





CONTRACT NOTIFICATION

State Of Missouri
Public Service Commission
PO Box 360
Jefferson City, MO 65102

CONTRACT NUMBER Contract Number X2437500002	CONTRACT TITLE Consulting & Testifying Expert Witness Services – Ameren Missouri Financing Order
CONTRACT PERIOD January 12, 2024 to January 11, 2028	CASE NUMBER Case Number EF-2024-0021
REQUISITION NUMBER NA	VENDOR NUMBER Vendor Number MB00178352
CONTRACTOR NAME AND ADDRESS Ducera Partners LLC 11 Times Square, 36th Floor New York, NY 10036	STATE AGENCY'S NAME AND ADDRESS Missouri Public Service Commission Post Office Box 360 Jefferson City MO 65102
ACCEPTED BY THE STATE OF MISSOURI AS FOLLOWS: Signed Contract with (Ducera Partners LLC) for Consulting & Testifying Expert Witness Services, Case Number EF-2024-0021, Ameren Missouri for a financing order for issuance of securitized utility of securitized utility bonds pursuant to Section 393.1700.2(2), et. seq. RSMo (2021) for Energy Transition Costs related to Rush Island Energy Center.	
BUYER OF CONTRACT Robert L. Verslues	BUYER CONTACT INFORMATION Phone: 573-751-3375, Fax: 573-526-3484 E-Mail: rob.verslues@psc.mo.gov
MOPSC - DIRECTOR OF ADMINISTRATION Loyd Wilson	CONTRACTOR'S NAME – PERSONNEL TITLE Michael A. Kramer, Chief Executive Officer
SIGNATURE OF DIRECTOR OF ADMINISTRATION 	CONTRACTOR'S SIGNATURE 
DATE 01/10/2024	DATE January 12, 2024

**Missouri Public Service Commission
Consulting & Testifying Expert Witness Services Contract
Case EF-2024-0021 – Ameren Missouri Financing Order
(Ducera Partners LLC)**

This contract is entered into this 12th day of (January 2024, by and between the Missouri Public Service Commission (“MoPSC”) and Ducera Partners LLC (“Contractor”).

1. Introduction and General Information

1.1 Introduction:

1.1.1 This document has been initiated for consulting expert and testifying witness services for the Missouri Public Service Commission Staff (referred to hereinafter as the Commission Staff) relating to issuance of securitized utility tariff bonds by electric utilities under the Commission’s regulatory jurisdiction as set forth herein.

2.1.2 The Contractor, acting in accordance with the prudent expert standard of conduct, will assist the Commission Staff with reviewing and analyzing a petition for a financing order and other filings and case related argument through providing input and collaboration, and opinion throughout the process that leads to the issuance of, and on the reasonableness of, any issuance advice letter of securitized utility tariff bonds pursuant to Section 393.1700, et. seq., RSMo (2021). Commission Staff acts as a party before the Commission, and the Contractor and its agents will be required to comply with the Commission’s Rules on Standards of Conduct, meaning the witness will not communicate outside the case process with any Commissioners, member of the Commission’s advisory staff, or Commission Regulatory Law Judge. 20 CSR 4240-4.015. The Contractor will be able to communicate with the Commission’s Director of Administration, Commission Staff members, and any other liaison or designee identified to the Contractor.

1.2 Background Information:

1.2.1 The Missouri General Assembly created the Public Service Commission (“MoPSC”) in 1913. The jurisdiction of the MoPSC extends to all investor-owned electric corporations providing intrastate electric services at retail in the state of Missouri.

1.2.2 The MoPSC is comprised of five (5) Commissioners who are appointed by the Governor, to staggered terms of six (6) years, with the advice and consent of the Missouri Senate. The terms of no more than two (2) Commissioners expire in any one (1) year. The Governor designates one (1) member as the Chairman who serves in that capacity at the pleasure of the Governor. Historically, a majority of the Commissioners have been of the same political party as the Governor.

1.2.3 The MoPSC is served by Commission Staff consisting of professional accountants, engineers, economists, attorneys, financial analysts, and management specialists. The Commission Staff participates as a party in cases filed before the MoPSC, while the MoPSC acts as the quasi-judicial decision-maker that ultimately approved, rejects or otherwise determines and disposes of the case before it.

1.2.4 House Bill 734 was Truly Agreed and Finally Passed by the Missouri General Assembly on May 13, 2021, was approved by the Governor on July 6, 2021, and became effective August 28, 2021. The Bill authorizes electrical corporations to petition the MoPSC for a financing order to finance securitized utility tariff costs through the issuance of securitized utility tariff bonds and sets forth various requirements to do so. The Bill requires the MoPSC to issue a financing order approving the petition, an order approving the petition subject to conditions, or an order rejecting the petition within 215 days after the date the petition is filed.

2. Contractual Requirements

2.1. General Requirements:

- 2.1.1 The Contractor shall provide the consulting expert and testifying expert witness services for the Commission Staff in case docket EF-2024-0021, in accordance with the provisions and requirements stated herein.
- 2.1.2 The purpose of this engagement is to advise and assist the Commission Staff with all aspects of a docketed case opened in response to a notice of intended filing of petition filed by Union Electric Company d/b/a Ameren Missouri, a Missouri-regulated electrical corporation, for a financing order authorizing the issue of securitized utility tariff bonds pursuant to Section 393.1700.2(2), *et. seq.* RSMo (2021). Ameren Missouri filing requests securitization of energy transition costs related to the Rush island Energy Center.
- 2.1.3 The Contractor shall perform all services to the sole satisfaction of the Commission Staff. The Petition in case EF-2024-0021 was filed on November 21, 2023. Commission Staff will commence working with the contractor once the petition has been officially filed with the Commission.

