

MISSOURI DEPARTMENT OF TRANSPORTATION

**BID FORM**

GENERAL SERVICES  
3901 East 32<sup>nd</sup> Street  
Joplin, MO 64804

REQUEST NO.	D7-10-017		
DATE	December 7, 2009		
PAGE NO.	1	NO. OF PAGES	17

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

1:00 p.m., Local Time, December 22, 2009

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

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

Submit net bid as cash discount stipulations will not be considered

**See Attached**

DEFINITE DELIVERY DATE SHOULD BE SHOWN. SIGN AND RETURN BEFORE TIME SET FOR OPENING.

**RFB Coordinator** Cathy Bay  
RFB COORDINATOR EMAIL:  
Cathy.Bay@modot.mo.gov

**RFB COORDINATOR TELEPHONE:** 417-621-6354

**SUPPLIES OR SERVICES**

To establish a contract to **harvest timber** on MoDOT right of way for the future interstate route commonly referred to as the "Bella Vista Bypass" in McDonald County, MO in accordance with the following pages.

**Components of Agreement:**

The Agreement between MHTC and the successful Purchaser shall consist of: the RFB and any written amendments thereto, the "Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions" that are attached to this RFB, the bid submitted by the Purchaser in response to the RFB and the post-award contract agreement signed between the parties. However, MHTC reserves the right to clarify any relationship in writing and such written clarification shall govern in case of conflict with the applicable requirements stated in the RFB or the Purchaser's bid. The Purchaser is cautioned that its bid shall be subject to acceptance by MHTC without further clarification.

**Return sealed bid to the address shown at the top of this page.**

(SEE ATTACHED FOR CONDITIONS AND INSTRUCTIONS)

*In compliance with the above Request for bid, and subject to all conditions thereof, the undersigned Purchaser agrees to furnish and deliver any or all the items on which prices were quoted within the timeframe specified herein.*

<b>Date:</b>	_____	<b>Firm Name:</b>	_____
<b>Telephone No.:</b>	_____	<b>Address:</b>	_____
<b>Fax No.:</b>	_____		_____
<b>Federal I.D. No.</b>	_____	<b>By (Signature):</b>	_____
		<b>Type/Print Name</b>	_____
		<b>Title:</b>	_____

**Is your firm MBE certified?**

Yes  No

**Is your firm WBE certified?**  Yes  No

# 1. INTRODUCTION AND GENERAL INFORMATION

## 1.1 Introduction:

This Request For Bid seeks bids from qualified organizations to provide services to harvest timber on MoDOT right of way for the future interstate route commonly referred to as the “Bella Vista Bypass” in McDonald County, MO, to the Missouri Highways and Transportation Commission (MHTC) and Missouri Department of Transportation (MoDOT) District 7. A bidder to this request for bid may also be referred to as a “purchaser” and MoDOT may also be referred to as “seller”. Each bid must be mailed in a sealed envelope to Ms. Cathy Bay, General Services Procurement Unit, 3901 East 32<sup>nd</sup> Street, Joplin, Mo 64804, or hand-delivered in a sealed envelope to the General Services Procurement Office in the District 7 Missouri Department of Transportation General Services Building located at 3901 East 32<sup>nd</sup> Street, Joplin, Missouri 64804. All questions regarding the RFB shall be submitted to Ms. Cathy Bay. Bids must be returned to the office of Ms. Cathy Bay no later than 1:00 p.m., local time, December 22, 2009.

### **RFB Coordinator:**

**Ms. Cathy Bay**

**Missouri Department of Transportation**

**3901 East 32<sup>nd</sup> Street**

**Joplin, MO 64804**

**PHONE: 417-621-6354**

**FAX: 417-629-3226**

**EMAIL: [Cathy.Bay@modot.mo.gov](mailto:Cathy.Bay@modot.mo.gov)**

## 1.2 General Information:

1.2.1 This document constitutes an invitation for competitive, sealed bids for the procurement of services to harvest timber on MoDOT right of way for the future interstate route commonly referred to as the “Bella Vista Bypass” in McDonald County, MO, as set forth herein.

