MISSOURI DEPARTMENT OF TRANSPORTATION
GENERAL SERVICES
JEFFERSON CITY, MISSOURI

June 17, 2005

GENERAL SERVICES: Bids On Material

Buyer: Audrey Bunch
Phone: 573-526-7929

Sealed bids for supplying material will be received by the Missouri Department of Transportation, Jefferson City, Missouri, until **10:00 A.M., CDT, July 6, 2005,** and at that time will be publicly opened and read in the Missouri Department of Transportation Building, **830 MoDOT Drive** in Jefferson City, Missouri 65109.

Bid is to be returned in an envelope plainly marked **BID ON MATERIAL FOR DISTRICT 3.** A self-addressed envelope is enclosed for your convenience.

The date specified for the receiving of bids is a firm deadline and all bids must be received at the designated office by that time. The Department does not recognize the U.S. Mail, United Parcel Service, Air Express, or any other organization, as its agent for purposes of accepting proposals. Any proposals arriving at the designated office after the deadline specified will not be considered.

Each bid must be accompanied by a **Proposal Guaranty** as set out in the proposal.

If vendor is awarded a contract you will be required to submit a certificate of liability insurance within 10 business days. Vendor may submit liability insurance certificate with your bid. Please refer to page 18 of 20 for insurance requirements.

By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri.

The attached form identified as **"PREFERENCE IN PURCHASING PRODUCTS"** must be on file in this office and must be dated in the current calendar year. Bidders must also complete and return with their bid the form identified as **"MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT".**

The right is reserved by the Missouri Highways and Transportation Commission to reject any or all bids and no award is final until formally approved by the Commission.

MISSOURI DEPARTMENT OF TRANSPORTATION

By _____
Audrey Bunch
Senior General Services Technician

PROPOSAL

General Services
Missouri Department of Transportation
830 MoDOT Drive, P.O. Box 270
Jefferson City, Missouri 65109

I (We) propose to supply the following described material to the Missouri Department of Transportation at the prices set out herein, on which bids will be received until **10:00 A.M., CDT, July 6, 2005.**

The bidder understands that this project involves state funds and the bidder awarded the contract will be required to comply with **Executive Order 94-03** of the Governor of the State of Missouri dated January 14, 1994. This order stipulates that there shall be no discriminatory employment practices by the contractor or his subcontractors, if any, based on **race, color, religion, creed, national origin, sex or age.** The undersigned contractor or his subcontractors, if any, shall give written notice of their commitments under this clause to any labor union with which they have bargaining or other agreements.

SUPPLY, HAUL AND DUMP MATERIAL ON STOCKPILES AS SHOWN:

All materials shall conform to **Missouri Standard Specifications for Highway Construction, 2004 Edition,** and any revisions thereto, except as revised herein:

Section 1001.14 Aggregate Quality Control/Quality Assurance is optional. Aggregate produced under an approved MoDOT QC/QA program will be accepted on that basis. All other aggregates are subject to the department's conventional inspection and acceptance procedures.

All mine tailings shall meet the requirements of **Section 1001.12 Mining By-Product Aggregates.**

SPECIFICATION DESIGNATION:

Spec. 3 Aggregate for Surfacing--**Section 1006:**
Grade B

Spec. 5 Snow and Ice Control Chips--**Section 1006:** (Limestone Only)
Meeting the following gradation requirements:

Sieve	**3/8"**	**No. 4**	**No. 10**
% Passing	**100**	**0-85**	**0-10**

Spec. 6 Snow and Ice Control Sand:
Sec. 1005.3 Fine Aggregate; **or** **Sec. 1002.3** Fine Aggregate meeting the following gradation requirements:

Sieve	**3/8"**	**No. 4**	**No. 200**
% Passing	**100**	**85-100**	**0-8**

STARTING AND COMPLETION DATES

Spec. Desig.	**Earliest Delivery Date**	**Completion Date**
3, 5 & 6	Upon Receipt of "Notice to Proceed"	November 17, 2005

MATERIAL TO BE DELIVERED AS DIRECTED BY THE DISTRICT ENGINEER.

THE BIDDER MUST SUBMIT A NET BID ON EACH ITEM IN WHICH HE IS INTERESTED. COMBINATION BIDS, "ALL OR NONE" BIDS OR CASH DISCOUNT STIPULATIONS BIDS WILL NOT BE CONSIDERED IN MAKING AWARDS.

AWARDS WILL BE MADE TO THE LOWEST RESPONSIBLE BIDDER FOR EACH ITEM PROVIDED THE PRICES ARE ACCEPTABLE TO THE COMMISSION. IN THE EVENT OF TIE LOW BIDS THE COMMISSION RESERVES THE RIGHT TO ESTABLISH THE METHOD TO BE USED IN DETERMINING THE AWARD.