2.2 Contractor's Qualifications:

- 2.2.1 The Contractor should have extensive experience in all the following:
 - a. investment banking;
 - b. structuring, marketing and pricing of either taxable or tax exempt investor owned electric utility bonds, asset backed securities, or public power bonds;
 - c. financial advisor in the capital markets;
 - d. consulting expert or testifying expert before any court or regulatory agency, and preferably before a state or federal utility regulatory commission or agency, including appearing as a witness in any deposition, hearing, or trial.
- 2.2.2 The Contractor should have working familiarity of the following:
 - a. general regulation of investor-owned electrical corporations;
 - b. accounting standards and practices for regulated investor-owned electrical corporations;
 - c. cost-of-service methodologies and associated rate design and allocation in Missouri and other states for regulated investor-owned electrical corporations;
 - d. alternative sources of funds to offset extraordinary storm-related costs, including insurance proceeds, governmental aid, and tax benefits.

2.3 Contractor's Personnel Qualifications:

- 2.3.1 The Contractor's personnel should have the knowledge and requisite experience of one or more of the following:
 - a. investment banking;
 - b. structuring, marketing and pricing of either taxable or tax exempt investor owned electric utility bonds, asset backed securities, or public power bonds;
 - c. financial advisor in the capital markets;
 - d. consulting expert or testifying expert before any court or regulatory agency, and preferably before a state or federal utility regulatory commission or agency, including appearing as a witness in any deposition, hearing, or trial.

- 2.3.2 The Contractor's personnel should have working familiarity of one or more of the following:
- a. general regulation of investor-owned electrical corporations;
 - b. accounting standards and practices for regulated investor-owned electrical corporations;
 - c. cost-of-service methodologies and associated rate design and allocation in Missouri and other states for regulated investor-owned electrical corporations;
 - d. alternative sources of funds to offset extraordinary storm-related costs, including insurance proceeds, governmental aid, and tax benefits.
- 2.3.3 The Contractor shall designate a contact person who shall serve as the Contractor's primary contact and shall be the liaison between the Contractor and the Commission Staff. The Contractor's contact person shall (1) oversee all services being provided, (2) assume responsibility and liability for services performed per the contract, and (3) serve as the primary point of contact for the Commission Staff.

2.4 Performance Requirements:

- 2.4.1 The Contractor shall be responsible for supporting the Commission Staff in performing their responsibilities during the pre-financial order and post-financing order phases, as outlined below.
- 2.4.2 The Contractor must retain experienced Bond Counsel throughout this assignment. The Contractor has identified and retained Paul, Weiss, Rifkind, Wharton & Garrison LLP as Bond Counsel.
- 2.4.3 **Pre-Financing Order Phase:** During this phase, the Contractor shall assist the Commission Staff in the docketed case related to a utility's petition for a financing order to issue securitized utility tariff bonds, in accordance with Section 393.1700. From the date the petition is filed, the Commission has two hundred fifteen (215) days to issue a financing order approving the petition, approving the petition subject to conditions, or rejecting the petition. The Contractor shall perform the following activities within this two hundred fifteen (215) day timeline:
- 1) Docket Support Activities
 - a. The Contractor shall assist Commission Staff in preparing information to support the record for the decisions the Commission may or must address in the financing order, as outlined in Section 393.1700.2.(3)(c), (d), and (g). The specific activities the Contractor shall provide support are in the following subparts a, b, c, d, e, g, h, i, j, k, l, n, and o of Section 393.1700.2.(3)(c). It should be noted that for subparts e and j, it is assumed that Ameren Missouri will submit a proposal, for which the Contractor will assist Commission Staff in reviewing and recommending modifications accordingly.
 - b. The Contractor shall assist Commission Staff in the docketed case related to Ameren Missouri's petition for a financing order to finance securitized utility tariff costs through the issuance of securitized utility tariff bonds. This shall include but not be limited to:
 - i. Review and Evaluation of the Application:
 - (1) Review and evaluate the sufficiency of Ameren Missouri's petition and attached filings, including pre-filed direct testimony and any reports or work papers.
 - ii. Testimony and Recommendations:
 - (1) Review and evaluate direct, rebuttal and surrebuttal testimony, including any exhibits, reports or work papers, from the various parties,
 - (2) Prepare and review direct, rebuttal and surrebuttal testimony on the relevant topics as directed by Commission Staff, including exhibits, reports or work papers;
 - (3) Advise Commission Staff on issues before and as they arise in testimony;
 - (4) Participate in meetings with Commission Staff and with the company, as needed and directed by Commission Staff; and

- (5) Prepare analysis and conduct and document due diligence to support the Contractor's and Commission Staff's recommendations to the Commission.
- iii. Data Requests and Other Discovery:
 - (1) Draft data requests and review responses to any data requests;
 - (2) Respond to data requests with the consultation of Commission Staff;
 - (3) Assist Commission Staff in pursuing discovery requests and motions, including any written or oral explanation of the relevance or lack thereof of any particular discovery request to any issue in the case, the proportionality of the discovery request to the value or importance of the related issue in the case; or the value of any trade secret or other proprietary information associated with any discovery request;
 - (4) Assist Commission Staff in defending discovery objections or motions as necessary, including any written or oral explanation of the relevance or lack thereof of any particular discovery request to any issue in the case, the proportionality of the discovery request to the value or importance of the related issue in the case, or the value of any trade secret or other proprietary information associated with any discovery request; and
 - (5) Assist Commission Staff in preparing and responding to any other discovery request, including interrogatories, requests for production of documents and things, requests for admission, and depositions.
- iv. Other Pre-hearing Work and Settlement Negotiations:
 - (1) Propose, review, and consult with Commission Staff on potential stipulations of undisputed facts;
 - (2) Propose, review, and analyze potential stipulation or settlement terms; and
 - (3) Assist Commission Staff with any pre-hearing motions as necessary or applicable.
- v. Evidentiary Hearing and Briefing
 - (1) Assist in hearing preparation, including cross-examination of witnesses;
 - (2) Attend and testify, if required;
 - (3) Attend and provide consultation and guidance to Commission Staff regarding testimony and responses to questions from the Regulatory Law Judge (RLJ) and Commissioners.
 - (4) Assist with drafting and reviewing at the direction of Commission Staff all post-hearing Briefs as applicable; and
 - (5) Assist with drafting and reviewing at the direction of Commission Staff any proposed financing order, including proposed findings of fact as applicable.
- c. The Contractor shall review proposed financing costs, structuring of bond issuance, expected pricing of the bonds, and terms and conditions of the Securitized Utility Tariff Bond(s) and make recommendations for any suggested modifications to the proposed offering(s).
- d. The Contractor shall analyze whether the financing proposed in the petitions would be reasonably expected to result in lower overall costs, or would avoid or significantly mitigate rate impacts to customers, compared to alternative methods of financing, and make recommendations for suggested modifications.
- e. The Contractor shall review and evaluate proposed true-up calculation procedures and proposed methods for tracing funds collected as the Securitized Utility Tariff Charge.
- f. The Contractor shall provide guidance and recommendations as to the degree of flexibility to be afforded to Ameren Missouri in establishing the terms and conditions of the securitized utility tariff bonds, including among other things repayment schedules, expected interest rates, financing costs, collateral requirements, required debt service and other reserves.
- g. The Contractor shall assist in proposing a format for the issuance letter and its attachments, the true-up adjustment letter and Ameren Missouri's certification letter to be included as part of the financing order.
- h. The Contractor shall be available for weekly conference calls with Commission Staff.
- i. The Contractor shall participate with Commission Staff in meetings and conference calls with Ameren Missouri.

- j. The Contractor shall communicate regularly with Commission Staff personnel regarding project status and planning.
- k. Upon request, the Contractor shall provide one or more oral briefings to the Commission, the Commission Staff or other parties on the results of the transaction.

2.4.4 **Post-Financing Order Phase:** During this phase, the Contractor shall assist the Commission Staff in providing input to Ameren Missouri and collaborating with the electrical corporation in all facets of the process undertaken by Ameren Missouri to place the securitized utility tariff bonds to market. This shall include, but not be limited to the following:

1. Structuring, Marketing, Pricing Activities

- a. The Contractor shall actively participate in meetings with the underwriters, Ameren Missouri, Commission Staff and any other stakeholders related to structuring, marketing and pricing of the bonds, and provide input to the Commission Staff as necessary.
- b. The Contractor shall review and provide written comments to Commission Staff on all applicable documents, which shall include but not be limited to the following:
 - i. marketing material;
 - ii. underwriter selection process;
 - iii. underwriter's list of investors;
 - iv. proposed credit enhancements;
 - v. underwriter's due diligence;
 - vi. market conditions;
 - vii. legal opinions given to rating agencies; and
 - viii. any "blue sky" memoranda prepared by underwriter's counsel that confirm compliance with the securities laws (i.e., "blue sky" laws) of each state where transition bonds are to be offered.
- c. The Contractor shall ensure the MoPSC's requirements outlined in the financing order are adhered to throughout the process and bringing to the attention of the Commission Staff any activity or action that may impact the ability to achieve the lowest securitized utility tariff charge that are just and reasonable.
- d. The Contractor shall ensure the lowest cost of funds by evaluating market conditions and making recommendations to the Commission Staff on various aspects of the transaction including but not limited to:
 - i. the timing of the proposal;
 - ii. the alternative tranching structures to target current demand conditions; and
 - iii. the optimal mix of fixed rate and floating rate transition bonds (with such swaps, collars or other hedging strategies as found to be appropriate by the Contractor).
- e. The Contractor shall bring to the attention of the Commission Staff any transaction structure issues that might result in higher transition charges.

2. Issuance Advice Letter Activities

- a. No later than Noon Central Time of the second business day after the submittal date of the Issuance Advice Letter, the Contractor shall submit a letter to Commission Staff opining on whether the structuring, marketing and pricing of the bonds resulted in the lowest charge consistent with market conditions; provided that such letter would not constitute, and should not be construed to constitute, a fairness opinion, as that term is used in corporate finance or otherwise. The letter should also identify any action or inaction that caused the transaction not to achieve the lowest charge. The letter shall explain in detail any reasons why the Contractor recommends that the transaction should not go forward, and any circumstances or remedies that the Contractor believes must occur for the transaction to go forward.

3. Closing Activities

- a. The Contractor shall review documents associated with any final bond issuance, monitor the actual solicitation of bonds, and ensure that all reasonable and customary due diligence has been performed on the part of Ameren Missouri, its bond underwriters, and its financial advisors.
- b. The Contractor shall assist the Commission Staff in its review of information submitted by Ameren Missouri on the actual costs of a securitized utility tariff bond issuance not fixed in the financing order.

2.4.5 **Reliance:** The Contractor shall be entitled to rely on any certificate, record, agreement, instrument, document and any other information provided to it by the Commission, Commission Staff and any third-party without independent investigation or verification.

2.5 Conflict of Interest:

2.5.1 The Contractor shall sign a written statement in the form of **Attachment A** that it shall have a fiduciary duty with respect to the proposed issuance of securitized utility bonds solely to the Commission.

2.5.2 The Contractor agrees that all expenses associated with its services to Commission Staff will be paid by the electrical corporation and will not be paid by the Commission or Commission Staff.

2.5.3 The Contractor shall notify Commission Staff prior to providing financial services, bond underwriting services, or entering into a financial relationship with any Missouri investor-owned electric utility, its parent, or any affiliate of Empire District Electric Company d/b/a Liberty, Evergy Metro, Inc., Evergy Missouri West, Inc., and Union Electric Company d/b/a Ameren Missouri.

2.5.4 The Contractor has stated that, to the best of its knowledge, information and belief, it does not currently have any potential or existing conflicts. Contractor shall promptly notify Commission Staff if any such potential or actual conflict should arise, and in no case fewer than three (3) calendar days after Contractor has knowledge of any potential or actual conflict.

