



MISSOURI DEPARTMENT OF TRANSPORTATION
KANSAS CITY DISTRICT
SOLICITATION GUIDELINES AND DOCUMENTATION

REQUEST FOR BID

It is the vendor's responsibility to read and comply with all conditions, specifications, and instructions outlined in this document. This document and any subsequent attachments shall supersede all confirmation forms, receipts, or any other paperwork needed to secure materials, equipment, or services.

TODAY'S DATE: AUGUST 2, 2013	RESPONSES DUE NO LATER THAN: AUGUST 9, 2013 @ 1:00 PM CENTRAL TIME	F.O.B. REQUIREMENTS: DESTINATION (SEE PROJECT LOCATIONS BELOW)
DUE TO WEATHER LIMITATIONS: EQUIPMENT W/ OPERATOR TO BE AVAILABLE BETWEEN AUGUST 12, 2013 & COMPLETED NO LATER THAN SEPTEMBER 20, 2013	REQUEST # KC-B13-023 THIS NUMBER SHOULD BE REFERENCED ON ALL MAILING LABELS, ENVELOPES, AND ANY OTHER CORRESPONDENCE ABOUT THIS SOLICITATION.	BUYER NAME: JUDY M. FRANKE, CPPB SENIOR PROCUREMENT AGENT PHONE NUMBER: (816)-347-4111 SEALED BID, NO FAXES
Mailing Address: MoDOT –Kansas City District General Services (Procurement) Division 600 NE Colbern Rd. Lee's Summit, MO 64086		Project Locations: LAFAYETTE COUNTY See Map on Pricing Page below (Pg. 3) Route T (2.69 miles in length) Route FF (4.67 miles in length)

SURFACE SEALING TREATMENT EQUIPMENT WITH OPERATOR

1.0 Description. This work shall consist of furnishing rental equipment and operators to apply a surfacing sealing treatment. Specific equipment requirements to be provided as part of this contract are provided in **Appendix A**. Surface sealing material details are provided in **Appendix B**.

1.1 Distribution Equipment. The Distributor shall be equipped with a 2,500 gallon (minimum) tank, full sweep agitation system, a pumping system designed to handle fine aggregate mixes, and sufficient power to operate the full spray system and the agitation system at the same time. The Distribution equipment shall be equipped with a monitoring system that ensures the even distribution of material and measures the application rate of the mix. The Distribution equipment shall be capable of applying a full lane width. The spray system shall be equipped with a primary filter prior to the pumps and a secondary filter system for fine post pump filtration of the material. The Distributor operator shall be able to continuously monitor the spray system during application to ensure even distribution of the material and to detect and correct a clogged nozzle immediately. Attachments such as a spray shield, wind deflector and hand wand shall be available.

1.2 Storage Tank(s). Job site storage tank(s) shall have the minimum capacity of an entire transport load (6,000 gallons). The storage tank shall have an internal full sweep mixing system having a mixing capability of providing a homogenous mix representing the mix design of the surface sealing material at any given location within the tank. Operator shall be onsite and available to unload material from incoming transport trailers as scheduled by the commission. The commission will consult with the equipment supplier to discuss schedule for the delivery of surface sealing material. Operator shall be responsible for maintaining the condition of the surface sealing material ensuring that the mixture is homogenous in the tank prior to loading the distribution equipment. Operator shall not modify the surface sealing material with water or other additives without prior approval of the commission. Operator shall be responsible for loading/unloading the distribution equipment as per commission schedule. Storage tank shall be equipped with a 3" pump to load/unload material.

1.3 Environmental Protection. The equipment provider shall comply with all federal, state, and local laws and regulations controlling pollution of the environment.

1.4 Surface Preparation. The surface shall be thoroughly cleaned immediately prior to placing the surface treatment. Surface preparation shall be the responsibility of the commission.

1.5 Placement. The commission shall direct placement of surface sealing material. Placement of surface sealing material will be under commission supplied traffic control. The target application rate per pass based upon an undiluted bituminous material will be shown in the contract. The actual application rate may be adjusted based upon the existing pavement surface condition, recommendations of the polymer modified emulsion manufacturer, and the approval of the engineer. Placement of the mix may be required in multiple passes as detailed in the contract. Equipment provider shall provide a mat ensuring total uniform coverage. The roadway will remain closed until the surface is tack-free and capable of being open to traffic without tracking.