DISTRICT 3

Item	Spec. Desig.	Tons	Stockpile Location or Maintenance Lot	Price Per Ton
CLARK COUNTY				
141	3	2000	Wayland Maintenance Lot	$_____
142	3	1000	Luray Maintenance Lot	$_____
LEWIS COUNTY				
143	3	2000	Canton Maintenance Lot	$_____
144	3	1000	LaBelle Maintenance Lot	$_____
145	3	1000	Monticello Maintenance Lot	$_____
LINCOLN COUNTY				
146	5	1000	Elsberry Maintenance Lot	$_____
147	5	1000	Troy Maintenance Lot	$_____
MARION COUNTY				
148	6 Sand	200	Hannibal Maintenance Lot	$_____
149	3	800	Monroe City Maintenance Lot	$_____
150	3	500	Palmyra Maintenance Lot	$_____

DISTRICT 3

Item	Spec. Desig.	Tons	Stockpile Location or Maintenance Lot	Price Per Ton
PIKE COUNTY				
151	5	300	Frankford Maintenance Lot	$_____
152	5	500	Bowling Green Maint. Lot	$_____
153	3	1000	Eolia Maintenance Lot	$_____
154	5	500	Eolia Maintenance Lot	$_____
155	3	1000	Louisiana Maintenance Lot	$_____
156	5	500	Louisiana Maintenance Lot	$_____
RALLS COUNTY				
157	6 Sand	200	Center Maintenance Lot	$_____
158	3	500	Center Maintenance Lot	$_____
159	5	200	Center Maintenance Lot	$_____

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the **"Contractor")** agrees as follows:

a. **Compliance with Regulations:** The contractor shall comply with the **Regulations** relative to nondiscrimination in federally-assisted programs of the Missouri Department Of Transportation, **Title 49, Code of Federal Regulations, Part 21,** as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

b. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of **race, color, or national origin** in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by **Section 21.5** of the **Regulations**, including employment practices when the contract covers a program set forth in **Appendix B of Regulations.**

c. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of **race, color, or national origin.**

d. **Information and Reports:** The contractor shall provide all information and reports required by the Regulations, or Directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Missouri Department Of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or Directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the Missouri Department Of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

e. **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Missouri Department Of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

(1) withholding of payments to the contractor under the contract until the contractor complies, and/or

(2) cancellation, termination or suspension of the contract, in whole or in part.

f. **Incorporation of Provisions:** The contractor shall include the provision of **Paragraphs A through E** above in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or Directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as the Missouri Department Of Transportation or the Federal Highway Administration 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 supplier as a result of such direction, the contractor may request the Missouri Department of Transportation to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Proposal, Guaranty and Contract Bond

Each proposal shall be accompanied by a **Bid Bond, Certified Check, Cashier's Check or Bank Money Order payable to the Director of Revenue--Credit State Road Fund** for an **amount equal to Five (5) Per Cent of the amount of the BID** submitted, as a guarantee that the bidder, if awarded the contract, will furnish an acceptable **performance and payment (Contract Bond) or a cashier's check, a bank money order or a certified check made payable to "Director of Revenue--Credit State Road Fund"** in an **amount equal to One Hundred (100%) of the contract price.** If a BID BOND is used (in lieu of a certified check, cashier's check, or bank money order), it must be in the form provided and executed by the bidder as principal and by a surety company authorized to do business in the **State of Missouri as surety.** The agent executing the same on behalf of the surety company must attach a current **Power of Attorney setting forth his authority to execute the bond involved.**

Certified Checks, Cashier's Checks or Bank Money Orders of unsuccessful bidders will be returned as soon as the award is made. The checks or bank money orders of the successful bidder(s) will be retained until the contract is executed and a satisfactory **Performance and Payment (Contract Bond)** is furnished. Bid Bonds will not be returned except on specific request of the bidder.

Failure to Execute Contract

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

Notice to Proceed

Within **30 days** after the execution of the contract, a **"Notice to Proceed"** will be issued by the Department. A purchase order will be attached to the "Notice to Proceed," which will specify the date or dates that the contractor can start roadway or stockpile delivery and will also include the completion dates. These dates will be in accordance with the dates shown in the proposal.

General Performance

This work is to be performed under the general supervision and direction of the Missouri Department Of Transportation and, if awarded any portion of the work, the undersigned agrees to furnish at his own expense all labor and equipment required to complete the work, it being expressly understood that this bid is for completed work based upon the unit price specified and is not a bid for rental of equipment or employment of labor by the Department, and the Department is to have no direction or control over the employees used by the undersigned in performance of the work.

Delivery

The Contractor shall furnish the Missouri Department of Transportation with a planned delivery schedule at least 16 hours before starting delivery. Notification should be during the normal work day preceding the day on which the Contractor desires to initiate delivery. It will be necessary for a representative of the Missouri Department Of Transportation to be present when the material is delivered. No material will be accepted that has been dumped in the absence of the department's aggregate material checker.

Deliveries will be a minimum rate of **500 Tons Per Day,** unless otherwise specified in this proposal. No deliveries will be made during the period from **30 minutes before sundown to sunrise.** No deliveries will be made on **Saturdays, Sundays and holidays** unless specifically authorized by the engineer.

Deliveries will be at a minimum rate of **500 Tons Per Day**, unless otherwise specified in this proposal. No deliveries will be made during the period from **30 minutes before sundown to sunrise**. No deliveries will be made on **Saturdays, Sundays and holidays** unless specifically authorized by the engineer. It will be necessary for a representative of the Missouri Department Of Transportation to be present when the material is delivered. No material will be accepted that has been dumped in the absence of the Department's aggregate materials checker.

