

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

CLOSING DATE
FOR RECEIPT OF BIDS: Wednesday, February 3, 2010

TIME: 3:00 p.m.(Mountain Time)
Bids will be opened at 3:30 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. NOTICE TO ASPHALT SUPPLIERS

Through this Invitation to Bid (ITB), Utah County intends to select qualified suppliers to provide Hot Plant Mix Asphalt.

Pursuant to this ITB a contract will be executed, a copy of which is attached as Attachment C. The County will take possession of the materials thus contracted for during the Suppliers's production seasons for up to three (3) years.

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.

2. SPECIFICATIONS

2.1 ASPHALT

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 Supplier's plant, the temperature of the asphalt shall be between 180° F and 260° F.

2.2 QUANTITY

- A. Utah County intends to purchase approximately FIVE THOUSAND TONS, (5,000 tons) of asphalt per calendar year during the term of this contract. The County may award contracts to multiple Suppliers for portions of the total quantity.
- B. The quantity of 5,000 tons is only an estimate. The actual quantity purchased may vary, may be divided between several Suppliers, and shall be determined by the amount of asphalt ordered and obtained by Utah County. However, for bid evaluation purposed, all bidders are required to calculate their bids using this specified quantity. Actual 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 Supplier agrees to accept the quantities as altered the same as if it had been a part of the original contract.

2.3 LOCATION

- A. The County shall pickup the asphalt from Supplier's plant as needed for road patching and small road maintenance projects.

- B. The asphalt at the time of pickup by the County shall be 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. The Supplier shall list all possible pickup locations and price per location when submitting its bid. The successful Suppliers will be required to supply the asphalt, scales to weigh the asphalt, and equipment and labor to load the asphalt into County-owned trucks.
- C. Utah County maintains approximately 400 miles of asphalted roads. The approximate distribution and location of County maintained roads are as follows:
 - 15% of the roads are in the north county area, Lindon to Saratoga Springs
 - 5% of the roads are in the west Cedar Valley area
 - 5% of the roads are in the Provo/Orem area
 - 15% of the roads are in the east mountains of Utah County
 - 60% of the roads are in the south county area, Spanish Fork to Goshen
- D. 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.

2.4 BID PRICE

- A. Each Supplier shall submit its bid on the attached "Bid Response Form" which shall include the asphalt pickup locations and a price per ton for asphalt supplied to Utah County at each location. The price per ton shall include all costs, including any costs for weighing the asphalt and loading it into County vehicles.
- B. The total amount of each Supplier's bid, for bid evaluation purposes, shall be determined by multiplying the average price per ton for all pickup locations by 5,000 tons. All information shall be typed or handwritten in ink.

3. INSTRUCTIONS TO BIDDERS

3.1 PROCUREMENT TIMETABLE

The following timetable has been established for this ITB.

| REQUIRED ACTIVITY | SCHEDULED DATE |
|----------------------------------|---|
| Closing Date for Receipt of Bids | Wednesday, February 3, 2010 3:00 p.m.(Mountain Time) Bids will be opened at 3:30 p.m. |

3.2 PROCEDURE

- A. The procedure for response to this ITB, evaluation of bids, and selection of a Supplier is as follows:
1. Interested entities will prepare and submit their bids according to the Procurement Timetable contained in Subsection 3.1;
 2. Utah County and/or its representatives will evaluate all submitted bids to determine acceptance or rejection of the bids.
 3. The selected bidder(s) will be required to sign an agreement, a sample of which is included as Attachment C.

3.3 BID ORGANIZATION

- A. Each respondent must submit its SEALED bid to the Utah County Purchasing Agent. The envelope containing the bid must be clearly labeled “SEALED BID - HOT PLANT MIX ASPHALT”. The bid must be delivered to

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

The deadline for receipt of bids is set forth in Section 3.1 “Procurement Timetable”. LATE BIDS WILL NOT BE ACCEPTED EXCEPT AS SET FORTH IN UTAH COUNTY PROCUREMENT RULES AND REGULATIONS.

- B. The bid must include:
1. Completed Bid Response Form (Attachment A).
 2. A copy of the bidder’s current local business license.
 3. Completed Certificate of Non Collusion (Attachment B).
 4. Proof of required insurance.

3.4 QUESTIONS AND CLARIFICATIONS

Questions regarding this ITB should be directed prior to the submission deadline date to Ken Bringhurst, Roads Division Manager

Business Hours: 8:00 a.m. to 5:00 p.m. Mountain Time
Office Number: (801) 851-8605
Mobile Number: (801) 420-4152

3.5 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.

3.6 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 a contract 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.

3.7 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.

3.8 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 contract awarded to the lowest responsive and responsible bidder. In the case of Multiple Award Bids, more than one contract may be awarded.

3.9 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 contract entered into between Utah County and the awarded bidder.
- B. It is vitally important that any person who signs a bid or contract 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 a contract 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 a contract 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.

4. GENERAL REQUIREMENTS

4.1 AMENDMENTS

No oral modifications or amendments to this contract shall be effective, but such may be modified or amended by a written agreement signed by the parties.

