment control panel(s) in machine rooms.

2.4.8.5 Failure or fluctuations of property electric power, air conditioning or humidity control.

2.4.8.6 Ingress by water or other material into machine room, hoist way, car enclosure, or pit.

2.4.8.7 Purchaser loading unit in excess of its rated car capacity or load classification.

2.4.8.8 Shrinkage, settlement or movement of building.

2.4.8.9 Underground hydraulic piping and cylinders.

2.4.8.10 Above exclusions shall apply to except to the extent that they arise out of or are caused by the negligence, breach of contract, or breach of statutory duty of the Contractor, his employees, agents, subcontractors, or others from whom he is responsible.

2.5 Contractor Compliance with Laws

2.5.1 Contractor agrees to comply with all existing laws, codes, rules and regulations set forth by appropriate authorities having jurisdiction in location where Services are performed. In the event of differing testing requirements between Agreement requirements and applicable statutes, regulations, codes or ordinances, the more stringent requirement shall prevail.

2.5.2 Schedule with the Office of Capitol Facilities, Coordinate and complete all required statutory and other equipment tests including, but not limited to:

2.5.2.1 Annual no load slow speed test of car and/or counterweight safeties, governors and buffers

2.5.2.2 Three (3)-year, full load, full speed test of car and/or counterweight safeties, governors and buffers

2.5.2.3 Monthly Firefighters' service operational tests

2.5.2.4 Annual pressure relief tests on hydraulic elevators.

2.5.2.5 Annual standby power operation test(s) on elevators.

2.5.2.6 Monthly operational tests: battery pack car emergency lighting, monthly car emergency communication device and battery pack car lowering devices.

2.5.2.6.1 Contractor shall provide all necessary manpower to perform these tests in a timely manner. Copies of all test reports shall be provided to the Department of Finance and Administration Office of Capitol Facilities no later than three (3) working days after the successful completion of each test.

2.5.3 Should a piece of equipment fail any of the above tests as a result of Contractor not performing the service requirement listed herein, Contractor shall make all necessary adjustments to equipment at no cost to the Purchaser, and retest the equipment at no cost to the Purchaser. Contractor shall provide the Purchaser with copies of all test reports.

2.5.4 Affix metal tags to the tested devices and provide Purchaser with written documentation clearly indicating the type of test, date of test, Contractor performing test, and applicable Code rule.

2.5.5 Contractor's failure to execute statutory tests mandated by either national Codes or local jurisdictions or regulations within 30 Calendar days of required time constraint shall subject Contractor to a $50.00 per unit per date fine for each infraction beginning on the 30th day subsequent to the required date and continuing until Purchaser receives written notification from Contractor of completion of required test. Statutory tests include, but are not limited to, Item 2.5.2. Scheduling difficulties shall not exempt Contractor from performing tests in compliance with applicable Code or regulatory requirements.

2.6 Special Conditions

2.6.1 Purchaser shall provide Contractor's primary technician with necessary keys for access to buildings and equipment rooms.

2.6.2 Contractor shall conspicuously post Preventive Maintenance Schedule and work log in each machine room. Log shall be kept up to date and shall be readily accessible for review by the Purchaser personnel or representative. Additionally, Contractor shall have the means to record data electronically for Purchaser to review. Data should include all PM, repair, callback and testing be performed, as well as length of time cars are left out of service.

2.6.3 At least quarterly or more often if requested, provide summary and review of all callbacks and unit downtime with Purchaser. The intent of this review is to minimize callbacks by developing consistent communication between the Contractor and Purchaser, relative to callback trends, unit downtime and the causes.

2.6.4 Contractor shall maintain Purchaser's complete set of straight line wiring diagrams in good condition. Drawings shall be consistently updated and properly noted with "as built" conditions with any changes or modifications to circuits resulting from control modifications, parts replacement or equipment upgrades made by Contractor during Agreement term. Purchaser shall be allowed to reproduce these "as built" drawings and retain sole possession of these drawings in event Agreement is cancelled. If Agreement is cancelled, Purchaser will withhold final payment due Contractor until all as built/as modified set(s) of wiring diagrams are delivered to Purchaser.

2.6.5 Equipment manufacturer's electronic diagnostic devices required to facilitate services, including fixed and hand held devices, shall be provided, maintained and upgraded by Contractor during the term of this Agreement.

2.6.6 Local and National inspection fees in regard to operation of equipment covered by this Agreement, shall be paid by the vendor. Fees for re-inspection due to Contractor's failure to expeditiously eliminate deficiencies covered by Services shall also be paid by Contractor.

