

GENERAL SERVICES  
2915 DOUGHBOY DRIVE  
JOPLIN, MO 64870

REQUEST NO.	SW-12-024CB
DATE	February 8, 2012
PAGE NO.	Cover
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SEALED BIDS, SUBJECT TO THE ATTACHED CONDITIONS WILL BE RECEIVED AT THIS OFFICE UNTIL

**February 22, 2012 at 1:00 PM Local Time**

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

F.O.B. Destinations

Locations as referenced in bid

**SIGN AND RETURN BEFORE TIME SET FOR OPENING.**

<b>BUYER:</b>	Cathy Bay Intermediate Procurement Agent	<b>BUYER TELEPHONE:</b>	417.621.6354
		<b>BUYER EMAIL:</b>	Cathy.Bay@modot.mo.gov

**SUPPLIES OR SERVICES**

MoDOT is seeking bids from qualified bidders whom can provide **Plant Mix Oil Material**. Sealed bids will be accepted to supply plant mix oil material to stockpile sites as described in this bid.

**\*\*\*NOTE: It is the responsibility of the Bidder to access MoDOT's website in order to obtain any and all addenda(s) issued during the course of this RFB Process.**

This document constitutes a RFB, and solicits competitive sealed bids from qualified bidders to provide Plant Mix Oil Material. The issuance of this RFB in no way constitutes a commitment to award a contract or to pay any costs incurred in preparation of a response to this request.

All questions regarding this RFB shall be submitted to the RFB Coordinator/Contact.

**(SEE ATTACHED FOR CONDITIONS AND INSTRUCTIONS)**

*In compliance with the above Request For Bid, and subject to all conditions thereof, the undersigned bidder agrees to furnish and deliver any or all the items on which prices were bid within the timeframe specified herein, after receipt of formal purchase order.*

Date: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Address: \_\_\_\_\_

Fax No.: \_\_\_\_\_

Federal I.D. No. \_\_\_\_\_

By (Signature): \_\_\_\_\_

Email Address: \_\_\_\_\_

Type/Print Name \_\_\_\_\_

Is your firm MBE certified?  Yes  No

Title: \_\_\_\_\_

Is your firm WBE certified?  Yes  No

## 1. INTRODUCTION AND GENERAL INFORMATION

### 1.1 Introduction:

- 1.1.1 This Request for Bid seeks bids from qualified vendors to provide Plant Mix Oil Material for maintenance purposes. Sealed bids will be accepted to supply plant mix oil material as stated in this bid. The contractor shall provide plant mix oil material to the Missouri Highway and Transportation Commission (MHTC) and Missouri Department of Transportation (MoDOT), in accordance with the provisions and requirements stated herein. Each bid must be mailed in a **sealed** envelope to Ms. Cathy Bay, General Services Procurement Unit, 2915 Doughboy Drive, Joplin, Mo 64804, or hand-delivered in a **sealed** envelope to the General Services Procurement Office in the Southwest District Missouri Department of Transportation Joplin Regional Building located at 2915 Doughboy Drive, 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, February 22, 2012.

#### RFB Coordinator:

**Ms. Cathy Bay**  
**General Services Procurement**  
**Missouri Department of Transportation**  
**2915 Doughboy Drive**  
**Joplin, MO 64804**  
**PHONE: (417) 621-6354; FAX: (417) 629-3226**  
**EMAIL: [Cathy.Bay@modot.mo.gov](mailto:Cathy.Bay@modot.mo.gov) (Questions Only)**

### 1.2 General Information:

- 1.2.1 This document constitutes an invitation for competitive, sealed bids for the procurement of Plant Mix Oil Material 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
- 1.2.3 The contract period shall be from Notice to Proceed, through the completion dates specified for each line item. The completion dates are stated in paragraphs 2.1.7 and 2.1.8.

