

UTAH COUNTY
PUBLIC WORKS DEPARTMENT
2855 South State Street
Provo, Utah 84606
(801) 851-8600

INVITATION TO BID
for
HOT PLANT MIX ASPHALT

Multiple Award Bid

ITB # 2018-7

CLOSING DATE
FOR RECEIPT OF BIDS:

Thursday, February 22, 2018

TIME:

3:00 p.m. (Mountain Time)
Bids will be opened at 3:15 p.m.

PLACE:

Office of the Utah County Purchasing Agent
100 East Center Street
Room 3600
Provo, Utah 84606

THIS MAY BE A MULTIPLE AWARD BID

Utah County may sign contracts with multiple suppliers in order to minimize transportation costs and promote economy of delivery and service.

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1. INVITATION TO BID

1.1 INTENT

Through this Invitation to Bid (ITB), Utah County intends to select one or more qualified supplier(s) (Contractor) to provide Hot Plant Mix Asphalt material through the year 2020 as described herein.

The material shall be generated and loaded by the Contractor into County trucks for delivery.

If a Contractor is selected pursuant to this ITB, an agreement will be executed with Utah County, a sample copy of which is attached as Exhibit C.

THIS MAY BE A MULTIPLE AWARD BID. Utah County may sign agreements with multiple Contractors in order to minimize transportation costs and promote economy of delivery and service.

1.2 PROCEDURE

- A. The procedure for response to this ITB, evaluation of bids, and selection of a Contractor is as follows:
 - 1. All ITB-related documentation (including the ITB, questions and answers, supplementary information, and addenda) will be distributed through SciQuest.
 - 2. Interested entities will prepare and submit their bids prior to the specified Closing Date for Receipt of Bids.
 - 3. Utah County and/or its representatives will evaluate all submitted bids to determine acceptance or rejection of the bids.
 - 4. The selected Contractor will be required to sign an agreement with the County.

1.3 BID ORGANIZATION

- A. The bid must include:
 - 1. Completed Contractor's Cost Proposal (Attachment B)
 - 2. Completed Contractor Information Form (Exhibit A).
 - 3. Completed Certificate of Non-Collusion (Exhibit B).
 - 4. A copy of the bidder's current local business license.
 - 5. Completed W-9 Form.

1.4 BID SUBMISSION

- A. Each respondent must submit TWO (2) copies of its SEALED bid to the Utah County Purchasing Manager. The envelope containing the bid must be clearly labeled "SEALED BID – HOT PLANT MIX ASPHALT, ITB # 2018-7". The bid must be delivered to

Utah County Purchasing Manager
100 East Center, Room 3600
Provo, Utah 84606

- B. LATE BIDS WILL NOT BE ACCEPTED EXCEPT AS SET FORTH IN UTAH COUNTY PROCUREMENT RULES AND REGULATIONS.

1.5 QUESTIONS AND CLARIFICATIONS

All questions regarding this ITB must be submitted through the SciQuest web site. The deadline for submission of questions is specified on the SciQuest web site.

1.6 ACCEPTANCE OF BID

- A. Utah County reserves the right to reject any or all bids or waive minor irregularities when to do so would be in the best interests of Utah County. Minor irregularities are those which will not have a significant adverse effect on overall competition or performance levels.
- B. The responding party agrees that Utah County may terminate this procurement procedure at any time, and Utah County shall have no liability or responsibility to the responding party for any costs or expenses incurred in connection with this ITB, or such party's response.

1.7 DISPOSITION OF BIDS

All bids (and the information contained therein) shall become the property of Utah County. No bid shall be returned to the respondent regardless of the outcome of the selection process.