2.6.7 Purchaser may provide information to enable Contractor to render Services hereunder, or Contractor may learn from information about Property or develop such information from Purchaser. Contractor agrees:

2.6.7.1 To treat and to obligate Contractor's employees, subcontractors and suppliers to treat as confidential all such information whether or not identified by Purchaser as confidential.

2.6.7.2 Not to disclose any such information or make available any reports recommendations and/or conclusions which Contractor may make on behalf of Purchaser to any person, firm or corporation or use the same in any manner, whatsoever, without first obtaining Purchaser's written approval, except to the extent necessary in connection with performing Services or when required by law.

2.6.7.3 Contractor shall not, in the course of performance of this Agreement, or thereafter, use or permit to use the Purchaser's name or the name of any affiliate of Purchaser, or the name, address or any picture or likeness of or reference to the Property in any advertising, promotional or other materials prepared by or on behalf of Contractor without the prior written approval of the Purchaser.

2.6.8 Purchaser reserves the right to deduct any units from this agreement, and will adjust the monthly contract amount accordingly. Purchaser will provide the Contractor with (30) days written notice of any such changes.

2.7 Equipment Performance Requirements

2.7.1 Contractor shall maintain the equipment in order to meet the following performance criteria. Consistent failure to meet performance requirements shall be grounds for cancellation of this Agreement.

2.7.2 Operating Speed:

2.7.2.1 For hydraulic equipment, maintain speed within +/- 10% of rated speed.

2.7.2.2 For traction equipment with solid state drives, maintain speed within +/- 3% of rated speed.

2.7.2.3 For traction equipment without solid state drives, maintain speed within +/- 5% of rated speed.

2.7.3 Leveling accuracy

2.7.3.1 For hydraulic equipment, maintain leveling accuracy within +/- ½" of floor level

2.7.3.2 For traction equipment, maintain leveling accuracy within ¼" of floor level.

2.7.4 Contractor shall maintain a quiet and comfortable car ride with smooth acceleration, deceleration and accurate stop. Door operation shall be smooth and quiet.

2.8 Purchaser's Right to Audit Services

2.8.1 Purchaser reserves the right to make or cause to be made, such audits and tests whenever necessary to ascertain that Services are being fulfilled. Deficiencies noted shall be submitted, in writing, to the contractor. Contractor shall expeditiously correct deficiencies within thirty (30) working days at its expense.

2.8.2 A qualified vertical transportation consultant may be retained by Purchaser to perform audit of Services and mediate disputes

2.9 Term

The term of contract shall be for a period of 3 years. Upon written agreement of both parties at least 90 days prior to the end of the contract time, the contract may be renewed by the Department of Finance and Administration, Office of Capitol Facilities for a period of two (2) additional successive one-year periods under the same prices, terms and conditions as in the original contract subject to approval by PSCRB. The total number of renewal years permitted shall not exceed two.

SECTION 3

3.1 Insurance

The successful bidder shall maintain insurance which, at a minimum, shall include the following types of insurance and coverage limits. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Mississippi, meaning insurance carriers must be licensed or hold a Certificate of Authority from the Mississippi Department of Insurance. The Department of Finance and Administration, Office of Capitol Facilities reserves the right to request from carriers, certificates of insurance regarding the required coverage.

3.1.1 Workers' Compensation – as required by the State of Mississippi

3.1.2 Comprehensive General of Commercial Liability

Provide at least $1,000,000 each occurrence for bodily injury, personal injury, accidental death, and property damage with the State of Mississippi added as an additional insured.

3.1.3 Motor Vehicle Liability Insurance

Provide covering all vehicles, owned or otherwise, used in the contract work with limits of at least $1,000,000 per occurrence for injuries including accidental death to any person and subject to the same limit for each

person for any one accident involving two or more persons with the State of Mississippi added as an additional insured.

3.1.4 Motor Vehicle Property Damage

Provide covering all property damage by vehicle with limits of $250,000 with the State of Mississippi added as an additional insured.

SECTION 4

4.1 Bid Evaluation

Bids will be evaluated and awarded to the lowest responsive, responsible bidder meeting all mandatory minimum requirements as follows:

4.1.1 Responsive Bidder

Bidder must submit bid including Bid Form and all required Attachments which conforms in all material respects to this Invitation for Bids IFB #3160002843, as determined by the Department of Finance and Administration, Office of Capitol Facilities.

4.1.2 Nonconforming Terms and Conditions

A bid response that includes submission of terms and conditions in addition to or proposed as modifications to those included in this solicitation shall constitute a conditional bid and subject to rejection as nonresponsive. The Department of Finance and Administration, Office of Capitol Facilities reserves the right to permit the bidder to withdraw nonconforming terms and conditions from its bid prior to determination of responsiveness of bidder.

4.1.3 Conditioning Bid Upon Other Awards

Any bid which is conditioned upon receiving award of both the particular contract being solicited and another Mississippi contract shall be deemed non-responsive and not acceptable.