2.5.5 The Contractor shall identify any arrangement with any individual or entity with respect to the sharing of any compensation, fees or profit received from or in relation to acting as a financial advisor, consulting expert, or testifying expert to the Commission Staff or whose compensation is based in whole or in part on compensation for acting as the financial advisor, consulting expert, or testifying expert. If such arrangement exists, provide copies of any contract(s) relating to the arrangement and describe in detail the nature of the arrangement and the method of computing compensation.

2.5.6 The Contractor has identified Paul, Weiss, Rifkind, Wharton & Garrison LLP as Bond Counsel for the purpose of assisting the Contractor as the Commission Staff's expert pursuant to this contract. Contractor shall promptly, and in no event fewer than three (3) calendar days notify Commission Staff of any changes to the Bond Counsel identified.

2.5.7 The Contractor further agrees and understands that a determination by the MoPSC of the existence of a conflict of interest, either real or perceived, may be grounds for termination of the contract.

2.6 Invoicing and Payment Requirements:

2.6.1 Pursuant to Section 393.1700, RSMo (Supp. 2021), the Contractor understands and agrees that all payments shall be made by Ameren Missouri and that neither the MoPSC nor the Commission Staff are obligated for any payments due to the Contractor. All payments rendered under this contract, including bond counsel services, shall be made directly to the Contractor.

- 2.6.2 Subject to whatever reasonable additional or reasonable other requirements may be ordered by the MoPSC, the Contractor shall submit invoices to the Commission BFS Department e-mail address (procurementteam@psc.mo.gov). Commission Staff will review such invoices within 10 business days and will forward the invoice to Ameren Missouri within 2 business days of the completion of the review.
- 2.6.3 Subject to whatever reasonable additional or reasonable other requirements may be ordered by the MoPSC, the Contractor shall submit monthly itemized invoices to show the monthly fee detail and expense for Ducera and breakdown of the total number of hours worked for all personnel by the firm within the fee structure set forth in **Schedule A** (Pricing Page). All invoices shall separately itemize expenses for Bond Counsel and the Contractor shall attach invoices from Bond Counsel, with any charges not related to the Contractor's engagement in this case redacted; provided that Contractor shall not be required to disclose any portions of invoices from Bond Counsel subject to the attorney-client privilege between Contractor and Bond Counsel.
- 2.6.4 The Contractor shall be paid for actual services provided up to the guaranteed not to exceed cost in **Schedule A** (Pricing Page). The Contractor shall be paid for costs of Bond Counsel up to the guaranteed not to exceed cost in **Schedule A**.
- 2.6.5 The Contractor will invoice for the services based on the rates stated in **Schedule A** (Pricing Page). The Contractor will invoice separately, based on the rate stated in **Schedule A**, for services that are outside of the scope of work, If the Contractor and MoPSC deem it to be necessary, a contract amendment may be issued to either add additional personnel to provide services under this contract or to include additional services that are outside the scope of work stated in the contract. For any additional services outside the scope of work, a separate guaranteed not to exceed cost will be added to **Schedule A** to provide the additional services, if the Contractor and MoPSC deem it to be necessary.
- 2.6.6 **Travel Reimbursement** - The Contractor shall be reimbursed as specified below for travel expenses incurred when required to travel away from the Contractor's official domicile in order to fulfill the requirements of the contract. The Contractor must obtain the written approval (such approval not to be unreasonably withheld, conditioned or delayed) of the Commission Staff prior to incurring any travel expenses. The Contractor must provide the Commission Staff with the amount of detail on the travel request as required by the Commission Staff in order for the Commission Staff to review the appropriateness of travel and estimated travel charges.
- a. Mileage – The Contractor shall be reimbursed for travel mileage at the current per mile reimbursement rate ordered by the commissioner of administration pursuant to section 33.095, RSMo. The current per mile reimbursement rate can be found at the following website: <http://oa.mo.gov/accounting/state-employees/travel-portal-information/mileage>.
 - b. Lodging – If overnight lodging is approved by the MoPSC, the Contractor shall be reimbursed for actual lodging expenses incurred subject to the maximum amounts specified in the Contiguous US Per Diem Rates (CONUS) which can be accessed from <http://oa.mo.gov/travel-portal> by clicking on CONUS Rates (lodging only) on the left hand side of the page or by clicking on the link for “Per Diem Rates” at the following internet address: <http://www.gsa.gov>. If Contractor's lodging costs will exceed the limits specified in CONUS, the Contractor must obtain the prior written approval of the MoPSC for an exception to CONUS. The decision to approve or deny the exception request shall rest solely with the MoPSC and shall be based on the situation.

- c. Meals – The Contractor shall be reimbursed for the actual cost of meals subject to the most current maximum meal per diem found under the Travel Resources tab at <http://oa.mo.gov/travel-portal> by clicking on the “State Meals Per Diem Rates and Information” link.
- d. Other Miscellaneous Travel Expenses – The Contractor shall be reimbursed the actual amount of other travel expenses incurred, provided that the MoPSC approved the possibility for and estimates of such expenses in advance and that the actual expenses incurred are reasonable for the location in which the travel occurred.
- e. Invoicing and Payment – The Contractor must itemize all expenses incurred including miles traveled on the invoice submitted to the MoPSC for reimbursement and must attach original receipts for expenses.
 - The Contractor shall be reimbursed for such expenses, after receipt of all required documentation and completion of the compliance reviewed by the Commission Staff of the invoice and documentation.

2.6.7 In addition to reimbursement for travel expenses, the Contractor shall also be reimbursed for incidental expenses incurred in providing services specified herein. Upon request by Commission Staff, the Contractor must include receipts for the incidental expenses along with the invoices submitted to Commission Staff.

2.6.8 The Contractor shall not be paid for travel time.

2.6.9 Other than the payments and reimbursements specified above, no other payments or reimbursements shall be made to the Contractor for any reason whatsoever.