1.2.2 Organization – This document, referred to as a Request for Bid (RFB), is divided into the following parts:

- 1) Introduction and General Information
- 2) Scope of Work
- 3) Bid Submission
- 4) Pricing Page(s)
- 5) Signature Page(s)
- 6) Terms and Conditions
- 7) Exhibit(s)

## 2. SCOPE OF WORK

### 2.1 General Requirements:

- 2.1.1 All timber specified in this contract shall be cut and removed and the requirements of this contract satisfied, on or before May 15, 2010. Any timber described herein and the product therefrom not so removed shall revert to the seller and all payments made by the purchaser for such timber are forfeited. The seller reserves the right to not grant any extensions of time for performance of the work in this contract.
- 2.1.2 The purchaser shall provide all services to the sole satisfaction of MoDOT.

### 2.2 Specific Requirements:

- 2.2.1 The purchaser can cut any and all trees in the designated sale area.
- 2.2.2 All trees marked with an "X" must be cut down or felled between the dates of October 1 and March 31, inclusive. Once cut, they can be removed from the Sale Area at a later date. No extensions of the March 31 deadline date for cutting those trees can or will be granted.
- 2.2.3 All timber shall remain the property of the seller and may not be cut until the seller has received payment in full. Payment must be made prior to cutting any timber within the respective payment unit.
- 2.2.4 Unless otherwise stated in this contract, the purchaser shall progress the cutting through the Sale Area in the sequence directed by the seller, and complete the timber cutting and removal in one section before moving onto the next Sale Area tract.
- 2.2.5 The Purchaser shall carry out operations in such a manner as to cause the least damage to the remaining land. The Seller may terminate any part or all of the Purchaser's operations if, in the Seller's opinion, the operations are detrimental to the forest, land, or watershed or to the best interests of the State of Missouri.
- 2.2.6 Roads will be kept passable at all times. Maximum acceptable road ruts are (8") eight inches deep, over a maximum length of (50') fifty feet. Roads will be left in a condition that will prevent erosion and is compatible with standards found in the 2005 *Missouri Watershed Protection Practices* guide. Erosion control devices and safeguards shall be used with any roadway or staging area where bare earth is exposed, and the possibility of surface water erosion exists. All such erosion control devices shall be prepared and installed in compliance with federal and state National Pollutant Discharge Elimination System (NPDES) standards.
- 2.2.7 The Seller may temporarily terminate hauling and/or skidding operations should these operations, in the Seller's opinion, be causing or likely to cause damage beyond the point of ordinary wear and tear to the haul roads and/or skid trails.
- 2.2.8 The Purchaser shall return all used roads that are in existence at the time the logging operation begins to a condition that, in the opinion of the Seller, is comparable to or better than they were immediately prior to the Purchaser's operations. If so directed by the Seller's representative, any exposed earth areas that are prone to erosion must be seeded and mulched after area operations have ceased, to help prevent any further erosion.
- 2.2.9 The purchaser shall construct only such additional roads as meet the approval of the seller, and keep all roads free of tops and logging debris and in a drive-able condition.
- 2.2.10 The purchaser shall construct no more landings or skid trails than are necessary for efficient logging and are commensurate with causing the least possible damage to the forest, land, improvements, and watershed of the sale area. The seller may temporarily suspend the purchaser's operations if, in the seller's opinion, the purchaser is in breach of this contractual requirement. Any long-term breach of this requirement shall result in the termination of this contract.