4.1.4 Bid Submission Format

The Quote package must be sealed and must contain the following:

- Bid Form (**Attachment A**)
- Certifications and Assurances (**Attachment B**)
- References (**Attachment C**)

4.1.5 Confidential Information

Any bidder claiming that its response contains information exempt from the Mississippi Public Records Act (Mississippi Code Annotated §§ 25-61-1, *et. seq.*, and 79-23-1), shall segregate and mark the information as confidential and provide the specific statutory authority for the exemption.

4.1.6 Responsible Bidder

Bidder must have capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance, as determined by the Department of Finance and Administration, Office of Capitol Facilities. Bidder shall also meet the following minimum qualifications in order to be deemed responsible:

4.1.6.1 Previous Experience

Bidder shall document a minimum of two (2) years of successful previous experience providing similar services at one or more properties with elevators in numbers totaling no less than total required by the scope of this IFB. Include a minimum of there (3) contact references including number of elevators maintained for validation of such experience on References Form (Attachment C). Provide a minimum of two (2) additional contact references documenting experience of bidder providing such services at a Mississippi Landmark and/or National buildings. All information received from those clients, if contacted, must verify that a high level of satisfaction was provided in that service trace.

4.2 Bid Opening

Bid opening will be open to the public; however, this will include opening, reading aloud, and listing the bid price on each bid only. No discussions will be entered into with any bidder as to the quality or provisions of the specifications and no award will be made, either stated or implied at the bid opening.

4.3 Notice of Intent to Award

Notice of Intent to Award, subject to approval of PPRB, shall be made to the winning bidder in writing and shall be posted on the Department of Finance and Administration website within three days of receipt of bids. Such notice shall also indicate any bids rejected as non-responsive or non-responsible.

4.4 Contract Management

If the Contractor fails to adhere to the Elevator Maintenance Services schedule, or if the Contractor fails to satisfactorily provide the prescribed service to all or any service area,

the Owner will inform the Contractor, and the Contractor shall complete corrective action up to and including replacement of Contractor Staff assigned within twenty (24) hours. No payment shall be made to the Contractor until all deficiencies have been corrected. If the Contractor exhibits a pattern of non-performance as shown by repeated deficiencies, the Owner may terminate the contract without further obligation to the Contractor. Contractor shall also be responsible to:

4.4.1 Assign a Contractor Account Manager to work directly with the Office of Capitol Facilities;

4.4.2 Administer and maintain all employment and payroll records, payroll processing and payment of payroll and taxes, including the deductions required by State, Federal and local laws such as social security and withholding taxes for their business and employees;

4.4.3 Make all unemployment compensation contributions as required by Federal and State law(s) and process claims as required for their business and employees;

4.4.4 Perform all services provided in the contract between the Contractor and Owner in accordance with customary and reasonable industry standards; and,

SECTION 5

5.1 Post-Award Vendor Debriefing

A responding vendor, successful or unsuccessful, may request a post-award debriefing, in writing, by U.S. mail or electronic submission. The written request must be received by the Executive Director of the Department of Finance and Administration within three (3) business days of notification of intent to award. A post-award debriefing is a meeting and not a hearing; therefore, legal representation is not required. A debriefing typically occurs within five (5) business days of receipt of the request. If a vendor prefers to have legal representation present, the vendor must notify the Executive Director in writing at the time of request and identify its attorney by name, address, and telephone number. The Department of Finance and Administration will schedule any debriefing at which vendor will have legal representation present at a time when a representative of the Office of the Mississippi Attorney General can be present.

For additional information regarding Post-Award Debriefing, as well as the information that may be provided and excluded, please see Section 7-114 through 7-114.07, Post-Award Vendor Debriefing, of the *Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations.*

5.2 Protest of Award

Any actual or prospective responding vendor or contractor who is aggrieved in connection with this solicitation or the outcome of the Invitation for Bid may file a protest with the Department of Finance and Administration Purchasing Director. The protest shall be submitted on or before 5:00 p.m. CST, May 19, 2019, in writing after such aggrieved person or entity knows or should have known of the facts giving rise thereto. All protests must be in writing, dated, signed by the responding vendor or an individual authorized to sign contracts on behalf of the protesting responding vendor, and contain a statement of the reason(s) for protest, citing the law(s), rule(s), or regulation(s), and/or procedure(s) on which the protest is based. The written protest letter shall contain an explanation of the specific basis for the protest. The protesting responding vendor must provide facts and evidence to support the protest. A protest is considered filed when received by the Purchasing Director via either U.S. mail, postage prepaid, or personal delivery. Protests filed after 5:00 p.m. CST, May 19, 2019 will not be considered.