3. OTHER CONTRACTUAL REQUIREMENTS

- 3.1 Contract** - A binding contract shall consist of the fully signed contract, any amendments thereto, and the pricing page (**Schedule A**). All exhibits and attachments shall be incorporated into the contract by reference.
- a. Before providing services, the Contractor must receive authorization to proceed from the MoPSC.
 - b. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein.
 - c. Any change to the contract, whether by modification and/or supplementation, must be accomplished by a written amendment signed and approved by and between the duly authorized representative of the Contractor and the MoPSC on or prior to the effective date of such modification. The Contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence from the MoPSC, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.
- 3.2 Contract Period** – The original contract period is stated on the cover page of the contract. The contract shall not bind, nor purport to bind, the MoPSC for any contractual commitment in excess of the original contract period.
- 3.3 Contract Extension** – MoPSC shall have the right, at its sole option, to extend the contract as necessary to allow for the completion of the consulting and testifying expert witness service that are assigned/scheduled for completion beyond the expiration of the contract. Such services must have been assigned to the Contractor and scheduled: (1) prior to the expiration of the contract and (2) prior to the award of any succeeding contract. In the event MoPSC exercises such right, all other terms and conditions, requirements and specifications of the contract, including prices and pricing guaranteed not-to-exceed maximums, applicable to the consulting and testifying expert witness services shall remain the same and shall apply during the extension period.
- 3.4 Contract Price** - All prices shall be as indicated in **Schedule A**, Pricing Page. MoPSC shall not pay nor be liable for any other additional costs, including but not limited to taxes, shipping charges, insurance, interest, penalties, termination payments, attorney fees, liquidated damages, etc.
- 3.5 Termination** - Each of the MoPSC and the Contractor reserves the right to terminate the contract at any time, for the convenience of such party, without penalty or recourse, by giving written notice to the other party at least thirty (30) calendar days prior to the effective date of such termination. In the event of termination pursuant to this paragraph, all documents, data, reports, supplies, equipment, and accomplishments prepared, furnished or completed by the Contractor pursuant to the terms of the contract shall, at the option of MoPSC, become the property of the State of Missouri. The Contractor shall be entitled to receive compensation for services and/or supplies delivered to and accepted by the MoPSC pursuant to the contract prior to the effective date of termination.
- 3.6 Transition** - The Contractor shall use reasonable efforts to work with the MoPSC and any other organizations designated by the MoPSC to ensure an orderly transition of services and responsibilities under the contract and to ensure the continuity of those services required by the MoPSC.
- 3.6.1 Upon expiration, termination, or cancellation of the contract, the Contractor shall use reasonable efforts to assist the MoPSC to ensure an orderly and smooth transfer of responsibility and continuity of those services

required under the terms of the contract to an organization designated by the MoPSC. If requested by the MoPSC, the Contractor shall provide and/or perform any or all of the following responsibilities:

- a. The Contractor shall deliver, FOB destination, all records, documentation, reports, data, recommendations, or printing elements, etc., which were produced under the terms of the contract then in the possession of the Contractor (or obtainable by the Contractor without undue burden or cost) to the MoPSC and/or to the MoPSC's designee within seven (7) days after receipt of the written request in a format and condition that are reasonably acceptable to the MoPSC.
- b. The Contractor shall discontinue providing service or accepting new assignments under the terms of the contract, on the date specified by MoPSC, in order to ensure the completion of such service prior to the expiration of the contract.
- c. If requested in writing via formal contract amendment, the Contractor shall continue providing any part or all of the services in accordance with the terms and conditions, requirements and specifications of the contract for a period not to exceed sixty (60) calendar days after the expiration, termination, or cancellation date of the contract for a price not to exceed those prices set forth in the contract.

3.7 Contractor Liability - The Contractor shall be responsible for any and all tort or statutory liability to third-parties (including, but not limited to, the Contractor's agents, employees, and subcontractors) solely to the extent arising out of the Contractor's provision of services under the contract. In addition, the Contractor agrees to defend and indemnify the MoPSC, its agencies, employees, and assignees from and against all such liability.

3.7.1 The Contractor also agrees to indemnify, defend, and hold harmless the MoPSC, its agencies, employees, and assignees from and against any and all tort or statutory liability solely to the extent arising out of the provision of services by any subcontractor or other person employed by the Contractor under the terms of the contract.

3.7.2 The Contractor shall not be responsible for any injury or damage occurring to the extent such injury or damage results from any fraud, willful misconduct, or negligent act or omission by the MoPSC, its agencies, employees, or assignees.

3.7.3 The Contractor shall not be responsible for any of the following: (1) third party claims against the MoPSC for losses or damages except as described above; or (2) indirect, special or consequential damages (including lost profits or savings), even if the Contractor is informed of their possibility.

3.7.4 Notwithstanding the provisions of this Section 3.7, the Contractor shall not be required to pay any amount in excess of the amount of fees received by the Contractor as of the date the applicable indemnity claim is made. This provision shall not be construed to limit the provision of insurance coverage under Section 3.8.

3.8 Insurance - The Contractor shall understand and agree that the MoPSC cannot save and hold harmless and/or indemnify the Contractor or employees against any liability incurred or arising as a result of any activity of the Contractor or any activity of the Contractor's employees related to the Contractor's performance under the contract. Therefore, the Contractor must acquire and maintain adequate liability insurance in the form(s) and amount(s) sufficient to protect the MoPSC, its agencies, its employees, its clients, and the general public against any such loss, damage and/or expense related to his/her performance under the contract. General and other non-professional liability insurance shall include an endorsement that adds the MoPSC as an additional insured. Self-insurance coverage or another alternative risk financing mechanism may be utilized provided that such coverage is verifiable and irrevocably reliable and the MoPSC is protected as an additional insured.

