



CALLOWAY COUNTY FISCAL COURT

MASTER AGREEMENT

SPRAYING SERVICES

SPECIFICATIONS

The Fiscal Court of Calloway County is accepting sealed bids to establish multiple price contracts to provide certain good(s), product(s) and equipment services. The contracts resultant from this solicitation shall begin with its award, be effective for one year after its inception, and may be renewed automatically unless notice of termination is given by either party. All bids must meet KYDOT specs. Calloway County reserves the right to accept or reject any or all bids, waive technicalities or advertise.

This is not an exclusive contract, and carries no guaranteed amount of work. The use is strictly at the discretion of the Fiscal Court of Calloway County or its designee(s) on an as needed basis.

The contractor with due diligence shall furnish all necessary qualified personnel and equipment to provide the service. Those wishing to submit a bid please complete, review, and sign the document below.

JOB RESPONSE TIME

I CAN RESPOND WITHIN _____ DAYS TO PROVIDE A QUOTE FOR ESTIMATED HOURS TO COMPLETE A REQUESTED JOB.

Authorized Signature

Printed Name

Title, if on behalf of an entity

I CAN RESPOND WITH EQUIPMENT AND OPERATOR(S) TO COMMENCE THE REQUESTED JOB WITHIN _____ WORKING DAYS OF JOB REQUEST.

Authorized Signature

Printed Name

Title, if on behalf of an entity

The Fiscal Court of Calloway County reserves the right to declare a bidder unresponsive if an adequate level of manpower and equipment is not apparent to fulfill the contract or contractor would not be able to perform the work requested within the time frame needed.

EQUIPMENT

Different projects will require the use of different types of equipment or machinery to perform the work requested. Provide a listing of equipment the contractor has available for use and is willing to provide pursuant to this agreement. In listing the equipment, please list the make, model, year and usage hours/miles, along with any other relevant specifications. If multiple items of equipment are of the same make and model, please list each separately. The cost per hour listed should include the hourly charge for the equipment including an operator(s). If additional space is needed to list each item of equipment, please provide on a separate sheet in similar format. Quote your single best net price on each item and include delivery.

BID SPRAYING EQUIPMENT W/ OPERATOR(S)	BID COST
1. _____	\$_____ PER HOUR/EACH
2. _____	\$_____ PER HOUR/EACH
3. _____	\$_____ PER HOUR/EACH
4. _____	\$_____ PER HOUR/EACH
5. _____	\$_____ PER HOUR/EACH
6. _____	\$_____ PER HOUR/EACH
7. _____	\$_____ PER HOUR/EACH
8. _____	\$_____ PER HOUR/EACH
9. _____	\$_____ PER HOUR/EACH
10. _____	\$_____ PER HOUR/EACH

Authorized Signature

Printed Name

Title, if on behalf of an entity

Questions pertaining to this solicitation shall be in writing and emailed to info@callowayky.com

Evaluation Criteria

Pricing 40%

Experience/Response Time 20%

Available Product/Owned Equipment 20%

Past Performance 20%

*Additional information on experience, available product or equipment, past performance can be submitted in the form of attached letters, statements, endorsements and/or recommendations.

Additionally, Instances of unresponsiveness or other negative experiences regarding performance of requested work shall be a significant factor in selection of subsequent requests.

Please review the below terms that will be incorporated into your bid to form a master agreement between the parties if your bid is accepted. Please sign below to indicate you accept all terms and wish to formally enter into this master agreement if your bid is accepted.

Disclaimer

There is the potential that federal funds could be used on orders under this master agreement contract. Therefore, FHWA 1273 requirements and Buy America requirement section 106.04 from the 2012 Standard Specifications for Road and Bridge Construction shall be required on this award/contract.

The General Conditions and Instructions for Solicitations and Contracts shall be incorporated by reference in each solicitation and resulting contract. Therefore, it is the bidder's responsibility to access and read these General Conditions at: <http://finance.ky.gov/services/policies> scroll down to Procurement Services- Procurement, double click on the file named FAP 110-10-00 General Conditions and Instructions for Solicitations and Contracts or request a copy by contacting the KYTC Division of Purchases buyer named in Section 3.01. Every person submitting a bid to the Commonwealth shall be deemed to have assented to these conditions by the act of bidding.

Section 1 Specifications - Service

1.00 Specifications of Commodity and/or Service Requirements-

The equipment shall be furnished in excellent mechanical working condition, in good general appearance, (free of human graphic art), and be approved for use by County personnel. The equipment shall be furnished fully operated with the necessary number of operators (with the exception of the light plants) and with all maintenance and repairs including fuel and lubrication necessary for its operation.

The vendor is not required to own all pieces of equipment, but must be able to readily provide each piece on contract when requested.

The rental rate is to be paid by the Fiscal Court of Calloway County only during the time that the above named equipment is in actual use on the job.

The equipment and the operator will be under the supervision and subject to the orders of the Fiscal Court of Calloway County, the Calloway County Road Department, or other County designee, who shall direct the time and place for the use of such equipment.

The Fiscal Court of Calloway County, the Calloway County Road Department and all their officers, agents and employees shall be held harmless from all suits, actions, or claims of any character brought on account of any injury or damages sustained by any person or property from any actions or for any negligence in performance and/or operation of the above named equipment. Nothing in this proposal is to be construed to create any agency relationship between the parties.

The Contractor is considered to be in compliance with this requirement when tractors equipped with mowing attachments are performing work operations on the job site. The Contractor is also considered to be in compliance with this requirement when litter removal crews are performing work operations on the job site.

Carry out all work operations to the satisfaction of the Road Department Supervisor and complete the work within the number of days as specified on the Mowing Work Location Sheet agreed upon the parties to be incorporated into this Master Agreement. Failure to complete the work within the time as specified may result in immediate termination of this agreement.

The Road Department will grant a delay for each day the Vendor (Contractor) cannot work due to rain or wet conditions that prevent mowing operations. Work delay days will be approved in writing by the Department. Delay days will not be counted in the required completion time.

At this time, the Vendor will submit a detailed work plan showing how they will accomplish the work within the designated time frame. At the pre-work meeting the contractor shall provide to the Department a list of the licensed and certified operators including their certification numbers. Vendor shall also submit a pesticide discharge management plan as required by the KPDES General Permit for Pesticide Applications. Failure to comply with these requirements may result in the cancellation of the contract.

Work will be performed under the supervision of the Calloway County Road Department will direct the time and place for the operation of all items of work to be performed under this Master Agreement. The schedule of work at site locations and the item of work that is to be completed may vary due to weather and soil conditions at the time work is scheduled to be performed.

Terms and Conditions:

Perform the work by the Kentucky Department of Highways 2019 Standard Specifications for Road and Bridge Construction and Applicable Special Provisions, except as specified. Article references are to the Standard Specifications.

Comply with all applicable federal, state, and local laws, ordinances and regulations governing safety, provide all safeguards needed for employees and equipment, and secure any and all permits and licenses that may be required.

Conform all equipment to all prevailing Occupational Safety and Health Administration (OSHA) regulations. Require all operators and other employees, at all times while on the job site, to wear safety vests that conform to OSHA regulations.

Provide sufficient numbers of equipment to perform and complete the required work within the specified time frame. Failure to comply with this requirement may result in agreed liquidated damages and may also result in the cancellation of the contract.

Place the Company Name and Phone Number on each roadside sprayer unit and work zone support vehicle in a location on the unit that is visible to the public. Use lettering that is a minimum of three inches (3") in height.

Use herbicide application equipment that is equipped with boom-mounted or vehicle-mounted spray nozzles to provide broadcast application and a hand applicator spray gun for spot spraying roadside areas. Use off-road application equipment such as four-wheel drive spray trucks, skidder, or farm tractor mounted spray units where the roadside terrain requires such. ATV sprayer units shall be allowed on this project upon approval by the Department. Provide electronic spray controllers to be used to adjust the flow rate of the application materials as the ground speed changes. Provide electronic controllers that are easily calibrated. Maintain the proper calibration throughout the duration of the project. Verify that the calibration is correct on a daily basis.

Provide all spray pattern and herbicide material supply lines with instantaneous shutoff valves that are immediately available to the operator from the operating position. Equip all sprayer units with anti-siphoning devices for loading water and equip the sprayer units with a fill hose that is mounted so as not to come in contact with the water in the sprayer unit tank.

Park or store equipment that is idle or not in use, such as during break times, lunch time, or overnight, away from the outside shoulder of the roadway in an inconspicuous location behind the guardrail or outside the clear zone as directed by the Department. Do not park equipment in median areas, gore areas, or on the shoulders of the roadway.

Furnish operators for the herbicide application (spraying) operation that have been licensed and certified as Commercial Applicators in Category 6 for Rights-of-Ways in accordance with KRS 217B and with the Kentucky Department of Agriculture regulations. Provide a minimum of two certified operators on the work site for the performance of the herbicide application (spraying) operations at all times. At the pre-work meeting the contractor shall provide to the Department a list of the licensed and certified operators including their certification numbers.

Failure to comply with this requirement will result in an immediate suspension of all work operations in accordance with Section 108 and will result in the assessment of a penalty of \$250.00 for each occurrence. Operations will remain suspended until the situation has been corrected and approval has been given by the Engineer for work operations to resume.

Do not damage trees, shrubs (outside the application area), signs, delineator posts or other roadside features during the herbicide application (spraying) operations. When damage does occur to trees, shrubs, signs, delineator posts or other roadside features as a result of the herbicide application (spraying) operations, replace or repair the same in like kind at the direction of the Engineer at no cost to the Department. In addition, a penalty of \$500.00 per occurrence will be assessed the Contractor for each occurrence where the Contractor fails to repair or replace a damaged highway sign or delineator that was damaged as a result of the spraying operations.

Replace any mailbox that has been knocked down or damaged as a result of the spraying operations with a temporary mailbox that meets the minimum specifications of the United States Postal Service by the end of the workday. Replace this temporary mailbox within seven (7) calendar days with a permanent mailbox in like kind to the approval of the Department and the mailbox owner. Failure to comply with the replacement of a damaged mailbox with either the temporary mailbox or the subsequent permanent mailbox will result in the assessment of a penalty of \$250.00 for each occurrence.

When damaged property resulting from herbicide application (spraying) operations has to be repaired or replaced by the Department, the cost of the work will be deducted from payment due the Contractor. The contractor is not responsible for off target herbicide damage caused by leaching or washing off if the product was applied at the specified rate.

When areas of turf are damaged outside of the specified spray pattern, the Department will assess the Contractor with a cost of \$2.00 Per Square Foot for replacing any damaged turf.

Work will be performed under the supervision of the Calloway County Road Department or will direct the time and place for the operation of all items of work to be performed under this Master Agreement Contract

Notify the Calloway County Road Department Administrator or their representative of the day work will begin on the requested Delivery Order and of each subsequent day work will be performed so that the work can be inspected. Failure to provide this notification will result in non-payment of any work for that day.

Work performance which does not conform to these terms and conditions or which is otherwise unsatisfactory will result in an immediate suspension of all work operations and the assessment of a penalty of \$250.00 for each occurrence. Operations will remain suspended until the situation has been corrected and approval has been given for work operations to resume.

The quantities of each item of work to be submitted for payment will be the actual quantity of work performed and completed by the Contractor as designated on the Delivery Order.

It is herein set forth that the quantities are estimates only and that the actual usage will be determined by the needs of the Kentucky Department of Highways.

Other Terms and Conditions:

LINE ITEMS OF WORK

1. Bare Ground Herbicide Application Treatment Under Guardrails:

Apply (spray) herbicide materials, as provided by the Department, in front of and under guardrail segments as the bare ground treatment. Apply (spray) the herbicide materials to the guardrail areas along the right shoulder of the roadway and along the right shoulder of the ramps of interchanges. Apply the herbicide materials to the area beginning at the edge of pavement (white edge-line) and continuing underneath the guardrail to the edge of the turf or to a point up to a maximum of two (2) feet past the guardrail posts. Spray woody vegetation that is 3 feet and under.

Apply (spray) herbicide materials to the guardrail areas that have a crushed stone or sealed crushed stone base along the left (median) shoulder of the roadway and along the left shoulder of the ramps of interchanges. Apply (spray) the herbicide materials to the area beginning at the painted, yellow edge-line and continuing underneath the guardrail to the edge of the turf or to a point up to a maximum of two (2) feet past the guardrail posts.

Apply (spray) the herbicide materials to all guardrail along interchange ramps, whether the guardrail begins prior to the ramp or on the ramp, and continue until that section of guardrail ends on the crossing route.

The Calloway County Road Department will designate any section of guardrail that is to be excluded from the herbicide spraying operations.

Do not perform herbicide-spraying operations when wind speeds exceed fifteen (15) miles per hour and the danger of the herbicide materials drifting off target is present.

Begin the herbicide spraying operations on the project at the point designated by the Calloway County Road Department and proceed in the same general direction in a continuous manner until the work is completed.

Herbicide Application Treatment of Barrier Walls:

Apply (spray) Department supplied herbicide materials to the area where the barrier wall meets the pavement as the bare ground treatment and to crushed stone or sealed crushed stone areas adjacent to and between adjoining barrier walls.

The Engineer will designate any section of barrier wall that is to be excluded from the herbicide spraying operations. Do not spray barrier wall segments that contain landscape plantings.

Do not perform herbicide-spraying operations when wind speeds exceed fifteen (15) miles per hour and the danger of the herbicide materials drifting off target is present.

Begin the herbicide spraying operations on the project at the point designated by the Engineer and proceed in the same general direction in a continuous manner until the work is completed.

Herbicide Application Treatment of Cable Barrier:

Apply (spray) herbicide materials provided by the Department to the cable barrier and adjacent crushed stone or sealed crushed stone areas as the bare ground treatment.

2. Broadcast Herbicide Spraying:

Apply (spray) herbicide materials, provided by the Department, to all roadside areas. Spray all areas outside (beyond) the edge of the pavement along the roadway and along the ramps of interchanges, and extend back to the right-of-way fence. Include all interchange areas and normal width (60') medians. Spray all bi-furcated medians, where the roadway separates beyond the normal median width, on all areas inside (beyond) the edge of the median shoulder or the edge of the median pavement along the roadway, and extend back to the designated-staked mowing line.

Spray the following areas: a) Shoulders, normal width medians, and slopes that are 3:1 or flatter; b) 15 feet up the back-slope on areas adjacent to the roadway on both the median (inside) and the outside cut slope areas beginning at the bottom of the roadway ditch and extending up the slope to a point fifteen (15) feet from the beginning; c) fifteen (15) feet up the back-slope of cut areas located away from roadway ditches; d) fifteen (15) feet over fill slopes steeper than 3:1 located adjacent to the roadway shoulder; e) fifteen (15) feet over the top edge of cut slopes that can be traversed with spraying equipment without damaging the turf; and f) rock-lined ditches. Do not spray trees or any woody vegetation greater than three (3) feet in height.

The Calloway County Road Department will designate any section that is to be excluded from the herbicide spraying operations. Do not perform herbicide-spraying operations when wind speeds exceed fifteen (15) miles per hour and the danger is present for the herbicide materials to drift off target.

All efforts shall be made to avoid spraying an area less than 5 days prior to or 5 days following mowing of said area. The Calloway County Road Department shall be contacted for mowing schedules.

Begin the herbicide spraying operations on the project at the point designated by the Calloway County Road Department and proceed in the same general direction in a continuous manner until the work is completed.

Broadcast Herbicide Application Treatment Behind Guardrails:

Apply (spray) herbicide materials as specified in these Terms and Conditions as a broadcast application on areas behind designated guardrail segments as a treatment for broadleaf weeds and small brush. Apply (spray) the herbicide materials on these designated areas from a point (2) two feet to a point (15) fifteen feet behind the guardrail.

Begin spraying operations on the project at the point designated by the Department and proceed in the same general direction in a continuous manner until the work is completed.

3. Broadcast Herbicide Application Treatment For Control of Brush and Trees:

Apply (spray) herbicide materials as specified in these Terms and Conditions as a broadcast application on areas of rights-of-way segments as a treatment for control of trees and small brush. Apply (spray) the herbicide materials on these designated areas from a point at ground level to top of vegetative growth.

Begin spraying operations on the project at the point designated by the Department and proceed in the same general direction in a continuous manner until the work is completed.

4. Maintain and Control Traffic:

Perform herbicide application in accordance to these Terms and Conditions for traffic control. Maintain traffic and furnish all traffic control devices and all materials that conform to these Terms and Conditions and the Manual on Uniform Traffic Control Devices (MUTCD), the Standard Drawings or Sepia Drawings, Current Editions, and the Standard Specifications for Road and Bridge Construction, Current Edition.

A link to the Manual on Uniform Traffic Control Devices can be found at: <http://mutcd.fhwa.dot.gov>

Go to the following site for 2019 Kentucky Transportation Cabinet, Department of Highways Standard Specifications for Road and Bridge Construction:

<https://transportation.ky.gov/Construction/Pages/Kentucky-Standard-Specifications.aspx>

Go to the following site for KY Standard Drawings and Sepias: <http://transportation.ky.gov/Highway-Design/Pages/Standard-Drawings.aspx>

Furnish two (2) Truck Mounted Attenuators (TMA) in accordance with Section 112 for use in all on-road applications.

Furnish a Flashing Arrow(s) in accordance with Section 112. However, contrary to Section 112, mount the Flashing Arrow(s) on the TMA unit(s).

Provide strobe lights that: a) cover a 360FOB0 effective area; b) utilize 360FOB0 optics; c) have a minimum height of 4 inches; d) produce a minimum of 60 single flashes or 120 double flashes per minute and 12 joules per main flash; e) are amber in color; f) penetrate bright sunlight, haze, fog, smog, and darkness.

Furnish all traffic control devices in new or like new condition at the beginning of the work and maintain the devices in like new condition until the work is completed.

Perform herbicide application operations during daylight hours only. Some routes will have restrictions as to not performing any herbicide spraying operations between the hours of 6:00 a.m. – 9:00 a.m. or between the hours of 3:00 p.m. – 7:00 p.m. during the normal workweek, (Monday through Friday) on those sections designated by the Engineer. Vendor shall coordinate application times and routes with the designated District contact person. There is no restriction on weekend spraying except to be completed during daylight hours.

Provide additional traffic control or flaggers as directed by the Calloway County Road Department. Do not establish a lane closure or a shoulder closure for the purpose of refueling, for refilling with herbicide spraying solution, or for any other reason. Travel with the flow of traffic. Keep interference with passing traffic to a minimum. Change the direction of travel on the project only at interchanges. Do not use existing maintenance crossovers to change direction of travel.

Other projects may be in progress within or in the near vicinity of this project. The traffic control of those projects may affect this project and the traffic control of this project may affect those projects. Coordinate the work on this project with the work of the other contractors. The Department shall determine the relative priority to allocate to work phasing on the various projects when there is a conflict.

Designate a Traffic Control Coordinator in accordance to Section 112.03.12 of the Standards Specifications. Vendor shall provide staff who possess a valid certification in Traffic Control.

Other Vendor Duties:

Provide for a clean source of water for use as the carrier in this herbicide application operation and provide a suitable location for mixing and loading of the herbicide sprayer at a location that is outside of the right-of-way of the Department. Vendor shall make arrangements with the Roadside Environment

District Administrator to obtain all herbicide and adjuvant products to be utilized in the application of such products for the designated line items of work.

The Department will provide herbicide products that have been registered for use in Kentucky and that have been approved for application to highway rights-of-ways in accordance with KRS 217B and FIFRA. The Department shall provide the herbicide products in quantities to be applied at rates that are in compliance with the products' label.

Vendor shall maintain a copy of the herbicide manufacturer's label of each product used and the corresponding Safety Data Sheet (SDS) in the cab of the sprayer truck at all times. Failure to comply with this requirement will result in an immediate suspension of all work operations in accordance with Section 108 and will result in the assessment of a penalty of \$250.00 for each occurrence. Operations will remain suspended until the situation has been corrected and approval has been given by the Engineer for work operations to resume.

At the completion of work operations at the end of each day, vendor shall provide, to the Engineer or his representative, a completed copy of the "Contractor Daily Spray Report Form" in compliance with regulations of the Kentucky Department of Agriculture.

For purposes of monitoring contract performance, vendor shall provide the Department, at no cost, the following methods of service performance via GPS:

Physical Map – this will allow a physical map of the areas mapped. (All physical maps will be no smaller than an 11" x 17" print out). All maps will include mapped areas overlaid on a general road map.
Excel Spreadsheet – GPS coordinates may be requested to be delivered on a spreadsheet format to be entered into owners existing system manually. Attributes in the spread sheet should include a route identification field.

All mapped areas will consist of GPS Coordinates, date of application to the areas, visual color coded lines indicating where applications were made (start and stop), and a key indicating the color coding. (Ex. Green lines = areas of "no spray" or sensitive. Blue = areas of application, Red = traveled areas, etc.)

Contractor shall provide references of companies/ entities that have utilized vendor's GPS programs. References must state name, complete address, phone number, years provided services, services provided, and delivery methods. Contractor shall provide an example of each delivery method listed above prior to the award of contract.

Acceptance of the Work:

Upon the completion of the operations of herbicide spraying of any and all segments on this project, representatives of the Contractor and the Department will conduct a joint inspection of pre-selected segments 14 days following the completion of the work. The segments will be pre-selected by the Department. Pre-selected segments will be limited to two (2) segment sites along each route within each county.

For total acceptance of the work, the target vegetation in the treated areas will be fully controlled (dead) or in a state of being fully controlled (dying) as determined by the Department and Contractor representatives. Where target vegetation is not in a state of acceptable control, vendor shall perform a

second herbicide spraying of treated areas within seven (7) days of assessment, on those areas that have not been accepted, at no cost to the Department. A second joint inspection of the pre-selected segments will be conducted fourteen (14) days following the completion of the respraying operation.

1.01 Insurance Requirements

Vendor shall provide proper insurance coverage to indemnify the Fiscal Court of Calloway County and the Calloway County Road Department and to hold these entities harmless against all loss, expenses, or injury to person or property.

Evidence will be furnished to the Fiscal Court of Calloway County and the Calloway County Road Department each year that public liability (General Liability) insurance is carried on all equipment and their operators in the following amounts:

General Liability of at least \$1,000,000.00

Additionally, Vendor must maintain Kentucky worker's compensation insurance in accordance with the requirements of KRS 45A.480 and KRS Chapter 342 and provide proof as set forth above.

It shall be the successful bidder's responsibility to maintain this insurance coverage at all times and to notify the Fiscal Court of Calloway County and the Calloway County Road Department with any changes/additions/cancellations which may occur.

2.01 Contract Components and Order of Precedence

The Fiscal Court of Calloway County and the Calloway County Road Department's acceptance of the offer indicated by execution of this agreement shall create a valid Master Agreement consisting of the following:

1. The written Master Agreement between the Parties;
2. Any Addenda to the Solicitation;
3. Any provisions of the Solicitation and all attachments thereto;
4. The Bidder's response to the Solicitation, and
5. The Kentucky Revised Statutes KRS 45A.

In the event of an inconsistency between provisions of the solicitation, the inconsistency shall be resolved by giving precedence in the following order: (a) the Specifications; (b) other provisions of the Solicitation, whether incorporated by reference or otherwise; (c) Contract or Master Agreement Terms and Conditions;

2.02 Initial Contract Period

The Master Agreement will begin after the bid has been formally accepted and will continue until either party wishes to terminate the relationship and gives written notice of such intention to the other.

2.03 Divisions/Agencies to Be Served

This contract shall be for use by the Fiscal Court of Calloway County and the Calloway County Road Department. No shipments or services are authorized until an official notification has been delivered.

2.04 Quantity Basis of Contract

This Master Agreement has no guarantee of any specific quantity, and the Fiscal Court of Calloway County and the Calloway County Road Department are obligated only to buy on a non-exclusive basis that quantity which is needed by its agencies.

2.05 Exception to Required Use of Contract

The establishment of this Master Agreement is not intended to preclude the use of similar products when requested by the agency. The Fiscal Court of Calloway County and the Calloway County Road Department reserve the right to accept other bids.

2.06 Basis of Price Revisions

PRICE ADJUSTMENTS: Unless otherwise specified, the prices established by the Master Agreement shall be firm for the contract period subject to the following:

A. Price Increases: A price increase will not be allowed during the first year of the contract. Any price increase must be based on industry wide price changes. The contract holder must request in writing a price increase at least thirty (30) days prior to the effective date, and shall provide firm proof that the price increase(s) is justified. The Fiscal Court of Calloway County or the Calloway County Road Department may request additional information or justification. If the price increase is denied, the contract holder may withdraw from the contract without prejudice upon written notice to the Fiscal Court of Calloway County and the Calloway County Road Department. Notice of withdrawal must be provided a minimum of forty-five (45) days prior to the effective date.

B. Price Decreases: The contract price shall be reduced to reflect any industry wide price decreases. The contract holder is required to furnish the Fiscal Court of Calloway County and the Calloway County Road Department with notice of any price decreases as soon as such decreases are available.

2.07 Addition or Deletion of Items or Services

The Fiscal Court of Calloway County and the Calloway County Road Department reserve the right to add new and similar items, with the consent of the vendor, to the contract. If an addition is agreeable to both parties, the Fiscal Court of Calloway County and the Calloway County Road Department will issue a Modification. Until such time as the vendor receives a Modification, the vendor shall not accept Delivery Orders from any agency referencing such items or services.

2.08 Changes and Modifications to the Contract

During the period of the contract, a modification shall not be permitted in any of its conditions and specifications, unless the contractor receives electronic or written approval from the Fiscal Court of Calloway County or the Calloway County Road Department. If the contractor finds at any time that existing conditions make modification in requirements necessary, the contractor shall report the matter

promptly to the Fiscal Court of Calloway County and the Calloway County Road Department for consideration and decision.

2.09 Equipment

All equipment must be in good working order, less than 5 yrs. old, and meet all safety requirements.

2.10 Basis of Shipment

All shipments shall be F.O.B. Destination to the receiving agency. The vendor shall be fully responsible for all shipments and freight charges involved to the ordering agency. The responsibility for filing freight claims lies with the vendor.

2.11 Notices

Unless otherwise instructed, all notices, consents, and other communications required and/or permitted by the Master Agreement shall be in writing. After the execution of this agreement, if the bid is accepted, all programmatic communications are to be made to the Agency Contact Persons listed below.

Supervisor
Calloway County Road Department
Phone: 270-753-4846

Judge Executive
Calloway County
Phone: 270-753-2920

2.12 Deliveries

See Section 1.01 for Response Times.

2.13 Inspection

All supplies, equipment and services shall be subject to inspection or tests by the Fiscal Court of Calloway County and the Calloway County Road Department prior to acceptance. In the event supplies, equipment or services are defective in material or workmanship or otherwise not in conformity with specified requirements, the Fiscal Court of Calloway County and the Calloway County Road Department shall have the right to reject the items or services or require acceptable correction at the vendor's expense.

2.14 Invoices

Invoices, if required, shall be prepared and transmitted to the agency receiving the goods or services. One copy shall be marked "original" unless otherwise specified. Each invoice shall contain at least the following information:

- a. Contract and order number;
- b. Item numbers;

- c. Description of supplies or services;
- d. Sizes;
- e. Quantities
- f. Unit prices; and
- g. Extended totals.

2.15 Payments

A bill shall be paid within 60 working days of the receipt of correct invoice after a product or services has been delivered or performed in satisfactory condition.

2.16 Post Contract Agreements

The Master Agreement shall represent the entire agreement between the parties. Prior negotiations, representations, or agreements, either written or oral, between the parties hereto relating to the subject matter hereof shall be of no effect upon this contract. The Fiscal Court of Calloway County and the Calloway County Road Department shall not be required to enter into nor sign further agreements, leases, company orders or other documents to complete or initiate the terms of the contract. Any such documents so obtained will be non-binding on the County and be cause for breach of contract.

2.17 Subcontracts

The vendor shall notify the Fiscal Court of Calloway County and the Calloway County Road Department of any planned use of subcontractors in regards to the resulting contract. If the Fiscal Court of Calloway County and the Calloway County Road Department are provided evidence of the vendor making such an arrangement without submitting the proper information prior to use of the subcontractor, the contract may be cancelled immediately, in the discretion of the Fiscal Court of Calloway County or its designee.

This provision will not be taken as requiring the approval of contracts of employment between the vendor and their personnel.

All payments will be made directly to the contracted vendor. It is the vendor's responsibility to make payment to any subcontractor used by vendor. Payments shall not be made to the subcontractor by the Fiscal Court of Calloway County or the Calloway County Road Department. Subcontractors having nonpayment issues that could not be resolved with the Vendor, should report in detail these incidents to the buyer of record for this solicitation.

The Vendor shall ensure that all contractors or subcontractors comply with all applicable Federal, State, and Local laws, regulation, mandates, and terms of this solicitation and resulting contract.

Additionally, the Vendor shall not contract with any contractor or subcontractor that utilizes the services of illegal immigrants.

The vendor is responsible for supplying all subcontractors with a copy of any applicable prevailing wage rates and the terms and conditions of the solicitation.

2.18 Service Performance

All services performed under contract shall be in accordance with the terms and conditions of the contract. It will be the agency's responsibility to ensure that such services rendered are performed and are acceptable.

The relationship between the Fiscal Court of Calloway County and the Calloway County Road Department and the Contractor is that of client and independent Contractor. No agent, employee, or servant of the Contractor or any of its subcontractors shall be or shall be deemed to be an employee, agent, or servant of the County for any reason. The Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this Contract.

Deviations of services performed will not be made without the written approval of the Fiscal Court of Calloway County and/or the Calloway County Road Department. Problems that arise under any aspect of performance should first be resolved between the vendor and the agency. If such problems and/or disagreements cannot be resolved they should be referred to the Fiscal Court of Calloway for mediation.

2.19 Assignment

The vendor shall not assign this Master Agreement in whole or in part to another vendor at any time during the initial or optional renewal terms of the contract, without the consent, guidance and approval of the Fiscal Court of Calloway County and the Calloway County Road Department. Any assignment hereunder entered into, subsequent to the execution of the contract with the prime vendor, must be annotated and approved by the Fiscal Court of Calloway County and the Calloway County Road Department. Any purported assignment without this consent shall be null and void.

2.20 Termination of Contracts

A contract may be terminated for default by the vendor, for the convenience of either party, or for lack of appropriation. Notice of such termination, if by Vendor, shall be provided in writing to the agency at least forty-five (45) days prior to termination.

2.21 Endorsements

The Contractor shall not refer to the Master Agreement or acceptance of bid in commercial advertising in such a manner as to state or imply that the firm or its services are endorsed or preferred by the Fiscal Court of Calloway County or the Calloway County Road Department.

2.22 Registration with the Secretary of State by a Foreign Entity

Pursuant to KRS 45A.480(1)(b), an agency, department, office, or political subdivision of the Commonwealth of Kentucky shall not award a state contract to a person that is a foreign entity required by KRS 14A.9-010 to obtain a certificate of authority to transact business in the Commonwealth ("certificate") from the Secretary of State under KRS 14A.9-030 unless the person produces the certificate within fourteen (14) days of the bid or proposal opening. Therefore, foreign entities should submit a copy of their certificate with their solicitation response. If the foreign entity is not required to obtain a certificate as provided in KRS 14A.9-010, the foreign entity should identify the applicable exception in its solicitation response. Foreign entity is defined within KRS 14A.1-070.

For all foreign entities required to obtain a certificate of authority to transact business in the Commonwealth, if a copy of the certificate is not received by the contracting agency within the time frame identified above, the foreign entity's solicitation response shall be deemed non-responsive or the awarded contract shall be cancelled.

Businesses can register with the Secretary of State at <https://secure.kentucky.gov/sos/ftbr/welcome.aspx>

2.23 EEO ACT

The Equal Employment Opportunity Act of 1978 applies to All State and County government projects with an estimated value exceeding \$500,000. The Contractor shall comply with all terms and conditions of the Act, if applicable.

1. Failure to comply with the Act may result in non-award, withdrawal of award, cessation of contract payments, etc.
2. Vendors/Contractors must submit the following documents in accordance with the requirements of the solicitation—EEO-1: Employer Information Report, Affidavit of Intent to Comply and Subcontractor Report or a copy of the Kentucky EEO Approval Letter issued by the Finance and Administration Cabinet, Office of EEO and Contract Compliance.
3. Vendors/Contractors may obtain copies of the required EEO documents from the Finance and Administration Cabinet's Web page at the following address:
<http://finance.ky.gov/SERVICES/FORMS/Pages/default.aspx>
Scroll down to the section labeled procurement.
4. Vendors/Contractors must advise each subcontractor/sub vendor—with a subcontract of more than \$500,000—of the subcontractor's obligation to comply with the KY EEO Act. Further, Vendors/Contractors are responsible for compiling EEO documentation from their subcontractors/sub vendors and submitting the documentation to the agency. (Note: contracts below the second tier are exempt from EEO reporting.)
5. Failure to complete, sign and submit all required documents will delay the award process as incomplete submissions will not be processed. Further, alternate versions of the required documents will not be accepted or processed.
6. Pursuant to KRS 45.610 (2), the agency reserves the right to request additional information and/or documentation and to conduct on-site monitoring reviews of project sites and/or business facilities at any point for the duration of any contract which exceeds \$500,000 to ascertain compliance with the Act and such rules, regulations and orders issued pursuant thereto.
7. All questions regarding EEO forms or contract compliance issues must be directed to Human Resources, Calloway County Judge Executive Office.

2.24 Discrimination

Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. This section applies only to contracts utilizing federal funds, in whole or in part. During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity or age. The contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The contractor agrees to provide, upon request, needed reasonable accommodations. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following; employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.
3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.
4. The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.
5. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency for purposes of investigation to ascertain compliance with such rules, regulations and orders.
6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.
7. The contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or

orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

2.25 Prevailing Wage (Shall apply to the resulting contract)

If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

2.26 Kentucky Sales and Use Taxes

Sales of tangible personal property or services to the State of Kentucky and its agencies are not subject to state sales or use taxes.

2.27 Extension Period

This contract may be extended at the termination of all contract renewal periods for additional time not to exceed 90 days. This extension must be accompanied by the written approval of the vendor and the Fiscal Court of Calloway County.

2.28 Extending Master Agreement to Other Agencies

The Fiscal Court of Calloway County and the Calloway County Road Department reserve the right, with the consent of the vendor, to offer this master agreement to other state agencies or political subdivisions who may have need for the product(s) or service(s).

2.29 Access to Records

The contractor, as defined in KRS 45A.030 (9) agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the contract and shall be exempt from disclosure as provided in KRS 61.878(1) (c). The contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884.

2.30 Records Retention

The Fiscal Court of Calloway County and the Calloway County Road Department may inspect the place of business of the Vendor or any sub Vendor under the master Agreement contract awarded or to be awarded by the Fiscal Court of Calloway County or the Calloway County Road Department. The Fiscal

Court of Calloway County or the Calloway County Road Department may audit the books and records of any person who has submitted cost or pricing data at any time until three years from the date of final payment under the prime contract, and by any subcontractor for a period of three years from the date of final payment under the subcontract. Such books and records shall be maintained by the contractor for a period of three years from the date of final payment under the contract and by any subcontractor for a period of three years from the date of final payment under the subcontract. The Fiscal Court of Calloway County and the Calloway County Road Department shall be entitled to audit the books and records of a contractor or any subcontractor under any negotiated contract or subcontract other than a firm fixed-price type contract, provided, however, that this provision shall not limit the right to audit stated above. Such books and records shall be maintained by the contractor for a period of three years from the date of final payment under the prime contract and by the subcontractor for a period of three years from the date of final payment under the subcontract. The contractor shall place such the same audit requirement in any agreement it may have with a subcontractor under this contract.

The following person and/or entity acknowledges that they have read this agreement in preparation for their bid, agree to the terms provided in this document, and if the bid is accepted by the Fiscal Court of Calloway County, this document shall be accepted by the parties as the master agreement.

Entity or Individual Submitting Bid:

Authorized Signature

Date

By: _____
Printed Name and Entity Name, if applicable

Title, if applicable

Acknowledgment that Bid has been accepted by the Fiscal Court of Calloway County and the Calloway County Road Department, and formally entering into this Master Agreement:

Kenneth C. Imes,
Calloway County Judge-Executive

Date