- 2.2.11 Landings shall be identified as part of the pre-harvest plan. Landings should be no larger than is needed to facilitate an efficient logging operation. Landing location and use must follow Best Management Practices. All non-merchantable products at the landing must be removed from the Sale Area.
- 2.2.12 Skid Trails shall be planned by the tree feller to facilitate skidding with minimal damage to the land. This may include flagging of both primary and secondary skid trails. Skid trails should be kept as straight as possible. Pivot trees should be identified and should be trees that are designated for cutting. Skid trails shall be established and maintained using Best Management Practices and shall be water-barred where appropriate, according to the guidelines in the 2005 *Missouri Watershed Protection Practices* guide. Water bars are not needed on a skid trail unless the duff layer has been removed, exposing bare, mineral soil. Skid trails crossing waters of the United States shall be restricted to the minimum necessary number, width and total length, consistent with their intended purpose, with due consideration given to the local topographic and climactic conditions.
- 2.2.13 Skid trail ruts shall have a maximum depth of eight inches (8") over a maximum length of fifty feet (50').
- 2.2.14 No stump is to be left higher than 12 inches above the ground on the high side unless cutting this height would cause equipment damage. Lodged trees will be pulled to the ground.
- 2.2.15 No sawmills, post peelers, or other processing equipment shall be installed on the seller's property unless specifically authorized in writing by the seller.
- 2.2.16 The purchaser shall remove from the sale area on a daily basis all litter, trash, metal or other debris resulting from or incident to the purchaser's operation.
- 2.2.17 Purchaser shall keep ponds and stream courses within the sale area clear of debris resulting from logging operations. Any proposed stream crossing must be approved in writing by the Seller. Channel modifications to any watercourse are prohibited.
- 2.2.18 The purchaser shall not cut, damage, or remove any trees or other markers indicating the ownership boundary of the seller, and located outside the Sale Area.
- 2.2.19 The purchaser shall take immediate and independent action to prevent and suppress fires on this sale area and to make employees and equipment available for use under the direct supervision of the Missouri Department of Transportation, the Missouri Department of Conservation, and the U.S. Forest Service to suppress any wildfires on or threatening this sale area.
- 2.2.20 The boundaries of the sale area and any cutting blocks thereof, are as shown on the attached "Sale Area Map", which is made a part of this contract. Cutting blocks shall not be changed without the consent of both the purchaser and the seller.
- 2.2.21 Any material transported to a log landing must be removed from the Sale Area.
- 2.2.22 The location of all landings and the construction of all haul roads must be approved by the seller.
- 2.2.23 The seller may elect to split the sale into payment units if requested by the purchaser.
- 2.2.24 The purchaser may request assistance in obtaining access from adjacent property owners from the seller. A written notice shall be addressed to the seller with an attached map where access is needed by the purchaser. The written notice shall be provided a minimum of 14 calendar days prior to when the access is needed. The seller does not guarantee that access can be obtained only that assistance in obtaining access will be done.
- 2.2.25 Sale area property may be viewed upon the purchaser's request. Please notify the project contact if viewing of the sale area property is desired and arrangements will be made accordingly.

## 2.3 Project Contact

2.3.1 All questions concerning this contract shall be forwarded to the project contact person listed below.

Sean L. Matlock, P.E.  
Transportation Project Manager  
Missouri Department of Transportation  
District 7, 3901 East 32<sup>nd</sup> Street  
Joplin, MO 64804  
Phone: 417-621-6310 Fax: 417-629-3314  
e-mail [Sean.Matlock@modot.mo.gov](mailto:Sean.Matlock@modot.mo.gov)

The project contact may designate another project contact in writing to the purchaser.

## 2.4 Schedule of Work

The purchaser shall begin work upon receiving notification from MoDOT that the executed contract has been finalized. The purchaser shall have till the end of the calendar day on May 15, 2010 to complete the work within MoDOT right of way.

## 2.5 Insurance Requirements

2.5.1 Prior to contract signing, the purchaser may be asked about its ability to provide certificates of insurance which meet, or approach, the following coverages:

- a. General Liability Not less than \$400,000 for any one person in a single accident or occurrence, and not less than \$1,000,000 for all claims arising out of a single occurrence;
- b. Automobile Liability Not less than \$400,000 for any one person in a single accident or occurrence, and not less than \$1,000,000 for all claims arising out of a single occurrence;
- c. Missouri State Workmen's Compensation policy or equivalent in accordance with state law.

## 2.6 Payment Requirements:

- 2.6.1 The purchaser shall submit payment by check or money order to "Director of Revenue – Credit State Road Fund" in the contract amount listed in Section 4 of this contract.
- 2.6.2 The purchaser shall submit payment **no later than 30 calendar days** after the notification from the seller that the contract has been finalized.
- 2.6.3 The purchaser may request and the seller may grant a payment schedule based upon payment units. If requested and granted the purchaser must meet all the requirements in Section 2.2 of this contract before progressing to the next payment unit.