The following days shall be construed as **official holidays** under the terms of the contract:

January l	New Year's Day
January 10	Inauguration Day
January 17	Martin Luther King, Jr.’s Birthday
February 11	Lincoln's Birthday
February 21	President’s Day
May 9	Truman's Birthday
May 30	Memorial Day
July 4	Independence Day
September 5	Labor Day
October 10	Columbus Day
November 11	Veteran's Day
November 24	Thanksgiving Day
December 26	Christmas Day

When any of the above **holidays falls** on a **Sunday,** the holiday will be observed on the following **Monday**; when any of the above **holidays falls** on a **Saturday**, the **holiday** will be observed on the immediately preceding **Friday.**

Temporary Suspension of Work

The **District Engineer** shall have authority to suspend work wholly or in part for such period or periods as may be deemed necessary when weather or other conditions are such that in the opinion of the engineer, the work may be done at a later time with advantage to the Department or for failure on the part of the Contractor to comply with any of the provisions of the Contract. If the Department suspends the work for its own advantages and not because of the Contractor's failure to comply with the Contract, the Contractor will be allowed an equal number of calendar days after the completion date for the completion of the work. The Department may at its discretion give the Contractor an extension of time for completing the work where the Contractor incurs delays for causes beyond his control. Normal rainfall is not considered a cause qualifying for an extension of time. Claim for extension of time for all causes must be submitted by the Contractor in writing within **30 Days** after the claimed cause for the delay has ceased to exist.

Incentive for Accelerated Delivery

If, prior to the delivery deadline, the contractor's average daily delivery rate **exceed 1,250 tons** for the total award, the contractor will be paid an incentive for accelerated delivery in the amount of **2%** of the weighted average bid price per ton for the total tons delivered exceeding **1,250 tons per day.**

Delivery from two sources on the same day to one or more maintenance sites will be counted as two days of delivery. Delivery from three sources on the same day to one or more maintenance sites will be counted as three days of delivery, etc.

The average daily delivery rate is the total tons per award to a supplier divided by the number of days used to deliver the material. The weighted average bid price per ton is the total value of the award divided by the total tons per award. No incentive for accelerated delivery will be paid to a contractor who is being charged liquidated damages on any item in the same award.

EXAMPLE:

Total Tons of Award = 20,000 tons

Total Value of Award = $107,200

Number of Days for Delivery from 2 sources at same time = 5 days

Total number of delivery days = 2 x 5 = 10 days

Average bid price per ton = $107,200 ÷ 20,000 tons = $5.36 per ton

Average daily delivery rate = 20,000 tons ÷ 10 days = 2,000 tons per day

Daily tonnage Supplier due Incentive Pay = 2,000 tons - 1,250 tons = 750 tons per day

Total tons delivered exceeding daily min. rate = 750 tons x 10 = 7,500 tons

INCENTIVE PAY = 0.02 x $5.36/Ton x 7,500 Tons = $804.00

Subletting of Contract

It is specifically understood that no portion of the material shall be sublet or otherwise disposed of except with the written consent of the District Engineer. Request for permission to sublet or otherwise dispose of any part of the work shall be in writing to the District Engineer and accompanied by a showing that the organization which will perform the work is particularly experienced and equipped for such work. Consent to sublet or otherwise dispose of any portion of the work shall not be construed to relieve the Contractor of any responsibility for the production and delivery of the material at the proposed daily rate and the completion of the work within the specified time. Also **all payments for work performed by a subcontractor shall be made to the Contractor to whom the contract was awarded and the purchase order issued.**

Cancellation of Contract

If the supplier fails to carry out the performance of the work with sufficient workmen and equipment to insure the completion of the delivery within the time specified or becomes insolvent or is adjudicated a bankrupt or commits any act of bankruptcy or insolvency or allows any final judgement to stand against him for a period of ten days, the Missouri Department Of Transportation may give notice in writing by registered mail to the supplier and the surety of such delay, neglect or default. If, within ten days after such notice the supplier does not proceed to remedy to the satisfaction of the Department's representatives the faults specified in said notice, or the surety does not proceed to take over the deliveries, the Department shall have full power and authority, without impairing the obligation of the supplier under the contract or the surety under the bond, to take over the completion of the work and arrange for the shipment of any materials necessary to complete the work and the supplier and the surety will be responsible for any additional costs incurred by the Department in obtaining the completion of the deliveries.

Liquidated Damages

In the event the successful contractor fails to deliver the material within the time specified, the Department and the public will sustain damages because of such delay in delivery, the exact extent of which would be difficult to ascertain, and in order to liquidate such damage in advance it is agreed that the **sum of one-hundred dollars ($100.00) per day, per item,** for each assessable calendar day on which the delivery has not been completed, is reasonable and the best estimate which the parties can arrive at as liquidated damages, and it is therefore agreed that said amount will be withheld from payments due the contractor or otherwise collected from the contractor as liquidated damages. **Saturdays, Sundays, holidays and days whereas the Department has suspended work** shall not be assessable days.

General Requirements

Provisions of the Missouri Statues relative to legal weights in regard to axle and gross weights, gross weights in relation to axle spacing and Supplementary Bridge limits all contained in **Sections 304.180** and **304.190 RSMo** are understood and will be abided by. The Department will not accept loads which exceed legal weights.

It is understood and agreed that the Missouri Department Of Transportation may prohibit the use of large trucks hauling heavy loads of material over low type bituminous roads and during adverse weather conditions.