- 3.8.1 In the event any insurance coverage is canceled, the MoPSC must be notified immediately.
- 3.9 Subcontractors** - Any subcontracts for the products/services described herein must include appropriate provisions and contractual obligations to ensure the successful fulfillment of all contractual obligations agreed to by the Contractor and the MoPSC and to ensure that the MoPSC is indemnified, saved, and held harmless from and against any and all claims of damage, loss, and cost (including attorney fees) of any kind related to a subcontract in those matters described in the contract between the MoPSC and the Contractor.
- a. The Contractor expressly understands and agrees that the Contractor shall assume and be solely responsible for all legal and financial responsibilities related to the execution of a subcontract.
 - b. The Contractor shall agree and understand that utilization of a subcontractor to provide any of the products/services in the contract shall in no way relieve the Contractor of the responsibility for providing the products/services as described and set forth herein.
 - c. The Contractor must obtain the approval of the MoPSC prior to establishing any new subcontracting arrangements and before changing any subcontractors. The approval shall not be arbitrarily withheld.
 - d. Pursuant to subsection 1 of section 285.530, RSMo, no contractor or subcontractor shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri. In accordance with sections 285.525 to 285.550, RSMo, a general contractor or subcontractor of any tier shall not be liable when such contractor or subcontractor contracts with its direct subcontractor who violates subsection 1 of section 285.530, RSMo, if the contract binding the contractor and subcontractor affirmatively states that:
 - 1) The direct subcontractor is not knowingly in violation of subsection 1 of section 285.530, RSMo, and shall not henceforth be in such violation.
 - 2) The contractor or subcontractor receives a sworn affidavit under the penalty of perjury attesting to the fact that the direct subcontractor's employees are lawfully present in the United States.
- 3.10 Substitution of Personnel** - The Contractor agrees and understands that the MoPSC's agreement to the contract is predicated in part on the utilization of the specific key individual(s) and/or personnel qualifications identified in the contract. Therefore, the Contractor agrees that no substitution of such specific key individual(s) and/or personnel qualifications shall be made without the prior written approval of the MoPSC. The Contractor further agrees that any substitution made pursuant to this paragraph must be equal or better than originally proposed and that the MoPSC's approval of a substitution shall not be construed as an acceptance of the substitution's performance potential. The MoPSC agrees that an approval of a substitution will not be unreasonably withheld, conditioned or delayed.
- 3.11 Authorized Personnel** - The Contractor shall only employ personnel authorized to work in the United States in accordance with applicable federal and state laws. This includes but is not limited to the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and INA Section 274A.
- 3.11.1 If the Contractor is found to be in violation of this requirement or the applicable state, federal, and local laws and regulations, and if the MoPSC has reasonable cause to believe that the Contractor has knowingly employed individuals who are not eligible to work in the United States, the MoPSC shall have the right to cancel the contract immediately without penalty or recourse and suspend or debar the Contractor from doing business with the MoPSC. Up to twenty-five percent of the total amount due to the Contractor may be withheld.

- 3.11.2 The Contractor shall agree to cooperate using all reasonable means with any audit or investigation from federal, state, or local law enforcement agencies.
- 3.11.3 If the Contractor meets the definition of a business entity as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, the Contractor shall maintain enrollment and participation in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the contracted services included herein. If the Contractor's business status changes during the life of the contract to become a business entity as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, then the Contractor shall, prior to the performance of any services as a business entity under the contract:
- a. Enroll and participate in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services required herein; AND
 - b. Provide to the MoPSC the documentation titled Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization affirming said company's/individual's enrollment and participation in the E-Verify federal work authorization program; AND
 - c. Submit to the MoPSC a completed, notarized Affidavit of Work Authorization titled Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization.
- 3.11.4 In accordance with subsection 2 of section 285.530, RSMo, the Contractor should renew its Affidavit of Work Authorization annually. A valid Affidavit of Work Authorization is necessary to award any new contracts.
- 3.12 Anti-Discrimination Against Israel Act Contractor Requirements -**
- 3.12.1 If the Contractor meets the definition of a company as defined in section 34.600, RSMo, and has ten or more employees, the Contractor shall not engage in a boycott of goods or services from the State of Israel; from companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or from persons or entities doing business in the State of Israel as defined in section 34.600, RSMo.
- 3.12.2 If the Contractor meets the definition of a company as defined in section 34.600, RSMo, and the company's employees increases to ten or more during the life of the contract, then the Contractor shall submit to the MoPSC a completed the documentation titled Anti-Discrimination Against Israel Act Certification, and shall comply with the requirements of Box C.
- 3.12.3 If during the life of the contract, the Contractor's business status changes to become a company as defined in section 34.600, RSMo, and the company has ten or more employees, then the Contractor shall comply with, complete, and submit to the MoPSC a completed form of the documentation titled, Anti-Discrimination Against Israel Act Certification.
- 3.13 Contractor Status -** The Contractor is an independent Contractor and shall not represent the Contractor or the Contractor's employees to be employees of the MoPSC or an agency of the State of Missouri. The Contractor shall assume all legal and financial responsibility for salaries, taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, etc., and

agrees to indemnify, save, and hold the MoPSC, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney fees); and damage of any kind related to such matters.

3.14 Coordination - The Contractor shall fully coordinate all contract activities with those activities of the MoPSC. As the work of the Contractor progresses, advice and information on matters covered by the contract shall be made available by the Contractor to the MoPSC throughout the effective period of the contract.

3.15 Property of State - The Contractor shall agree and understand that all documents, data, reports, supplies, equipment, and accomplishments prepared, furnished, or completed by the Contractor pursuant to the terms of the contract shall become the property of the MoPSC. Upon expiration, termination, or cancellation of the contract, said items shall become the property of the MoPSC, which shall include all rights and interests for present and future use or sale as deemed appropriate by the MoPSC.

- a. The MoPSC understands and agrees that any ancillary software tools or pre-printed materials (e.g., project management software tools or training software tools, etc.) developed or acquired by the Contractor that may be necessary to perform a particular service required hereunder but not required as a specific deliverable of the contract, shall remain the property of the Contractor; however, the Contractor shall be responsible for ensuring such tools and materials are being used in accordance with applicable intellectual property rights and copyrights.
- b. The Contractor shall further agree that no reports, documentation, or material prepared, including the program(s) developed as required by the contract, shall be used or marketed by the Contractor or released to the public without the prior written consent of the MoPSC.

3.16 Confidentiality:

3.16.1 The Contractor shall agree and understand that all discussions with the Contractor and all information gained by the Contractor as a result of the Contractor's performance under the contract shall be confidential and that no reports, documentation, or material prepared as required by the contract shall be released to the public without the prior written consent of the MoPSC or as required by law or regulation. Contractor shall notify the MoPSC as soon as reasonably possible, and in no event in fewer than three (3) calendar days, of any legal process requesting such confidential information including by way of example and not limitation a request for production of documents or things, a subpoena *duces tecum*.

3.16.2 If required by the MoPSC, the Contractor and any required Contractor personnel must sign specific documents regarding confidentiality, security, or other similar documents upon request. Failure of the Contractor and any required personnel to sign such documents shall be considered a breach of contract and subject to the cancellation provisions of this document.

3.16.3 The Contractor shall use appropriate administrative, physical, and technical safeguards to prevent use or disclosure of any information confidential by law that it creates, receives, maintains, or transmits on behalf of the MoPSC and Commission Staff other than as provided for by the contract. Such safeguards shall include, but not be limited to:

- a. Encryption of any portable device used to access or maintain confidential information or use of equivalent safeguard;
- b. Encryption of any transmission of electronic communication containing confidential information or use of equivalent safeguard;

- c. Workforce training on the appropriate uses and disclosures of confidential information pursuant to the terms of the contract;
 - d. Policies and procedures implemented by the Contractor to prevent inappropriate uses and disclosures of confidential information by its workforce and subcontractors, if applicable; and
 - e. Any other safeguards necessary to prevent the inappropriate use or disclosure of confidential information. The Contractor or its employees shall not use or release any information from or about the MoPSC.
- 3.16.4 Contractor agrees to read and familiarize all employees and agents of the provisions of Section 386.480, RSMo (2016). Questions about the applicability of Section 386.480 can be directed to the Commission Staff liaison(s) identified in this contract
- 3.17 Force Majeure** - The Contractor shall not be liable for any excess costs for delayed delivery of goods or services to the MoPSC, if the failure to perform the contract arises out of causes beyond the control of, and without the fault or negligence of the Contractor. Such causes may include, however are not restricted to: acts of God, fires, floods, epidemics, quarantine restrictions, strikes, and freight embargoes. In all cases, the failure to perform must be beyond the control of, and without the fault or negligence of, either the Contractor or any subcontractor(s). The Contractor shall take all possible steps to recover from and mitigate the consequences of any such occurrences.

END OF PART THREE: CONTRACTUAL REQUIREMENTS

Schedule A (Pricing Page)

Total guaranteed not-to-exceed price for providing the services required herein in accordance with the provisions and requirements of this Contract.

Line Item	Description	Total Guaranteed Not-To-Exceed Price
1	Consulting and Testifying Expert Witness Services for Bond Securitization Advisor	<u>\$2,750,000, excluding out-of-pocket expenses</u>
2	Bond Counsel	<u>\$900,000</u>

Monthly Fee Structure - The Contractor's monthly fee structure for the proposed personnel to perform the consulting and testifying expert witness services for the bond securitization advisor services.

Flat Monthly Fee	Monthly Rate
Per Month (until the Total Guarantee Not-To-Exceed Price is met)	\$225,000

Personnel Classification - The Contractor's personnel classification to provide the Bond Counsel Services, the name of the person(s) assigned to that classification, and the firm, fixed price per hour for each classification

Name of Personnel (List name of the Personnel)	Personnel Classification (List personnel classification)	Per Hour Rate
Bond Counsel Personnel		
Jordan Yarett	Of Counsel	<u>\$2,395.00</u>
T. Robert Zochowski	Finance Partner, Head of Firm's Securitization Practice	<u>\$2,395.00</u>
Nicole Martin	Finance Associate	<u>\$1,560.00</u>
Andrew Levitan	Finance Associate	<u>\$1,350.00</u>

Attachment A

Fiduciary Acknowledgment Statement

The undersigned agree that consistent with Section 393.1700, RSMo (Supp. 2021), that by serving as the financial advisor or advisors, counsel, and consultant engaged by the Public Service Commission of the State of Missouri (Commission), the undersigned to have and undertake a fiduciary duty with respect to the proposed issuance of securitized utility bonds solely to the Commission.

Accordingly, the undersigned agree that

- (1) Each undersigned fiduciary shall act solely in the interest of the Commission with regards to the proposed issuance of securitized utility bonds in case EF-2024-0021.
- (2) Each undersigned fiduciary will act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.
- (3) Each undersigned fiduciary will not engage in any conduct or transaction prohibited by Section 393.1700, 393.1705, and 393.1715, RSMo (Supp. 2021).

Signed: _____

Printed Name: _____

Title: _____

Date: _____

**STATE OF MISSOURI
MISSOURI PUBLIC SERVICE COMMISSION**

TERMS AND CONDITIONS

1. TERMINOLOGY/DEFINITIONS

Whenever the following words and expressions appear in the document or any addendum thereto, the definition or meaning described below shall apply.

- a. **Amendment** means a written, official modification to a contract.
- b. **May** means that a certain feature, component, or action is permissible, but not required.
- c. **Must** means that a certain feature, component, or action is a mandatory condition. Failure to provide or comply will result in a bid being considered non-responsive.
- d. **Pricing Page(s)** applies to the form(s) on which the vendor must state the price(s) applicable for the equipment, supplies, and/or services required.
- e. **RSMo (Revised Statutes of Missouri)** refers to the body of laws enacted by the Legislature which govern the operations of all agencies of the State of Missouri.
- f. **Shall** has the same meaning as the word **must**.
- g. **Should** means that a certain feature, component and/or action is desirable but not mandatory.