### 3. BID SUBMISSION

#### 3.1 Bid Submission Information:

##### 3.1.1 Proposal/Bid Guaranty/Contract Bond:

- a. Each bid/proposal shall be accompanied by a Bid Bond, Certified Check, Cashier's Check or Bank Money Order payable to the Director of Revenue – Credit State Road Fund for an amount equal to Five Percent (5%) of the amount of the BID submitted. This is to act as a guarantee that the purchaser, if awarded the contract, will furnish an acceptable performance and payment bond (Contract Bond) or a cashier's check, a bank money order or a certified check made payable to "Director of Revenue--Credit State Road Fund" in an amount equal to One Hundred (100%) of the contract price.
- b. If a BID BOND is used (in lieu of a certified check, cashier's check, or bank money order), it must be in the form provided and executed by the bidder as principal and by a surety company authorized to do business in the MoDOT as surety. The agent executing the same on behalf of the surety company must attach a current Power of Attorney setting forth his authority to execute the bond involved.
- c. Certified Checks, Cashier's Checks or Bank Money Orders of unsuccessful bidders will be returned as soon as the award is made. The checks or bank money orders of the successful bidder(s) will be retained until the contract is executed and a satisfactory Performance and Payment (Contract Bond) is furnished. Bid Bonds will not be returned except on specific request of the bidder.
- d. The annual bid bond used by the MoDOT Design and Construction Departments, that became effective July 1, 2009, does not apply to this bid request.

##### 3.1.2 Failure to Execute Contract:

- a. Failure to execute the contract and file acceptable performance payment (Contract Bond) or cashier's check, bank money order or certified check within **15 days** after the contract has been mailed to the purchaser shall be just cause for the cancellation of the award. Award may then be made to the next highest responsible Purchaser, or the work may be re-advertised and performed under contract or otherwise, as the Seller may decide. No contract shall be considered effective until it has been executed by all parties thereto.

3.1.3 All bids shall be received in a sealed envelope clearly marked **“Harvest Timber on MoDOT right of way for the future interstate route commonly referred to as the Bella Vista Bypass in McDonald County, MO”**.

3.1.4 All bids must be received at the following address no later than December 22, 2009 at 1:00 p.m., local time.

The Missouri Department of Transportation  
General Services Procurement – District 7  
Attn: Cathy Bay  
3901 East 32<sup>nd</sup> Street  
Joplin, MO 64804

3.1.5 The purchaser shall submit one (1) bid. The bid shall be a lump sum amount for the services to harvest timber on MoDOT right of way for the future interstate route commonly referred to as the “Bella Vista Bypass” in McDonald County, MO.

3.1.6 Contract Award – The contract will be awarded to the highest responsive purchaser determined as specified above.

- a. Award of this bid will be made based on the Purchaser who offers the highest price lump sum, providing the prices are acceptable to the seller. In the event of a tie of high bids, the seller reserves the right to establish the method to be used in determining the award.

b. Acceptance of contract will be contingent upon receipt of all required documentation and certificates.

3.1.7 Cost Determination – The high bid shall be determined by the “Lump Sum Amount” quoted.

3.1.8 The purchaser may withdraw, modify or correct his bid after it has been deposited with the Department provided such request is submitted in writing and received at the location designated for the bid opening prior to the time specified for opening bids. Such a request received as specified will be attached to the bid and the bid will be considered to have been modified accordingly. No bid may be modified after the time specified for the opening of bids.

3.1.9 Open Competition / Request For Bid Document:

a. It shall be the purchaser’s responsibility to ask questions, request changes or clarification, or otherwise advise MoDOT if any language, specifications or requirements of an RFB appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFB to a single source. Any and all communication from purchasers regarding specifications, requirements, competitive bid process, etc., must be directed to MoDOT, unless the RFB specifically refers the purchaser to another contact. Such communication should be received at least three (3) working days prior to the official bid opening date. ***It is the sole responsibility of the purchaser to access MoDOT’s website in order to obtain any and all addenda(s) issued during the course of this RFB process.***

b. Purchasers are cautioned that the only official position of the State of Missouri is that which is issued by MoDOT in the RFB or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.

c. MoDOT monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among purchasers, price-fixing by purchasers, or any other anticompetitive conduct by purchasers, which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General’s Office for appropriate action.

3.2.0 **Non-employment of Unauthorized Aliens:** Pursuant to Section 285.530 (1), RSMo., no business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Missouri. As a condition for the award of any contract or grant in excess of five thousand dollars by the State or by any political subdivision of the State to a business entity, or for any business entity receiving a state-administered or subsidized tax credit, tax abatement, or loan from the state, the business entity shall:

- 1) By sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. E-Verify is an example of a federal work authorization program. The business entity must affirm its enrollment and participation in the E-Verify federal work authorization program with respect to the employees proposed to work in connection with the services requested herein by providing acceptable enrollment and participation documentation consisting of **completed** copy of the E-Verify Memorandum of Understanding (MOU). For business entities that are not already enrolled and participating in a federal work authorization program, E-Verify is available at [http://www.dhs.gov/xprevprot/programs/gc\\_1185221678150.shtm](http://www.dhs.gov/xprevprot/programs/gc_1185221678150.shtm).
- 2) As provided in Section 285.530(2), RSMo., every such business entity shall sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. A copy of the affidavit referenced herein is provided within this document, attached as Exhibit B.
- 3) In addition to the above referenced provisions, if the business entity is a sole proprietorship or partnership, pursuant to Section 208.009, RSMo., each sole proprietor and each general partner shall provide affirmative proof of lawful presence in the United States. Such sole proprietorship or partnership is eligible for temporary public benefits upon submission by each sole proprietor and general partner of a sworn affidavit of his/her lawful presence on the United States until such lawful presence is affirmatively determined, or as otherwise provided by Section 208.009, RSMo. A copy of the affidavit reference herein is provided within this document, attached as Exhibit C.

**4. PRICING PAGE**

**4.1 Harvesting Timber, McDonald County:** The Purchaser shall provide firm, fixed prices in the table below for providing the services in accordance with the provisions and requirements of this RFB. All costs associated with providing the required services specified elsewhere herein must be included in the stated **LUMP SUM** price.

<b>Harvesting Timber McDonald, County</b>				
<b>PAYMENT UNIT</b> <i>(Include Stand #'s)</i>	<b>ACRES</b>	<b>ESTIMATED QUANTITY OF PRODUCTS</b>	<b>Description</b>	<i>Firm, Fixed Price Lump Sum</i>
1	200	(3500 MBF) Saw Timber	Harvesting Timber within the right of way of future interstate commonly referred to as the "Bella Vista Bypass".  Location: 0.5 miles south of Rte H to Arkansas State Line.	\$ _____

\* INT'L 1/4" TREE SCALE

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

**ANTI-COLLUSION STATEMENT**

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ ) **SS.**

\_\_\_\_\_ being first duly

sworn, deposes and says that he is \_\_\_\_\_  
Title of Person Signing

of \_\_\_\_\_  
Name of Purchaser

that all statements made and facts set out in the bid for the above project are true and correct; and that the Purchaser (The person, firm, association, or corporation making said bid) has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such bid or any contract which may result from its acceptance.

Affiant further certifies that Purchaser is not financially interested in, or financially affiliated with, any other Purchaser for the above project.

By \_\_\_\_\_

By \_\_\_\_\_

By

\_\_\_\_\_

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

Notary Public

My Seller Expires \_\_\_\_\_



**MISSOURI SERVICE-DISABLED VETERAN BUSINESS PREFERENCE**

By virtue of statutory authority, RSMo 34.074, a preference will be given all contracts for the performance of any job or service to service-disabled veteran business either doing business as Missouri firms, corporations, or individuals; or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing bids, in their entirety, are comparable.

Definitions:

**Service-Disabled Veteran** is defined as any individual who is disabled as certified by the appropriate federal agency responsible for the administration of veterans’ affairs.

**Service-Disabled Veteran Business** is defined as a business concern:

- a. Not less than fifty-one (51) percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than fifty-one (51) percent of the stock of which is owned by one or more service-disabled veterans; and
- b. The management and daily business operations of which are controlled by one or more service-disabled veterans.

If an offeror meets the definitions of a service-disabled veteran and a service-disabled veteran business as defined in 34.074 RSMo and is either doing business as a Missouri firm, corporation, or individual; or maintains a Missouri office or place of business, the offeror **must** provide the following with the proposal in order to receive the Missouri service-disabled veteran business preference over a non-Missouri service-disabled veteran business when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing proposals, in their entirety, are comparable:

- a. A copy of a letter from the Department of Veterans Affairs (VA), or a copy of the offeror’s discharge paper (DD Form 214, Certificate of Release or Discharge from Active Duty) from the branch of service the offeror was in, stating that the offeror has a service-connected disability rating ranging from 0 to 100% disability; and
- b. A completed copy of this exhibit

(NOTE: For ease of evaluation, please attach copy of the above-referenced letter from the VA or a copy of the offeror’s discharge paper to this Exhibit.)

By signing below, I certify that I meet the definitions of a service-disabled veteran and a service-disabled veteran business as defined in 34.074 RSMo and that I am either doing business as a Missouri firm, corporation, or individual; or maintain Missouri offices or places of business at the location(s) listed below.

Veteran Information

Business Information

\_\_\_\_\_  
Service-Disabled Veteran’s Name, (Please Print)

\_\_\_\_\_  
Service-Disabled Veteran Business Name

\_\_\_\_\_  
*Service-Disabled Veteran’s Signature*

\_\_\_\_\_  
Missouri Address of Service-Disabled Veteran Business



**Harvest Timber on MoDOT Right of Way for the Future Interstate Route  
Commonly Referred to as the "Bella Vista Bypass" in McDonald County, MO**

**BID BOND**

**KNOW ALL MEN BY THESE PRESENTS**, that we \_\_\_\_\_,

as Principal and \_\_\_\_\_, as Surety are held and firmly bound  
unto the **STATE OF MISSOURI** (acting by and through the **Missouri Highways and Transportation Commission**) in the  
penal sum of:

\_\_\_\_\_ **Dollars**  
(\$ \_\_\_\_\_) to be paid to the **State of Missouri or to the Missouri Highways and Transportation  
Commission**, to be credited to the State Road Fund, the Principal and Surety binding themselves, their heirs, executors,  
administrators, successors, and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this \_\_\_\_\_

**THE CONDITION OF THIS OBLIGATION** is such that:

**WHEREAS**, the Principal is submitting herewith a bid to the Missouri Highways and Transportation Commission for  
furnishing services (to harvest timber on MoDOT right of way for the future interstate route commonly referred to as the "Bella  
Vista Bypass" in McDonald County, Missouri) as set out in the bid to which this bond is attached.

**NOW THEREFORE**, if the Missouri Highways and Transportation Commission shall accept the bid of the Principal and if  
said Principal shall properly execute and deliver to the Missouri Highways and Transportation Commission the contract and  
contract bond in compliance with the requirements of the bid, the specifications and the provisions of law, to the satisfaction of  
the Highways and Transportation Commission, then this obligation shall be void and of no effect, otherwise to remain in full  
force and effect.

In the event the said Principal shall, in the judgment of the Missouri Highways and Transportation Commission, fail to comply  
with any requirement as set forth in the preceding paragraph, then the State of Missouri acting through the Missouri Highways  
and Transportation Commission shall immediately and forthwith be entitled to recover the full penal sum above set out,  
together with court costs, attorney's fees and any other expense of recovery.

(SEAL)

\_\_\_\_\_  
Principal

By

\_\_\_\_\_  
Signature

(SEAL)

\_\_\_\_\_  
Surety

By

\_\_\_\_\_  
Attorney-in-Fact

**NOTE:** This bond must be executed by the PRINCIPAL and by a CORPORATE SURETY authorized to conduct surety  
business in the State of Missouri.

### STANDARD SOLICITATION PROVISIONS

- a. The Missouri Department of Transportation (MoDOT) reserves the right to reject any or all bids/quotes/proposals, and to accept or reject any items thereon, and to waive technicalities. In case of error in the extension of prices in the bid/quote/proposal, unit prices will govern.
- b. All bids/quotes/proposals must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.
- c. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown, within the State of Missouri.
- d. Time of delivery is a part of the consideration and, if not otherwise stated in the solicitation documents, must be stated in definite terms by the Purchaser and must be adhered to. If time varies on different items, the Purchaser shall so state.
- e. If providing bids/quotes/proposals for commodities, the Purchaser will state brand or make on each item. If bidding or proposing other than the make, model or brand specified, the manufacturer's name, model number or catalog number must be given.
- f. **For bids/proposals of \$25,000 or more**, no bids/proposals by telephone, telegram or telefax will be accepted.
- g. The date specified for the returning of bids/quotes/proposals is a firm deadline and all bids/quotes/proposals must be received at the designated office by that time. The Department does not recognize the U.S. Mail, Railway Express Agency, Air Express, or any other organization, as its agent for purposes of accepting proposals. All proposals arriving at the designated office after the deadline specified will be rejected.

### GENERAL TERMS AND CONDITIONS

#### General Performance

- a. This work is to be performed under the general supervision and direction of the Missouri Department of Transportation (MoDOT) and, if awarded any portion of the work, the Purchaser agrees to furnish at his own expense all labor and equipment required to complete the work, it being expressly understood that this solicitation is for completed work based upon the price(s) specified and is not a solicitation for rental of equipment or employment of labor by MoDOT, and MoDOT is to have no direction or control over the employees used by the Purchaser in performance of the work.

#### Deliveries

- a. Unless otherwise specified on the solicitation documents or purchase order, suppliers shall give at least 24 hours advance notice of each delivery. Delivery will only be received between the hours of 8:00 a.m. to 3:00 p.m., Monday through Friday. Material arriving after 3:00 p.m. will not be unloaded until the following workday. No material will be received on Saturday, Sunday or state holidays.
- b. If the prices bid herein include the delivery cost of the material, the Purchaser agrees to pay all transportation charges on the material as FOB - Destination. Freight costs must be included in the unit price bid and not listed as a separate line item.
- c. Any demurrage is to be paid by the Purchaser direct to the railroad or carrier.

#### Nondiscrimination

- a. The Purchaser shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- b. All solicitations either by competitive bidding or negotiation made by the Purchaser for work to be performed under a subcontract, including procurements of materials or leases of the Purchaser's obligations under this contract and the Regulations, will be relative to nondiscrimination on the grounds of race, color, or national origin.
  - 1) Sanctions for Noncompliance: In the event of the Purchaser's noncompliance with the nondiscrimination provisions of this contract, MoDOT shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
    - i. withholding of payments to the Purchaser under the contract until the Purchaser complies, and/or,
    - ii. cancellation, termination or suspension of the contract, in whole or in part.

#### Contract/Purchase Order

- a. By submitting a bid/quote/proposal, the Purchaser agrees to furnish any and all equipment, supplies and/or services specified in the solicitation documents, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the solicitation documents, amendments thereto, and/or Best and Final Offer (BAFO) request(s) with any changes/additions, (2) the Purchaser's proposal and/or submitted pricing, and (3) the MHTC's acceptance of the proposal and/or bid by purchase order or post-award contract.
- c. A notice of award does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services, the Purchaser must receive a properly authorized purchase order and/or notice to proceed.
- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the Purchaser and the duly authorized representative of the MHTC, by a modified purchase order prior to the effective date of such modification. The Purchaser expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification.

#### Subcontracting

- a. It is specifically understood that no portion of the material or any interest in the contract, shall be subcontracted, transferred, assigned or otherwise disposed of, except with the written consent of MoDOT. Request for permission to subcontract or otherwise dispose of any part of the work shall be in writing to MoDOT and accompanied by documentation showing that the organization which will perform the work is particularly experienced and equipped for such work.
- b. Consent to subcontract or otherwise dispose of any portion of the work shall not be construed to relieve the Purchaser of any responsibility for the production and delivery of the contracted work and the completion of the work within the specified time.

- c. All payments for work performed by a subpurchaser shall be made to the Purchaser to whom the contract was awarded and the purchase order issued.

#### **Invoicing and Payment**

- a. MoDOT is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the Purchaser may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Federal Excise Tax Exemption Certificate will be furnished to the successful Purchaser upon request.
- b. Each invoice should be itemized in accordance with items listed on the purchase order and/or contract. The statewide financial management system has been designed to capture certain receipt and payment information. Therefore, each invoice submitted must reference the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- c. Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The Missouri Highways and Transportation Seller (MHTC) shall not make any advance deposits.
- d. The MHTC assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any authorized quantity is subject to the MHTC's rejection and shall be returned at the Purchaser's expense.
- e. The MHTC reserves the right to purchase goods and services using the state-purchasing card.

#### **Applicable Laws and Regulations**

- a. The contract shall be construed according to the laws of the State of Missouri. The Purchaser shall comply with all local, state, and federal laws and regulations related to the performance of the contract.
- b. The Purchaser must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations. Prior to the issuance of a purchase order and/or notice to proceed, the Purchaser may be required to submit to MoDOT a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.
  - 1) Prior to the issuance of a purchase order and/or notice to proceed, all **out-of-state** Purchasers **providing services** within the state of Missouri must submit to MoDOT a copy of their current Transient Employer Certificate from the Department of Revenue, in addition to a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.
- c. The exclusive venue for any legal proceeding relating to or arising, out of the contract shall be in the Circuit Court of Cole County, Missouri.