1.8 DISQUALIFICATION OF BID

The occurrence of any of the following may result in disqualification of a bid:

- A. Failure to respond within the established timetable.
- B. Failure to completely answer all questions presented in the ITB.
- C. Use of any other type of form or format other than those indicated in the ITB.
- D. Failure to provide requested documentation at the time of bid submission.
- E. Illegible responses.
- F. If the bidder adds any provisions reserving the right to accept or reject an award or to enter into an agreement pursuant to an award, or any other unauthorized conditions, limitations or provisions.
- G. If the bidder is unable to evidence a satisfactory record of integrity.
- H. If the bidder is not qualified legally to contract.
- I. If the bid at the opening does not contain a signed bid, and a signed certificate of non-collusion.
- J. Utah County reserves the right to reject any or all bids.

1.9 EVALUATION CRITERIA

All bids will be evaluated by authorized representatives of Utah County for compliance with the terms and conditions contained in this ITB and the resulting agreement awarded to the lowest responsive and responsible bidder.

1.10 GENERAL

- A. Utah County will award a contract in reliance upon the information contained in bids submitted in response to the ITB. Utah County will be legally bound only when and if there is a signed agreement entered into between Utah County and the awarded bidder.
- B. It is vitally important that any person who signs a bid or agreement on behalf of a respondent certifies that he or she has the authority to so act. The bidder who has its bid accepted may be required to answer further questions and provide further clarification of its bid and responses.
- C. Receiving this ITB or responding to it does not entitle any entity to participate in services or transactions resulting from or arising in connection with this ITB. Utah County shall have no liability to any person or entity under or in connection with this ITB, unless and until Utah County and such person have executed and entered into an agreement pursuant to the terms of this ITB.
- D. By responding to this ITB each responding party acknowledges that neither Utah County nor any of its representatives is making or has made any representation or warranty, either express or implied, as to the accuracy or completeness of any portion of the information contained in this ITB. The responding party further agrees that neither Utah County nor any of its representatives shall have any liability to the responding party or any of its

representatives as a result of this ITB process or the use of the information contained in this ITB. Only the terms and conditions contained in an agreement when, as, and if executed, and subject to such limitations and restrictions as may be specified therein, may be relied upon by the respondent in any manner as having any legal effect whatsoever.

1.11 INTERPRETATION OF ITB

The invalidity of any portion of this ITB shall not prevent the remainder from being carried into effect. Whenever the context of any provision shall require it, the singular number shall be held to include the plural number, and vice versa, and the use of any gender shall include all genders. The paragraph and section headings in this ITB are for convenience only and do not constitute a part of the provisions hereof.

1.12 PROPRIETARY INFORMATION

The Contractor shall mark proprietary information contained in the bid which is not to be disclosed to the public or used for purposes other than the evaluation of the bids. Pricing and service elements of the successful bid will not be considered proprietary.

1.13 RULES OF PROCUREMENT

- A. This procurement shall conform to and is governed by The Utah County Division of Purchasing, Procurement Rules and Regulations.
- B. For this procurement, all bids must be submitted in the bid format outlined herein.
- C. All prospective bidders must meet the required criteria as of the date of submission. Respondents must provide all information requested in the Contractor Information Form.
- D. Utah County has established certain requirements with respect to bids to be submitted by respondents. The use of "shall", "must", or "will", in this ITB indicates a requirement or condition from which a material deviation will not be approved by Utah County.

ATTACHMENT C

SPECIFICATIONS HOT PLANT MIX ASPHALT

S.1 MATERIAL

- A. The Hot Plant Mix Asphalt, hereinafter "asphalt", shall have a design mix of 6.5%, with an AC-10 grade of oil binder, and a ½ inch maximum crushed gravel material size. At the time Utah County takes possession of the asphalt at the Contractor's plant, the temperature of the asphalt shall be between 180° F and 260° F.
- B. The Contractor shall supply the asphalt, scales to weigh the asphalt, and equipment and labor to load the asphalt into County-owned or contracted trucks.
- C. All costs associated with this item shall be included in Contractor's Cost Proposal as indicated herein and shall NOT be paid as separate item(s).