2.0 Method of Measurement. Final measurement of the surface treatment will be made during construction. Measurement of the surface treatment, complete in place, will be made to the nearest square yard. The revision or correction will be computed and added to or deducted from the contract quantity.

3.0 Basis of Payment. The accepted quantity of surface treatment, in place, will be paid for at the contract unit (square yard) price. No separate payment will be made for any additional construction methods, processes or mobilization.

4.0 Scope of Work and Bid Pricing Submittal

County	Route	Length (miles)	Project Limits	Estimated Project Dates*	Total Quantity (SY)	Shot Rate per pass (gal/SY)	# of Passes	Unit Price per pass (\$/SY)
Lafayette	T	2.69	Osborn Road to I-70	August 12, 2013 through Sept 20, 2013	31,562.7	0.10	2	\$
Lafayette	FF	4.67	Rte. D to MO131	August 12, 2013 through Sept 20, 2013	54,794.7	0.10	2	\$

* **Estimated project dates are an approximation and subject to change by MoDOT.** MoDOT will be issuing a separate Request for Bid for a vendor to supply the material for these projects (KC-B13-022 Surface Sealing Treatment Material). **Specific dates/times/locations for the completion of all work will be coordinated between the awarded Material vendor, MoDOT, and the awarded Equipment with Operator vendor.**

APPENDIX A. – Rental Equipment/Operator Requirements

Equipment Type	Minimum Requirement	Minimum # of Operator (s)
Distribution Equipment	1 Unit	2 per Unit
Storage Tank(s)	12,000 Gallons	1

MoDOT will provide and perform all traffic control for these work zones.

5.0 Award

Award of this solicitation will be made on an "All Or Nothing" basis using the "lowest and best" principle of award. Notification of award will be at the time the tabulation is posted to the Internet **(approximately August 9-12, 2013)**. It is the sole responsibility for all vendors to check the website for any addendums and tabulation/award results.

6.0 Project Location(s)

Contractors can utilize MoDOT facilities for **coordination of the work to be completed** or view the map below for other alternatives. Project Coordinator, Griffin Smith, Assistant District Maintenance Engineer, 816-805-1985.

PROJECT ONE: Route T, Lafayette County, 2.69 miles in length and is located west of the MoDOT Concordia Maintenance Facility (Tim Koch, Concordia Maintenance Supervisor 660-815-1428 cellular).

PROJECT TWO: Route FF, Lafayette County, 4.67 miles in length and is located north of the MoDOT Odessa Maintenance Facility (Bob Ralston, Odessa Maintenance Supervisor 816-813-1509 cellular).



VENDOR NAME:

(Enter your company name in this block)

APPENDIX B. - Surface Sealing Material

1.0 Description. The surface treatment shall contain a mixture of cationic polymer modified asphalt emulsion, fine aggregate, water, and other additives as needed.

2.1 Bituminous Material. The bituminous material shall be a polymer modified asphalt emulsion in accordance with the following table. The bituminous material shall show no separation after mixing. The emulsion shall be sampled in accordance with AASHTO T 40.

Asphalt Emulsion (CSS)			
	Min.	Max.	Test Method
Viscosity, Saybolt Furol at 25 C, s	15	100	AASHTO T 72
Particle charge test	Positive ^b		AASHTO T 59
Residue, %	60	--	AASHTO T 59
Test on Residue from Distillation	Min.	Max.	Test Method
Penetration, 25 C, 100 g, 5 s,	15	150	AASHTO T 49

^bIf the particle charge test is inconclusive, material having a maximum pH value of 6.7 will be acceptable.

2.2 Mineral Aggregate. Fine aggregates materials shall be in accordance with Section 1002.3 of the Standard Specifications; except as modified herein:

http://www.modot.org/business/standards_and_specs/Sec1002.pdf

2.2.1 Noncarbonated Aggregate Requirement. The aggregate blend shall contain a minimum of 50 percent non-carbonate aggregate. The aggregate blend shall have an acid insoluble residue (AIR), MoDOT Test Method TM 76, of at least 85 percent insoluble residue.