#### **Executive Order**

- a. The Purchaser shall comply with all the provisions of Executive Order 07-13, issued by the Honorable Matt Blunt, Governor of Missouri, on the sixth (6<sup>th</sup>) day of March, 2007. This Executive Order, which promulgates the State of Missouri's position to not tolerate persons who contract with the state engaging in or supporting illegal activities of employing individuals who are not eligible to work in the United States, is incorporated herein by reference and made a part of this Agreement.
  - 1) "By signing this Agreement, the Purchaser hereby certifies that any employee of the Purchaser assigned to perform services under the contract is eligible and authorized to work in the United States in compliance with federal law."
  - 2) In the event the Purchaser fails to comply with the provisions of the Executive Order 07-13, or in the event the Seller has reasonable cause to believe that the purchaser has knowingly employed individuals who are not eligible to work in the United States in violation of federal law, the Seller reserves the right to impose such contract sanctions as it may determine to be appropriate, including but not limited to contract cancellation, termination or suspension in whole or in part or both.
  - 3) The Purchaser shall include the provisions of this paragraph in every subcontract. The Purchaser shall take such action with respect to any subcontract as the Seller may direct as a means of enforcing such provisions, including sanctions for noncompliance.

#### **Preferences**

- a. In the evaluation of bids/quotes/proposals, preferences shall be applied in accordance with Chapter 34 RSMo. Purchasers should apply the same preferences in selecting subpurchasers.
- b. By virtue of statutory authority, RSMo. 34.076 and 34.350 to 34.359, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri. Such preference shall be given when quality is equal or better and delivered price is the same or less.
  - 1) If attached, the document entitled "**PREFERENCE IN PURCHASING PRODUCTS**" should be completed and returned with the solicitation documents.
  - 2) If attached, the document entitled "**MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT**" should be completed and returned with the solicitation documents. **Applies if bid is Twenty-Five Thousand Dollars (\$25,000.00) or more.**
- c. By virtue of statutory authority, RSMo 34.074, a preference will be given all contracts for the performance of any job or service to service-disabled veteran business either doing business as Missouri firms, corporations, or individuals; or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing bids, in their entirety, are comparable.
  - 1) If attached, the document entitled "**MISSOURI SERVICE-DISABLED VETERAN PREFERENCE**" should be completed and returned with the solicitation documents.
- d. In the event of a tie of low bids, the MHTC reserves the right to establish the method to be used in determining the award.

#### **Remedies and Rights**

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the MHTC of any existing or future right and/or remedy available by law in the event of any claim by the MHTC of the Purchaser's default or breach of contract.

- b. The Purchaser agrees and understands that the contract shall constitute an assignment by the Purchaser to the MHTC of all rights, title and interest in and to all causes of action that the Purchaser may have under the antitrust laws of the United States or State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or produced by the Purchaser in the fulfillment of the contract with the MHTC.
- c. In the event a Purchaser becomes involved in, or is threatened with, litigation with a subpurchaser or supplier as a result of such direction, the Purchaser may request MoDOT to enter into such litigation to protect the interests of the MHTC, and, in addition, the Purchaser may request the United States to enter into such litigation to protect the interests of the United States.

#### **Cancellation of Contract**

- a. The MHTC may cancel the contract at any time for a material breach of contractual obligations or for convenience by providing the Purchaser with written notice of cancellation. Should the MHTC exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Purchaser.
- b. If the MHTC cancels the contract for breach, the MHTC reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the MHTC deems appropriate and charge the Purchaser for any additional costs incurred thereby.

#### **Bankruptcy or Insolvency**

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

#### **Inventions, Patents, and Copyrights**

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

#### **Inspection and Acceptance**

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

#### **Warranty**

- a. The Purchaser expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by MoDOT, (2) be fit and sufficient for the purpose expressed in the solicitation documents, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
- b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the MHTC's acceptance of or payment for said equipment, supplies, and/or services.

#### **Status of Independent Purchaser**

- a. The Purchaser represents itself to be an independent Purchaser offering such services to the general public and shall not represent itself or its employees to be an employee of the MHTC. Therefore, the Purchaser shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save and hold the MHTC, its officers, agents and employees harmless from and against any and all losses (including attorney fees) and damage of any kind related to such matters.

#### **Indemnification**

- a. The Offeror shall defend, indemnify and hold harmless the Seller, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Offeror's performance of its obligations under this Agreement.

#### **Information and Reports**

- a. The Purchaser shall provide all information and reports required by the Regulations, or Directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Missouri Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or Directives. Where any information required of a Purchaser is in the exclusive possession of another who fails or refuses to furnish this information the Purchaser shall so certify to the Missouri Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

#### **Permits, Licenses and Safety Issues**

- a. The contract price shall include any necessary permits and licenses required by law incidental to the work. Local ordinances requiring building permits are not applicable to state agencies.
- b. The Purchaser will comply with local laws involving safety in the prosecution of the work.

**Exhibit A**  
*Sale Area Map*