5.3 Contract Terms and Conditions

Contract terms and conditions shall be limited to those as included in the Department of Finance and Administration Personal Services Contract (Attachment D).

5.4 Mississippi Contract / Procurement Opportunity Search Portal

This Request for Proposals, and the questions and answers concerning this Request for Proposals, are posted on the Mississippi Contract / Procurement Opportunity Search Portal.

ATTACHMENT A

BID FORM

FOR

Elevator Maintenance Services

I propose to complete all work included in the scope of work identified in the Invitation for Bids for the specified term of 3 years for the sum of:

BID:

BUILDING	NUMBER OF ELEVATORS	MONTHLY BILLING RATE ($)	BASIC HOURLY BILLING RATE
Billing Group 1			
620 North Street	1		
660 North Street	1		
700 North State Street	2		
	Total Monthly Billing Rate	$_____	
Billing Group 2			
New Capitol	4		
War Memorial Building	1		
Sillers Building	6		
Sillers Garage	2		
Sillers Cafe	1		
Robert E. Lee Building	4		
Robert E. Lee Parking Garage	1		
New Capitol	1		
Central High School Building	4		
301 Building/Clark Building	2		
Woolfolk Building/CMP/Parking Garage	11		
Woolfolk Building/lift elevator from basement through 2nd floor north side of bldg	1		
Bolton Building - Biloxi	3		
Old Capitol	1		
Patrick Alan Nunnelee State Office Building (515 Building)	4		
Archives & History Capers	2		
Governor's Mansion	1		
Governor's Mansion/Dumbwaiter	1		
William Winter Building.	3		
Justice Court Building	5		
Heber Ladner Building	1		
	Total Monthly Billing Rate	$_____	

Group 3			
MS History and Civil Rights Museum	5		
	Total Monthly Billing Rate	**$**_____	
	Yearly Billing Rate for all Groups	**$**_____	

$_____ PER YEAR X 3 YEARS FOR A TOTAL OF:

_____ Dollars

($_____) (written out carries) for the 3 YEAR TERM

ADDENDA ACKNOWLEDGMENT: (if any)

No. _____ No. _____

No. _____ No. _____

ACCEPTANCE:

I certify that I have thoroughly read, understand, and agree to all provisions of this Request for Proposals and the attachments herein, that the company meets all requirements and acknowledges all certifications herein, has, or will secure, all applicable personnel who shall be qualified to perform the duties required to be performed, and will perform, without delay, the services required at the prices quoted, and am authorized to enter into a binding contract if this proposal is accepted.

Signature: _____ Date: _____

Name / Title: (Printed) _____

Name of Business: _____ (as recorded at the Secretary of State)

Physical Street Address: _____

City/State/Zip: _____

Mailing Address: (if different) _____

City/State/Zip: _____

ATTACHMENT B

CERTIFICATIONS AND ASSURANCES

I/We make the following certifications and assurances as a required element of the bid to which it is attached, of the understanding and that the truthfulness of the facts affirmed herein and the continued compliance with these requirements are conditions precedent to the award or continuation of the related contract(s) by signing below:

1. **REPRESENTATION REGARDING CONTIGENT FEES**
   Bidder represents that it has not retained any person or agency upon an agreement or understanding for a commission, percentage, brokerage, fee or other contingent arrangement to secure this contract.

2. **REPRESENTATION REGARDING GRATUITIES**
   Bidder represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the Mississippi Personal Services Contract Review Board Rules and Regulations.

3. **CERTIFICATION OF INDEPENDENT PRICE DETERMINATION**
   Bidder certifies that the prices submitted in response to the solicitation have been arrived at independently and without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder or competitor relating to those prices, intention to submit a Quote, or the methods or factors used to calculate price.

4. **REPRESENTATION REGARDING REQUIRED SUPERVISON**
   Bidder represents that it has and will provide experienced and qualified supervisory personnel who will be present at all times during performance of any and all work of this contract. Contractor Account Manager shall be made available for a regularly scheduled monthly progress meeting with representatives of the Office of Capitol Facilities.

Signature: _____ Date: _____

Name/Title: (printed) _____

ATTACHMENT C

REFERENCES

Reference #1:

Name of Company: _____

Services Provided: _____

Dates of Service: _____

Account Manager: _____

Contact Name: _____

Phone: _____ E-Mail: _____

Reference #2:

Name of Company: _____

Services Provided: _____

Dates of Service: _____

Account Manager: _____

Contact Name: _____

Phone: _____ E-Mail: _____

Reference #3:

Name of Company: _____

Services Provided: _____

Dates of Service: _____

Account Manager: _____

Contact Name: _____

Phone: _____ E-Mail: _____

Reference #4:

Name of Company: _____

Services Provided: _____

Dates of Service: _____

Account Manager: _____

Contact Name: _____

Phone: _____ E-Mail: _____

Reference #5:

Name of Company: _____

Services Provided: _____

Dates of Service: _____

Account Manager: _____

Contact Name: _____

Phone: _____ E-Mail: _____

The bidder may submit as many references as desired by submitting as many additional copies of this Attachment C, References, as needed. The Department of Finance and Administration will begin contacting references at the top of the list and will continue down the list until at least three contacts have been reached.

