

BID FORM

**MISSOURI DEPARTMENT OF TRANSPORTATION
SOUTHEAST DISTRICT
3956 E. MAIN STREET
WILLOW SPRINGS, MO 65793**

REQUEST NO.	SEW17-1186RY
DATE	January 9, 2017
PAGE NO.	1 OF 12 PAGES

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

February 9, 2017 10:00 AM CST

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

**BIDS TO BE BASED F.O.B. DESTINATION
MISSOURI DEPARTMENT OF TRANSPORTATION**
Submit net bid as cash discount stipulations will not be considered

Poplar Bluff, MO

SIGN AND RETURN BEFORE TIME SET FOR OPENING

BUYER:	Gloria Bunch	TELEPHONE:	(417) 469-6256
		EMAIL:	gloria.bunch@modot.mo.gov

SUPPLIES OR SERVICES

MoDOT Southeast seeks bids from qualified bidders to provide the materials and service necessary for asphalt paving at the Poplar Bluff Construction Office. The project described as **“Poplar Bluff Construction Office Paving”** shall be completed in accordance to attached project drawings and specifications. Prevailing wage as established by the Missouri Department of Labor and Industrial Relations shall apply. Bid securities in the amount of 5% of the bid will be required to accompany bids.

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

In compliance with the above request for bid, and subject to all conditions thereof, the undersigned bidder agrees to accomplish this project in its entirety by June 1, 2017 and will have a total of 10 working days to complete all work once work has begun. Once work begins the contractor shall diligently pursue with the work until completion as weather allows per engineer’s direction.

(SEE ATTACHED FOR CONDITIONS AND INSTRUCTIONS)

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

Date: _____

Telephone No.: _____

Fax No.: _____

Federal I.D. No. _____

Email Address: _____

Is your firm MBE certified? Yes No

Is your firm WBE certified? Yes No

Firm Name: _____

Address: _____

By (Signature): _____

Type/Print Name _____

Title: _____



Introduction

The purpose of this Request for Bid (RFB) is to solicit competitive sealed bids from bidders to provide the materials and service necessary for asphalt paving and striping at the Poplar Bluff Construction Office in accordance with the requirements stated herein.

Bid Submission

Each bid must be mailed or hand delivered in a sealed envelope clearly marked “**Poplar Bluff Construction Office Paving**” to the Procurement Office. All questions regarding the RFB shall be submitted to the Coordinator. **All bids must be received no later than 10:00 am CST, February 9, 2017.**

RFB Coordinator:

Gloria Bunch
MoDOT Southeast
3956 E. Main
Willow Springs, MO 65793
Phone: (417) 469-6256

It shall be the bidder's responsibility to ask questions, request changes or clarification, or otherwise advise MoDOT if any language, specifications or requirements of an RFB appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFB. Any and all communication from bidders regarding specifications, requirements, competitive bid process, etc., must be directed to the buyer from the MoDOT, unless the RFB specifically refers the bidder to another contact

MHTC reserves the right to reject any and all bids for any reason whatsoever. Bids will be reviewed to determine if the bid complies with the mandatory requirements, and to determine the lowest and responsive bid.

Scope of Work

Paving area at the Poplar Bluff Construction Office is approximately 200 feet. Work shall begin after April 1, 2017 but be completed no later than June 1, 2017. Base rock, grading and pavement marking will be done by others. Contractor is to perform the following:

Asphalt Paving: Apply two (2) asphalt lifts BP-1 (PG 64-22) over PMBB in accordance with the plans and MoDOT’s most recent version with revisions of the Missouri Standard Specifications for Highway Construction.

Area A - The following quantities of asphalt pavement were estimated to be needed:

PG 64-22	246 tons +/-
PMBB	493 tons +/-

Optional Area B - The following quantities of asphalt pavement were estimated to be needed:

PG 64-22	52 tons +/-
PMBB	104 tons +/-

Note: Area B will be paved if budget permits.

Invoicing and Payment

Each invoice should be itemized in accordance with items listed on the contract. 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. MoDOT shall not make any advance deposits.