S.2 QUANTITY

- A. Utah County intends to purchase asphalt through the year 2020 per the terms of this Agreement. The County estimates purchasing approximately 3,000 tons of material per year. The County may award contracts to multiple Contractors for portions of the total quantity.
- B. Payment will be based upon weight tickets and verification of the actual quantities accepted by the County which comply with these specifications. The County reserves the right at any time to make such increases or decreases in quantities as may be found necessary or desirable. The Contractor agrees to accept the quantities as altered the same as if it had been a part of the original Agreement.

S.3 DELIVERY

- A. The County shall take delivery of the asphalt from Contractor on a schedule to be mutually determined by County and Contractor.
- B. The Contractor shall weigh and load the asphalt into County trucks at a site that is located within the main transportation corridor of Utah County, or at the Point of the Mountain in Salt Lake County, or in the Mona area of Juab County.
- C. Utah County will determine which pickup locations to use based on cost and the proximity of pickup locations to County projects to achieve the lowest possible cost to County.

S.4 TERM AND RENEWAL

- A. The initial term of this Agreement shall commence upon the execution hereof and shall terminate on December 31, 2018.
- B. This Agreement shall automatically renew for up to two (2) additional one-year periods upon the same terms and conditions, unless otherwise indicated in writing by the County at least 30 days prior to the termination date of the initial term or any renewal term.
- C. The Contractor may, upon written notice delivered to COUNTY on or before November 1st, request an increase to the contract price by: 1) a percentage equal to the percentage increase which occurred in the Consumer Price Index (defined as the Consumer Price Index, All Urban Customers (CPI-U) U.S. City Average, All Items, or a similar index if this index is discontinued) during the preceding one year period, not to exceed three percent (3%) per year; or 2) an amount equal to the amount per ton of direct, documented increase in the market price of Contractor's asphalt product due to corresponding, documented cost increase(s) from Contractor's suppliers. Any cost increase approved by Utah County shall become effective not sooner than the commencement date of the next renewal period of the Agreement.

ATTACHMENT B

CONTRACTOR'S COST PROPOSAL

Company Name: _____
Address: _____
City, State, Zip: _____
Phone: _____

1. BID PRICE – HOT PLANT MIX ASPHALT:

PICKUP LOCATIONS	PRICE PER TON
1.	\$
2.	\$
3.	\$
4.	\$

1. The Contractor shall list all possible pickup locations and price per ton at that location when submitting its bid.
2. The price per ton shall include all costs, including any costs for weighing the material and loading it into County trucks.
3. Actual payments will be based on the amount of material accepted by the County from the specified pickup location at the listed price per ton

2. CERTIFICATION

I hereby certify that I have read, understand, and agree to all sections, Exhibits, and Attachments of this Invitation to Bid for Hot Plant Mix Asphalt. I further certify that the information submitted by me/my company in response to this Invitation, including the pricing and other information, is true and accurate.

I understand that Utah County has the right to reject any or all bids, to waive minor irregularities when to do so would be in the best interests of Utah County, and to negotiate a price for the proposed services as determined to be in the best interest of Utah County.

Signature

Title

Name (please print)

Date

EXHIBIT A CONTRACTOR

INFORMATION FORM

In order to receive consideration, submitted bids must contain responses to all questions.

Failure to respond to all questions may result in disqualification of the bid.

COMPANY NAME & ADDRESS: _____

Is this an Office: _____, Home: _____, Shop: _____, Other: _____
Telephone Number: (____) _____, Emergency Number: (____) _____.
Answering Machine: (____) _____, Fax Number: (____) _____.
Email Address: _____

COMPANY OWNER: _____

COMPANY PRESIDENT: _____

CONTACT PERSON: _____ Phone: _____

Type of Company (Partnership, Corporation, Venture etc.): _____

If a Corporation, in what State Incorporated: _____

Business License Number: _____

State of Utah Contractor License Number: _____

Federal Tax Identification Number: _____

D&B D-U-N-S Number: _____

How long has this company been in business: _____ Years, and _____ Months.