ATTACHMENT D

(UTILIZE FOR INDEPENDENT CONTRACTOR PERSONAL SERVICES CONTRACTS GREATER THAN $75,000.00)

PERSONAL SERVICE CONTRACT

This Personal Service Contract is made by and between the Department of Finance and Administration, a state agency, (the "DFA") whose address is 501 North West Street, Suite 1301 Woolfolk Building, Jackson, Mississippi 39201 and _____, (the "Contractor") whose address is _____ on the ____ day of _____, 20__, under the following terms and conditions:

1. **Scope of Services:** (*Insert the scope of services to be performed by Contractor*)

   The Contractor will provide services as specified in the (*Request for Proposal, Invitation for Bid, etc…*) (hereinafter referred to and attached as Exhibit "A"), and the (*Proposal Bid, etc…*) by the Contractor dated (*insert date*) (hereinafter referred to and attached as Exhibit "B").

2. **Contract Term:** (*May be entered into for a period of time, not to exceed four (4) years, with an option to renew for one (1) year.*)

3. **Consideration:** (*Insert payment amount, schedule of payments, etc…*)

4. **E-Payment:** The Contractor agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. The DFA agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies," which generally provides for payment of undisputed amounts by the agency within forty-five (45) days of receipt of the invoice. Miss. Code Ann. § 31-7-301, *et seq.*, as amended.

5. **Paymode:** Payments by state agencies using the State's accounting system shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of the Contractor's choice. The State, may at its sole discretion, require the Contractor to electronically submit invoices and supporting documentation at any time during the term of this Agreement. The Contractor understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States currency.

6. **Availability of Funds:** It is expressly understood and agreed that the obligation of the DFA to proceed under this Agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the Agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the DFA, the DFA shall have the right upon ten (10) working days written notice to the Contractor, to terminate this Agreement without damage, penalty, cost or expenses to the DFA of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

7. **Record Retention and Access to Records:** Provided the Contractor is given reasonable advance written notice and such inspection is made during normal business hours of the Contractor, the DFA or any duly authorized representatives shall have unimpeded, prompt access to any of the Contractor's books, documents, papers, and/or records which are maintained or produced as a result of the project for the purpose of making audits, examinations, excerpts, and transcriptions. All records related to this Agreement shall be retained by the Contractor for a period of three (3) years after final payment is made under this Agreement and all pending matters are closed; however, if any audit, litigation or other action arising out of or related in any way to this project is commenced before the end of the three (3) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the three (3) year period, whichever is later.

8. **Applicable Law:** The Contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of laws, provisions, and any litigation with respect thereto shall be brought in the

courts of said State. The Contractor shall comply with applicable federal, state, and local laws and regulations.

9. **Anti-Assignment/Subcontracting:** The Contractor acknowledges that it was selected by the State to perform the services required hereunder based, in part, upon the Contractor's special skills and expertise. The Contractor shall not assign, subcontract or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the DFA, which the DFA may, in its sole discretion, approve or deny without reason. Any attempted assignment or transfer of its obligations, without said consent, shall be null and void. No such approval by the DFA of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of the DFA in addition to the total fixed price agreed upon in this Agreement. Subcontracts shall be subject to the terms and conditions of this Agreement and to any conditions of approval that the State may deem necessary. Subject to the foregoing, this Agreement shall be binding upon the respective successors and assigns of the parties.

10. **Compliance with Laws:** The Contractor understands that the DFA is an equal opportunity employer and therefore maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, genetic information, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful and the Contractor agrees during the term of the Agreement that the Contractor will strictly adhere to this policy in its employment practices and provision of services. The Contractor shall comply with, and all activities under this Agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.

11. **Transparency:** This Contract, including any accompanying exhibits, attachments, and appendices, is subject to the "Mississippi Public Records Act of 1983," and its exceptions. See Miss. Code Ann. §§ 25-61-1 *et seq.* and Miss. Code Ann. § 79-23-1. In addition, this Contract is subject to provisions of the Mississippi Accountability and Transparency Act of 2008. Miss. Code Ann. §§ 27-104-151 *et seq.* Unless exempted from disclosure due to a court-issued protective order, a copy of this executed Contract is required to be posted to the Department of Finance and Administration's independent agency contract website for public access at http://www.transparency.mississippi.gov. Information identified by the Contractor as trade secrets, or other proprietary information, including confidential vendor information or any other information which is

required confidential by state or federal law or outside the applicable freedom of information statutes, will be redacted.