2. APPLICABLE LAWS AND REGULATIONS

- a. The contract shall be construed according to the laws of the State of Missouri. The Contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract to the extent that the same may be applicable.
- b. To the extent that a provision of the contract is contrary to the Constitution or laws of the State of Missouri or of the United States, the provisions shall be void and unenforceable. However, the balance of the contract shall remain in force between the parties unless terminated by consent of both the Contractor and the MoPSC.
- c. Unless exempt, the Contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations.
- d. The Contractor must timely file and pay all Missouri sales, withholding, corporate and any other required Missouri tax returns and taxes, including interest and additions to tax.
- e. The exclusive venue for any legal proceeding relating to or arising out of the contract shall be in the Circuit Court of Cole County, Missouri.
- f. The Contractor shall only employ personnel authorized to work in the United States in accordance with applicable federal and state laws and Executive Order 07-13 for work performed in the United States.

3. DELIVERY

Time is of the essence. Deliveries of equipment, supplies, and/or services must be made no later than the time stated in the contract or within a reasonable period of time, if a specific time is not stated.

4. INSPECTION AND ACCEPTANCE

- a. No equipment, supplies, and/or services received by an agency of the state pursuant to a contract shall be deemed accepted until the agency has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the Contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
- c. The State of Missouri reserves the right to return any such rejected shipment at the Contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. The State of Missouri's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the state may have.

5. CONFLICT OF INTEREST

- a. Elected or appointed officials or employees of the State of Missouri or any political subdivision thereof, serving in an executive or administrative capacity, must comply with sections 105.452 and 105.454, RSMo, as applicable, regarding conflicts of interest.
- b. The Contractor hereby covenants that at the time of the contract the Contractor, to the best of its knowledge, information and belief, has no other contractual relationships which would create any actual or perceived conflict of interest. The Contractor further agrees that during the term of the contract neither the Contractor nor any of its employees shall acquire any other contractual relationships which create such a conflict.

6. REMEDIES AND RIGHTS

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the State of Missouri of any existing or future right and/or remedy available by law in the event of any claim by the State of Missouri of the Contractor's default or breach of contract.
- b. The Contractor agrees and understands that the contract shall constitute an assignment by the Contractor to the State of Missouri of all rights, title and interest in and to all causes of action that the Contractor may have under the antitrust laws of the United States or the State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or procured by the Contractor in the fulfillment of the contract with the State of Missouri.

7. CANCELLATION OF CONTRACT

- a. In the event of material breach of the contractual obligations by the Contractor, the MoPSC may cancel the contract. At its sole discretion, the MoPSC may give the Contractor an opportunity to cure the breach or to explain how the breach will be cured. The actual cure must be completed within no more than 10 working days from notification, or at a minimum the Contractor must provide the MoPSC within 10 working days from notification a written plan detailing how the Contractor intends to cure the breach.
- b. If the Contractor fails to cure the breach or if circumstances demand immediate action, the MoPSC will issue a notice of cancellation terminating the contract immediately. If it is determined the MoPSC improperly cancelled the contract, such cancellation shall be deemed a termination for convenience in accordance with the contract.
- c. If the MoPSC cancels the contract for breach, the MoPSC reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the MoPSC deems appropriate and charge the Contractor for any additional costs incurred thereby.
- d. The Contractor understands and agrees that funds required to fund the contract are subject to the provisions of Section 393.1700, RSMo (Supp. 2021).

8. COMMUNICATIONS AND NOTICES

Any notice to the vendor/Contractor shall be deemed sufficient when deposited in the United States mail postage prepaid, transmitted by facsimile, transmitted by e-mail or hand-carried and presented to an authorized employee of the vendor/Contractor.

9. BANKRUPTCY OR INSOLVENCY

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

10. INVENTIONS, PATENTS AND COPYRIGHTS

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

11. NON-DISCRIMINATION AND AFFIRMATIVE ACTION

In connection with the furnishing of equipment, supplies, and/or services under the contract, the Contractor and all subcontractors shall agree not to discriminate against recipients of services or employees or applicants for employment on the basis of race, color, religion, national origin, sex, age, disability, or veteran status unless otherwise

provided by law. If the Contractor or subcontractor employs at least 50 persons, they shall have and maintain an affirmative action program which shall include:

- a. A written policy statement committing the organization to affirmative action and assigning management responsibilities and procedures for evaluation and dissemination;
- b. The identification of a person designated to handle affirmative action;
- c. The establishment of non-discriminatory selection standards, objective measures to analyze recruitment, an upward mobility system, a wage and salary structure, and standards applicable to layoff, recall, discharge, demotion, and discipline;
- d. The exclusion of discrimination from all collective bargaining agreements; and
- e. Performance of an internal audit of the reporting system to monitor execution and to provide for future planning.

If discrimination by a Contractor is found to exist, the MoPSC shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension, or debarment by the MoPSC until corrective action by the Contractor is made and ensured, and referral to the Attorney General's Office, whichever enforcement action may be deemed most appropriate.

12. AMERICANS WITH DISABILITIES ACT

In connection with the furnishing of equipment, supplies, and/or services under the contract, the Contractor and all subcontractors shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA).

13. FILING AND PAYMENT OF TAXES

The commissioner of administration and other agencies to which the state purchasing law applies shall not contract for goods or services with a vendor if the vendor or an affiliate of the vendor makes sales at retail of tangible personal property or for the purpose of storage, use, or consumption in this state but fails to collect and properly pay the tax as provided in chapter 144, RSMo. For the purposes of this section, "affiliate of the vendor" shall mean any person or entity that is controlled by or is under common control with the vendor, whether through stock ownership or otherwise. Therefore the vendor's failure to maintain compliance with chapter 144, RSMo, may eliminate their bid from consideration for award.

14. TITLES

Titles of paragraphs used herein are for the purpose of facilitating reference only and shall not be construed to infer a contractual construction of language.