Officers authorized to execute contracts: _____

What would happen to your company in the event of the owner's absence or death?

Brief History of the Company: _____

Are there any judgments, suits or claims pending
against your company? If Yes, attach a written explanation.

YES NO
☐ ☐

Has your company operated under any other name (s)?
If Yes, attach a written explanation.

YES NO
☐ ☐

CONTRCATOR INFORMATION FORM Page 2

Has your firm failed to complete a contract within the last five years?
If "yes" attach explanation.

YES NO
☐ ☐

Has your firm or any partner or officers ever been involved in any
bankruptcy action? If "yes" attach explanation.

YES NO
☐ ☐

Has your firm ever been listed on the Excluded Parties List System?

YES NO
☐ ☐

Are any of your firm's owners, officers, employees, or agents also
employees of Utah County or related to any employees of Utah County
If "yes" attach explanation.

YES NO
☐ ☐

FINANCIAL REFERENCES

1. Bank Name & Address _____

Manager _____ Phone _____

2. Bank Name & Address _____

Manager _____ Phone _____

CLIENT REFERENCES

1. Name: _____, Contact: _____
Address: _____, Phone: _____

2. Name: _____, Contact: _____
Address: _____, Phone: _____

3. Name: _____, Contact: _____
Address: _____, Phone: _____

4. Name: _____, Contact: _____
Address: _____, Phone: _____

CERTIFICATE OF NON-COLLUSION

STATE OF UTAH) Invitation to Bid
)SS for
COUNTY OF UTAH) Hot Plant Mix Asphalt

The undersigned of lawful age, being first duly sworn, disposes and says:
That as a condition precedent to the award of the Utah County project as above captioned,

solemnly swear that neither I, nor to the best of my knowledge any member or members of my firm or company have either directly or indirectly restrained free and competitive bidding on this project by entering into any agreement, participating in any collusion, or otherwise taking any action unauthorized by Utah County, with regard to this bid or potential agreement resulting therefrom.

By: _____
Title: _____

Subscribed/sworn to before me this ____ day of _____ 2018 A.D.
My Commission Expires _____
Residing at _____

By: _____
Notary Public

EXHIBIT C SAMPLE

AGREEMENT

UTAH COUNTY AGREEMENT

THIS AGREEMENT is made and entered into by and between Utah County, a body corporate and politic of the State of Utah, located at 100 East Center Street, Provo, Utah 84606, hereinafter referred to as COUNTY, and the following hereinafter referred to as CONTRACTOR:

Name

Address

City State Zip

Contact Person: _____
Phone #: _____
Email: _____

WHEREAS, COUNTY desires to obtain Hot Plant Mix Asphalt and further to obtain said
[X] product(s) [] service(s) or [] product(s) and service(s) in accordance with Utah State Law; and
WHEREAS, CONTRACTOR is willing to provide such [X] product(s) [] service(s) or [] product(s) and service(s) for COUNTY in consideration of receiving such fees and other consideration as herein provided;
NOW, THEREFORE, in consideration of such mutual promises set forth herein, the parties hereto agree as follows:

- DESCRIPTION OF PRODUCT(S) SERVICE(S) OR PRODUCT(S) AND SERVICE(S)
In consideration of the compensation set forth in Section 2, CONTRACTOR agrees to provide
[] _____ or
[X] provide the [X] product(s) [] service(s) or [] product(s) and service(s) as specified in CONTRACTOR's Proposal attached hereto as ATTACHMENT B, which attachment is incorporated herein by this reference.
- COMPENSATION
In exchange for services listed in Section 1, COUNTY will:
[] pay CONTRACTOR \$ _____
[X] or compensate in accordance with the terms set forth in CONTRACTOR's Proposal attached hereto as ATTACHMENT B, or such other amount as modified in accordance with the terms hereof.
- TERM
The term of this AGREEMENT shall commence upon execution hereof and shall terminate upon completion of the work specified, or until the following date, the 31st of December, 2020.
- ATTACHMENTS
The following attachments are incorporated into this Agreement as if fully set forth herein:
[X] ATTACHMENT A: Utah County Standard Terms and Conditions
[X] ATTACHMENT B: CONTRACTOR'S Proposal
[X] ATTACHMENT C: Utah County Specifications
[] ATTACHMENT D: Utah County Procurement Compliance
Except as explicitly modified by Special Provisions as set forth in ATTACHMENT C, any ambiguities or conflicting terms shall be resolved by granting full deference to the terms of Utah County's Standard Terms and Conditions as set forth in ATTACHMENT A.