4.2 ALTERATION OF SPECIFICATIONS OR CHARACTER OF WORK

The County Commission, after recommendation by the County Public Works Director, reserves the right to make, at any time during the term of this Agreement, such increases or decreases in quantities and such alterations in the details of the work, and the elimination of one or more items as may be found necessary or desirable and to adjust the contract price accordingly by change order. Such alterations shall not be considered as a waiver of nor release of any surety. The Supplier agrees to accept the specifications as altered the same as if it had been a part of the original contract. The Supplier shall proceed with the work alterations when ordered in writing. Financial increases to this contract must be approved by the County Commission before additional work is authorized and constructed.

4.3 ASSIGNMENT

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

4.4 AUTHORITY OF THE COUNTY COMMISSION AND THE COUNTY PUBLIC WORKS DIRECTOR

- A. The County Commission and the County Public Works Director will decide all questions which may arise as to the quality, quantity and acceptability of materials furnished and work performed and as to the rate of progress of work. They/He will also decide all questions which may arise as to the acceptable fulfillment of the contract on the part of the Supplier.
- B. The County Commission or the County Public Works Director will have the authority by written order to suspend work wholly or in part due to the failure of the Supplier to correct conditions unsafe for the workmen or general public, for failure to carry out provisions of the contract, for failure to carry out orders, for such periods as they/he may deem necessary due to unsuitable weather, for conditions considered unsuitable for the progress of the work, or for any other condition or reason deemed to be in the public interest. Written orders shall state the reason for suspension.

4.5 EMPLOYMENT STATUS VERIFICATION

The Supplier shall register and participate in the Status Verification System and comply with Utah Code Annotated Section 63G-11-103 of the Identity Documents and Verification Act. The Supplier shall by contract require its contractors, subcontractors, contract employees, staffing agencies, or any contractors regardless of their tier to register and participate in the Status Verification System and comply with Utah Code Annotated Section 63G-11-103 of the Identity Documents and Verification Act.

4.6 EXTRA WORK

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 the specifications. Miscellaneous items normally associated with the major work items shown, but which may not be specifically shown, shall be furnished by the Supplier as if they had been shown, without additional cost to Utah County.

4.7 INDEMNIFICATION

The Supplier shall defend, indemnify, save and hold harmless Utah County, its officers, employees, and agents, from and against any and all claims, demands, causes of action, orders, decrees, judgements, losses, damages, 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) Supplier's, its subcontractors, agents or employees performance of this contract or their provision of any services required herein to be performed by the Supplier or its subcontractors,

agents or employees, and (b) any act or omission of Supplier, or its subcontractors, agents or employees.

4.8 INDEPENDENT CONTRACTOR

- A. Supplier states and affirms that it is acting as an independent contractor, holding itself out to the general public as an independent contractor for other work or contracts as it sees fit; that it advertises its services as it sees fit to the general public, maintains its office or place of employment separate from Utah County, and that this Agreement is not exclusive of other agreements, contracts or opportunities.
- B. The parties intend that an independent contractor relationship will be created by this Agreement. Utah County is interested only in the results to be achieved, and the conduct and control of the work will lie solely with Supplier. Supplier is not to be considered an agent or employee of Utah County for any purpose, and the employees of Supplier are not entitled to any of the benefits that Utah County provides for County's employees. It is understood that Utah County does not agree to use Supplier exclusively. It is further understood that Supplier is free to contract for similar services to be performed for others while working under the provisions of this Agreement with Utah County.
- C. Both parties agree that Supplier shall be deemed an independent contractor in the performance of this Agreement, and shall comply with all laws regarding unemployment insurance, disability insurance, and workers' compensation. As such, Supplier shall have no authorization, express or implied, to bind Utah County to any agreement, settlement, liability, or understanding whatsoever, and agrees not to perform any acts as agent for Utah County. The compensation provided for herein shall be the total compensation payable hereunder by Utah County.

4.9 INSPECTION AND ACCEPTANCE

Utah County or its authorized representatives shall have the right to enter the premises of the Supplier, or such other places where contract services are being performed, to inspect, audit, monitor or otherwise evaluate the services being provided and the financial records pertaining to the contract. The Supplier must provide reasonable access to all facilities and assistance to Utah County or its authorized representatives.

4.10 INSURANCE

- A. The Supplier agrees to carry Commercial General Liability insurance coverage equal to or greater than \$1,000,000 per occurrence or as modified by the risk manager pursuant to state statute during the term of this Agreement. This coverage shall provide liability insurance to cover the activities of Supplier including Supplier's agents, employees and subcontractors, and for all equipment

and vehicles, public or private, used in the performance of this Agreement. The successful bidder shall provide a Certificate of Insurance to Utah County evidencing that the Supplier has this insurance in place and shall maintain said insurance for the duration of this Agreement.

4.11 INTERPRETATION OF ITB AND CONTRACT

The invalidity of any portion of this ITB and Contract 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 and Contract are for convenience only and do not constitute a part of the provisions hereof.