12. **E-Verification:** If applicable, the Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act of 2008, and will register and participate in the status verification system for all newly hired employees. Miss. Code Ann. § 71-11-1, *et seq*. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. The Contractor agrees to maintain records of such compliance. Upon request of the State and approval of the Social Security Administration or Department of Homeland Security when required, the Contractor agrees to provide a copy of each such verification. The Contractor further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws. The breach of this Agreement may subject the Contractor to the following:

(1) termination of this Contract for services and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public;

(2) the loss of any license, permit, certification or other document granted to the Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or both.

(3) In the event of such cancellation/termination, the Contractor would also be liable for any additional costs incurred by the State due to the Contract cancellation or loss of license or permit to do business in the State.

13. **Independent Contractor Status:** Contractor shall, at all times, be regarded as and shall be legally considered an independent contractor and shall at no time act as an agent for the State. Nothing contained herein shall be deemed or construed by the State, Contractor, or any third party as creating the relationship of principal and agent, master and servant, partners, joint ventures, employer and employee, or any similar such relationship between the State and Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the State or Contractor hereunder creates, or shall be deemed to create a relationship other than the independent relationship of the State and Contractor. Contractor's personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the State. No act performed or representation made, whether oral or written, by the Contractor with respect to third parties shall be binding on the DFA. Neither Contractor nor its employees shall, under any circumstances, be considered servants, agents, or employees of the DFA, and the DFA shall be at no time legally responsible for any negligence or other wrongdoing by Contractor, its servants, agents, or employees. The DFA shall not withhold from the contract payments to Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to Contractor. Further, the DFA shall not provide to Contractor any insurance coverage or other benefits, including Worker's Compensation, normally provided by the State for its employees.

14. **Modification or Renegotiation:** This agreement may be modified only by written agreement signed by the parties hereto. The parties agree to renegotiate the Agreement if federal and/or the State revisions of any applicable laws or regulations make changes in this Agreement necessary.

15. **Procurement Regulations:** The Contract shall be governed by the applicable provisions of the *Mississippi Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations*, a copy of which is available at 501 North West Street, Suit 701E, Jackson, Mississippi 39201, for inspection or downloadable at http://www.DFA.ms.gov.

16. **Representation Regarding Contingent Fees:** The Contractor represents that it has not retained a person to solicit or secure a DFA contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in the Contractor's bid, proposal or qualifications.

17. **Representation Regarding Gratuities:** The Bidder, Offeror, or the Contractor represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the *Mississippi Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations.*

18. **Termination for Convenience:**

(1) Termination. The DFA may, when the interests of the DFA so require, terminate this Contract in whole or in part, for the convenience of the DFA. The DFA shall give written notification of the termination to the Contractor specifying the part of the Contract terminated and when the termination becomes effective.

(2) Contractor's Obligations. The Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the Contractor will stop work to the extent specified. The Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The DFA may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or subcontracts to the DFA. The Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

19. **Termination for Default:**

(1) *Default.* If the Contractor refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure its completion within the time specified in this contract, or any extension thereof, or otherwise fails to timely satisfy the Contract provisions, or commits any other substantial breach of this Contract, the DFA may notify the Contractor in writing of the delay or nonperformance and if not cured in ten (10) days or any longer time specified in writing by the DFA, the DFA may terminate the Contractor's right to proceed with the Contract or such part of the Contract as to which there has been delay or failure to properly perform. In the event of termination in whole or in part, the DFA may procure similar

supplies or services in a manner and upon terms deemed appropriate by the DFA. The Contractor shall continue performance of the Contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.

(2) *Contractor's Duties.* Notwithstanding termination of the Contract and subject to any directions from the Chief Procurement Officer, the Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the Contractor in which the DFA has an interest.

(3) *Compensation.* Payment for completed services delivered and accepted by the DFA shall be at the contract price. The DFA may withhold from amounts due the Contractor such sums as the DFA deems to be necessary to protect the DFA against loss because of outstanding liens or claims of former lien holders and to reimburse the DFA for the excess costs incurred in procuring similar goods and services.

