

**REQUEST FOR
BID (RFB) FORM**

**MAILING ADDRESS:
MISSOURI DEPARTMENT OF TRANSPORTATION
GENERAL SERVICES, P.O. BOX 270
JEFFERSON CITY, MO 65102**

REQUEST NO.	9-140620TV
DATE	May 29, 2014

SEALED BIDS, SUBJECT TO THE CONDITIONS ON ALL PAGES OF
THIS RFB WILL BE RECEIVED AT THIS OFFICE UNTIL

2:00 PM LOCAL TIME; June 20, 2014

AND THEN PUBLICLY OPENED. SIGN & RETURN PRIOR TO TIME
SET FOR OPENING. **ONLY VENDOR INFORMATION WILL BE
READ AT OPENING. PRICING SHEETS WILL NOT BE READ.**

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

Various Locations

BUYER: Tom Veasman **EMAIL:** tom.veasman@modot.mo.gov

BUYER TELEPHONE: 573-522-4404

The purpose of this Request For Bids (RFB) is to establish multiple Time-and-Material (T&M) Agreement(s) in selected Missouri counties for the possible procurement of **Mechanical Project/Maintenance Services (RFB 9-140620TV)** with an effective date of Notice of Award through 4/1/2015. This is a rebid of counties in which no bids were received on the first RFB. The pricing being solicited under this RFB is for services to be rendered to the Missouri Highways and Transportation Commission (hereinafter, "MHTC" or "Commission"), acting by and through its operating arm, the Missouri Department of Transportation (hereinafter, "MoDOT").

Notice to Contractors

This RFB seeks bids from qualified organizations to provide Mechanical Project/Maintenance Services of Plumbing and Pipefitter/Sheet Metal/HVAC Control. MoDOT will receive bids at the following mailing address: P.O. Box 270, Jefferson City, MO 65102-0270, or hand-delivered in a sealed envelope to the following physical address: General Services Procurement at 830 MoDOT Drive, Jefferson City, MO 65109 until 2:00 p.m., June 20, 2014. Scanned or faxed bids will not be accepted. Bid forms and information may be obtained by contacting Tom Veasman at 573-522-4404, tom.veasman@modot.mo.gov, or electronically download them at no charge from http://modot.mo.gov/business/contractor_resources/FacilitiesConstructionandMaintenance.htm. Prevailing wage as established by the Missouri Department of Labor and Industrial Relations shall apply.

Written Questions: All written questions must be addressed to Tom Veasman no later than 11:00 p.m., Local Time, Friday, June 13, 2014 at the following mailing address: Missouri Dept. of Transportation, General Services Procurement Unit, P.O. Box 270, Jefferson City, MO 65102-0270 or by e-mail to tom.veasman@modot.mo.gov. Any questions received after this deadline will not be accepted. MoDOT may issue an addendum and post the responses to all questions on-line for vendors to retrieve. Responses to the questions will be posted on MoDOT's website at: http://modot.mo.gov/business/contractor_resources/FacilitiesConstructionandMaintenance.htm in the form of a written addendum. It is the sole responsibility of the Bidder to check for any and all addendums throughout the Bid process.

(SEE ATTACHED FOR TERMS, 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.

This section must be completed and signed to be considered a responsive bid.

Date: _____
Telephone No.: _____
Fax No.: _____
Federal I.D. No. _____
Email Address: _____

Firm Name: _____
Address: _____

By (Signature): _____
Type/Print Name _____

**Is your firm MBE
certified?** ☐ Yes ☐ No

Title: _____
**Is your firm WBE
certified?** ☐ Yes ☐ No

1. **BID SUBMISSION:**

- A. Bids must be completed on the forms provided herein, properly signed and with all counties that you wish to bid filled out. Do not change the wording of the bid form and do not add words to the bid form. Unauthorized conditions, limitations or provisions attached to the bid will be cause for rejection of the bid.
- B. No telegraphic bid or telegraphic modification of a bid will be considered. No bids received after the time fixed for receiving them will be considered.
- C. Address bids to the Missouri Department of Transportation, and deliver to the address given in the RFB, on or before the day and hour set for opening the bids. Enclose each bid in a sealed envelope bearing the title of the Request for Bid, the name of the bidder, and the date and hour of the bid opening. It is the sole responsibility of the bidder to see that the bid is received on time.
- D. **The Contractor's submitted bid response should include their original signed hardcopy bid documents. The Pricing Sheets are being provided as an EXCEL spreadsheet to allow vendors to insert their bid amounts into the spreadsheet rather than handwriting the amounts.**
- E. **The Contractor's submitted bid response should include the following attached forms:**
VENDOR INFORMATION & PREFERENCE CERTIFICATION FORM and either/or:
 - a) **ANNUAL WORKER ELIGIBILITY VERIFICATION AFFIDAVIT**
 - b) **APPLICANT AFFIDAVIT FOR SOLE-PROPRIETORSHIP OR PARTNERSHIP**

2. **PROOF OF COMPETENCY OF BIDDER**

A contractor may be required to furnish evidence, satisfactory to the Commission, that they have sufficient means and experience in the types of work called for to assure completion of the agreement in a satisfactory manner.

3. **PRICING EXPLANATION**

- A. **PROJECT SERVICES - Mechanical (Prevailing Wage).** Work descriptions for the applicable mechanical titles of *Plumber* and *Pipefitter* and *Sheet Metal Worker* may be found in the Code of State Regulations: 8 CSR 30-3.060 Occupational Titles of Work Descriptions. Contractors must state their price per labor hour as a percentage of the prevailing wage for the county in which the proposed work will be performed as explained herein.
Percentage of Prevailing Wage X (Basic Hourly Rate + Total Fringe Benefits) = Price per hour that may be billed. (Overtime or Holiday Pay would be included in the above calculation if applicable).

As an example: In Camden County, Occupational Title "Carpenter" working regular time, with a multiplier percentage of 124% of prevailing wage would be computed 124% X (\$31.70 + \$13.05) = \$55.49). The following excerpt was taken from Annual Wage Order #18 for Camden County for the purpose of this example.

OCCUPATIONAL TITLE	** Date of Increase	*	Basic Hourly Rates	Over-Time Schedule	Holiday Schedule	Total Fringe Benefits
Asbestos Worker	1/12		\$23.72	56	28	\$11.00
Boilermaker			\$32.31	57	7	\$23.95
Bricklayers - Stone Mason			\$28.20	59	7	\$14.33
Carpenter	6/11		\$31.70	63	68	\$13.05
Cement Mason	6/11		\$25.43	9	3	\$10.45
Electrician (Inside Wireman)			\$30.18	28	7	\$11.94 + 13%

Prevailing Wage Work

- a. It is understood and agreed by and between the parties that not less than the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed and not less than the prevailing hourly rate of wages for legal holiday and overtime work in the locality in which the work is performed, both as determined by the Department of Labor and Industrial Relations or determined by the court on appeal, shall be paid to all workmen employed by or on behalf of the Contractor or any subcontractor, *exclusive of maintenance work*. Only such workmen as are directly employed by the Contractor or his subcontractors, in actual construction work on the site shall be deemed to be employed. The definitions of prevailing wage and maintenance work are provided in RSMo Chapter 290, Section 290.210.

When the hauling of materials or equipment includes some phase of the construction other than the mere transportation to the site of the construction, workmen engaged in this dual capacity shall be deemed to be employed directly on the project and entitled to the prevailing wage.

- b. Overtime, Sundays and Holiday work is determined by the multipliers stated in the Division of Labor Standards' Wage Rate.
- c. The Prevailing Wage Order included with this RFB will remain in effect for the duration of this contract (Per Code of State Regulations 8 CSR 30-3.010, (4): "The wage rates attached to and made a part of the call for bids for a contract shall remain in effect for the duration of that particular contract.").
- d. The contractor will only be reimbursed *for hours actually worked*. All work which is to be performed off site must be properly identified and approved by MoDOT prior to commencement of the work. The Contractor will not be paid wages for travel to and from the job site, but a mobilization mileage rate (See 3. D.) will be allowed.

- B. MAINTENANCE/MINOR REPAIR (Prevailing Wage Not Required):** Contractors must state their fixed hourly rate to perform maintenance/minor repair work and shop time for mechanical work. The fixed hourly rates will include direct and indirect labor, overhead, general & administrative expense, and profit.
- C. MATERIALS & SUPPLIES MARK-UP:** Contractors must state their price for materials, supplies and equipment rental as a percentage of their actual cost for supplies installed or consumed in each project as explained herein. Applying the bidder's percentage to the actual price shall not result in the Commission paying more than the manufacturer's suggested retail price for any item. **Mark-up for materials, supplies and equipment rental exceeding 15% will not be accepted.**

As an example: If the Contractor spends \$100.00 for direct and indirect materials/supplies for a project and bids a mark-up percentage of 5% of the actual cost, the Contractor may bill \$105.00 for supplies.

- D. MOBILIZATION RATE PER MILE:** The Contractor may charge this amount for arriving at a site, if and when requested by MoDOT, to evaluate, repair or construct. This is a one-way per-mile amount to be charged for mobilization (one vehicle only) that commences from the Contractor's business address and ceases at the MoDOT job site. Mobilization charges are limited to 100 miles one-way for one vehicle.

1. If approved by MoDOT, the Contractor may also charge this amount for site-to-site mobilization. Other pertinent travel related expenses may be permitted, but must be approved by MoDOT in advance.

2. Disputes relating to the number of mobilization miles will be settled by using MapQuest mileage.

- E. CONTRACT AWARD:** Award shall be made using the "lowest and best" principle of award which may result in award to more than one contractor per district, region and/or county.

- 1) To ensure an uninterrupted delivery of services, MoDOT may award up to two (2) contracts per county. These awards will be identified as a primary contractor and contingency contractor.
- 2) The contingency contractor(s) shall understand and agree to provide services under the same contractual requirements as the primary contractor(s).
- 3) The contractor(s) and contingency contractor(s) shall understand and agree that the contractor selection shall be made by MoDOT and that such selection shall be final and without recourse.

- F. COST EVALUATION** – Cost evaluation will be based upon: 1) prevailing wage percentage for project services, 2) fixed hourly rate for maintenance/minor repair, 3) materials, supplies and equipment rental percentage and 4) mobilization rate per mile. **Points will be awarded based upon 40% weight given to the percentage of prevailing wage for project services, 30% weight given to the fixed hourly rate for maintenance/minor repair, 15% weight given to the materials and supplies mark-up percentage and 15% weight given to mobilization rate per mile.**

Vendor points are calculated using the following formula in each of the four categories:
Number of points possible X (lowest bid/applicable vendors bid).

- G. BID CATEGORY OMISSIONS** - For any instances where a Contractor completes some bid categories for a given county but fails to complete all of the bid categories, the following assumptions will be made:

- a. If the Project Services category is left blank, 100% will be used. If the Materials and Supplies mark-up is left blank, it will be treated as a 0% mark-up.
- b. If the Mobilization Rate Per Mile space is left blank, it will be treated as a responsive bid with no mobilization mileage requested.
- c. If the Fixed Hourly Maintenance Rate category is left blank for a given county, the bid for that county will be considered a “no bid”.

4. GENERAL REQUIREMENTS

- A. If and when requested, a Contractor shall provide project services or maintenance/minor repair on a Time-and-Material (T&M) basis.
- B. All project services or maintenance/minor repair shall be performed on an as-needed, if-needed basis, if requested, to the sole satisfaction of the Commission.
- C. The notice of bid acceptance does not constitute a directive to proceed. Before providing project services or maintenance/minor repair the contractor must receive authorization in the form of a signed purchase order from a MoDOT District Facilities Operations Supervisor or their designated representative.
- D. The Contractor shall understand and agree that no guaranteed amount of project services or maintenance/minor repair will be requested.
- E. The Contractor shall agree and understand that the acceptance of bid(s) shall not be construed as an exclusive arrangement.
- F. The Contractor shall agree and understand the Commission may secure identical or similar project services and/or maintenance/minor repair from other sources at any time.

- G. A contractor's proposed project services work plan submitted to the Facilities Operations Supervisor as provided for in this document, **may include utilizing services that fall within the definitions of other related occupational titles as published by the Missouri Department of Labor and Industrial Relations**. Should the Contractor's work plan propose performing services of an occupational type other than the ones listed herein, the Contractor shall indicate the reasons for utilizing such other services and provide justification for the type of services proposed. It shall be at the Facilities Operations Supervisor's sole discretion to approve or reject the Contractor's work plan proposal to provide any services falling within the definitions for occupational titles different than those listed herein. Acceptance of the work plan, as provided for herein, shall serve as approval of the utilization of the services by all occupational titles proposed by the Contractor in the work plan. The percentage of prevailing wage bid by the Contractor for their trade in the applicable county will be used to determine the price per hour that may be billed for the other related occupational titles.
- H. The intent of any price agreement resulting from this RFB will be for project services and maintenance/minor repair estimated to be less than \$25,000 per project; however, at its sole discretion, the MHTC may use established pricing for projects that have an estimated value of \$25,000 and greater.
- I. The MHTC reserves the right to solicit formal or informal competition for any and all project services and maintenance/minor repair.
- J. Unless otherwise specified herein, the contractor shall provide all tools, equipment, materials, and supplies necessary for performing the project services and maintenance/minor repair specified herein. However, MoDOT reserves the right to furnish any or all materials.

5. SPECIFIC REQUIREMENTS

- A. The Contractor shall provide services for service calls and planned projects on an hourly work basis as requested by the Facilities Operations Supervisor as defined herein:
 - 1) Service Calls: Service calls are typically spontaneous due to unexpected building failure or newly discovered building deficiencies. Occasionally MoDOT may need the Contractor to provide one or more persons to assist MoDOT's staff on a temporary, hourly basis; however, the Contractor shall understand and agree that MoDOT does not guarantee any specific usage of the Contractor's services.
 - 2) Projects: Projects under this agreement are valued at \$25,000 or less.
- B. In cases that are identified as an **emergency** by the Facilities Operations Supervisor or his/her representative, service response to emergencies shall be **within six (6) hours** after receiving notification. This response time is required at all times day and night. If and when requested, the Contractor will be required to prepare and submit a written work plan for emergency projects to the Facilities Operations Supervisor within 5 working days.
- C. Since each project differs in its specific detail, the MoDOT's Facilities Operations Supervisor will initiate the work by providing the Contractor with the broad scope of work.

- D. If and when requested by the MoDOT's Facilities Operations Supervisor, the Contractor will be required to prepare and submit a written work plan for project services to the MoDOT's Facilities Operations Supervisor within 10 working days.
- E. At a minimum, the work plan for project services must include the following information.
 - 1) The services and materials required to complete the service project.
 - 2) The number of hours, by occupational title, required to complete the project.
 - 3) A guaranteed not-to-exceed price for completing the service project utilizing the firm, fixed prices stated on the Pricing Page and the applicable classifications.
 - 4) A complete list of supplies needed to complete the project.
 - 5) The contractor may be required to provide design documentation (blueprints) as a portion of the written work plan and "as built" drawings.
 - 6) A detailed explanation of any work to be performed off site (off site labor such as shop time is to be billed at the maintenance/minor repair rate).
 - 7) MoDOT will supply the recommended work plan form.
- F. Acceptance of the final work plan for project services will be evidenced by the MoDOT's Facilities Operations Supervisor presenting the Contractor with a signed authorized purchase order that fully describes the materials/supplies and project services to be provided by the Contractor.

6. PRICE CONTROL REQUIREMENTS

- A. Labor Rate. The hourly rate shall include salary, overhead, general & administrative expense, and profit. The result is a fixed unit price for labor.
- B. Maximum Number of Labor Hours. Experienced contractors should be able to estimate the hours needed for a project. MoDOT will not pay for the overage. The only allowance for exceeding the maximum number of labor hours is through the change order process.
- C. Mark-Up on Materials. When billing for materials, supplies or equipment rental, the contractor may calculate the materials cost by adding a mark-up onto their purchase price.
- D. If and when requested, a contractor shall provide documentation for the Time-and-Material (T&M) billed.
- E. Not-To-Exceed Total. A total Not-To-Exceed (NTE) amount must be agreed upon for each project service. Under this arrangement, the contractor can charge for its labor and materials up to a certain maximum. If the time and materials costs exceed that maximum, the contractor charges the NTE amount and assumes the excessive costs.

7. CONTRACT PERIOD:

Contract Period - The contract shall commence from the date of Notice to Proceed until March 31, 2015, with up to three (3) one-year renewal option periods, or any portion therein. If the option for renewal is exercised by MoDOT, the Bidder shall agree to all terms and conditions of the RFB and all subsequent addenda. Renewal options are at the sole discretion of MoDOT.

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: <i>If additional space is required, please attach an additional sheet and identify it as Addresses of Missouri Offices or Places of Business.</i>	
M/WBE INFORMATION: List all certified Minority or Women Business Enterprises (M/WBE) utilized in the fulfillment of this bid. Include <u>percentages</u> 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>	
<i>If additional space is required, please attach an additional sheet and identify it as M/WBE Information</i>	

Preference Certification

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

<u>GOODS/PRODUCTS MANUFACTURED OR PRODUCED IN USA:</u> 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
<i>If additional space is required, please attach an additional sheet and identify it as Location Products are Manufactured or Produced.</i>	
<u>MISSOURI SERVICE-DISABLED VETERAN BUSINESS:</u> 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.	
<u>Veteran Information</u>	<u>Business Information</u>
Service-Disabled Veteran's Name (Please Print)	Service-Disabled Veteran Business Name
Service-Disabled Veteran's Signature	Missouri Address of Service Disabled Veteran Business

Exhibit A
ANNUAL WORKER ELIGIBILITY VERIFICATION AFFIDAVIT
(for joint ventures, a separate affidavit is required for each business entity)

STATE OF _____)
) ss
COUNTY OF _____)

On the ____ day of _____, 20____, before me appeared _____,
Affiant name
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, stated as follows:

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

• I, the Affiant, 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, and the aforementioned business entity shall participate in said program to verify the employment eligibility of newly hired employees working in connection with any services contracted by 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.

• I, the Affiant, also hereby affirm and warrant that the aforementioned business entity does not and shall not knowingly employ, in connection with any services contracted by 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, the Affiant, 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, the Affiant, 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 in _____, _____, the day and year first above-written.
city (or county) state

Notary Public

My commission expires:

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

Exhibit B
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:

Missouri Highways and Transportation Commission
Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions

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.

Missouri Highways and Transportation Commission
Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions

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 \$1,000,000 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 \$1,000,000 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.

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 MHTC. Request for permission to subcontract or otherwise dispose of any part of the work shall be in writing to MHTC 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 Contractor 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 subcontractor shall be made to the Contractor to whom the contract was awarded and the purchase order issued.

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/qc_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. A copy of the affidavit referenced herein is provided within this document, attached as Exhibit A.

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- 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. A copy of the affidavit reference herein is provided within this document, attached as Exhibit B.

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

- a. 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.
- b. 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(ies): Statewide. The Annual Wage Order #20 is attached to the bid documents. 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.
- c. The Contractor shall provide all information, reports and other documentation as required by MHTC to ensure compliance with Chapter 290 RSMo., as amended, relating to prevailing wages to be paid on public works.
- d. 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.

Permits, Licenses and Safety Issues

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.

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.

Liquidated Damages

- a. In the event the successful Contractor fails to deliver the material 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 \$100 per day**, for each assessable calendar day on which the delivery 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.
- b. **Saturdays, Sundays, holidays and days whereas the Department has suspended work** shall not be assessable days.