2.2.2 Aggregate sources not meeting the absorption limits of Section 1002.3 shall be in accordance with the following lightweight aggregate requirements:

Property	Percent Maximum Limit
Absorption, AASHTO T 85, percent, max	n/a
Micro-Deval, AASHTO TP 58, percent, max	20
Los Angeles Abrasion for Lightweight Aggregate, MoDOT Test Method TM 78, percent, max	50

2.2.3 Aggregate Gradation Requirement. The aggregate blend shall have a 100 % of the material passing the No. 8 (2.36 mm) sieve. For spraying applications, the following gradation shall be used:

Sieve	Percent Passing
No. 8 (2.36 mm)	100
No. 16 (1.18 mm)	80-100
No. 30 (600 µm)	75-100
No. 50 (300 µm)	50-85
No. 100 (150 µm)	40-65
No. 200 (75 µm)	25-65

2.3 Water. Water shall be potable and free of harmful soluble salts.

2.4 Additives. Any other material added to the mixture or to any of the component materials shall be listed in the job mix formula with the product certifications.

2.5 Mix Design. The mix design that lists the specific materials to be used on the project shall be submitted to the engineer before the surface sealant treatment work commences. The mixture shall contain a minimum of 25% aggregate by weight of wet mixture and shall meet the following requirements:

	Min.	Max.	Test Method
Maximum Wet-Track Abrasion Loss (3 day soak), grams per square feet.	--	7.5 g/ft ²	TB 100 (ISSA) Modified
Asphalt Content by Ignition Method, percent	30%	--	AASHTO T-308-08 ^c

^cThis method is modified to account for a fine emulsion mixture.

SPECIAL TERMS AND CONDITIONS

Increase or Decrease Quantities

The quantities listed are MoDOT's best estimate of needs at the time of the solicitation posting. MoDOT reserves the right to increase or decrease quantities based upon budget constraints or changes in project requirements. The final quantity ordered by MoDOT shall be furnished at the same unit price.

Work Scheduling – Additional Requirements

The Contractor shall coordinate with MoDOT on setting up a planned work schedule for these projects. No work will be performed outside of normal working hours, Saturdays, Sundays, or holidays unless specifically authorized by the engineer or a designated representative. The following days shall be construed as official holidays under the terms of this solicitation: September 2 (Labor Day). During construction and maintenance seasons, many maintenance buildings work 4-10 shifts and work may not be performed on the "off" days for those buildings unless specifically authorized by the engineer or a designated representative

Temporary Suspension of Work

The District Engineer or a designated representative 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 solicitation. If MoDOT suspends the work for its own advantages and not because of the Contractor's failure to comply, the Contractor will be allowed an equal number of calendar days after the completion date to finish 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. Normal rainfall is not considered a cause qualifying for an extension of time. Claim for extension of time for all causes must be submitted promptly by the Contractor in writing and no later than within 10 Days after the claimed cause for the delay has ceased to exist.

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. Upon notification of award, the Contractor will need to provide a copy of his/her Certificate of Insurance showing coverage, in the amounts required above, prior to the issuance of any purchase order or notice to proceed by MoDOT. MoDOT reserves the right, at its sole discretion, to determine the date by which this documentation must be provided. The Contractor's inability to provide this documentation will result in his/her bid/quote being rejected. MoDOT shall be listed as a "Certificate Holder" on the Certificate of Insurance with the following mailing address:

Missouri Department of Transportation
600 NE Colbern Road
Lee's Summit, MO 64086

Construction Safety Program

Missouri law, 292.675 RSMo, requires the awarded Contractor and its subcontractor(s) to provide a ten-hour occupational safety and health administration (OSHA) construction safety program (or a similar program approved by the Missouri Department of Labor and Industrial Relations as a qualified substitute) for their on-site employees (laborers, workmen, drivers, equipment operators, and craftsmen) who have not previously completed such a program and are directly engaged in actual construction of the improvement (or working at a nearby or adjacent facility used for construction of the improvement). The Contractor and its subcontractor(s) shall require all such employees to complete this ten-hour program, pursuant to 292.675 RSMo, unless they hold documentation on their prior completion of said program. Penalties for non-compliance include Contractor forfeiture to the Commission in the amount of \$2,500, plus \$100 per contractor and subcontractor employee for each calendar day such employee is employed beyond the elapsed time period for required program completion under 292.675 RSMo.