If the prices bid herein include the delivery cost of the material, the undersigned agrees to pay all transportation charges on the material to destination, also any demurrage direct to the railroad or carrier.

Contractor will not be required to provide dozers, loaders, motorgraders, or other equipment for shaping of stockpiles, constructing ramps or runways, or leveling of the top of a completed lift, unless otherwise noted herein.

The contractor shall take necessary precautions and shall schedule and conduct his operations so as to avoid or minimize siltation of streams while removing gravel therefrom.

Attention of the bidder is invited to the **Land Reclamation Act, Chapter 444, Laws of 1971, (House Bill 519)** and the necessity for compliance if applicable.

The material to be supplied under the contract will comply with the quality and gradation requirements of the **Missouri Standard Specifications for Highway Construction, Edition of 2004,** and any revisions thereto, unless modified by these specifications.

The Highways and Transportation Commission reserves the right to increase or decrease the quantity of material **twenty-five percent (25%),** subject to the maximum quantity specified by the bidder in his proposal. The quantity finally ordered by the Commission will be furnished by the bidder at the same unit price per ton.

Basis of Measurement for Payment

For truck delivery, the quantities for basis of payment are to be determined as provided in **Section 310.5** of the **Missouri Standard Specifications for Highway Construction, Edition of 2004,** and any revisions thereto. Measurement will be to the nearest **100 lbs.** for each load when the measurement is by weight. Moisture tests will be rounded off to the nearest **0.5 percent** for purposes of computing the deduction for excess moisture.

Basis of Payment

The accepted quantities of aggregate material delivered to the stockpile or roadway will be paid for at the unit price for each of the pay items included in the contract.

The **Bidder** represents he has a plant available for use in this work which is capable of producing the grade of material specified and guarantees that deliveries will be made at no less than the daily rate shown under "**Rate of Delivery**" in this proposal and will, if necessary to maintain this delivery rate, immediately install any additional equipment needed to increase the rate of production or delivery.

Quantity of material under contract, agreement or order still to be produced on this date:

	Tons
On Highway and Transportation Orders	_____
For Highway and Transportation Contractors	_____
For Others	_____

Kind and condition of producing and hauling equipment _____
_____
_____

REMARKS_____
_____

Bidders may limit the quantity of materials which they will accept under this proposal by so specifying herein. The Commission reserves the right to award contracts in such a manner as is most advantageous to the Commission.

IF THE BIDDER DESIRES TO LIMIT THE AMOUNT WHICH HE WILL ACCEPT UNDER THIS PROPOSAL, COMPLETE THE FOLLOWING:

The maximum amount of materials which I will accept award of under this proposal is_____
_____

COMPLETION DATE

November 17, 2005

Company _____

Address _____

_____
Zip Code

PLEASE SHOW TELEPHONE NUMBER

Business _____

Resident _____

Fax _____

By _____
Signature

Title _____

Federal I.D. No. _____

Date _____

NOTE: IT IS ESSENTIAL THAT THIS SHEET BE SIGNED AND FILLED OUT IN EVERY DETAIL THAT PERTAINS IN ANY WAY TO THE PRODUCTION AND DELIVERY OF THIS MATERIAL.

(Any further information desired regarding this work may be obtained from the **District Office of the District** in which the material is to be used or from **General Services** at Jefferson City, Missouri.)

SIGNATURE AND IDENTITY OF BIDDER

The undersigned states that the correct LEGAL NAME and ADDRESS of (1) the individual Bidder, (2) each partner or joint venturer (whether individuals or corporations, and whether doing business under a fictitious name), or (3) the corporation (with the state in which it is incorporated) are shown below; that (if not signing with the intention of binding himself to become the responsible and sole contractor) he is the agent of, and duly authorized in writing to sign for the Bidder or Bidders; and that he is signing and executing this (as indicated in the proper spaces below) as the proposal of a

( ) sole individual ( ) partnership ( ) joint venture

( ) corporation, incorporated under laws of state of _____

Dated _____, _____.

Name of individual, all partners, or joint venturers:	Address of each:
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

doing business under the name of:

Address of principal place of business in Missouri

_____ _____

(If using a fictitious name, show this name above in addition to legal names)

_____ _____

(If a corporation, show its name above)

ATTEST: (SEAL)

_____ _____

Secretary Title

(NOTE: If the Bidder is doing business under a FICTITIOUS NAME, the Proposal shall be executed in the legal name of the individual, partners, joint venturers, or corporation, with the legal address shown, and REGISTRATION OF FICTITIOUS NAME filed with the Secretary of State, as required by Sections 417.200 to 417.230, RS Mo. If the Bidder is a CORPORATION NOT ORGANIZED UNDER THE LAWS OF MISSOURI, it shall procure a CERTIFICATE OF AUTHORITY TO DO BUSINESS IN MISSOURI, as required by Section 351.570 and following, RS Mo. A CERTIFIED COPY of such Registration of Fictitious Name or Certificate of Authority to do Business in Missouri shall be filed with the Missouri Highway and Transportation Commission, as required by the Standard specifications, Sec 102.6.6 and 102.6.7.

ANTI-COLLUSION STATEMENT

STATE OF _____)
) SS.
COUNTY OF _____)

_____

_____being first

duly sworn, deposes and says that he is _____
Title of Person Signing

of _____

_____
Name of Bidder

that all statements made and facts set out in the proposal for the above project are true and correct; and that the bidder (The person, firm, association, or corporation making said bid) has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such bid or any contract which may result from its acceptance.

Affiant further certifies that bidder is not financially interested in, or financially affiliated with, any other bidder for the above project.

By _____

By _____

By _____

Sworn to before me this _____ day of _____, 20____.

_____
Notary Public

My Commission Expires _____

AGGREGATE MATERIAL

BID BOND

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

Sealed with our seals and dated this _____

THE CONDITION OF THIS OBLIGATION is such that:

WHEREAS, the Principal is submitting herewith a bid to the Missouri Highways and Transportation Commission for furnishing **Aggregate Material** as set out in the proposal to which this bond is attached.

NOW THEREFORE, if the Missouri Highways and Transportation Commission shall accept the bid of the Principal and if said Principal shall properly execute and deliver to the Missouri Highways and Transportation Commission the contract and contract bond in compliance with the requirements of the proposal, the specifications and the provisions of law, to the satisfaction of the Highways and Transportation Commission, then this obligation shall be void and of no effect, otherwise to remain in full force and effect.

In the event the said Principal shall, in the judgment of the Missouri Highways and Transportation Commission, fail to comply with any requirement as set forth in the preceding paragraph, then the State of Missouri acting through the Missouri Highways and Transportation Commission shall immediately and forthwith be entitled to recover the full penal sum above set out, together with court costs, attorney's fees and any other expense of recovery.

(SEAL) _____
Principal

By _____
Signature

(SEAL) _____
Surety

By _____
Attorney-in-Fact

NOTE: This bond must be executed by the PRINCIPAL and by a CORPORATE SURETY authorized to conduct surety business in the State of Missouri.

STANDARD SOLICITATION PROVISIONS

a. The Missouri Department of Transportation (MoDOT) reserves the right to reject any or all bids/quotes/proposals, and to accept or reject any items thereon, and to waive technicalities. In case of error in the extension of prices in the bid/quote/proposal, unit prices will govern.

b. All bids/quotes/proposals must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.

c. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown, within the State of Missouri.

d. Time of delivery is a part of the consideration and, if not otherwise stated in the solicitation documents, must be stated in definite terms by the Bidder/Offeror and must be adhered to. If time varies on different items, the Bidder/Offeror shall so state.

e. If providing bids/quotes/proposals for commodities, the Bidder/Offeror will state brand or make on each item. If bidding or proposing other than the make, model or brand specified, the manufacturer's name, model number or catalog number must be given.

f. For bids/proposals of $25,000 or more, no bids/proposals by telephone, telegram or telefax will be accepted. If provided, these bids/proposals should be returned in the MoDOT solicitation return envelope.

g. If a solicitation return envelope is provided by MoDOT, the bid/quote/proposal should be returned in the envelope provided with the Bid/RFQ/RFP Request Number plainly indicated thereon.

h. The date specified for the returning of bids/quotes/proposals is a firm deadline and all bids/quotes/proposals must be received at the designated office by that time. The Department does not recognize the U.S. Mail, Railway Express Agency, Air Express, or any other organization, as its agent for purposes of accepting proposals. All proposals arriving at the designated office after the deadline specified will be rejected.

GENERAL TERMS AND CONDITIONS

General Performance

a. This work is to be performed under the general supervision and direction of the Missouri Department of Transportation (MoDOT) and, if awarded any portion of the work, the Contractor agrees to furnish at his own expense all labor and equipment required to complete the work, it being expressly understood that this solicitation is for completed work based upon the price(s) specified and is not a solicitation for rental of equipment or employment of labor by MoDOT, and MoDOT is to have no direction or control over the employees used by the Contractor in performance of the work.

Deliveries

a. Unless otherwise specified on the solicitation documents or purchase order, suppliers shall give at least 24 hours advance notice of each delivery,. Delivery will only be received between the hours of 8:00 a.m. to 3:00 p.m., Monday through Friday. Material arriving after 3:00 p.m. will not be unloaded until the following workday. No material will be received on Saturday, Sunday or state holidays.

b. If the prices bid herein include the delivery cost of the material, the Contractor agrees to pay all transportation charges on the material as FOB - Destination. Freight costs must be included in the unit price bid and not listed as a separate line item.

c. Any demurrage is to be paid by the Contractor direct to the railroad or carrier.

Nondiscrimination

a. The Bidder/Offeror understands that this project involves state funds and the Bidder/Offeror awarded the contract will be required to comply with the Executive Order 94-03 of the Governor of the State of Missouri dated January 14, 1994. This order stipulates that there shall be no discriminatory employment practices by the Contractor or his subcontractors, if any, based on race, sex, religion, national origin, age, color, disability, or veteran status. The undersigned Contractor or his subcontractors, if any, shall give written notice of their commitments under this clause to any labor union with which they have bargaining or other agreements.

b. The Contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

c. All solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of the Contractor's obligations under this contract and the Regulations, will be relative to nondiscrimination on the grounds of race, color, or national origin.

1) Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, MoDOT shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

i. withholding of payments to the Contractor under the contract until the Contractor complies, and/or,

ii. cancellation, termination or suspension of the contract, in whole or in part.