(4) *Excuse for Nonperformance or Delayed Performance.* Except with respect to defaults of subcontractors, the Contractor shall not be in default by reason of any failure in performance of this Contract in accordance with its terms (including any failure by the Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if the Contractor has notified the DFA within fifteen (15) days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the public enemy; acts of the State and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or make progress, and if such failure arises out of causes similar to those set forth above, the Contractor shall not be deemed to be in default, unless the services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the Contractor to meet the Contract requirements. Upon request of the Contractor, the DFA shall ascertain the facts and extent of such failure, and, if DFA determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the Contractor's progress and performance would have met the terms of the Contract, the delivery schedule shall be revised accordingly, subject to the rights of the DFA under the clause entitled (in

fixed-price contracts, "Termination for Convenience," in cost-reimbursement contracts, "Termination"). (As used in this Paragraph of this clause, the term "subcontractor" means subcontractor at any tier).

(5) *Erroneous Termination for Default.* If, after notice of termination of the Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the Contract was not in default under the provisions of this clause, or that the delay was excusable under the provisions of Paragraph (4) (Excuse for Nonperformance or Delayed Performance) of this clause, the rights and obligations of the parties shall, if the Contract contains a clause providing for termination for convenience of the DFA, be the same as if the notice of termination had been issued pursuant to such clause.

(6) *Additional Rights and Remedies.* The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

20. **Stop Work Order:**

(1) *Order to stop work.* The Chief Procurement Officer, may by written order to the Contractor at any time, and without notice to any surety, require the Contractor to stop all or any part of the work called for by this Contract. This order shall be for a specified period not exceeding ninety (90) days after the order is delivered to the Contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the Chief Procurement Officer shall either:

(a) cancel the stop work order; or,

(b) terminate the work covered by such order as provided in the "Termination for Default" clause or the "Termination for Convenience" clause of this Contract.

(2) *Cancellation or Expiration of the Order.* If a stop work order issued under this clause is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or the Contractor price, or both, and the Contract shall be modified in writing accordingly, if:

(a) the stop work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this Contract; and,

(b) the Contractor asserts a claim for such an adjustment within thirty (30) days after the end of the period of work stoppage; provided that, if the Chief Procurement Officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this Contract.

(3) *Termination of Stopped Work.* If a stop work order is not cancelled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.

(4) *Adjustments of Price.* Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the "Price Adjustment" clause of this Contract.

21. **Price Adjustment:**

(1) *Price Adjustment Methods.* Any adjustment in contract price, pursuant to a clause in this Contract, shall be made in one or more of the following ways:

(a) by agreement on a fixed price adjustment before commencement of the additional performance;

(b) by unit prices specified in the contract;

(c) by the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as specified in the Contract; or,

(d) by the price escalation clause.

(2) *Submission of Cost or Pricing Data.* The Contractor shall provide cost or pricing data for any price adjustments subject to the provisions of Section 3-403 (Cost or Pricing Data) of the *Mississippi Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations.*

22. **Oral Statements:** No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this Contract. All modifications to the Contract must be made in writing by the DFA and agreed to by the Contractor.

23. **Ownership of Documents and Work Papers:** The DFA shall own all documents, files, reports, work papers and working documentation, electronic or otherwise, created in connection with the Project, which is the subject of this Agreement, except for the Contractor's internal administrative and quality assurance files and internal project correspondence. The Contractor shall deliver such documents and work papers to the DFA upon termination or completion of the Agreement. The foregoing notwithstanding, the Contractor shall be entitled to retain a set of such work papers for its files. The Contractor shall be entitled to use such work papers only after receiving written permission from the DFA and subject to any copyright protections.

24. **Indemnification:** To the fullest extent allowed by law, the Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate the DFA, its Commissioners, Board Members, officers, employees, agents, and representatives, and the State of Mississippi from and against all claims, demands, liabilities, suits, actions, damages, losses, and costs of every kind and nature whatsoever, including, without limitation, court costs, investigative fees and expenses, and attorneys' fees, arising out of or caused by the Contractor and/or its partners, principals, agents, employees, and/or subcontractors in the

performance of or failure to perform this Agreement. In the State's sole discretion, the Contractor may be allowed to control the defense of any such claim, suit, etc. In the event the Contractor defends said claim, suit, etc., the Contractor shall use legal counsel acceptable to the State. The Contractor shall be solely responsible for all costs and/or expenses associated with such defense and the State shall be entitled to participate in said defense. The Contractor shall not settle any claim, suit, etc., without the State's concurrence, which the State shall not unreasonably withhold.

25. **Third-Party Action Notification:** The Contractor shall give the DFA prompt notice in writing of any action or suit filed, and prompt notice of any claim made against the Contractor by any entity that may result in litigation related in any way to this Agreement.