Prevailing Wage

The work to be performed under this solicitation is governed by the provisions of Chapter 290 RSMo, as amended, related to prevailing wages to be paid on public works. If the bid/quote is accepted, the vendor will be required to comply with the prevailing wages as fixed by the Missouri Department of Labor and Industrial Relations, in effect as of the date of the issuance of the solicitation, for each affected craft and type of workmen in the following county:

Lafayette. The **General Wage Order # 56** is attached along with the bid documents on the general services bidding website. Pursuant to the requirements of the Chapter 290 RSMo., not less than the prevailing hourly rate of wages, as set out in the wage order attached to and made part of the specification for work under the contract, must be paid to all workers performing work under the contract. The Contractor shall provide all information, reports and other documentation as required by MoDOT to ensure compliance with Chapter 290 RSMo., as amended, relating to prevailing wages to be paid on public works. The Contractor shall forfeit a penalty to the contracting public body of \$100 per day (or portion of a day) for each worker that is paid less than the prevailing rate for any work done under the contract by the contractor or by any subcontractor. The Contractor shall submit notarized weekly payroll affidavit documentation included with the project request for payment.

Liquidated Damages

In the event the Contractor fails to complete work within the time specified, the Department and the public will sustain damages because of such delay in delivery, the exact extent of which would be difficult to ascertain, and in order to liquidate such damage in advance it is agreed that **the sum of \$250.00 per day, per route**, for each assessable calendar day on which the work has not been completed, is reasonable and the best estimate which the parties can arrive at as liquidated damages, and it is therefore agreed that said amount will be withheld from payments due the Contractor or otherwise collected from the Contractor as liquidated damages. Saturdays, Sundays, holidays and days whereas the Department has suspended work shall not be assessable days.

Spill Prevention/Cleanup

The Contractor shall perform all work in a safe and professional manner. The Contractor's equipment shall be in good working order and all personnel shall be trained in safety measures to prevent accidents from occurring. The Contractor must provide systems necessary to prevent spill and overfills from occurring during the product transfer. The Contractor will be responsible for cleaning up any spill in accordance with state and federal environmental regulations. The Contractor must prevent spills from reaching streets, catch basins or other drainage structures during transfers. A Contractor's operator must be present during work and take an active part in the prevention of spills. The operator will take immediate actions to stop the flow of product when an emergency or spill occurs.

E-Verify

The awarded vendor will have to comply with the requirements of E-Verify see pages 11-13 below. Supply the appropriate documents related to the federal E-Verify program.

VENDOR INFORMATION & PREFERENCE CERTIFICATION FORM

Vendor Information

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

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

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:

- 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
- 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

SIGNATURE AND IDENTITY OF BIDDER

The undersigned states that the correct LEGAL NAME and ADDRESS of (1) the individual Bidder, (2) each partner or joint venture (whether individuals or corporations, and whether doing business under a fictitious name), or (3) the corporation (with the state in which it is incorporated) are shown below; that (if not signing with the intention of binding himself to become the responsible and sole contractor) he is the agent of, and duly authorized in writing to sign for the Bidder or Bidders; and that he is signing and executing this (as indicated in the proper spaces below) as the proposal of a

() sole individual () partnership () joint venture

() corporation, incorporated under laws of state of _____

Dated _____.

