

CONTRACT: 50181729

North Dakota Department of Transportation  
**INVITATION TO BID**

Bid Number: 570-44-18-050	Bid Opening Date & Time: 12/07/2018 02:00 PM
Items: Posts, U-Channel	Buyer: Sean Lackner
Bid Mailing Address: 608 East Boulevard Ave	Telephone Number: (701) 328-2571
City, State, Zip: Bismarck, ND 58505	Email: selackner@nd.gov
Contract Period: 01/01/2019 TO 12/31/2019	Date Prepared: 11/08/2018

**BID RESPONSE**

Please submit your bid response on the attached forms in conformance with the instructions and specifications in the NDAC 04-12-01 – 04-12-16. One copy of your bid response must be returned to the North Dakota Department of Transportation (NDDOT) prior to the time and date specified for the bid opening. Bid responses received after the time and day specified for the bid opening will be rejected. Mark envelope with word "BID" and the opening time and date. **If your bid response is accepted by NDDOT, then your bid response will constitute a binding contract.**

**CONTRACT**

This contract is made and entered into by and between NDDOT for the state of North Dakota (hereinafter state) and

Vendor Name <i>MDSolutions</i>	Vendor Address <i>8225 Estates Pkwy, Plain City OH</i>
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(hereinafter vendor). In consideration of and for the acceptance by the state of the offer made by the vendor pursuant to the bid response, the vendor agrees and promises to sell, furnish, and deliver to the state, at the time, places, and prices specified in the bid response, all goods, merchandise, supplies, commodities, equipment, or other items contained in the bid response and for which the vendor has been awarded this contract by the state. The vendor shall fully perform this contract in accordance with the terms and conditions contained in the bid response including all specifications, rules, or regulations mentioned therein, and shall comply with all applicable provisions of the NDAC 04-12-01 – 04-12-16 promulgated by the State Purchasing Division; such manual being made a part of this contract by reference. The Risk Management Appendix and Appendices A and E of the Title VI Assurances, attached, are hereby incorporated into and made a part of this agreement.

The following must be completed by the vendor; failure to do so may result in the rejection of the vendors bid proposal.

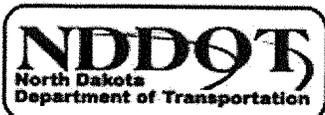
Vendor Name <i>MDSolutions</i>		
Mailing Address <i>8225 Estates Pkwy, Plain City OH 43064</i>		
Telephone Number <i>614-873-2222</i>	Fax Number <i>614-873-2220</i>	E-mail Address <i>neil@md-sis.com</i>

*Neil Loy - Sales*  
 Name & Title (Type or Print)  
 Signature  
 Date  
*12-3-18*

To be signed by **Owner; Partner; Corp. Pres., Vice Pres., or other authorized Corp. Officer** or bid may be rejected. (if signed by other authorized Corp. Officer, please attach copy of Power of Attorney or other documentation showing authority to sign.)

**FOR ND DEPARTMENT OF TRANSPORTATION USE ONLY** Accepted by the state according to provisions of award.

Authorized Signature <i>[Signature]</i>	Date <i>12/20/18</i>
Recommended for approval <i>[Signature]</i>	Date <i>12-19-18</i>
	Approximate contract amount \$



APPROVED as to execution this  
*20<sup>th</sup>* day of *December* 20*18*  
 ATTORNEY GENERAL  
 By *[Signature]*  
 SPECIAL ASST. ATTORNEY GENERAL

9. **Bidder Checklist.** HAVE YOU REMEMBERED TO:
- Review all instructions, terms and conditions, and specifications to ensure your bid response complies?
  - Prepare your price in the specified unit of measure, F.O.B. Destination, Freight Prepaid to the delivery location listed on the cover sheet?
  - Sign your bid response on the cover sheet?
  - Initial all changes and corrections?
  - Submit any required samples or enclosures, if applicable?
  - Mark the envelope as indicated above?
  - Review and complete all requirements contained in this solicitation to ensure compliance.
10. **Clarifications, Bid Changes and Questions Deadline.** The Procurement Officer is the point of contact. Any irregularities, lack of clarity, requested bid changes and all questions regarding this bid and the procurement process must be addressed to the Procurement Officer referenced on the first page of this document not later than end of business November 26, 2018. (Contact information is indicated on cover page). If a bid amendment is required, it will generally be issued after this date.

The bidder is cautioned that the requirement of this solicitation can be altered only by written amendments and that verbal communications from whatever source are of no effect.

11. **Corrections.** The bidder's authorized representative must initial any corrections and alterations (i.e. erasures, whiteouts, correction tape, etc.) made to the bid response. Those bid responses with corrections and alterations that are not initialed are subject to confirmation by the Procurement Officer.
12. **Definitions.**
- Bidder - any person or firm submitting a competitive bid in response to a solicitation.
  - Bid summary - a summary of all bid responses received by the NDDOT Procurement Office.
  - Bid response - the executed document submitted by a bidder in response to a solicitation.
  - Contract - a deliberate written agreement between two or more competent persons to perform specific act or acts.
  - Contractor - any person or firm having a contract with a governmental body.
  - Solicitation - the process of notifying prospective bidders that the State wishes to receive bids for furnishing goods or services.
13. **Electronic & Facsimile Bids.** Bid responses are not to be email attached or faxed to the NDDOT unless this transmittal method has been authorized by the Procurement Officer or bid document. (Contact the Procurement officer regarding additional requirements and exceptions.) Bid responses electronically submitted or faxed may be rejected as non-responsive. Bids may be faxed to a third party who will put it in a properly-addressed envelope and deliver it to the NDDOT Procurement Office before the date and time specified in the solicitation.
14. **Freight/F.O.B. Destination.** Freight and transportation charges are to be included in the price of the products, unless otherwise specified in the solicitation. (F.O.B. - Free On Board).
15. **Indemnification.** Bidders must review the attached Risk Management Appendix for indemnification and insurance requirements. The indemnification and insurance provisions are incorporated and made part of this solicitation and the resultant final contract. Objections to any of the provisions of the indemnification and insurance requirements must be made in writing to the attention of the Procurement Officer by the time and date set for receipt of questions. No alteration of these provisions will be permitted without prior written approval from the Purchasing Agency or Entity in consultation with the North Dakota Risk Management Division. Upon receipt of the Notice of Award, the successful bidder must obtain the required insurance coverage and provide the Procurement Officer with proof of coverage prior to contract approval. The coverage must be satisfactory to the Purchasing Agency or Entity, in consultation with the North Dakota Risk Management Division. A bidder's failure to provide evidence of insurance coverage is a material breach and grounds for withdrawal of the award or termination of the contract.
16. **Late Bids.** It is the bidder's responsibility to ensure that a bid response is physically deposited with the NDDOT Procurement Office prior to the date and time specified for the opening. Late bids will be rejected, regardless of the degree of lateness, unless the delay is due to the error of the Purchasing Agency and discovered before the selection of the successful bidder.

indicating the individual has authority to enter into a contract on behalf of the company (or a Power of Attorney).

29. **Specifications, Brand Name or Equivalent.** Unless otherwise indicated in the detailed specifications of this solicitation, the use of a specific brand name or make/model is for illustrative purposes only, and the State will consider equivalent products. If a commodity or service put forth by a bidder is rejected as not being equivalent, the Procurement Officer will notify the bidder of the rejection.
30. **Specifications, Compliance.** All bid responses must comply with the specifications contained herein, and the successful bidder will be held responsible. Noncompliance with specifications is grounds for rejection of the bid response. Bidders who desire to submit commodities or services that deviate from these specifications or have any objections to the specifications stated herein must be clearly pointed out PRIOR TO THE DEADLINE FOR RECEIPT OF QUESTIONS; otherwise, it will be considered that the items offered are in strict compliance with these specifications, and the bidder will be held responsible.
31. **Supplemental Terms and Conditions.** Bids including supplemental terms and conditions will be accepted, but supplemental conditions that conflict with any conditions contained in this ITB or that diminish the State's rights will be considered null and void. The State is not responsible for identifying conflicting supplemental terms and conditions before issuing a contract award.

After award of contract:

- a) If a conflict arises between a supplemental term or condition included in the bid and a term or condition of the ITB, the term or condition of the ITB will prevail, and,
- b) If the State's rights would be diminished as a result of application of a supplemental term or condition included in the bid, the supplemental term or condition will be considered null and void.

Changes, modifications, additions, or alterations to the bid document could be cause for rejection of the submitted bid at the sole discretion of the NDDOT. Contact the Procurement Officer in writing prior to the deadline for clarifications.

32. **Taxes.** The State does not pay sales tax or federal excise tax. The state sales tax exemption number is E-2001. The federal tax-free transaction number is 45-70-0010K. The Purchasing Agency will furnish a tax exempt certificate upon request.
33. **Vendor Registration.** Bids will be accepted from bidders who are not currently Approved Bidders for the State of North Dakota; however, the successful bidder may be required to become approved prior to award, in accordance with N.D.C.C. 54-44.4-09. To become an Approved Bidder, you must: 1) register with the North Dakota Secretary of State (fees apply), and 2) submit a completed Bidder List Application to the ND State Procurement Office. Registration instructions and forms are available on-line at: [www.nd.gov/spo/vendor](http://www.nd.gov/spo/vendor). Contact the ND State Procurement Office at 701-328-2683 or [infospo@nd.gov](mailto:infospo@nd.gov) for assistance.

Placement on the bidders list does not guarantee a bidder will receive notice of every formal solicitation. Bidders must maintain current information by submitting a Notice of Change form to the State Procurement Office (Fax 701-328-1615). Visit the website for forms: [www.nd.gov/spo/vendor](http://www.nd.gov/spo/vendor).

34. **Withdrawal or changes to a bid response prior to the bid opening date and time.** A bidder may withdraw or make a change to his bid response prior to the bid opening date and time. The request to make a change or withdraw must be in writing by a representative of the firm. The request to withdraw or change must be signed by the bidder or his designated representatives.
35. **Withdrawals after the bid opening date and time.** After the bid opening, no changes may be made to the bid response. The bidder may make a written request to withdraw the bid response, subject to approval by the NDDOT Procurement Office. Vendors continually withdrawing bids after the bid opening may be removed from the Vendor Database.

The State shall also be advised of and receive the benefit of any price decrease. The same notification and review process will apply to a decrease in cost.

8. **Contract Term and Renewal Option.** The NDDOT will enter into a contract with an effective date **beginning January 1, 2019, and ending December 31, 2019**, inclusive. This contract may be renewed upon satisfactory completion of the initial contract term. The NDDOT reserves the right to execute up to 4 options to renew this contract for a period of twelve (12) months each, not to exceed sixty (60) months total. Renewals will be documented by amendment.

The NDDOT reserves the right to renegotiate price and terms provided that such negotiated price and terms fall within the original scope of work for this bid. Negotiations may be conducted annually or at such times that additional and unexpected services falling within the scope of the contract may occur. Such changes will be documented by amendment to the contract.

9. **Contract Termination.**

- a. **Termination without Cause.** This contract may be terminated by mutual consent of both parties, or by either party upon 30 days' written notice.
- b. **Termination for Lack of Funding or Authority.** The State may terminate this contract effective upon delivery of written notice to the contractor, or on any later date stated in the notice, under any of the following conditions:
  - i. If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term. The contract may be modified by agreement of the parties in writing to accommodate a reduction in funds.
  - ii. If federal or state regulations or guidelines are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.
  - iii. If any license or certificate required by law or regulation to be held by the contractor to provide the services required by the contract is for any reason denied, revoked or not renewed.Any such termination of this contract under (i), (ii), or (iii), above, shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.
- c. **Termination for Cause.** The State by written notice to the contractor may terminate the whole or any part of this contract:
  - i. If the contractor fails to provide services required by this contract within the time specified herein or any extension thereof; or
  - ii. If the contractor fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms and after receipt of written notice from the State, fails to correct such failures within ten days or such longer period as NDDOT may authorize.
  - iii. The rights and remedies of the State provided in the above clause related to defaults by the contractor are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.
- d. **Termination, Deliveries.** If the contract is terminated for any reason, the contractor is responsible for delivery of all commodities and services ordered prior to the termination, unless those orders had been canceled by the Purchasing Agency or Entity.

10. **Inspection and Investigations.** The State reserves the right to conduct inspections and investigations related to the bidder and the offered commodities or services, including but not limited to the firm, personnel, qualifications, and the commodities and services offered to make determinations regarding compliance with the bid requirements and responsibility of the bidder. All material and workmanship are subject to inspection and testing by the State at the point of manufacturer, place of storage, or upon receipt. The State reserves the right to reject any commodities or services and terminate the contract if the Contractor fails to comply with the specifications, terms and conditions, or the seller's express or implied warranties. Rejected commodities will be removed at the Contractor's expense. Failure to satisfactorily perform may result in suspension or debarment from the Bidders List.

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
SPECIFICATIONS FOR  
U-CHANNEL HIGHWAY SIGN POSTS**

Sealed bids will be received for furnishing "**U-CHANNEL HIGHWAY SIGN POSTS**" per the terms and conditions of this document and the U-Channel specifications to follow. To be considered, this bid form must be completed in its entirety and received by the North Dakota Department of Transportation (NDDOT) per the mailing instructions.

**DELINEATOR POSTS** (894.04)

1. Steel posts shall meet ASTM A-702.
2. Steel posts shall be galvanized according to AASHTO M-III.
3. The top 30" is to be punched with 3/8" round holes on one inch centers; the first hole to be one inch from the post top. Posts with holes at one inch spacing the entire length of the post are also acceptable.
4. Weight shall not be less than 2.0 pounds per lineal foot, +/- 5% before punching.

**BARRIER POSTS**

1. Produced from HR high carbon rail steel chemistry to ASTM A 1-91 # rail or better, certified to ASTM A- 499 Grade 60.
2. Weight shall not be less than 1.12 pounds per lineal foot, +/- 5% before punching.
3. 6' or 7' length.
4. The top 30" is to be punched with 3/8" round holes on one inch centers; the first hole to be one inch from top. Posts with holes at one inch spacing the entire length of the post are also acceptable.
5. Tapered ends.
6. Galvanized in accordance with the requirements of ASTM A-123.
7. If requested, the vendor shall provide painted posts as per the manufacturer's standards in the colors indicated.

**REORDER QUANTITY AND DELIVERY**

NDDOT agrees to purchase a minimum of 200 posts per reorder.

Contractor agrees to provide reorder deliveries within 30 days of purchase order receipt.

Delivery shall be on a flatbed trailer.

BIDDER: \_\_\_\_\_

*MDSolutions*

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
 BID SHEET FOR U-CHANNEL HIGHWAY SIGN POSTS**

Deliveries will be on a flatbed trailer YES X NO \_\_\_\_\_

Orders will be delivered within 30 days of receipt of Purchase Order YES \_\_\_\_\_ NO X 60 days

Name of Manufacturer: CHS

BARRIER POSTS 1.12 lbs. per lineal foot (F.O.B. Destination)					
Approximate Quantities of Initial Order					
District Location	Size	Finish	Qty - EA	Unit Price	Total
218 S Airport Rd Bismarck ND 58504	6'	Galvanized	200	\$ 9.18	\$ 1,836. <sup>00</sup>
	7'	Galvanized	0	\$ 11.08	\$
1524 8th Ave SE Valley City ND 58072	6'	Galvanized	0	\$ 9.18	\$
	7'	Galvanized	0	\$ 11.08	\$
316 S 6th St Devils Lake ND 58301	6'	Galvanized	0	\$ 9.18	\$
	7'	Galvanized	0	\$ 11.08	\$
1305 Hwy 2 Bypass Minot ND 58702	6'	Galvanized	0	\$ 9.18	\$
	7'	Galvanized	0	\$ 11.08	\$
1700 3rd Ave W Dickinson ND 58602	6'	Yellow	50	\$ 9.18	\$ 959. <sup>00</sup>
	7'	Galvanized	0	\$ 11.08	\$
1951 N Washington Grand Forks ND 58208	6'	Galvanized	0	\$ 9.18	\$
	7'	Galvanized	0	\$ 11.08	\$
605 Dakota Parkway W Williston ND 58802	6'	Galvanized	200	\$ 9.18	\$ 1,836. <sup>00</sup>
	7'	Galvanized	200	\$ 11.08	\$ 2,216. <sup>00</sup>
503 38 <sup>th</sup> St S Fargo ND 58102	6'	Galvanized	0	\$ 9.18	\$
	7'	Galvanized	0	\$ 11.08	\$
TOTAL DOLLAR AMOUNT					\$ 6,847. <sup>00</sup>

PLEASE PROVIDE A DELIVERED PRICE FOR ALL DISTRICTS WITH OR WITHOUT QUANTITIES.

Estimated Delivery Date for Initial Order 60 days (No later than May 1, 2019).

**REORDERS:** The bidder agrees to furnish additional posts F.O.B. any district location at the following unit prices:

6' Galvanized \$ 10.68    6' Yellow \$ 20.00    6' Orange \$ 20.00    6' Black \$ 20.00  
 (57044-841559)    (57044-271302)    (57044-271203)    (57044-271005)

7' Galvanized \$ 11.08    7' Yellow \$ 22.00    7' Orange \$ 22.00  
 (57044-841740)    (57044-271609)    (57044-271500)

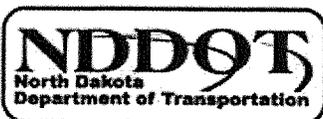
BIDDER: MOSolutions

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION  
APPENDIX E OF THE TITLE VI ASSURANCES**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

**Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.P.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).



**North Dakota Department of Transportation  
AMENDMENT TO CONTRACT NO. 50181729A**

THIS AMENDMENT to the above-referenced contract is entered into by and between the State of North Dakota, acting through its Director of Transportation, hereinafter known as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and MDSolutions, hereinafter known as the Contractor, whose address is 8225 Estates Parkway, Plain City, OH 43064.

WHEREAS, the parties entered into a contract on January 1, 2019; and

WHEREAS, the contract was competitively bid and awarded to the Contractor; and

WHEREAS, the Contractor has performed satisfactorily under the terms of the contract; and

WHEREAS, the Contractor has expressed a willingness to extend the term of the above referenced contract for an additional twelve (12) months; and

NOW THEREFORE, the Contractor and NDDOT agree that the term of the contract is extended through December 31, 2020.



All other terms and conditions of the above-referenced contract are incorporated herein by reference and remain in full force and effect.

EXECUTED the date last below signed.

WITNESS:

Thomas Baird  
NAME (TYPE OR PRINT)  
[Signature]  
SIGNATURE

CONTRACTOR:

MOSolutions  
COMPANY NAME  
Neil Lucy  
OFFICER'S NAME (TYPE OR PRINT)  
[Signature]  
SIGNATURE  
Sales  
TITLE  
11-26-19  
DATE

To be signed by Owner; Partner; Corp. Pres., Vice Pres., or other authorized Corp. Officer. (If signed by other authorized Corp. Officer, please attach copy of Power of Attorney or other documentation showing authority to sign.)

WITNESS:

LAUREEN M. MARTIN  
NAME (TYPE OR PRINT)  
[Signature]  
SIGNATURE

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

[Signature]  
DIRECTOR (TYPE OR PRINT) WS  
RONALD J. HENKE  
SIGNATURE  
12/5/19  
DATE

APPROVED as to substance by:

Brend Jan  
DIVISION DIRECTOR (TYPE OR PRINT)  
Brend Jan  
SIGNATURE  
12-3-19  
DATE

CLA 52494 (Div. 06)  
L.D. Approved 5-19-00; 5-03

APPROVED as to execution this  
14<sup>th</sup> day of December 20, 19  
ATTORNEY GENERAL  
By [Signature]  
SPECIAL ASST. ATTORNEY GENERAL

[Signature]