26. **Notices:** All notices required or permitted to be given under this Agreement must be in writing and personally delivered or sent by certified United States mail, postage prepaid, return receipt requested, to the party to whom the notice should be given at the address set forth below. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

For the Contractor:	For the DFA:
Name	Laura D. Jackson
Title	Executive Director
Address	Post Office Box 267
City, State, & Zip Code	Jackson, Mississippi 39205-0267

27. **Approval:** It is understood that if this Contract requires approval by the Public Procurement Review Board and/or the Mississippi Department of Finance and Administration Office of Personal Service Contract Review, and this Contract is not approved by the PPRB and/or OPSCR, it is void and no payment shall be made hereunder.

28. **Priority:** The Contract consists of this Agreement, the request for proposal *[number]* (hereinafter "RFP" and attached as Schedule [ ]), and the response proposal by *[Contractor]* dated *[date]* (hereinafter "Proposal" and attached as Schedule [ ]). Any ambiguities, conflicts or questions of interpretation of this Contract shall be resolved by first, reference to this Agreement and, if still unresolved, by reference to the RFP and, if still unresolved, by reference to the proposal. Omission of any term or obligation from this Agreement or attached Schedules [ ] or [ ] shall not be deemed an omission from this Contract if such term or obligation is provided for elsewhere in this contract.

29. **Change in Scope of Work:** The DFA may order changes in the work consisting of additions, deletions, or other revisions within the general scope of the Contract. No claims may be made by the Contractor that the scope of the project or of the Contractor's services has been changed, requiring changes to the amount of compensation to the Contractor or other adjustments to the Contract, unless such changes or adjustments have been made by written amendment to the Contract signed by the DFA and the Contractor.

    If the Contractor believes that any particular work is not within the scope of the project, is a material change, or will otherwise require more compensation to the Contractor, the Contractor must immediately notify the DFA in writing of this belief. If the DFA believes that the particular work is within the scope of the Contract as written, the Contractor will be ordered to and shall continue with the work as changed and at the cost stated for the work within the Contract.

30. **Contractor Personnel:** The DFA shall, throughout the life of the contract, have the right of reasonable rejection and approval of staff or subcontractors assigned to the work by the Contractor. If the DFA reasonably rejects staff or subcontractors, the Contractor must provide replacement staff or subcontractors satisfactory to the DFA in a timely manner and at no additional cost to the DFA. The day-to-day supervision and control of the Contractor's employees and subcontractors is the sole responsibility of the Contractor.

31. **Recovery of Money:** Whenever, under the contract, any sum of money shall be recoverable from or payable by the Contractor to the DFA, the same amount may be deducted from any sum due to the Contractor under the Contract or under any other contract between the Contractor and the DFA. The rights of the DFA are in addition and without prejudice to any other right the DFA may have to claim the

amount of any loss or damage suffered by the DFA on account of the acts or omissions of the Contractor.

32. **Failure to Enforce:** Failure by the DFA at any time to enforce the provisions of the Contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the Contract or any part thereof or the right of the DFA to enforce any provision at any time in accordance with its terms.

33. **Trade Secrets, Commercial and Financial Information:** It is expressly understood that Mississippi law requires that the provisions of this Contract which contain the commodities purchased or the personal or professional services provided, the price to be paid, and the term of the Contract shall not be deemed to be a trade secret or confidential commercial or financial information and shall be available for examination, copying, or reproduction.

34. **Termination Upon Bankruptcy:** This Contract may be terminated in whole or in part by the DFA upon written notice to the Contractor, if the Contractor should become the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or upon the execution by the Contractor of an assignment for the benefit of its creditors. In the event of such termination, the Contractor shall be entitled to recover just and equitable compensation for satisfactory work performed under this Contract, but in no case shall said compensation exceed the total contract price.

35. **Confidentiality:** Notwithstanding any provision to the contrary contained herein, it is recognized that DFA is a public agency of the State of Mississippi and is subject to the Mississippi Public Records Act. Mississippi Code Annotated §§ 25-61-1 *et seq.* If a public records request is made for any information provided to the DFA pursuant to the agreement and designated by the Contractor in writing as trade secrets or other proprietary confidential information, the DFA shall follow the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1 before disclosing such information. The DFA shall not be liable to the Contractor for disclosure of information required by court order or required by law.

36. **Contractor's Insurance**: Contractor shall comply with the Worker's Compensation Laws of the State of Mississippi. Contractor shall maintain general liability insurance with the limits of $1,000,000 per occurrence for bodily injury, accidental death, and property damage. Contractor shall maintain motor vehicle liability covering all vehicles, owned or otherwise used, in the contract work with the limits of $1,000,000 per occurrence. Contractor shall also maintain motor vehicle property damage coverage for all property damage by vehicle with the limits of $250,000. The State of Mississippi shall be the certificate holder for this policy of insurance.

Witness our signatures, on the date first written.

(Insert Contractor)	Department of Finance and Administration
By:_____	By:_____
Name	Laura D. Jackson
Title	Executive Director