Contract/Purchase Order

a. By submitting a bid/quote/proposal, the Bidder/Offeror agrees to furnish any and all equipment, supplies and/or services specified in the solicitation documents, at the prices quoted, pursuant to all requirements and specifications contained therein.

b. A binding contract shall consist of: (1) the solicitation documents, amendments thereto, and/or Best and Final Offer (BAFO) request(s) with any changes/additions, (2) the Contractor's proposal and/or submitted pricing, and (3) the MHTC's acceptance of the proposal and/or bid by purchase order.

c. A notice of award does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services, the Contractor must receive a properly authorized purchase order and/or notice to proceed.

d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and

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

Subcontracting

a. It is specifically understood that no portion of the material or any interest in the contract, shall be subcontracted, transferred, assigned or otherwise disposed of, except with the written consent of MoDOT. Request for permission to subcontract or otherwise dispose of any part of the work shall be in writing to MoDOT and accompanied by documentation showing that the organization which will perform the work is particularly experienced and equipped for such work.

b. Consent to subcontract or otherwise dispose of any portion of the work shall not be construed to relieve the Contractor of any responsibility for the production and delivery of the contracted work and the completion of the work within the specified time.

c. All payments for work performed by a subcontractor shall be made to the Contractor to whom the contract was awarded and the purchase order issued.

Invoicing and Payment

a. MoDOT is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the Contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Federal Excise Tax Exemption Certificate will be furnished to the successful Bidder/Offeror upon request.

b. Each invoice should be itemized in accordance with items listed on the purchase order and/or contract. The statewide financial management system has been designed to capture certain receipt and payment information. Therefore, each invoice submitted must reference the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.

c. Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The Missouri Highways and Transportation Commission (MHTC) shall not make any advance deposits.

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

Applicable Laws and Regulations

a. The contract shall be construed according to the laws of the State of Missouri. The Contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract.

b. The Contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations. Prior to the issuance of a purchase order and/or notice to proceed, the Contractor may be required to submit to MoDOT a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.

1) Prior to the issuance of a purchase order and/or notice to proceed, all out-of-state Contractors providing services within the state of Missouri must submit to MoDOT a copy of their current Transient Employer Certificate from the Department of Revenue, in addition to a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.

c. The exclusive venue for any legal proceeding relating to or arising, out of the contract shall be in the Circuit Court of Cole County, Missouri.

Preferences

a. In the evaluation of bids/quotes/proposals, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.

b. By virtue of statutory authority, RSMo. 34.076 and 34.350 to 34.359, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri. Such preference shall be given when quality is equal or better and delivered price is the same or less.

1) If attached, the document entitled "PREFERENCE IN PURCHASING PRODUCTS" should be completed and returned with the solicitation documents.

2) If attached, the document entitled "MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT" should be completed and returned with the solicitation documents. Applies if bid is Twenty-Five Thousand Dollars ($25,000.00) or more

c. In the event of a tie of low bids, the MHTC reserves the right to establish the method to be used in determining the award

Remedies and Rights

a. No provision in the contract shall be construed, expressly or implied, as a waiver by the MHTC of any existing or future right and/or remedy available by law in the event of any claim by the MHTC of the Contractor's default or breach of contract.

b. The Contractor agrees and understands that the contract shall constitute an assignment by the Contractor to the MHTC of all rights, title and interest in and to all causes of action that the Contractor may have under the antitrust laws of the United States or State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or produced by the Contractor in the fulfillment of the contract with the MHTC.

c. In the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request MoDOT to enter into such litigation to protect the interests of the MHTC, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Cancellation of Contract

a. The MHTC may cancel the contract at any time for a material breach of contractual obligations or for convenience by providing the Contractor with written notice of cancellation. Should the MHTC exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of

cancellation sent to the Contractor.

b. If the MHTC cancels the contract for breach, the MHTC reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the MHTC deems appropriate and charge the Contractor for any additional costs incurred thereby.

Bankruptcy or Insolvency

a. Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assigned the benefit or creditors, the Contractor must notify MoDOT immediately. Upon learning of any such actions, the MHTC reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the Contractor responsible for damages.

Inventions, Patents, and Copyrights

a. The Contractor shall defend, protect, and hold harmless the MHTC, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the Contractor's performance or products produced under the terms of the contract.

Inspection and Acceptance

a. No equipment, supplies, and/or services received by MoDOT pursuant to a contract shall be deemed accepted until MoDOT has had reasonable opportunity to inspect said equipment, supplies, and/or services.

b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the Contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.

c. The MHTC reserves the right to return any such rejected shipment at the Contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.

d. The MHTC's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the MHTC may have.

Warranty

a. The Contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by MoDOT, (2) be fit and sufficient for the purpose expressed in the solicitation documents, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.

b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the MHTC's acceptance of or payment for said equipment, supplies, and/or services.

Status of Independent Contractor

a. The Contractor represents itself to be an independent Contractor offering such services to the general public and shall not represent itself or its employees to be an employee of the MHTC. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save and hold the MHTC, its officers, agents and employees harmless from and against any and all losses (including attorney fees) and damage of any kind related to such matters.

Indemnification

a. The Contractor shall be responsible for injury or damages as a result of any services and/or goods rendered under the terms and conditions of this Agreement.

b. In addition to the liability imposed upon the Contractor on the account of personal injury, bodily injury, including death, or property damage, suffered as a result of the Contractor's performance under this Agreement, the Contractor assumes the obligation to save harmless the Commission, including its agents, employees and assigns, and to indemnify the Commission, including its agents, employees and assigns, from every expense, liability or payment arising out of such wrongful or negligent act or omission, including legal fees.

c. The Contractor also agrees to hold harmless the Commission, including its agents, employees and assigns, from any wrongful or negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the Contractor for any purpose under this Agreement, and to indemnify the Commission, including its agents, employees and assigns, from every expense, liability or payment arising out of such wrongful or negligent act or omission.

SPECIAL TERMS AND CONDITIONS

Insurance

a. The Contractor shall purchase and maintain such insurance as will protect him from claims under workmen's compensation acts and other employee benefit acts, from claims for damages because of bodily injury, including death, and from claims for damages to property which may arise out of or result from the Contractor's operations under this Contract, whether such operations be by himself or by any Subcontractor or anyone directly or indirectly employed by any of them.

b. This insurance shall be written for not less than any limits of liability specified as part of this contract, or required by law, whichever is the greater, and shall include contractual liability insurance as applicable to the Contractor's obligations under this contract. Unless otherwise specified, insurance limits shall be as follows:

1) Workmen's Compensation: Workers Compensation Insurance, including "Occupational Disease Act" requirements, must be maintained if required by law.

2) Public Liability (includes property damage and personal injury):

i. Not less than $400,000 for any one person in a single accident or occurrence.

ii. Not less than $1,000,000 for all claims arising out of a single occurrence.

3) Special Hazard Insurance: As required.

4) Builder's Risk: Not less than the full Contract amount.

Proposal/Bid Guaranty/Contract Bond

a. Each proposal shall be accompanied by a Bid Bond, Certified Check, Cashier's Check or Bank Money Order payable to the Director of Revenue – Credit State Road Fund for an amount equal to Five Percent (5%) of the amount of the BID submitted. This is to act as a guarantee that the bidder, if awarded the contract, will furnish an acceptable performance and payment bond (Contract Bond) or a cashier's check, a bank money order or a certified check made payable to "Director of Revenue--Credit State Road Fund" in an amount equal to One Hundred (100%) of the contract price.

b. If a BID BOND is used (in lieu of a certified check, cashier's check, or bank money order), it must be in the form provided and executed by the bidder as principal and by a surety company authorized to do business in the State of Missouri as surety. The agent executing the same on behalf of the surety company must attach a current Power of Attorney setting forth his authority to execute the bond involved.

c. Certified Checks, Cashier's Checks or Bank Money Orders of unsuccessful bidders will be returned as soon as the award is made. The checks or bank money orders of the successful bidder(s) will be retained until the contract is executed and a satisfactory Performance and Payment (Contract Bond) is furnished. Bid Bonds will not be returned except on specific request of the bidder.

Information and Reports

a. The Contractor shall provide all information and reports required by the Regulations, or Directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Missouri Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or Directives. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information the Contractor shall so certify to the Missouri Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

Permits, Licenses and Safety Issues

a. The contract price shall include any necessary permits and licenses required by law incidental to the work. Local ordinances requiring building permits are not applicable to state agencies.

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

Award

a. Award of this bid/quote/proposal will be made on an “Item By Item” basis using the “lowest and best” principle of award

Failure to Execute Contract

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

Notice to Proceed

a. Within 30 days after the execution of the contract, a "Notice to Proceed" will be issued by the Department. A purchase order will be attached to the "Notice to Proceed," which will specify the date or dates that the Contractor can start delivery, roadway or stockpile delivery and will also include the completion dates. These dates will be in accordance with the dates shown in the proposal.

Delivery – Additional Requirements

a. The Contractor shall furnish the Missouri Department of Transportation with a planned delivery schedule at least 16 hours before starting delivery.

1) Notification should be during the normal work day preceding the day on which the Contractor desires to initiate delivery.

2) It will be necessary for a representative of the Missouri Department of Transportation to be present when the material is delivered.

3) No material will be accepted that has been dumped in the absence of the department's aggregate materials checker.

b. Unless otherwise specified in the proposal, deliveries will be a minimum of 500 Tons Per Day. No deliveries will be made during the period from 30 minutes before sundown to sunrise. No deliveries will be made on Saturdays, Sundays and holidays unless specifically authorized by the engineer.

c. The following days shall be construed as official holidays under the

terms of the contract:

January l	New Year's Day
Third Monday in January	Martin Luther King, Jr.'s Birthday
February 12	Lincoln's Birthday
Third Monday in February	Washington's Birthday
May 8	Truman's Birthday
Last Monday in May	Memorial Day
July 4	Independence Day
First Monday in September	Labor Day
Second Monday in October	Columbus Day
November 11	Veteran's Day
Fourth Thursday in November	Thanksgiving Day
December 25	Christmas Day

d. When any of the above holidays falls on a Sunday, the holiday will be observed on the following Monday; when any of the above holidays falls on a Saturday, the holiday will be observed on the immediately preceding Friday.

e. Contractor will not be required to provide dozers, loaders, motorgraders, or other equipment for shaping of stockpiles, constructing ramps or runways, or leveling of the top of a completed lift, unless otherwise noted herein.

Incentive for Accelerated Delivery

a. If, prior to the delivery deadline, the Contractor's average daily delivery rate exceed 1,250 tons for the total award, the Contractor will be paid an incentive for accelerated delivery in the amount of 2% of the weighted average bid price per ton for the total tons delivered exceeding 1,250 tons per day.

EXAMPLE:

Total Tons of Award	20,000 tons
Total Value of Award	$107,200
Number of Days for Delivery from 2 sources at same time	5 days
Total number of delivery days	2 x 5 = 10 days

Average bid price per ton = $107,200 ? 20,000 tons = $5.36 per ton

Average daily delivery rate = 20,000 tons ? 10 days = 2,000 tons per day

Daily tonnage Supplier due Incentive Pay = 2,000 tons - 1,250 tons = 750 tons per day

Total tons delivered exceeding daily min. rate = 750 tons x 10 = 7,500 tons

INCENTIVE PAY = 0.02 x $5.36/Ton x 7,500 Tons = $ 804.00

b. Delivery from two sources on the same day to one or more maintenance sites will be counted as two days of delivery. Delivery from three sources on the same day to one or more maintenance sites will be counted as three days of delivery, etc.

c. The average daily delivery rate is the total tons per award to a supplier divided by the number of days used to deliver the material. The weighted average bid price per ton is the total value of the award divided by the total tons per award.

d. No incentive for accelerated delivery will be paid to a Contractor who is being charged liquidated damages on any item in the same award.

Legal Weights

a. Provisions of the Missouri Statues relative to legal weights in regard to axle and gross weights, gross weights in relation to axle spacing and Supplementary Bridge limits all contained in Sections 304.180 and 304.190 RSMo are understood and will be abided by. The Department will not accept loads which exceed legal weights.

b. It is understood and agreed that the Missouri Department of Transportation may prohibit the use of large trucks hauling heavy loads of material over low type bituminous roads and during adverse weather conditions.

Increase or Decrease Quantities

a. The Highways and Transportation Commission reserves the right to increase or decrease the quantity of material twenty-five percent (25%), subject to the maximum quantity specified by the bidder in his proposal.

b. The quantity finally ordered by the Commission will be furnished by the bidder at the same unit price per ton.

Basis of Measurement for Payment

a. For truck delivery, the quantities for basis of payment are to be determined as provided in Section 310.4 of the Missouri Standard Specifications for Highway Construction, Edition of 2004, and any revisions thereto.

1) Measurement will be to the nearest 100 lbs. for each load when the measurement is by weight.

2) Moisture tests will be rounded off to the nearest 0.5 percent for purposes of computing the deduction for excess moisture.

Temporary Suspension of Work

a. The District Engineer shall have authority to suspend work wholly or in part for such period or periods as may be deemed necessary when weather or other conditions are such that in the opinion of the engineer, the work may be done at a later time with advantage to the Department or for failure on the part of the Contractor to comply with any of the provisions of the Contract.

b. If the Department suspends the work for its own advantages and not because of the Contractor's failure to comply with the Contract, the Contractor will be allowed an equal number of calendar days after the completion date for the completion of the work. The Department may at its discretion give the Contractor an extension of time for completing the work where the Contractor incurs delays for causes beyond his control.

c. Normal rainfall is not considered a cause qualifying for an extension of time. Claim for extension of time for all causes must be submitted by the Contractor in writing within 30 Days after the claimed cause for the delay has ceased to exist.

Cancellation of Contract

a. If the Contractor/supplier fails to carry out the performance of the work with sufficient workmen and equipment to insure the completion of the delivery within the time specified or becomes insolvent or is adjudicated a bankrupt or commits any act of bankruptcy or insolvency or allows any final judgment to stand against him for a period of ten (10) days, the Missouri Department of Transportation may give notice in writing by registered mail to the Contractor/supplier and the surety of such delay, neglect or default.

b. If, within ten (10) days after such notice the Contractor/supplier does not proceed to remedy to the satisfaction of the Department's representatives the faults specified in said notice, or the surety does not proceed to take over the deliveries, the Department shall have full power and authority, without impairing the obligation of the Contractor/supplier under the contract or the surety under the bond, to take over the completion of the work and arrange for the shipment of any materials necessary to complete the work and the Contractor/supplier and the surety will be responsible for any

additional costs incurred by the Department in obtaining the completion of the deliveries.

Liquidated Damages

a. In the event the successful Contractor fails to deliver the material within the time specified, the Department and the public will sustain damages because of such delay in delivery, the exact extent of which would be difficult to ascertain, and in order to liquidate such damage in advance it is agreed that the sum of one-hundred dollars ($100.00) per day, per item, for each assessable calendar day on which the delivery has not been completed, is reasonable and the best estimate which the parties can arrive at as liquidated damages, and it is therefore agreed that said amount will be withheld from payments due the Contractor or otherwise collected from the Contractor as liquidated damages.

b. Saturdays, Sundays, holidays and days whereas the Department has suspended work shall not be assessable days.

Environmental Issues

a. Attention of the bidder is invited to the Land Reclamation Act, Chapter 444, Laws of 1971, (House Bill 519) and the necessity for compliance if applicable.

b. The Contractor shall take necessary precautions and shall schedule and conduct his operations so as to avoid or minimize siltation of streams while removing gravel therefrom.

c. The material to be supplied under the contract will comply with the quality and gradation requirements of the Missouri Standard Specifications for Highway Construction, Edition of 2004, and any revisions thereto, unless modified by these specifications.