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be duly executed on this, the _____ of _____, 2018.

BOARD OF COUNTY COMMISSIONERS,
UTAH COUNTY, UTAH

NATHAN IVIE, Commission Chairman

ATTEST:
BRYAN E. THOMPSON
Utah County Clerk/Auditor

By: _____
Deputy

APPROVED AS TO FORM:
JEFFREY R. BUHMAN
Utah County Attorney

CONTRACTOR

By: _____
Deputy Utah County Attorney

By: _____

ATTACHMENT A: UTAH COUNTY STANDARD TERMS AND CONDITIONS FOR PRODUCTS

1. **TERM**

The term of this AGREEMENT shall commence upon execution hereof and shall terminate upon acceptance of the product(s) specified herein, or until the date specified on the signature page of this AGREEMENT.

Termination of this AGREEMENT shall not terminate any warranty or other continuing obligation owed by CONTRACTOR as set forth herein.

2. **EXTRA WORK**

a. Extra work shall be undertaken only when previously authorized in writing by Utah County, and is defined as additional work which is neither shown nor defined in this AGREEMENT or the attached CONTRACTOR's proposal (if any), but determined by Utah County to be necessary to the project. Extra work is also defined as that additional effort necessary by reason of changed conditions which are radical, unforeseen, and completely beyond the control of the CONTRACTOR.

b. Miscellaneous items normally associated with the major work items included in this agreement, but which may not be specifically identified, shall be furnished by the CONTRACTOR as if they had been included in the agreement, without additional cost to COUNTY. After prior authorization of the County Commission in writing, payment for authorized extra work will be made by reimbursement for all direct and substantiated costs of labor, materials, and supplies used.

3. **GOVERNING LAW AND VENUE**

It is agreed that this AGREEMENT shall be governed by, construed and enforced in accordance with the laws of the State of Utah, and the ordinances of Utah County. The parties shall submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Agreement or the breach thereof. Venue shall be in Provo in the Fourth Judicial District Court for Utah County

4. **AMENDMENTS**

No oral modifications or amendments to this AGREEMENT shall be effective, but such may only be modified or amended by a written agreement signed by the parties that identifies itself to be an amendment to this AGREEMENT.

5. **ASSIGNMENT**

The parties to this AGREEMENT shall not assign said AGREEMENT, or any part thereof, without the prior written consent of the other party to the AGREEMENT. No assignment shall relieve the original parties from any liability hereunder.

6. **SUCCESSORS IN INTEREST**

This AGREEMENT shall be binding upon the heirs, successors, administrators, and assigns of each of the parties thereto.

7. **INDEMNIFICATION**

To the fullest extent permitted by law, CONTRACTOR shall defend, indemnify, save, hold harmless, and defend at CONTRACTOR's own expense COUNTY, its officers, employees, and agents, from and against any and all claims, demands, causes of action, orders, decrees, judgments, losses, damages, expenses, and liabilities (including all costs and attorney's fees incurred in defending any claim, demand, or cause of action) occasioned by, growing out of, or arising or resulting from (a) CONTRACTOR'S, its subcontractors, agents or employees performance of this AGREEMENT or product(s) purchased by COUNTY under this AGREEMENT that are defective, whether known or not known by COUNTY or CONTRACTOR, at the time of acceptance by COUNTY. CONTRACTOR shall assume sole liability for any injuries or damages caused to a third party as a result of fulfillment of this AGREEMENT.

8. **SALES TAX EXEMPTION**

The COUNTY sales and use tax exemption number is _____. The tangible personal property or services being purchases are being paid from County funds and used in the exercise of that entity's essential functions. If the items being purchases are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in this Agreement. As such, CONTRACTOR shall not charge COUNTY sales tax for the product(s) purchased by this agreement.

9. **COMPLIANCE WITH LAWS**

Each party agrees to comply with all federal, state, and local laws, rules and regulations in the performance of its duties and obligations under this Agreement. Any violation by CONTRACTOR of applicable law shall constitute an event of default under this Agreement and CONTRACTOR shall be liable for and hold the COUNTY harmless and defend the COUNTY from and against any and all liability arising out of or connected with the violation, to include all attorney fees and costs incurred by the COUNTY as a result of the violation. CONTRACTOR is responsible, at its expense, to acquire, maintain and renew during the term of this Agreement, all necessary permits and licenses required for its lawful performance of its duties and obligations under this Agreement.

10. **PAYMENT**

Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. All payments to the CONTRACT will be remitted by mail unless paid by the COUNTY's Purchasing Card. CONTRACTOR shall accept payment by Purchasing Card without any additional fees.

11. FORCE MAJEURE

Neither party to this Agreement will be held liable for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. CONTRACTOR shall notify COUNTY of any delay or default beyond CONTRACTOR's control as soon as CONTRACTOR becomes aware of the conditions causing delay or default. The COUNTY may terminate this Agreement after determining such delay or default will reasonably prevent successful performance of the Agreement.

12. INTERPRETATION OF AGREEMENT

The invalidity of any portion of this AGREEMENT shall not prevent the remainder from being carried into effect. Whenever the context of any provision shall require it, the singular number shall be held to include the plural number, and vice versa, and the use of any gender shall include all genders. The paragraph and section headings in this AGREEMENT are for convenience only and do not constitute a part of the provisions hereof.

13. LEGAL

CONTRACTOR shall be responsible to provide all legal support for the project including but not limited to the preparation of contracts with subcontractors. This AGREEMENT shall be interpreted pursuant to the laws of the State of Utah.

14. NO PRESUMPTION

Should any provision of this AGREEMENT require judicial interpretation, the Court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against the party, by reason of the rule of construction that a document is to be construed more strictly against the person who himself or through his agents prepared the same, it being acknowledged that all parties have participated in the preparation hereof.

15. WARRANTY

CONTRACTOR warrants to COUNTY that all services and materials furnished under this AGREEMENT will be of highest quality, consistent with the degree of skill and care ordinarily exercised by similarly situated members of CONTRACTOR'S profession, and in conformance with the terms hereof.

The CONTRACTOR agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the COUNTY under this Agreement for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this AGREEMENT or CONTRACTOR's proposal, attached hereto (if any). The CONTRACTOR (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this Agreement unless otherwise specified and mutually agreed upon elsewhere in this Agreement. In general, the CONTRACTOR warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the COUNTY has relied upon the CONTRACTOR's skill or judgment to consider when it advised the COUNTY about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the COUNTY has not been warned. Remedies available to the COUNTY include the following: The CONTRACTOR will repair or replace (at no charge to the COUNTY) the product whose nonconformance is discovered and made known to the CONTRACTOR in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the CONTRACTOR will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the COUNTY may otherwise have under this Agreement.

16. DELIVERY

Unless otherwise specified in this contract, all deliveries will be F.O.B. destination with all transportation and handling charges paid by the CONTRACTOR. Responsibility and liability for loss or damage will remain with CONTRACTOR until final inspection and acceptance when responsibility will pass to the COUNTY except as to latent defects, fraud, and CONTRACTOR's warranty obligations.

17. ENTIRE AGREEMENT

This AGREEMENT shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this AGREEMENT shall not be binding upon either party except to the extent incorporated in this AGREEMENT.