MoDOT assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any authorized quantity is subject to MoDOT’s rejection and shall be returned at the Contractor's expense.



Examination of Documents and Site Work

Before submitting a bid, each bidder shall examine the Drawings carefully, read the Specifications and all other proposed Contract Documents, and visit the site of the work. Each bidder shall fully inform themselves, prior to bidding, as to existing conditions and limitations under which the Work is to be performed and shall include in their bid a sum to cover the cost of items necessary to perform the Work, as set forth in the proposed Contract Documents. No allowance will be made to a bidder because of lack of such examination or knowledge. The submission of a bid will be considered conclusive evidence that the bidder has made such examination.

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 the state. Contractor will comply with local laws involving safety in the prosecution of the work.

Proof of Competency of Bidder

A bidder may be required to furnish evidence, satisfactory to MoDOT, that they and their proposed subcontractor(s) have sufficient means and experience in the types of work called for to assure completion of the Contract in a satisfactory manner.

Award/Rejection of Bids

The Contract, if awarded, will be made on an "All or None" basis using the "lowest and best" principle of award, subject to MoDOT's right to reject any or all bids and to waive informality and irregularity in the bids and in the bidding.

Contract Documents

The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the Contractor and the duly authorized representative of MoDOT, by a modified purchase order prior to the effective date of such modification. The Contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification.

Review of Submittals

The Architect/Engineer/Designer review of submittals is only for the limited purpose of checking for conformance with information given and seeing if they conform to design intent. The General Services Manager is not responsible for determining the accuracy of measurements and completeness of details, for verifying quantities, or for checking fabrication or installation procedures. The General Services Manager's review does not relieve the contractor of his or her responsibilities under the contract documents.

Work Quality

Inspection of Work: The General Services Manager or designated representative shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other data and records relating to the work. If requested by the General Services Manager or designated representative, the contractor shall at any time before final acceptance of the work uncover any portion of the finished work as directed for inspection. After examination, the contractor shall restore said portions of the work to the standards required by the contract. Should the work thus exposed and examined prove acceptable, the actual cost of uncovering, removing and replacing shall be paid by MoDOT. Should the work so exposed and examined prove unacceptable, the uncovering, removing and replacing shall be at the expense of the contractor.

Defective Work: All work which has been rejected shall be remedied, or if necessary, removed and replaced in an acceptable manner by the contractor at its expense. If the contractor fails to remedy or replace such defective work immediately after receiving written notice from the General Services Manager or designated representative, MoDOT may employ labor to correct the defective work, and the cost incurred in making such corrections shall be deducted from the payment due or to become due the contractor under this contract.

Contractor will provide a one-year warranty for parts and labor on all building material, and equipment or a standard manufacturer's warranty whichever is greater. All warranties, including extended service agreements shall begin upon MoDOT's written acceptance of the punch list items.



Contractor's Responsibility for Work: Until the General Services Manager or designated representative, accepts the work, it shall be in the custody and under the charge and care of the contractor. Contractor shall rebuild, repair, restore or make good at its own expense any lost or stolen MoDOT-owned material and all injuries or damages to any portion of the work caused by action of the elements or from any other reason before its completion and final acceptance. Issuance of a payment estimate on any part of the work done will not be considered as final acceptance of any work completed up to that time.

Preservation of Utilities and Monuments: The contractor shall be responsible for the preservation of all public and private utilities, wires, lines, pipes, poles, cables, and conduit at the site of the work and shall use every precaution necessary to prevent damage or injury thereto. The contractor shall not disturb or damage any land monument or property landmark until an authorized agent has witnessed or otherwise referenced, their location and shall not remove them until directed by General Services Manager.

Cooperation with Other Contractors: The contractor shall arrange its work so as not to interfere with the operations of other contractors of MoDOT which might be engaged in performing adjacent or nearby work. Whenever work being done by other contractors is contiguous or related to the work involved in this contract, the respective rights of the various contractors will be determined by the General Services Manager or designated representative in order to secure the completion of the work under all contracts in general harmony.