Name of individual, all partners,
or joint ventures:

Address of each:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

doing business under the name of:

Address of principal place of business in Missouri

(If using a fictitious name, show
this name above in addition
to legal names)

(If a corporation, show its name above)

ATTEST: (SEAL)

Secretary

Title

(NOTE: If the Bidder is doing business under a FICTITIOUS NAME, the Proposal shall be executed in the legal name of the individual, partners, joint ventures, or corporation, with the legal address shown, and REGISTRATION OF FICTITIOUS NAME filed with the Secretary of State, as required by Sections 417.200 to 417.230, RS Mo. If the Bidder is a CORPORATION NOT ORGANIZED UNDER THE LAWS OF MISSOURI, it shall procure a CERTIFICATE OF AUTHORITY TO DO BUSINESS IN MISSOURI, as required by Section 351.570 and following, RS Mo. A CERTIFIED COPY of such Registration of Fictitious Name or Certificate of Authority to do Business in Missouri shall be filed with the Missouri Highways and Transportation Commission, as required by the Standard specifications, Sec 102.6.6 and 102.6.7.

Note: The following pages detail further terms and conditions which apply to this solicitation document. If any “Standard Solicitation Provisions” and “General Terms and Conditions” below conflict with any requirements outlined on previous pages, the requirements above take precedence.

Tax Exempt Status

The Missouri Highways and Transportation Commission (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.

Right of Acceptance/Rejection

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 solicitation response, unit prices will govern.

General Performance

This work is to be performed under the general supervision and direction of MoDOT and, if awarded any portion of the work, the Contractor agrees to furnish at his/her 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 according to the scope of work and the requirements and specifications detailed within the solicitation documents.

Invoicing and Payment

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. Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The MHTC shall not make any advance deposits. The MHTC assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Authorized quantity is subject to the MHTC's rejection and shall be returned at the Contractor's expense. The MHTC reserves the right to purchase goods and services using the state-purchasing card.

Inspection and Acceptance

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. 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. The MHTC 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. 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.

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 (6th) 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.

(T&C's Version May 2011)

VENDOR NOTES

VENDORS MAY ATTACH OTHER PERTINENT/SUPPORTING DATA WITH THEIR RESPONSE TO THIS SOLICITATION.

All responses to this solicitation should be submitted on this form and returned to the buyer listed above at the district address shown.

Responses must be mailed, or hand-delivered. Sealed bid responses may NOT be faxed or emailed. Bidders should return all pages.

It's not necessary prior to the bid opening (August 9, 2013) to supply the below information, but if your company has already enrolled in the Department of Homeland Security's federal work authorization program and have obtained a completed copy of the E-Verify Memorandum of Understanding form (this would expedite the award process and schedule of events for the project) if the MOU form was submitted with your bid, in addition to filling out the appropriate affidavit form from below.

Prohibition Of Employment Of Unauthorized Aliens:

a. Non-employment of Unauthorized Aliens: Pursuant to Section 285.530, 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/files/programs/gc_1185221678150.shtm

2) By sworn affidavit, affirm that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.

b. Proof of Lawful Presence For Sole Proprietorships and Partnerships: 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.

ADDITIONAL INFORMATION FOR VENDORS:

To begin participation in the federal program takes some time on the internet (at the link above). Once the registration, tutorial and test on this site is passed, an electronically signed Memorandum of Understanding verifying program participation will be given. **It is important that the vendor prints the Memorandum of Understanding (MOU) and keeps a copy for their use in this, as well as future RFB submissions.**

A vendor may submit **EITHER** a page from the E-Verify MOU listing the vendor's name and the MOU signature page completed and signed, at a minimum, by the vendor and Department of Homeland Security – Verification Division (electronic signature is acceptable) **OR** the E-Verify Employment Eligibility Verification (EEV) page. A vendor can obtain a copy of the EEV page by accessing the vendor's "Maintain Company" page in E-Verify and printing the screen.

IF YOUR BUSINESS IS A SOLE-PROPRIETORSHIP OR PARTNERSHIP, THIS AFFIDAVIT FORM SHOULD BE COMPLETED AND RETURNED WITH YOUR RESPONSE TO THIS SOLICITATION.

APPLICANT AFFIDAVIT FOR SOLE-PROPRIETORSHIP OR PARTNERSHIP

(a separate affidavit is required for each owner and general partner)

STATE OF _____)
) ss
COUNTY OF _____)

On this _____ day of _____, 20____, before me appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instruments, who being by me duly sworn, deposed as follows:

My name is _____, and I am of sound mind, capable of making this affidavit, and personally certify the facts herein stated, as required by Section 208.009, RSMo, for failure to provide affirmative proof of lawful presence in the United States of America:

I am the _____ of _____, which is applying for a public benefit (grant, contract, and/or loan) administered/provided by the Missouri Highways and Transportation Commission (MHTC), acting by and through the Missouri Department of Transportation (MoDOT).

I am classified by the United States of America as: (check the applicable box)

___ a United States citizen. ___ an alien lawfully admitted for permanent residence.

I am aware that Missouri law provides that any person who obtains any public benefit by means of a willfully false statement or representation, or by willful concealment or failure to report any fact or event required to be reported, or by other fraudulent device, shall be guilty of the crime of stealing pursuant to Section 570.030, RSMo, which is a Class C felony for stolen public benefits valued between \$500 and \$25,000 (punishable by a term of imprisonment not to exceed 7 years and/or a fine not more than \$5,000 – Sections 558.011 and 560.011, RSMo), and is a Class B felony for stolen public benefits valued at \$25,000 or more (punishable by a term of imprisonment not less than 5 years and not to exceed 15 years – Section 558.011, RSMo).

I recognize that, upon proper submission of this sworn affidavit, I will only be eligible for temporary public benefits until such time as my lawful presence in the United States is determined, or as otherwise provided by Section 208.009, RSMo.

I understand that Missouri law requires MHTC/MoDOT to provide assistance in obtaining appropriate documentation to prove citizenship or lawful presence in the United States, and I agree to submit any requests for such assistance to MHTC/MoDOT in writing.

I acknowledge that I am signing this affidavit as a free act and deed and not under duress.

Affiant Signature

Affiant's Social Security Number or
Applicable Federal Identification Number

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public

My commission expires:

**IF YOUR BUSINESS IS NOT A SOLE-PROPRIETORSHIP OR PARTNERSHIP,
THIS AFFIDAVIT FORM SHOULD BE COMPLETED AND RETURNED WITH
YOUR RESPONSE TO THIS SOLICITATION.**

**WORKER ELIGIBILITY VERIFICATION AFFIDAVIT FOR ALL
MHTC/MODOT CONTRACT AGREEMENTS IN EXCESS OF \$5,000**
(for joint ventures, a separate affidavit is required for each business entity)

STATE OF _____)
) ss
COUNTY OF _____)

On this _____ day of _____, 20____, before me appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be a person whose name is subscribed to this affidavit, who being by me duly sworn, deposed as follows:

My name is _____, and I am of sound mind, capable of making this affidavit, and personally certify the facts herein stated, as required by Section 285.530, RSMo, to enter into any contract agreement with the state to perform any job, task, employment, labor, personal services, or any other activity for which compensation is provided, expected, or due, including but not limited to all activities conducted by business entities:

I am the _____ of _____, and I am duly authorized, directed, and/or
title business name
empowered to act officially and properly on behalf of this business entity.

I hereby affirm and warrant that the aforementioned business entity is enrolled in a federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, and the aforementioned business entity shall participate in said program with respect to all employees working in connection to work under the within state contract agreement with the Missouri Highways and Transportation Commission (MHTC). I have attached documentation to this affidavit to evidence enrollment/participation by the aforementioned business entity in a federal work authorization program, as required by Section 285.530, RSMo.

In addition, I hereby affirm and warrant that the aforementioned business entity does not and shall not knowingly employ, in connection to work under the within state contract agreement with MHTC, any alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. § 1324a(h)(3).

I am aware and recognize that, unless certain contract and affidavit conditions are satisfied pursuant to Section 285.530, RSMo, the aforementioned business entity may be held liable under Sections 285.525 through 285.550, RSMo, for subcontractors that knowingly employ or continue to employ any unauthorized alien to work within the state of Missouri.

I acknowledge that I am signing this affidavit as a free act and deed of the aforementioned business entity and not under duress.

Affiant Signature

Subscribed and sworn to before me this _____ day of _____, 20_____.

Notary Public

My commission expires:

[documentation of enrollment/participation in a federal work authorization program attached]