4.12 LEGAL

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

4.13 NO PRESUMPTION

Should any provision of this Contract 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 a 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.

4.14 NOTICES

All notices, demands and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been properly given if delivered by hand or by certified mail, return receipt requested, postage paid, to the parties at their respective places of business, or at such other addresses as may be designated by notice given hereunder.

4.15 PAYMENTS

Supplier shall submit timely invoices for materials delivered to County. Upon verification of the validity of an invoice, County shall pay Supplier within 30 calendar day of receipt of the invoice.

4.16 PROPRIETARY INFORMATION

The Supplier 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.

4.17 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 in Section 3 (Instructions to Bidders) of this ITB.
- C. All prospective bidders must meet the required criteria as of the date of submission. Respondents must provide all information requested in the Bid Response 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.

4.18 SUCCESSORS IN INTEREST

Any contract resulting from this ITB shall be binding upon the heirs, successors, administrators, and assigns of each of the parties thereto.

4.19 TERM AND RENEWAL

- A. The initial term of this Agreement shall commence upon the date of execution hereof and shall terminate on December 31, 2010.
- B. This Agreement shall automatically renew for two (2) additional one-year periods, commencing January 1st of each year, upon the same terms and conditions, unless otherwise indicated in writing by Utah County at least 30 days prior to the termination date of the initial or renewal terms.
- C. Supplier may, upon written notice delivered to County on or before November 1st, request an increase in the contract price of any one or more line items for the following year commencing January 1st, by 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, to be effective not sooner than the commencement date of the next renewal period of the contract.

4.20 TERMINATION

- A. The contract may be terminated for any reason by Utah County upon thirty (30) days written notice to the Supplier, without prejudice to any other right or remedy Utah County may have.
- B. Failure of the Supplier to adhere to any of the performance requirements of the contract shall be cause for termination without prior notice.
- C. The contract may be terminated for any reason by the Supplier upon ninety (90) days written notice to Utah County.

4.21 WARRANTY

The Supplier warrants to Utah County that all materials furnished under this Contract will be new unless otherwise specified, and that all work will be of good quality, free from faults and defects and in conformance with this Contract. All materials not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by Utah County, the Supplier shall furnish satisfactory evidence as to the kind and quality of materials.

ATTACHMENT A

BID RESPONSE 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

BID RESPONSE 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: _____

BID PRICES:

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

Average Price for all Pickup Locations = \$ _____
 X 5,000 tons
 =

TOTAL BID PRICE \$ _____

NOTE:

The quantities specified herein are only estimates used for bid evaluation purposes. The Average Price and Total Bid Price are for bid evaluation purposes only. Actual payments will be based on the amount of material requested and received by the County from the above pickup locations at the listed price per ton.

CERTIFICATION OF BID:

I hereby certify that I have read, understand, and agree to all sections 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 in this Bid Response Form, 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

ATTACHMENT B

CERTIFICATE OF NON-COLLUSION

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

AFFIDAVIT

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,

I _____
 (owner, partner, officer or delegate)

of _____ do
 (company)

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 contract resulting therefrom.

Supplier Signature

By: _____
Title: _____

Subscribed/sworn to before me this ____ day of _____ 2010 A.D.
My Commission Expires _____
Residing at _____

Seal

By: _____
Notary Public

ATTACHMENT C
SAMPLE AGREEMENT

HOT PLAN MIX ASPHALT AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 2010, by and between **UTAH COUNTY**, a body corporate and politic of the State of Utah, hereinafter referred to as the **COUNTY**, and _____, hereinafter referred to as **SUPPLIER**.

WITNESSETH:

WHEREAS, COUNTY desires to obtain materials and services as herein defined and further to obtain such materials and services in accordance with Utah State Law; and

WHEREAS, SUPPLIER is willing to provide such materials and services to COUNTY in consideration of receiving such fees as herein provided;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties hereto agree as follows:

1. DESCRIPTION OF WORK

a. In consideration of the compensation set forth in Section 2, the SUPPLIER agrees to provide Hot Plant Mix Asphalt to COUNTY on an as-requested basis on the terms and conditions described and specified in the Invitation to Bid including all attachments, appendices and amendments, attached hereto as Exhibit A, and the SUPPLIER'S response to the Invitation to Bid attached hereto as Exhibit B, all of which are incorporated herein by this reference the same as if each and all had been set forth at length herein.

2. COMPENSATION

In exchange for services listed in Section 1, COUNTY will pay SUPPLIER at the applicable price stated in Exhibit B for each ton of asphalt accepted by COUNTY which conforms to the Specifications in Exhibit A.

3. 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.

IN WITNESS WHEREOF the parties have caused this AGREEMENT to be duly executed on the date set forth above.

BOARD OF COUNTY COMMISSIONERS
UTAH COUNTY, UTAH

STEVE WHITE, Chairman

ATTEST:
BRYAN E. THOMPSON
County Auditor/Clerk

By: _____
Deputy

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

By: _____
Deputy County Attorney

SUPPLIER

By: