



# Shelby County Tennessee

Mark H. Luttrell, Jr., Mayor

## SEALED BID Shelby County Government Purchasing Department

160 N. Main, Suite 550  
Memphis, TN 38103

*Issued: October 31, 2012*  
*Due, November 27, 2012 at 2:30 P.M. (Central Standard Time)*

**SEALED BID # I-000190**

### **2012 FALL ASPHALT OVERLAY PROJECT**

Shelby County Government is soliciting Sealed Bids for the provision of Construction Services to provide milling, and overlay for various roads in Shelby County, Tennessee. The Sealed Bid is located on the County's website at [www.shelbycountyttn.gov](http://www.shelbycountyttn.gov) and click the link "Department" at the top, then P for the Purchasing Department, then click on the link "Bids."

**A voluntary pre-bid conference will be held at 10:00 A.M., Friday, November 9, 2012 at the following location, Shelby County Roads, Bridges and Engineering Department, Conference Room, at 6449 Haley Road, Memphis, Tennessee 38134.**

The bid, as submitted, should include all estimated costs related to the services requested in this SEALED BID. If selected, you will contract with Shelby County Government pending completion of all requirements contained herein. Respondents requesting additional information or clarification are to contact, Nelson Fowler at [nelson.fowler@shelbycountyttn.gov](mailto:nelson.fowler@shelbycountyttn.gov).

Bids must be received in the office of the Administrator of Purchasing **no later than 2:30 P.M. on Tuesday, November 27, 2012.** **Bids will be publicly opened at that time and all interested bidders are invited to attend.** Bids should be addressed to:

**Nelson Fowler, Manager A  
Shelby County Government  
160 N. Main, Rm. 550  
Memphis, TN 38103**

The package containing an original (**clearly identified as original**) and four (4) copies of your proposal must be sealed and marked with the bidders name and “**CONFIDENTIAL, 2012 FALL ASPHALT OVERLAY PROJECT # I-000190**” noted on the outside.

**THE LABEL, WHICH IS ATTACHED TO THE BID NOTIFICATION LETTER SHALL BE COMPLETELY FILLED OUT AND ATTACHED TO THE BID SUBMISSION ENVELOPE. YOU MUST DISPLAY YOUR CURRENT E.O.C. ELIGIBILITY NUMBER ON THE OUTSIDE OF YOUR ENVELOPE. UNLESS THE LABEL IS COMPLETELY FILLED OUT AND YOUR CURRENT CERTIFICATION NUMBER OR ELIGIBILITY NUMBER IS NOTED THEREON, YOUR BID WILL BE RETURNED TO YOU UNOPENED. SHOULD YOUR LABEL BE LOST OR MISPLACED, PLEASE NOTE THE APPROPRIATE INFORMATION IN THE LOWER LEFT-HAND CORNER OF YOUR ENVELOPE.**

Sincerely,

Nelson Fowler, Manager A  
Purchasing Department, Shelby County Government

**Roads, Bridges & Engineering Department**  
**6449 Haley Road**  
**Memphis, Tennessee 38134**

**INDEX**

<b><u>SECTION A</u></b>	<b>SEALED BID DOCUMENTS</b>	
I.	INTRODUCTION .....	5
II.	MINIMUM PROPOSER REQUIREMENTS .....	5
III.	CORRESPONDENCE .....	5
IV.	PROPOSAL SUBMISSION DEADLINE .....	6
V.	PROPOSAL TIMELINE .....	7
VI.	PROPOSAL CONDITIONS .....	7
	A) CONTINGENCIES	
	B) MODIFICATIONS	
	C) PROPOSAL SUBMISSION	
	D) INCURRED COSTS	
	E) FINAL AUTHORITY	
	F) PROPOSAL VALIDITY	
	G) DISCLOSURE OF PROPOSAL CONTENTS	
	H) LIVING WAGE ORDINANCE AND PREVAILING WAGE ORDINANCE	
	I) NON-DISCRIMINATION AND TITLE VI	
	J) LOSB	
	K) DRUG-FREE WORKPLACE AFFIDAVIT	
	L) GRATUITY DISCLOSURE FORM	
	M) FORMS TO BE SUBMITTED	
VII.	GENERAL REQUIREMENTS .....	26
VIII.	AWARD OF CONTRACT .....	26
IX.	NOTICE TO BIDDERS .....	27
<b><u>SECTION B</u></b>	<b>PROPOSAL AND CONTRACT REQUIREMENTS</b>	
I.	PROPOSAL .....	1-3
II.	BID FORM .....	4-5
III.	PROPOSAL RESPONSE SHEET .....	6
IV.	CONTRACT .....	7-19
V.	CONTRACT BOND .....	20-21
<b><u>SECTION C</u></b>	<b>SPECIAL PROVISIONS</b>	
<b><u>SECTION D</u></b>	<b>GENERAL REQUIREMENTS AND CONDITIONS</b>	

END OF PAGE

**SECTION A**

**SHELBY COUNTY GOVERNMENT  
ENGINEERING DEPARTMENT**

**SEALED BID DOCUMENTS**

## I. INTRODUCTION

Shelby County Government (the “County”), is soliciting qualified contractors to provide Construction Services for milling and asphalt overlay on various roads in Shelby County Tennessee. This Sealed Bid is being released to invite interested and qualified firms to prepare and submit proposals in accordance with instructions provided where the successful candidate will be selected and invited to enter into a contractual relationship with Shelby County for the Services outlined in this SEALED BID.

## II. MINIMUM BIDDER REQUIREMENTS

All bidders must:

1. **Prime** and **LOSB** contractors must **apply** and **qualify** for an Equal Opportunity Compliance (EOC) certification number through our EOC Administration **prior to submitting your response**.
2. Firms located within the boundaries of Shelby County are required to have a current Shelby County Business License or be considered exempt from the license requirement by the Shelby County Clerks Office.
3. Meet all other requirements for the performance such as LOSB and performance requirements for Services in accordance with the provisions of this SEALED BID.
4. Must submit a Bid Bond in the amount of 5% of their bid. This bond must be submitted with your bid.
5. The successful contractor must be able to submit a performance/labor material bond separate bonds each in the amount of 100% of the amount of the contract.
6. Must submit LOSB Form A and B with their bid.
7. Have all appropriate licenses and certifications required in the State of Tennessee to perform the Services.
8. A written statement of compliance to Title VI and the Living Wage Ordinance must be provided by the successful contractor. Please see item “**H**” for the Living Wage Ordinance and item, “**I**” for Title VI.
9. Also see item # M for forms to be submitted with your bid.
10. Independent contractors (sole proprietors) must adhere to State of Tennessee Public Chapter No. 436, know as the “Tennessee Lawful Employment Act” (effective date of 01/01/12). Proof and documentation of employment eligibility must be included with the proposal.

**Please Note:** *As a part of doing business with Shelby County, each individual, company or organization is required to obtain a vendor number and an “Equal Opportunity Compliance” certification number.*

*You can access the online application to receive the numbers indicated above at [www.shelbycountyn.gov](http://www.shelbycountyn.gov) and click the link “Department” at the top, then P for Purchasing Department, then click on the link “Conducting business with Shelby County”. Please download the application instructions and read thoroughly prior to accessing the application.*

### III. CORRESPONDENCE

All correspondence, proposals, and questions concerning the SEALED BID are to be submitted to:

Nelson Fowler, Manager A  
Shelby County Government  
160 N. Main St. Suite 550  
Memphis, TN 38103  
(901) 222-2250

Respondents requesting additional information or clarification are to contact Nelson Fowler in writing at [nelson.fowler@shelbycountyttn.gov](mailto:nelson.fowler@shelbycountyttn.gov) or at the address listed above. Questions should reference the section of the SEALED BID to which the question pertains and all contact information for the person submitting the questions. ***IN ORDER TO PREVENT AN UNFAIR ADVANTAGE TO ANY RESPONDENT, VERBAL QUESTIONS WILL NOT BE ANSWERED. The deadline for submitting questions will be , Wednesday, November 14, 2012 @ 12:00 p.m.***

**Note:** All written questions submitted by the deadline indicated above will be answered and posted on the County's website at [www.shelbycountyttn.gov](http://www.shelbycountyttn.gov) within forty eight (48) hours of the above cut-off date.

*These guidelines for communication have been established to ensure a fair and equitable process for all respondents. Please be aware that contact with any other personnel (other than the person clearly identified in this document) within Shelby County or its benefit administrators regarding this SEALED BID may disqualify your company from further consideration.*

*Respondents requesting additional information or clarification are to contact Mr. Nelson Fowler in writing at [nelson.fowler@shelbycountyttn.gov](mailto:nelson.fowler@shelbycountyttn.gov) or at the address listed above. Questions should reference the section of the SEALED BID to which the question pertains and all contact information for the person submitting the questions.*

*The vendor number is obtained through the Purchasing Department and the EOC certification is obtained through the Shelby County EOC Administration.*

*If you have any questions regarding the vendor number, please call the Purchasing Department @ 901-222-2250 or download the Bidder's List Application & W-9 form at [www.shelbycountyttn.gov](http://www.shelbycountyttn.gov). and click the link "Department" at the top, then P for the Purchasing Department, then click on the link "Conducting business with Shelby County" and then select, "Vendor Registration."*

*If you have any questions regarding the EOC qualification, please call 901-222-1100.*

### IV. PROPOSAL SUBMISSION DEADLINE

All proposals must be received at the address listed above no later than **2:30 pm, Tuesday, November 27, 2012.** Facsimile or electronically transmitted proposals will not be accepted since they do not contain original signatures. Postmarks will not be accepted in lieu of actual receipt. Late or incomplete proposals may not be opened and considered.

## **V. PROPOSAL TIMELINE**

Shelby County reserves the right to modify this timeline at any time. If the due date for proposals is changed, all prospective Bidders shall be notified.

<b>Sealed Bids Released</b>	<b>Wednesday, October 31, 2012</b>
<b>Pre-Bid Conference</b>	<b>10:00 AM, Friday, November 9, 2012</b>
<b>Deadline for Questions</b>	<b>12:00 PM, Wednesday, November 14, 2012</b>
<b>Proposal Due Date</b>	<b>2:30 PM, Tuesday, November 27, 2012</b>
<b>Notification of Award</b>	<b>December, 2012</b>

The County may reproduce any of the Bidders proposal and supporting documents for internal use or for any other purpose required by law.

## **VI. PROPOSAL CONDITIONS**

### **A. Contingencies**

This SEALED BID does not commit the County to award a contract. The County reserves the right to accept or reject any or all proposals if the County determines it is in the best interest of the County to do so. The County will notify all Bidders, in writing, if the County rejects all proposals.

### **B. Modifications**

The County reserves the right to issue addenda or amendments to this SEALED BID.

### **C. Proposal Submission**

To be considered, all proposals must be submitted in the manner set forth in this SEALED BID. It is the Bidders responsibility to ensure that its proposals arrive on or before the specified time.

### **D. Incurred Costs**

This SEALED BID does not commit the County to pay any costs incurred in the preparation of a proposal in response to this SEALED BID and Bidders agree that all costs incurred in developing this SEALED BID are the Bidders responsibility.

### **E. Final Authority**

The final authority to award a contract rests solely with the Shelby County Purchasing Department.

### **F. Proposal Validity**

Proposals submitted hereunder will be firm for one hundred twenty (120) calendar days from the due date unless otherwise qualified.

**G. Disclosure of Proposal Contents**

Proposer understands and acknowledges that the County is a governmental entity subject to the laws of the State of Tennessee and that any reports, data or other information supplied to the County is subject to being disclosed as a public record in accordance with the laws of the State of Tennessee. All proposals and other materials submitted become the property of Shelby County Government.

**H. Living Wage Ordinance and Prevailing Wage Ordinance**

Living Wage - In accordance with Ordinance Number 328, commonly referred to as the Living Wage Ordinance, all persons/entities engaged in service contracts with the County, including but not limited to both prime and subcontractors, shall pay a Living Wage to employees for all work performed on said service contract, as defined in the Living Wage Ordinance. Proof of such compensation must be evidenced as required in the Living Wage Ordinance.

Prevailing Wage – Any firm, individual, partnership or corporation awarded a contract by the COUNTY for the construction of, improvement, enlargement, alteration or replacement of a public work or project in excess of \$500,000 and any subcontractors of such public work or project in excess of \$100,000 (“Recipient”) shall be required to pay local prevailing wages and benefits for laborers, mechanics, or other listed classifications as defined by the Tennessee Department of Labor. The prevailing wage rate shall be the most current State of Tennessee prevailing wage established by the Tennessee Department of Labor For Region 1 (Shelby County). The benefit rates shall be the most current rates described in the published schedule by the Memphis and West Tennessee Building and Construction Trades Council, except as otherwise provided in the Shelby County Code of Ordinances. The applicable rate shall be determined at the time that the project is awarded. In instances where Prevailing Wage applies, Prevailing Wage will override the Living Wage requirement.

**I. Non-discrimination and Title VI**

The contractor hereby agrees, warrants, and assures compliance with the provisions of Title VI and VII of the Civil Rights Act of 1964 and all other federal statutory laws which provide in whole or in part that no person shall be excluded from participation or be denied benefits of or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the contractor on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee State Constitutional or statutory law. The contractor shall upon request show proof of such non-discrimination and shall post in conspicuous places available to all employees and applicants notices of non-discrimination.

Any recipient entity shall be subject to the requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., and regulations promulgated pursuant thereto. It shall develop a Title VI implementation plan with participation by protected beneficiaries as may be required by such law or regulations. To the extent applicable, such plan shall include



Title VI implementation plans sub-recipients of federal funds through the entity. The contractor shall produce the plan upon request of Shelby County Government. Failure to provide same shall constitute a material breach of contract.

**J. LOSB**

**SHELBY COUNTY GOVERNMENT  
LOCALLY OWNED SMALL BUSINESS (LOSB) PROGRAM  
FOR CONSTRUCTION SERVICES**

**2012 FALL ASPHALT OVERLAY PROJECT**

**General**

Shelby County Government is committed to a policy of non-discrimination pursuant to the Equal Protection provisions of the United States Constitution. It is further the policy of Shelby County that its purchasing and contracting practices encourage the use of Locally-Owned Small Businesses (LOSB's) in all solicitations. In furtherance of these policy objectives, Shelby County seeks to afford all citizens equal opportunities to do business on county contracts and to ensure that all bidders, or Contractors doing business with Shelby County provide to LOSB's, maximum practicable opportunities, commensurate with availability, price and capabilities required, to participate on contracts which are paid for, in whole or in part, with monetary appropriations from Shelby County.

Shelby County seeks to prevent discrimination against any person or business in pursuit of these opportunities on the basis of race or gender. Shelby County will conduct its contracting and purchasing programs to discourage any discrimination and will actively seek to resolve all claims of discrimination brought against Shelby County or any Contractors involved in such contracting and purchasing programs.

Shelby County has determined that 20% of the contract sum will be contracted with LOSB vendors. For assistance and information regarding LOSB participation, Bidders shall contact:

Ms. Carolyn Griffin  
Office of Equal Opportunity Compliance  
Board of Commissioners of Shelby County  
160 North Main Street, Suite 969  
Memphis, Tennessee 38103  
Phone: 901-222-1100  
Fax: 901-222-1101  
E-mail: Carolyn.Griffin@shelbycountyttn.gov

**Definitions**

The definitions used in this document are as follows:

1. **“Bidder”** means any person, firm, partnership, association, or joint venture seeking to be awarded a contract or subcontract to provide goods, commodities, or services.
2. **“Certification”** or **“Certified”** means a Business that is certified by Shelby County Government under the LOSB program.
3. **“Commercially useful function”** means being responsible for the management and performance of a distinct element of the total work.
4. **“Contractor”** shall mean any person or business enterprise that submits a bid or proposal to provide labor, goods, or services to Shelby County by contract for profit in the area of construction or construction-related activities; and, any person or firm who supplies or provides labor, goods, or services to Shelby County by contract for profit.
5. **“Efforts to Achieve LOSB Participation”** means that the Contractor will solicit LOSB Participation with respect to the procurement and will consider all sub-bids and quotations received from LOSB’s. When a subcontract is not awarded to the LOSB, the Contractor must document the reason(s) the award was not made and substantiate that documentation in writing pursuant to the provisions of this Program.
6. **“Locally Owned Small Business (LOSBS)”** means a business whose home office is located in Shelby County, whose annual revenues do not exceed \$3,000,000 and who has been certified by Shelby County Office of Equal Opportunity Compliance.
7. **“Non-LOSBS”** means a business, which is not certified as a LOSB.
8. **“Unavailable”** means either that: (1) there is no LOSB providing goods or services requested; or, (2) no LOSB submitted a bid.

## **Requirements and Compliance**

All firms or entities seeking to become Contractors as outlined herein are required to make good faith efforts to achieve LOSB participation when submitting a proposal or bidding on Shelby County procurements. Bidders shall not discriminate on the basis of race or gender when soliciting bids in the performance of Shelby County’s procurements. Discrimination complaints brought to the attention of Shelby County Office of Equal Opportunity Compliance (or its designee) will be reviewed and investigated to the extent necessary to determine the validity of such complaints and what actions, if any, should be taken by Shelby County.

## **Policies and Procedures**

Shelby County may adopt policies and procedures as necessary to carry out and implement its powers and duties with regard to the LOSB Program. It is the goal of Shelby County to encourage participation by LOSB’s and to adopt rules and regulations which achieve to the greatest extent possible a level of participation by LOSB’s taking into account the total number of all Contractors and suppliers. Therefore, Shelby County will review each procurement request to determine the maximum potential for utilization of LOSB’s. This review is based on the availability of qualified LOSB’s providing goods or services as it relates to the scope of the bid or procurement process. The following procedures may be utilized during the procurement process.

1. **Pre-Bid Activity**
  - a. Bid Language

Shelby County may insert language into each bid specification describing the LOSB Program to assure that all prospective bidders are aware of the requirements to make efforts to utilize LOSB's.

b. Notification

Shelby County may provide written notification to Contractors and LOSB's regarding pre-bid conferences; technical assistance to LOSB's; LOSB Program procedures and required documentation; and, provide a list of LOSB's who have expressed an interest in competing for the bid or in performing as a subcontractor.

**2. Contractor's Responsibilities**

a. Efforts to Achieve LOSB Participation

All entities seeking to become Contractors are required to make efforts to achieve maximum LOSB participation, as outlined in this LOSB Program, when submitting a response to a bid or negotiated proposal in response to a Shelby County procurement opportunity. Such Efforts should be documented on **LOSB Form "A."** and submitted with your bid.

b. Utilization

Contractors are required to utilize legitimate LOSB's in order to receive credit for the utilization of a LOSB. Contractors must document all LOSB's to be utilized, the percentage of utilization and the intended scope of work. Such information should be submitted on **LOSB Form "B."** This documentation must be submitted with the bid or negotiated proposal document.

c. Commercially Useful Functions

All LOSB's identified on **LOSB Form "C"** or **LOSB Form "D"** shall perform a Commercially Useful Function.

d. Unavailability

If a potential Contractor's efforts to obtain LOSB participation are unsuccessful due to the unavailability of a LOSB, the Contractor will submit a statement of unavailability. **LOSB Form "A."**

e. Pre-Work Conference

Any Contractor who is the successful bidder shall be required to attend a conference with Shelby County prior to beginning the work. The primary purpose of this conference is to review the project scope and review LOSB participation as outlined in **LOSB Form "B."** Shelby County will also review the Statement of Intent to Perform as a Subcontractor or Provide Supplies or Services as documented on **LOSB Form "C."**

f. Post-Award Change

Any Contractor who determines that a LOSB identified on **LOSB Form "B"** cannot perform shall request approval from Shelby County to contract with an alternate subcontractor pursuant to this LOSB Program. Such request will be reviewed and approved only after adequate documentation for the proposed change is presented.

g. LOSB Certification

Each month the Contractor shall submit **LOSB Form "D"** certifying all payments made to LOSB's.

### **3. LOSB Responsibilities**

#### **a. Commercially Useful Function**

It is the responsibility of each LOSB providing subcontracted goods and/or services to submit **LOS Form "C"** certifying that it is performing the work and that it is a Commercially Useful Function.

### **Written Agreement**

Shelby County policies and procedures on LOSB participation are designed to create contractual relationships between Contractors and LOSB's. Therefore, a Contractor may utilize the services of a LOSB in estimating and satisfying the scope of work, provided that a written contract/agreement is executed between the Contractor and the LOSB.

### **Certification**

To ensure that the ownership and control over decision-making and day-to-day operations of a Certified LOSB is legitimate, Shelby County reserves the right to verify the ownership and control of each LOSB utilized.

### **Monitoring LOSB Utilization**

Shelby County intends to monitor and enforce this LOSB Program. Shelby County reserves the right to conduct random audits of each of its Contractor's/ LOSB's. Shelby County reserves the right to reevaluate a LOSB's certification at any time.

### **Efforts to Achieve LOSB Participation**

The Contractor shall consider all bids and/or quotations received from LOSB's. When a subcontract is not awarded by a Contractor to any of the competing LOSB's, the Contractor must document the reason(s) the award was not made to the LOSB's. It is the responsibility of the Contractor to prove that it employed Efforts to Achieve LOSB participation. Evidence supporting the Contractor's Efforts must be documented on **LOS Form "A,"** which must include, but is not limited to, the following:

1. Contractor must submit proof that it solicited LOSB participation through reasonable and available means including, but not limited to:
  - a. Written notices to LOSB's who have the capability to perform the work of the contract or provide the service;
  - b. Direct mailing, electronic mailing, facsimile or telephone requests.
2. Contractor must submit proof that it provided interested LOSB's with adequate information about plans, requirements and specifications of the contract in a timely manner to assist them in responding to a solicitation.
3. Contractor must submit proof that it made Efforts to Achieve LOSB Participation including, but not limited to, proof that it made opportunities available to LOSB suppliers and identified opportunities commensurate with opportunities made available and identified to Non LOSB's. Such proof will include the names of businesses, contact person(s),

addresses, telephone numbers, and, a description of the specifications for the work selected for subcontracting.

4. Contractor must submit proof that it allowed LOSB's the opportunity to review bid specifications, blue prints and all other bid related items at no charge. The Contractor must allow sufficient time for review prior to the bid deadline.
5. Contractor must submit proof that it made Efforts to Achieve LOSB Participation by not rejecting a LOSB as unqualified or unacceptable without sound reasons based on a thorough investigation of their capabilities. Contractor must submit proof of the basis for rejecting any LOSB deemed unqualified or unacceptable by the Contractor. The Contractor will not impose unrealistic conditions of performance on LOSB's seeking subcontracting opportunities.

The Contractor must fully cooperate with Shelby County in its post-contract award LOSB Program audit and compliance efforts.

### **Substitution of LOSB's after Contract Award**

In order to make a substitution of a LOSB, a Contractor must make a request to Shelby County. This request must be submitted in writing to Shelby County. Shelby County reserves the right to approve any substitution of a LOSB. The Contractor has the responsibility to provide Shelby County with a reasonable basis for the substitution. If the Contractor desires to substitute the LOSB with a Non-LOSB, then the Contractor must comply with the Effort to Achieve LOSB Participation provisions set forth herein.

### **Noncompliance with LOSB Program**

Any of the following reasons, individually or collectively, may result in suspension from bidding, prohibition from contracting, or cancellation of contracts:

1. The failure to perform according to contract provisions relating to this LOSB Program;
2. Violation of, circumvention of, or failure to comply with the LOSB Program; and/or, other reasons deemed appropriate by Shelby County

### **Questions and Information**

Questions regarding this LOSB Program and requests for information should be directed to:

Ms. Carolyn Griffin  
Office of Equal Opportunity Compliance  
Board of Commissioners of Shelby County  
160 North Main Street, Suite 969  
Memphis, Tennessee 38103  
Phone: 901-222-1100  
Fax: 901-222-1101  
E-mail: Carolyn.Griffin@shelbycountyttn.gov

### **Construction**

This LOSB Program is consistent with Shelby County Policies and Procedures. Wherever conflicts exist, the provision in the Shelby County Policies and Procedures will prevail.

### **LOSB Program Forms Description**

- **LOS B Form A -- Certification of Efforts**

Contractors are required to submit **LOS B Form "A"** with proposals as evidence and documentation of efforts that have been made to contact LOSB's for participation as subcontractors, joint venture partners, or suppliers of goods and services. Contractors are required to contact LOSB's and solicit quotes for goods and services. All responses to the Contractor's solicitation should be recorded and reported.

- **LOS B Form B -- LOS B Utilization Plan**

A Contractor is required to submit **LOS B Form "B"** with its Proposal in order to identify all LOSB's they propose to utilize in providing the goods and services included in the Proposal. Contractors may only include a proposed provider of goods or services on **LOS B Form "B,"** if the entity is a legitimate LOSB. Additionally, if such entity will provide services, Contractors may only list LOSB's on **LOS B Form "B"** if the entity will perform a Commercially Useful Function. The Successful Contractor will be required to finalize and submit **LOS B Form "B"** prior to award of a contract. **LOS B Form "B"** will be incorporated into the contract and will become a contractual obligation of the Successful Contractor. **LOS B Form "B"** shall not be changed or altered after award of a contract without approval from Shelby County. The Contractor is required to provide written notice describing the reasons for any proposed change to Shelby County and to obtain approval from Shelby County of any changes to **LOS B Form "B."**

**LOS B Form C --Statement of Intent to Perform as a Subcontractor or Provide Supplies or Services.**

Contractors are required to have each subcontracted LOSB providing services complete **LOS B Form "C"** certifying that it is performing the work and that it is a Commercially Useful Function.

- **LOS B Form D -- Statement of Payments to LOSB's**

Contractors are required to record and maintain information regarding the utilization of LOSB's and all other information during the performance of awarded contracts. This information shall be recorded and maintained on **LOS B Form "D."** The form is required to be submitted to Shelby County each month. **LOS B Form "D"** must be completed in its entirety with information regarding the types of goods purchased from LOSB's or the types of services rendered by LOSB's and dollars amounts paid for their goods or services.

**Shelby County  
 LOSB Program  
LOS B FORM A  
 CERTIFICATION OF EFFORTS TO ACHIEVE LOSB PARTICIPATION  
 (To Be Submitted with the Sealed Bid)**

**Company Name:** \_\_\_\_\_  
**Bid No.:** \_\_\_\_\_

I certify that the following efforts were made to achieve LOSB participation: **YES NO**

- A Provided written notices to LOSB's who have the capability to perform the work of the contract or provide the service
- B Direct mailing, electronic mailing, facsimile or telephone requests
- C Provided interested LOSB's with adequate information about plans, requirements and specifications of the contract in a timely manner to assist them in responding to a solicitation
- D Allowed LOSB's the opportunity to review bid specifications, blue prints and all other SEALED BID related items at no charge, and allowed sufficient time for review prior to the bid deadline
- E Acted in good faith with interested LOSB's, and did not reject LOSB's as unqualified or unacceptable without sound reasons based on a thorough investigation of their capabilities
- F Did not impose unrealistic conditions of performance on LOSB's seeking subcontracting opportunities

Additionally, I contacted the referenced LOSB's and requested a bid/proposal. The responses I received were as follows:

<b>Name and Address of LOSB</b>	<b>Type of Work And Contract Items, Supplies or Services to be Performed</b>	<b>Response</b>	<b>Reason for Not Accepting Bid/Proposal</b>

*(If additional space is required, this form maybe duplicated)*

**If applicable, please complete the following:**

I hereby certify that LOSB's were "Unavailable" as defined in the LOSB Program to submit bids to provide goods and services for this SEALED BID's purpose.

Reasons for the “Unavailability”

---

---

Submitted by:

\_\_\_\_\_  
Authorized Representative Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



**Shelby County  
LOSB Program**

**LOSB FORM B**

**LOSB UTILIZATION PLAN**

(To Be Submitted with the Sealed Bid)

**Company:** \_\_\_\_\_

**Bid No.:** \_\_\_\_\_

I, \_\_\_\_\_, do certify that on the following procurement opportunity,  
(Contractor)  
\_\_\_\_\_, the following LOSB's will be utilized as sub-contractors,  
(Opportunity)  
suppliers, or to provide professional services:

Name	Description of Work	Contract Value	LOSB Number

*(If additional space is needed this form may be duplicated)*

TOTAL CONTRACT VALUE: \_\_\_\_\_

TOTAL % OF LOSB PARTICIPATION: \_\_\_\_\_

*The successful bidder is required to finalize and submit this form prior to award of a contract. Joint Venture Agreements, partnering agreements and all pertinent information must be presented prior to contract award. This information will be incorporated into the contract and will become a contractual obligation of the successful bidder. The finalized LOSB Form B shall not be changed or altered after award of a contract without approval from Shelby County. The successful bidder is required to provide written notice describing the reasons for the change to Shelby County to obtain approval of any changes to LOSB Form B.*

Submitted by:

\_\_\_\_\_  
Authorized Representative Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Shelby County  
LOSB Program  
LOSB FORM C**

**STATEMENT OF INTENT TO PERFORM AS A SUBCONTRACTOR OR  
PROVIDE SUPPLIES OR SERVICES  
(To Be Submitted Prior to Contract Award)**

**Company Name:** \_\_\_\_\_  
**Bid No.:** \_\_\_\_\_

I, \_\_\_\_\_, intend to provide supplies or services in connection with the  
(Subcontractor/Provider)  
above **Sealed Bid** request as a LOSB.

I am prepared to perform a “**Commercially Useful Function**” in connection with the above project.

The following are the work items to be performed:

---

at the following price: \$\_\_\_\_\_.

**If applicable, please complete the following:**

I have or will enter into a formal agreement with \_\_\_\_\_ for the above-  
(Company)  
described scope of work, supplies, or services conditioned upon the execution of a contract  
with Shelby County.

I hereby certify that this statement is true and correct:

Business Information: Submitted by: \_\_\_\_\_

Business: \_\_\_\_\_ Authorized Representative (Print):

Address: \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Authorized Representative's Signature:

\_\_\_\_\_

Facsimile: \_\_\_\_\_ Date: \_\_\_\_\_

**Shelby County  
LOSB Program**

**LOSB FORM D**

**STATEMENT OF PAYMENTS TO LOSB'S**  
(To Be Submitted Monthly and with Final Payment Request)

**Company Name:** \_\_\_\_\_

**Name/Contract No.:** \_\_\_\_\_

**Payment Request Number:** \_\_\_\_\_

<b>Name of Firm</b>	<b>Description of work</b>	<b>Total Amount Due This Month</b>	<b>Total Dollars Paid To Date</b>	<b>% of Contract Completed</b>	<b>Start Date of Contract</b>	<b>End Date of Contract</b>

*(If additional space is needed this form may be duplicated)*

I hereby certify that this statement is true and that above payments have been made.

**Business Information:**

**Submitted by:**

**Business:** \_\_\_\_\_

**Authorized Representative (Print):**

**Address:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Title:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**Authorized Representative's Signature:**

\_\_\_\_\_

**Facsimile:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## **LOCALLY OWNED SMALL BUSINESS PURCHASING PROGRAM RULES AND REGULATIONS:**

1. The Administrator of Purchasing in conjunction with the Administrator of EOC shall identify certain goods and services required by the County to be set aside for special purchasing procedures for locally owned small businesses.
2. Only certified locally owned small businesses will be allowed to submit competitive bids on the goods or services identified under paragraph (i) above.
3. The Administrator of Purchasing shall, in conjunction with the Administrator of EOC, annually review the Shelby County Capital Improvement Program to determine those projects with a construction cost of \$250,000 or more. Contracts amounting to at least ten percent (10%) of the construction costs of such project shall be awarded to locally owned small businesses as defined herein, except as set forth in sub-paragraph (vi) of this section, either as part of the conditions of the solicitation for general contractors bidding on these projects, or as separate bids issued by the County for subcontracts that may be assigned to general contractors.
4. After adhering to all other bidding and purchasing requirements of the County, not inconsistent with this part, if no bids are received from locally owned small businesses, then the County may solicit bids for the goods or services from all other sources.
5. On all purchases and/or contracts entered into by the County, the Purchasing Administrator or his or her designee shall have the right to negotiate with any supplier of goods or services to the County for the inclusion of locally owned small business subcontractors and/or suppliers in the contract award.
6. Failure by a supplier or contractor to include locally owned small business sub-contractors or suppliers in its bid or contract may be grounds for rejection of said bid or contract unless the supplier or contractor can show documented evidence of good cause why none were included.
7. Any locally owned small business awarded a contract or purchase order under this section shall not sublet, subcontract, or assign any work or services awarded to it without the prior written consent of the Mayor or the Purchasing Administrator.
8. As to those purchases below the requirement for a formal bid solicitation (currently, under \$15,000) and not included in the locally owned small business set aside, the Administrator of Purchasing shall determine if any locally owned small business offers that product or service. If so, at least one such eligible locally owned small business should be included in the vendors contacted for an opportunity to bid, and the Administrator of Purchasing may, at his discretion, designate in a purchase order the purchase of such goods and services from the identified locally owned small business.
9. In those situations where a locally owned small business as defined herein, engages in open competitive bidding for County contracts, the Administrator of Purchasing shall provide for a preference for the locally owned small business where responsibility and quality are equal. Said preferences shall not exceed five percent (5%) of the lowest possible bidder meeting specifications. The preference shall be applied on a sliding scale in the following manner:

- a. A preference of up to five percent (5%) shall be allowed for contracts up to \$ 500,000.00;
- b. A preference of up to three and five-tenths percent (3.5%) shall be allowed for contracts up to \$750,000.00;
- c. A preference of two and one-half percent (2.5%) shall be allowed for contracts up to \$1,000,000.00;
- d. A preference of two percent (2%) shall be allowed for contracts that exceed \$1,000,000.00.

10. For construction contracts over \$2,000,000.00, the Administrator of Purchasing shall provide for a preference of two percent (2%) to general contractors meeting the requirements of Section 1, Subparagraph B, if fifty percent (50%) or more of the total work comprising the bid has been or will be awarded to certified locally owned small businesses. The fifty percent subcontracting threshold must be met prior to contract execution.

11. The Administrator of Purchasing may divide a single bid package for any purchase of goods and services into two or more smaller bid packages in any case that the Administrator of Purchasing reasonably believes that the smaller bid packages will result in a greater number of bids by locally owned small businesses.

12. The Administrator of Purchasing, upon approval of the County Mayor, may establish special insurance and bonding requirements for certified locally owned small businesses so long as they are not in conflict with the laws of the State of Tennessee.

13. The Administrator of Purchasing, with the approval of the County Mayor, shall adopt and promulgate, and may from time to time, amend rules and regulations not inconsistent with the provisions of this ordinance, governing the purchase of goods and services from locally owned small business concerns to effectuate and implement the Locally Owned Small Business Purchasing Program within the intent of this ordinance.

14. The Administrator of EOC shall, in conjunction with the Administrator of Purchasing, provide a written quarterly report to the Mayor and Board of Commissioners which shall include a summary of the purchases selected for this program, a listing of the contracts awarded to locally owned small businesses for the period, and the dollar amounts of each such contract, and the percentage which such contracts bear to the total amount of purchases for the period.

**K. DRUG-FREE WORKPLACE AFFIDAVIT**

**STATE OF** \_\_\_\_\_

**COUNTY OF** \_\_\_\_\_

The undersigned, principal officer of \_\_\_\_\_, an employer of five (5) or more employees contracting with \_\_\_\_\_ County government to provide construction services, here states under oath as follows:

1. The undersigned is a principal officer of \_\_\_\_\_ (hereinafter referred to as the "Company"), and is duly authorized to execute this Affidavit on behalf of the Company.
2. The Company submits this Affidavit pursuant to T.C.A. § 50-9-113, which requires each employer with no less than five (5) employees receiving pay who contracts with the state or any local government to provide construction services to submit an affidavit stating that such employer has a drug-free workplace program that complies with Title 50, Chapter 9, of the *Tennessee Code Annotated*.
3. The Company is in compliance with T.C.A. ~ 50-9-113. Further affiant smith not.  
Principal Officer

**STATE OF** \_\_\_\_\_

**COUNTY OF** \_\_\_\_\_

Before me personally appeared with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that such person executed the foregoing affidavit for the purposes therein contained. Witness my hand and seal at office this day of \_\_\_\_\_.

Notary Public

My commission expires:

**L. GRATUITY DISCLOSURE FORM:**

**CODE OF ETHICS  
Section 18-59**

**SHELBY COUNTY GOVERNMENT  
GRATUITY DISCLOSURE FORM**

**INSTRUCTIONS:** *This form is for all persons receiving any Shelby County Government contract, subcontract, land use approval or financial grant of money to report any gratuity that has been given, directly or indirectly, to any elected official, employee or appointee (including their spouses and immediate family members) who is involved in the decision regarding the contract, land use approval, or financial grant of money.*

**1. NAME:**

---

**2. DATE OF GRATUITY:**

---

**3. NATURE AND PURPOSE OF THE GRATUITY:**

---

---

---

**4. NAME OF THE OFFICIAL, EMPLOYEE, APPOINTEE, OR FAMILY MEMBER  
WHO RECEIVED THE GRATUITY:**

---

**5. NAME OF THE PERSON OR ENTITY THAT PROVIDED THE GRATUITY:**

---

**6. ADDRESS OF THE PERSON OR ENTITY THAT PROVIDED THE GRATUITY:**

---

---

**7. DESCRIPTION OF THE GRATUITY:**

---

---

---

**8. COST OF THE GRATUITY:** (If cost is unknown and not reasonably discernible by the person giving the gratuity, then the person giving the gratuity shall report a good faith estimate of the cost of the gratuity.)

---

**9. AFFIDAVIT:**

The information contained in this Gratuity Disclosure Form, and any supporting documentation or materials referenced herein or submitted herewith, is true and correct to the best of my knowledge, information and belief and affirm that I have not given, directly or indirectly, any gratuity to any elected official, employee or appointee (including spouse and immediate family members) that has not been disclosed and I affirm that I have not violated the provisions of the Shelby County Government Code of Ethics.

---

**Signature**

---

**Date**

---

**Print Name**

*A copy of your completed form will be placed on the Shelby County Internet Website.*



**M. FORMS TO BE SUBMITTED:**

**LOSB FORM A: MUST BE COMPLETED AND SUBMITTED IN YOUR BID ENVELOPE.**

**LOSB FORM B: MUST BE COMPLETED, SUBMITTED WITH YOUR BID AND ATTACHED TO THE OUTSIDE OF THE ENVELOPE DOCUMENTING ALL LOSB'S TO BE UTILIZED, THE PERCENTAGE OF UTILIZATION AND THE INTENDED SCOPE OF THE WORK.**

**LOSB FORM C- MUST BE COMPLETED AND SUBMITTED BY EACH LOSB PROVIDING SUBCONTRACTED GOODS AND OR SERVICES CERTIFYING THAT THEY ARE PERFORMING THE WORK AND THAT IT IS A COMMERCIALY USEFUL FUNCTION. ONLY REQUIRED AFTER THE AWARD OF THE BID.**

**LOSB FORM D-MUST BE COMPLETED AND SUBMITTED BY THE SUCCESSFUL CONTRACTOR EACH MONTH CERTIFYING ALL PAYMENTS MADE TO LOSB'S.**

**DRUG FREE WORKPLACE AFFIDAVIT – MUST BE COMPLETED AND SUBMITTED WITH YOUR BID.**

**BID BOND – ALL BIDS MUST BE ACCOMPANIED BY A BANK CERTIFIED CHECK OF BANK DRAFT, LETTER OF CREDIT ISSUED BY ANY NATIONAL BANK OR APPROVED BID BOND FOR NOT LESS THAN 5% (PERCENT) OF THE AMOUNT OF THE BID. ALL PROPOSAL GUARANTEES SHALL BE MADE OUT TO THE COUNTY OF SHELBY.**

**NOTE: THE SUCCESSFUL CONTRACTOR WILL SUBMIT LOSB FORM C AND D.**

**FAILURE TO SUBMIT THE REQUIRED FORMS MAY RESULT IN YOUR BID BEING REJECTED AS BEING IN NON-COMPLIANCE WITH BID REQUIREMENTS.**

## **VII. General Requirements:**

### **A. Scope of Work**

The County wishes to engage in a contractual relationship with the lowest responsive Contractor selected through a low bid process

### **B. Project Time Frame**

The Provider must be prepared to begin immediately upon receipt of a Notice to Proceed. The work under this contract shall be substantially complete within **ONE HUNDRED TWENTY (120) CALENDAR DAYS.**

### **C. Reservation of Rights**

The County reserves the right, for any reason to accept or reject any one or more proposals, to negotiate the term and specifications for the services provided, to modify any part of the SEALED BID, or to issue a new SEALED BID.

### **D. Selection Criteria**

Contract(s) will be awarded based on the lowest responsive proposals received. The contents of the proposal of the successful Bidders will become contractual obligations and failure to accept these obligations in a contractual agreement may result in cancellation of the award.

### **E. Additional Information and References**

Any additional information that would be helpful to the County evaluating your proposal, including a list of current and former clients with a similar profile to Shelby County should be submitted.

## **VIII. AWARD OF CONTRACT:**

Bidders are advised that the lowest responsive proposal per set will be awarded the contract.

## **IX. NOTICE TO BIDDERS**

### **Time and Place of Opening of Bids:**

Sealed bids for the improvements described herein will be received and opened at THE OFFICE OF THE SHELBY COUNTY ADMINISTRATOR OF PURCHASING, ROOM 550, SHELBY COUNTY ADMINISTRATION BUILDING, 160 NORTH MAIN, MEMPHIS, TENNESSEE 38103, at **2:30 pm, Tuesday, November, 27 2012.** All interested bidders are invited to attend our bid opening at the above place and time.

### **Description of Work:**

- (a) The proposed work is officially known as: **2012 FALL ASPHALT OVERLAY PROJECT**
- (b) The work shall include milling, and asphalt resurfacing for various roads in Shelby County. Manhole adjustments shall be incidental.

### **Pre-Bid Meeting:**

Bidders are encouraged to attend a voluntary pre-bid meeting to be held **on Friday, November 9, 2012 at 10:00 am**, at the Shelby County Road, Bridges, and Engineering Department Office, Conference Room at 6449 Haley Road, Memphis, Tennessee 38134.

### **Instruction to Bidders:**

- (a) The SEALED BID MUST BE DOWNLOADED FROM THE SHELBY COUNTY GOVERNMENT WEBSITE at [www.shelbycountyttn.gov](http://www.shelbycountyttn.gov) and click the link "Department" at the top, then P for the Purchasing Department, then click on the link "Bids."
- (b) All bids must be accompanied by a bank cashier's check or bank draft, letter of credit issued by any national bank or certificate of deposit therein, duly assigned, or certified check or approved bid bond for not less than five (5) percent of the amount of the bid. All proposal guarantees shall be made out to the COUNTY OF SHELBY.
- (c) All bidders must be licensed by the Tennessee State Board of Licensing
- (c) General Contractors Evidence of this license must appear on the title page of the Proposal in the space provided, and also on the exterior of the sealed envelope. The envelope enclosing each bid must show the Contractor's name, license number, expiration date thereof, and license classification of the contractor(s) bidding for the prime contract and for the masonry, electrical, plumbing, heating, ventilation, and air conditioning subcontracts in accordance with TCA 62-6-119. Lacking all of this information, the bid shall be rejected and returned to the bidder unopened.

**EOC Requirements:**

As a condition precedent to bidding, bidders shall have received a current “Equal Opportunity Compliance Eligibility Number” which must be attached to each bid submission. To receive an E.O.C. Eligibility Number, specific information must be received by the E.O.C. Department at least 48 hours prior to the bid opening. To verify your E.O.C. Number or to receive information for obtaining a number, contact the E.O.C. Department, **901-222-1100**.

Use of Locally Owned Small Business (LOSB) participation on County projects is mandatory.

Bidders are encouraged to contact County-certified LOSB firms from the listing that can be obtained from Shelby County EOC department. Bidders may also provide the names of firms they believe would qualify as LOSB firms, by notifying the E.O.C. Department and filing the required forms at least five (5) working days prior to the bid opening

A Locally Owned Small Business is defined as a sole proprietorship, corporation, partnership, or joint venture located within Shelby County and at least 51% owned, operated and managed by a Shelby County resident and having an average annual sale of \$5,000,000.00 or less over the past three (3) years.

**Rejection of Bids:**

The **COUNTY OF SHELBY** reserves the right to reject any and all proposals and to waive technicalities in any proposal.

**BY ORDER OF:     CLIFTON DAVIS**

**PURCHASING ADMINISTRATOR  
SHELBY COUNTY GOVERNMENT**

\_\_\_\_\_, 2012