The contractor will be required to remove from MoDOT's property all debris.

Temporary Suspension of Work: The General Services Manager or designated representative shall have authority to suspend work, wholly or in part, for such period or periods of time as he may deem necessary when weather or other conditions are such that in the opinion of the General Services Manager or designated representative 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. The contractor may suspend work for reasonable cause with written approval of the General Services Manager or designated representative. Liquidated damages shall not accrue during the period in which work is suspended with the approval of the General Services Manager or designated representative, however, if the suspension is because of the contractor's failure to comply to any of the provisions of the contract, the contractor shall not be entitled to an extension of completion time nor to a waiver of liquidated damages. In the event work is suspended, the contractor shall store all materials in a manner that will protect them from damage, and shall take every precaution to prevent damage or deterioration of, the portions of the work completed. If work has been discontinued for any reason, the contractor shall give the General Services Manager or designated representative written notice at least forty-eight (48) hours before resuming operations.

Change Orders

General: All departures from the plans and specifications will be considered unauthorized unless, before proceeding with the work, the contractor has had delivered to it a change order, signed by the General Services Manager or designated representative, authorizing and directing such changes or departures. All unauthorized work shall be at the contractor's expense and the General Services Manager or designated representative may order such unauthorized work removed and replaced at the contractor's expense.

Overhead and Profit on Change Orders: The percentages for overhead and profit charged on Change Orders and Field Work Authorizations shall be negotiated and may vary according to the nature, extent and complexity of the work involved. However, the overhead and profit for the contractor or subcontractor actually performing the work shall not exceed 15%. When one or more tiers of subcontractors are used, in no event shall any contractor or subcontractor receive as overhead and profit more than 7% of the cost of the work performed by any of his subcontractors. In no case shall the total overhead and profit paid by the owner on any change order exceed twenty five percent (25%) of the cost of materials, labor and equipment necessary to put the change order work in place.

Contractor's Procedure for Claims: If the contractor considers additional compensation may be due for work or material not clearly covered in the contract or ordered in writing by the General Services Manager or designated representative as extra work, or if additional compensation may be requested beyond the scope of such provisions, the contractor shall notify the General Services Manager or designated representative in writing of the intention to make a claim before beginning the work in question. If notification is not given and the General Services Manager or designated representative is not afforded proper facilities by contractor to provide necessary inspection and for keeping strict account of actual cost, the contractor agrees to waive any claims for additional compensation. Notice by the contractor, and the fact that the General Services Manager or designated representative has kept account of the cost shall not be construed as substantiating the validity of the claim. The contractor shall file a written notice of claim for additional compensation in triplicate within 60 days after completing the work in question.



- a. If the claim is against MoDOT, the notice of claim shall be personally delivered, or sent by certified mail to the office of the Secretary of the Commission in Jefferson City, Missouri. All notices of claims shall contain an itemized statement showing completely and fully the items and amounts forming the basis of the claim.
- b. Any claim or an item of any claim, not included in the notice and statement, or any claim included but not clearly defined and specifically set out and itemized or any claim not filed within the time and in the manner provided, shall be forever waived and shall neither constitute the basis of nor be included in any legal action, counterclaim, set-off, or arbitration.
- c. All claims filed with Missouri Highway and Transportation Commission's Secretary will be forwarded to the Missouri Department of Transportation's Claims Committee.

Quality Management Oversight

MoDOT **will not provide daily inspection** and quality assurance on this project, therefore the contractor must provide quality management oversight.

Quality management oversight gives the contractor the primary role and responsibility for incorporating quality assurance into the project from start to finish.

MoDOT staff will be available for Hold Point inspections at the times established in the project schedule. The inspections may be rescheduled as needed, but a minimum 24-hour advance notification from the contractor is required unless otherwise approved by the MoDOT Inspector.

Hold Points

Hold Points are events that require approval prior to continuation of work. Hold Points occur at definable stages of work or progress phases when succeeding work depends on acceptance of the proceeding work.

The Hold Points for this project are as follows:

1. After the 2" of bituminous base is compacted.
2. Final inspection of the project.

Definitions

When the term "**MoDOT Inspector or General Services Manager**" is used herein, it shall refer to those MoDOT individuals authorized to perform site inspections by Jacky Traw, General Services Manager in the Southeast District, 573-472-5215 (Office) or 573-380-3660 (Cell).



Bid Form
Poplar Bluff Construction Office Paving Project

The undersigned, having examined the RFB titled **SEW17-1186RY – Poplar Bluff Construction Office Paving Project** and having visited the site and examined the conditions affecting the work, hereby propose and agree to furnish all labor, materials, equipment and everything which may be necessary or incidental thereto, as proposed by said Contract Documents, all to the satisfaction of the General Services Manager or designated representative for the stipulated sum of:

Area A

BP-1(PG 64-22) Unit Price \$ _____ X Qty. 246 Tons = Total \$ _____.

PMBB Unit Price \$ _____ X Qty. 493 Tons = Total \$ _____.

Final Total \$ _____.

Optional Area B

BP-1(PG 64-22) Unit Price \$ _____ X Qty. 52 Tons = Total \$ _____.

PMBB Unit Price \$ _____ X Qty. 104 Tons = Total \$ _____.

Final Total \$ _____.

Name of Company

Address

Federal Tax ID Number

Telephone Number

Email Address for Communications

Print Name/Title

Signature



Subcontractor Listing

For portions of Work equaling or exceeding 1% of the total proposed Contract Sum, the undersigned proposes to use the following subcontractors. Except as otherwise approved by the Owner, the undersigned proposes to perform all other portions of the Work with his own forces.

Portion of the Work:

Subcontractor name and address:

Use Additional Sheet if
Required

Bidder:

Provide Signature
Identical to That
Shown on the Bid Form

By _____



Bid Bond

KNOW ALL MEN BY THESE PRESENTS, that we _____, as Principal, and _____, as Surety, are held firmly bound unto the State of Missouri (acting by and through the Missouri Highway and Transportation Commission) in the penal sum of _____ Dollars (\$_____), to be paid to the State of Missouri, or the Missouri Highway and Transportation Commission, to be credited to the State Road Fund and Principal and Surety binding themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this _____ day of _____, 20_____

THE CONDITION OF THIS OBLIGATION is such that:

WHEREAS, the Principal is submitting herewith a bid to the Missouri Highway and Transportation Commission on Route(s) _____, in _____ County(ies), Project(s) _____, for construction or improvement as set out in said bid.

NOW THEREFORE, if the Missouri Highway and Transportation Commission shall accept the bid of the Principal, and if said Principal shall properly execute and deliver to the Missouri Highway and Transportation Commission the Contract, Contract Bond, Specifications and evidence of insurance coverage in compliance with the requirements of the Bid, to the satisfaction of the Missouri Highway and Transportation Commission, then this obligation shall be void and of no effect, otherwise to remain in full force and effect.

In the event the said Principal shall, in the judgment of the Missouri Highway and Transportation Commission, fail to comply with any requirement as set forth in the preceding paragraph, then the State of Missouri, acting through the Missouri Highway and Transportation Commission, shall immediately and forthwith be entitled to recover the fees, and any other expense of recovery.

Principal
By _____

Attorney in Fact (SEAL)
Attest: (CORPORATE SEAL)

Corporate Secretary

Note: This bond must be executed by the Principal and by a Corporate Surety authorized to conduct surety business in the State of Missouri.

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:

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

Veteran Information

Business Information

Service-Disabled Veteran's Name (Please Print)

Service-Disabled Veteran Business Name

Service-Disabled Veteran's Signature

Missouri Address of Service Disabled Veteran Business

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.

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

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

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

Bid Guaranty/Contract Bond

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

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

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

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: **Butler**. The **Annual Wage Order #23** is attached to the bid documents.
- c. 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.
- d. 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.
- e. 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.