## 2. SCOPE OF WORK

### 2.1 Contractual Requirements:

- 2.1.1 The contractor shall provide Plant Mix Oil Material to the Missouri Department of Transportation (hereinafter referred to as "MoDOT"), Southwest District in accordance with the requirements and provisions stated herein. Unless otherwise stated, the contractor shall not deviate from the requirements. Unless otherwise specified herein, the contractor shall furnish all material, labor, equipment, and supplies necessary to provide the deliverables required herein.
- 2.1.2 The contractor shall provide all deliverables/services to the sole satisfaction of MoDOT.
- 2.1.3 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.
- 2.1.4 The contractor will produce plant mix oil material which consists of mixing aggregate and liquid bituminous material. The plant mix oil material will be stockpiled and maintained at the Ash Grove quarries located at El Dorado Springs and Fair Play, MO, as identified in line item #1/Stockpile 1 and line item #2/Stockpile 2, on the pricing page.
- 2.1.5 The amount of plant mix oil material that MoDOT is requesting is identified on the "Pricing Page".
- 2.1.6 MoDOT will be purchasing the aggregate and bituminous material from the awarded contractor. The aggregate will have to be purchased, mixed to create the pre-mix, and then sold to MoDOT. The cost of the aggregate is to be included in the price of the plant mix oil material submitted to MoDOT.
- 2.1.7 **Stockpile #1** at the Ash Grove El Dorado Springs, Mo quarry is to consist of **500 tons** stockpiled by **April 2<sup>nd</sup>, 2012**. The **remaining 1500 tons** is to be stockpiled by **April 16<sup>th</sup>, 2012**, bringing the full completion of the stockpile to be in place by **April 16<sup>th</sup>, 2012**. Delivery/completion dates may be modified at the discretion of MoDOT, as MoDOT deems necessary.
- 2.1.8 **Stockpile #2** at the Ash Grove Fair Play, Mo quarry is to consist of 2000 tons by April 2<sup>nd</sup>, an additional 2000 tons by April 16<sup>th</sup>, 2012, and the remaining 3180 tons to be stockpiled by May 1<sup>st</sup>, 2012, bringing the full completion of the stockpile to be in place by May 1<sup>st</sup>, 2012. Delivery/completion dates may be modified at the discretion of MoDOT, as MoDOT deems necessary.
- 2.1.9 Ash Grove Aggregates Fair Play, MO quarry and El Dorado Springs, MO quarry will maintain for MoDOT, MoDOT's stockpile of plant mix oil material on their property. The time frame set for keeping the stockpiles on Ash Grove's property is from April 2nd, 2012 through October 15, 2012. MoDOT forces will haul approximately 150 tons per day intermittently throughout this time frame.
- 2.1.10 The equipment capability to load MoDOT trucks will be supplied by the Ash Grove Aggregate quarries.
- 2.1.11 MoDOT will weigh their own trucks as they haul out of the quarry by utilizing the certified scales at the Ash Grove Aggregate stockpile quarry sites.
- 2.1.12 The awarded contractor will be responsible to supply tarps for covering all stockpiled material and to see that the stockpile remains covered until all material is picked up.
- 2.1.13 MoDOT will notify the Ash Grove Aggregate quarries 24 hours in advance for loading trucks and will also provide them with the quantity to be loaded.

**2.2 Specific Requirements:**

2.2.1 All aggregate material shall meet the specifications contained in Section 1004 of **Missouri Standard Specifications for Highway Construction, 2011 Edition**, and any revisions thereto, except as revised herein.

2.2.1.1 **Aggregate Specifications** - Graded aggregate for bituminous surface with a maximum limit of 4.5% absorption on stone ledges and gravel sources.

**Spec. 1004.3 - Meeting the following gradation limits:**

		Percent Passing						
		Sieve Size						
Grade	Type of Material	¾ in.	½ in.	3/8 in.	#4	#8	#30	#200
		19.0 mm	12.5 mm	9.5 mm	4.75 mm	2.36 mm	600 mm	75 mm
1	Crushed Stone or Porphyry	100	95-100	65-95	20-55	2-20		0-5

2.2.1.2 **Estimated Percent Asphalt is: 5%**

2.2.1.3 **Liquid Bituminous Material** - The liquid bituminous material shall meet the specifications contained in Section 1015 of Missouri Standard Specifications for Highway Construction, 2011 Edition, and any revisions thereto, except as revised herein, for **EA 300 Emulsified Asphalt**.

The liquid bituminous material used shall coat the aggregate at the point of use in a manner and to a degree satisfactory to the engineer. Material that does not fully comply with these specifications will be rejected. The supplier shall be responsible for the cost and disposal of all rejected material.

2.2.1.4 **Sampling, Testing and Acceptance Procedures** - It shall be the responsibility of the supplier to guarantee by certification that the material fully complies with the specification requirements. The material will be tested by MoDOT personnel for compliance to meet MoDOT specifications.

**2.3 Liquidated Damage Requirements:**

2.3.1 The contractor shall agree and understand that providing the plant mix oil material in accordance with the requirements stated herein is considered critical to the efficient operations of MoDOT. However, since the amount of actual damages would be difficult to establish in the event the contractor fails to comply with the contractual requirements, the contractor shall agree and understand that the amount identified below as liquidated damages shall be reasonable and fair under the circumstances.

- a. In the event the contractor fails to provide the plant mix oil material in accordance with the contractual requirements specified herein, the contractor shall be assessed liquidated damages in the amount of **\$500.00** per day for each such delinquent day.
- b. The contractor shall further agree and understand that such liquidated damages shall either be deducted from the total amount due the contractor or paid by the contractor as a direct payment to MoDOT, at the sole discretion of MoDOT.
- c. The contractor shall agree and understand that the liquidated damages described herein shall not be construed as a penalty.

- d. The contractor shall agree and understand that all assessments of liquidated damages shall be within the discretion of MoDOT and shall be in addition to, not in lieu of, the rights of MoDOT to pursue other appropriate remedies.
- e. The contractor shall agree and understand that if a product(s) is rejected due to not meeting specifications, all cost associated with returning the product to the contractor shall be paid by the contractor, at no additional cost to MoDOT.

**2.4 Invoicing and Payment Requirements:**

- 2.4.1 The contractor shall be paid in accordance with the firm, fixed prices stated on the pricing page of this document after completion of deliverables specified herein and acceptance by MoDOT.
- 2.4.2 The contractor will not be paid more than ninety percent (90%) of the value of the materials and completed work, until final acceptance of the required quantity and acceptance of material is confirmed "By Certified Weight Tickets". The remaining ten percent (10%) of the contractual contract price will be paid upon completion of MoDOT hauling all stockpiled material from the Ash Grove Aggregate stockpile sites at El Dorado Springs and Fair Play, MO.
- 2.4.3 MoDOT is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Federal Excise Tax Exemption Certificate will be furnished to the successful bidder upon request.
- 2.4.4 Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The Missouri Highways and Transportation Commission (MHTC) shall not make any advance deposits.
- 2.4.5 The MHTC assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any authorized quantity is subject to the MHTC's rejection and shall be returned at the contractor's expense.

### 3. BID SUBMISSION

#### 3.1 Bid Submission

- 3.1.1 All bids must be received in a sealed envelope/packing clearly marked "Plant Mix Oil Material".
- 3.1.2 All bids must be received at the office of the RFB Coordinator as outlined in Section 1. "INTRODUCTION AND GENERAL INFORMATION".
- 3.1.3 The bidder 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.
- 3.1.4 Proposal/Bid Guaranty/Contract Bond: The bidder is directed to the "*Standard Bid Provisions, General Terms and Conditions and Special Terms and Conditions*" attached to the bid documents, regarding Bid Guaranty/Contract Bond requirements.
- 3.1.5 Open Competition / Request For Bid Document:
- a. It shall be the bidder'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 bidders regarding specifications, requirements, competitive bid process, etc., must be directed to the buyer from MoDOT, unless the RFB specifically refers the bidder to another contact. Such communication should be received at least three (3) working days prior to the official bid opening date.
  - b. Every attempt shall be made to ensure that the bidder receives an adequate and prompt response. However, in order to maintain a fair and equitable bid process, all bidders will be advised, via the issuance of an amendment to the RFB, of any relevant or pertinent information related to the procurement. Therefore, bidders are advised that unless specified elsewhere in the RFB, any questions received less than three (3) working days prior to the RFB opening date may not be answered.
  - c. Bidders are cautioned that the only official position of the MoDOT 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.
  - d. MoDOT monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among bidders, price-fixing by bidders, or any other anticompetitive conduct by bidders 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.
- 3.1.6 Bids will be reviewed to determine if the bid complies with the mandatory requirements, and to determine the lowest and best bid.
- 3.1.7 Cost Determination – The low bid shall be determined by reviewing each line item separately.
- 3.1.8 Contract Award – The contract will be awarded to the lowest responsive bidder determined as specified above.
- a. Award of this bid will be made on an "Item by Item" basis using the "lowest and best" principle of award.
  - b. Notification of award shall be at the time the tabulation is posted to the Internet. It is the sole responsibility for all bidders to check the website for bid results.

#### 4. PRICING PAGE

4.1 The bidder shall provide a firm, fixed price in the table below for providing Plant Mix Oil Material in accordance with the provisions and requirements of this RFB. All costs associated with providing the required deliverables shall be included in the prices stated below.

Line Item	Description		Est. Tons	Delivery Price Per Ton
#1	Plant Mix Oil Material Stockpile #1 Site Ash Grove Quarry El Dorado Springs, MO	Pay Item	Aggregate – Grade 1	
		#1		
	#2	Liquid Bituminous Materials	100	
Total Tons of Mix:			2000	
<b>Line 1 Total Order Extension:</b>				
Line Item	Description		Est. Tons	Delivery Price Per Ton
#2	Plant Mix Oil Material Stockpile #2 Site Ash Grove Quarry Fair Play, MO	Pay Item	Aggregate – Grade 1	
		#1		
	#2	Liquid Bituminous Materials	359	
Total Tons of Mix:			7180	
<b>Line 2 Total Order Extension:</b>				

\_\_\_\_\_  
*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 Bidder

that all statements made and facts set out in the bid for the above project are true and correct; and that the bidder (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 bidder is not financially interested in, or financially affiliated with, any other bidder for the above project.

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_

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

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_

**VENDOR INFORMATION & PREFERENCE CERTIFICATION FORM**

**Vendor Information**

**All bidders must furnish ALL applicable information requested below**

<b>Vendor Name/Mailing Address:</b>  Email Address:	<b>Vendor Contact Information (including area codes):</b> Phone #: Cellular #: Fax #:
<b>Printed Name of Responsible Officer or Employee:</b>	<b>Signature:</b>
<b>For Corporations - State in which incorporated:</b>	<b>For Others - State of domicile:</b>

If the address listed in the Vendor Name/Mailing Address block above is not located in the State of Missouri, list the address of Missouri offices or places of business:

*If additional space is required, please attach an additional sheet and identify it as Addresses of Missouri Offices or Places of Business.*

**M/WBE INFORMATION:** List all certified Minority or Women Business Enterprises (M/WBE) utilized in the fulfillment of this bid. Include percentages for subcontractors and identify the M/WBE certifying agency:

<u>M/WBE Name</u>	<u>Percentage of Contract</u>	<u>M/WBE Certifying Agency</u>

*If additional space is required, please attach an additional sheet and identify it as M/WBE Information.*

**Preference Certification**

**All bidders must furnish ALL applicable information requested below**

**GOODS/PRODUCTS MANUFACTURED OR PRODUCED IN USA:** If any or all of the goods or products offered in the attached bid which the bidder proposes to supply to the MHTC are not manufactured or produced in the "United States", or imported in accordance with a qualifying treaty, law, agreement, or regulation, list below, by item or item number, the country other than the United States where each good or product is manufactured or produced.

Item (or item number)	Location Where Item is Manufactured or Produced

*If additional space is required, please attach an additional sheet and identify it as Location Products are Manufactured or Produced.*

**MISSOURI SERVICE-DISABLED VETERAN BUSINESS:** Please complete the following if applicable. Additional information may be requested if preference is applicable. See below definitions for qualification criteria:

**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.

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

**Plant Mix Oil Material**

**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 **Plant Mix Oil Material** 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 solicitation for the procurement of the supplies referenced therein, to which these "Standard Bid Provisions, General Terms and Conditions and Special Terms and Conditions" are attached, is being issued under, and governed by, the provisions of Title 7 – Missouri Department of Transportation, Division 10 – Missouri Highways and Transportation Commission, Chapter 11 – Procurement of Supplies, of the Code of State Regulations. The Missouri Highways and Transportation Commission (MHTC), acting by and through its operating arm, the Missouri Department of Transportation (MoDOT), draws the Bidder's attention to said 7 CSR 10-11 for all the provisions governing solicitation and receipt of bids/quotes and the award of the contract pursuant to this solicitation.
- b. All bids/quotes must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.

## GENERAL TERMS AND CONDITIONS

### Definitions

Capitalized terms as well as other terms used but not defined herein shall have the meaning assigned to them in section 7 CSR 10-11.010 Definition of Terms.

### Nondiscrimination

- a. The Contractor shall comply with all state and federal statutes applicable to the Contractor relating to nondiscrimination, including, but not limited to, Chapter 213, RSMo; Title VI and Title VII of Civil Rights Act of 1964 as amended (42 U.S.C. Sections 2000d and 2000e, *et seq.*); and with any provision of the "Americans with Disabilities Act" (42 U.S.C. Section 12101, *et seq.*).
- b. Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, MHTC shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - i. withholding of payments to the Contractor under the contract until the Contractor complies, and/or,
  - ii. cancellation, termination or suspension of the contract, in whole or in part.

### Contract/Purchase Order

- a. By submitting a bid/quote, the Bidder agrees to furnish any and all equipment, supplies and/or services specified in the solicitation documents, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the solicitation documents, amendments thereto, and/or Best and Final Offer (BAFO) request(s) with any changes/additions, (2) the Contractor's bid response, and (3) the MHTC's acceptance of the bid by post-award contract or purchase order.
- c. A notice of award does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services, the Contractor must receive a properly authorized notice to proceed and/or purchase order.

### 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. 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.
- b. The Contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri, Missouri Department of Revenue, and other regulatory agencies, as may be required by law or regulations. Prior to the issuance of a purchase order and/or notice to proceed, the Contractor may be required to submit to MHTC a copy of their current Authority Certificate from the Secretary of State of the State of Missouri and/or a copy of their Certificate of No Tax Due from the Missouri Department of Revenue.
- c. Prior to the issuance of a purchase order and/or notice to proceed, all out-of-state Contractors providing services within the state of Missouri must submit to MHTC a copy of their current Transient Employer Certificate from the Missouri Department of Revenue, in addition to a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.

### EXECUTIVE ORDER

THE CONTRACTOR SHALL COMPLY WITH ALL THE PROVISIONS OF EXECUTIVE ORDER 07-13, ISSUED BY THE HONORABLE MATT BLUNT, GOVERNOR OF MISSOURI, ON THE SIXTH (6<sup>TH</sup>) DAY OF MARCH, 2007. THIS EXECUTIVE ORDER, WHICH PROMULGATES THE STATE OF MISSOURI'S POSITION TO NOT TOLERATE PERSONS WHO CONTRACT WITH THE STATE ENGAGING IN OR SUPPORTING ILLEGAL ACTIVITIES OF EMPLOYING INDIVIDUALS WHO ARE NOT ELIGIBLE TO WORK IN THE UNITED STATES, IS INCORPORATED HEREIN BY REFERENCE AND MADE A PART OF THIS AGREEMENT.

- 1) "By signing this Agreement, the Contractor hereby certifies that any employee of the Contractor assigned to perform services under the contract is eligible and authorized to work in the United States in compliance with federal law."
- 2) In the event the Contractor fails to comply with the provisions of the Executive Order 07-13, or in the event the Commission has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States in violation of federal law, the Commission reserves the right to impose such contract sanctions as it may determine to be appropriate, including but not limited to contract cancellation, termination or suspension in whole or in part or both.
- 3) The Contractor shall include the provisions of this paragraph in every subcontract. The Contractor shall take such action with respect to any subcontract as the Commission may direct as a means of enforcing such provisions, including sanctions for noncompliance.

### Preferences

- a. In the evaluation of bids/quotes, preferences shall be applied in accordance with 7 CSR 10-11.020(7). Contractors should apply the same preferences in selecting subcontractors. The attached document entitled "VENDOR INFORMATION AND PREFERENCE CERTIFICATION FORM" must be completed and returned with the solicitation documents.
- b. Bidders are encouraged to obtain minority business enterprise (MBE) and women business enterprise (WBE) participation in this work through the use of subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful participation for M/WBEs. Bidders are encouraged to obtain 10% MBE and 5% WBE participation.

**Cancellation of Contract**

The MHTC may cancel the Contract at any time for a material breach of contractual obligations or for convenience by providing Contractor with written notice of cancellation. Should the MHTC exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Contractor.

**Bankruptcy or Insolvency**

Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntarily, or upon the appointment of a receiver, trustee, or assignee, for the benefit of creditors, the Commission reserves the right and sole discretion to either cancel the Agreement or affirm the Agreement and hold the Contractor responsible for damages.

**Warranty**

The Contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by the MHTC, (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.

**Status of Independent Contractor**

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

**Non-Waiver**

If one of the parties agrees to waive its right to enforce any term of this Contract, that party does not waive its right to enforce such term at any other time or to enforce any or all other terms of this Contract.

**Indemnification**

The Contractor shall defend, indemnify and hold harmless MHTC, 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 Contractor's performance of its obligations under the contract awarded pursuant to this solicitation.

## SPECIAL TERMS AND CONDITIONS

### Tax Exempt Status:

MHTC is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the Contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Project Tax Exemption Certificate will be furnished to the successful Bidder upon request if applicable.

### Insurance

The Contractor shall maintain or cause to be maintained at Contractor's own expense commercial general liability, automobile liability, worker's compensation insurance against negligent acts, errors or omissions of the Contractor, or its subcontractors and anyone directly or indirectly employed by any of them. Any insurance policy required as specified in this Section shall be written by a company that is licensed and authorized to issue such insurance in the state of Missouri and shall provide insurance coverage for not less than the following limits of liability:

- 1) General Liability: Not less than \$500,000 for any one person in a single accident or occurrence, and not less than \$3,000,000 for all claims arising out of a single occurrence;
- 2) Automobile Liability: Not less than \$500,000 for any one person in a single accident or occurrence, and not less than \$3,000,000 for all claims arising out of a single occurrence;
- 3) Missouri State Workmen's Compensation policy or equivalent in accordance with state law.

Upon request from the Commission, the Contractor shall provide the Commission with certificates of insurance evidencing the required coverage and that such insurance is in effect.

### Bid Guaranty/Contract Bond

- a. Each bid 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 bidder, 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 State of Missouri 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. 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 bidder shall be just cause for the cancellation of the award and the forfeiture of the proposal guaranty. Award may then be made to the next lowest responsible bidder, or the work may be re-advertised and performed under contract or otherwise, as the Commission may decide. No contract shall be considered effective until it has been executed by all parties thereto.

### Temporary Suspension of Work

- a. The District Engineer shall have authority to suspend work wholly or in part for such period or periods as may be deemed necessary when weather or other conditions are such that in the opinion of the engineer, the work may be done at a later time with advantage to MoDOT or for failure on the part of the Contractor to comply with any of the provisions of the Contract.
- b. If MoDOT suspends the work for its own advantages and not because of the Contractor's failure to comply with the Contract, the Contractor will be allowed an equal number of calendar days after the completion date for the completion of the work. MoDOT may at its discretion give the Contractor an extension of time for completing the work where the Contractor incurs delays for causes beyond his control.
- c. Normal rainfall is not considered a cause qualifying for an extension of time. Claim for extension of time for all causes must be submitted by the Contractor in writing within 30 Days after the claimed cause for the delay has ceased to exist.