

TOWN OF MONTEREY

INVITATION TO BID - GRAVEL

The Town of Monterey, acting through its Town Administrator, invites sealed bids from qualified vendors to provide gravel to the Town of Monterey Highway Department required for various projects throughout the year. Estimated value of the gravel contract is \$70,000.

Completed bid proposal forms must be submitted to the Town Administrator, located at the Town of Monterey Town Hall, 435 Main Road, Box 308, Monterey, MA. 01245 **by the amended date and time of 9:15am on Thursday, April 27, 2023, at which time they will be publicly opened and read aloud.** Bids received after the deadline, will be returned, unopened. **Proposals must be sealed and clearly marked "Bid for Gravel"**. Bids may not be withdrawn within 30 consecutive days after the bid opening.

The Monterey Selectboard reserves the right to reject any or all bids, when, in the opinion of the Selectboard, the Town's best interest would be served by doing so. A contract will be awarded within 30 days of the bid opening by the Selectboard to the qualified, responsive bidder with the lowest price.

Specifications:

1. Gravel must meet Mass Highway specifications for gravel, sieve analysis must be submitted.
2. 1 ½" Fractured process gravel
3. 6" minus Bank run gravel
4. ¾" crushed gravel
5. Prices will be accepted for Fractured Process Gravel, Bank Run Gravel and Crushed Gravel. Prices for all at the pit and delivered to be submitted.
6. Gravel priced at the pit for pickup must be within 20 miles of the Town of Monterey Highway Department Garage.
7. Prevailing wage rates for delivered material shall apply under MGL Chapter 149 Section s26 & 27 and all provisions thereunder.
8. Contract period is from May 1, 2023 to June 30, 2024 with the Town of Monterey having the option of extending the contract for two (2) consecutive one year periods.
9. Delivered price is to any point in the Town of Monterey as determined by the Director of Operations.
10. A certificate of non-collusion and tax compliance certification must accompany this bid.
11. A 5% bid deposit must accompany all bids.

Insurance Requirements:

1. Workmen's Compensation Insurance: Workmen's compensation insurance must be provided at the contractor/successful bidder's expense in accordance with the provisions of MGL Chapter 149 Section 34a. The contractor/successful bidder shall, before commencing performance of this contract, provide by insurance for the payment of compensation and the furnishing of other benefits under MGL Chapter 152 Section 25C, as amended, to all persons to be employed under the contract, and the contractor/successful bidder shall continue insurance in full force and effect during the term of the contract. Proof of compliance with the aforesaid stipulations shall be furnished to the Purchasing Agent when requested and prior to the award of this contract by submitting two (2) copies of a properly endorsed insurance certificate issued by a company authorized to write Workmen's Compensation Insurance policies in the Commonwealth. Any cancellation of such insurance whether by the insurer or by the insured shall not be valid unless

written notice thereof is given by the party proposing cancellation to the other party and the Purchasing Agent at least fifteen (15) days prior to the intended effective date thereof, which date shall be expressed in said notice.

2. Contractor/Successful Bidder Public Liability and Property Damage Insurance: The contractor/successful bidder shall take out and maintain at his own expense during the life of this contract with respect to the operations he performs, regular contractor/successful bidder's public liability insurance providing for a limit of not less than the amount named in the following table for all damages arising out of bodily injuries to or death of one person, and, subject to that limit for each person, a total limit of the amount named in the following table for all damages arising out of bodily injuries to or death of two or more persons in any one occurrence, and regular contractor/successful bidder's property damage liability insurance providing for a limit of not less than the amount named in the table for all damages arising out of injury to or destruction of property on any one occurrence.

Coverage must include the following:

Commercial General Liability

Bodily Injury Liability	\$1,000,000per occurrence
Property Damage Liability	\$500,000per occurrence
(or combined single limit)	\$1,000,000per occurrence

Automobile Liability

Bodily Injury Liability	\$1,000,000per occurrence
Property Damage Liability	\$500,000per occurrence
(or combined single limit)	\$1,000,000per occurrence

Prior to the commencement of any work under this contract, the contractor shall provide the Town with Certificates of Insurance, which include the Town of Monterey as an additional named insured, and which includes a thirty (30) day notice of cancellation by the Town.

Indemnification

The vendor agrees to indemnify the Town, its successors, agents, servants, employees, or assigns against any and all claims for loss, liability, or damage arising out of or in connection with the work done or to be performed and in connection with or arising out of the acts or negligent omissions of the vendor's employees, whether negligent or intentional, foreseeable or unforeseeable, within or without the scope of his employment, while said employees are upon, entering, or leaving the premises upon which this agreement is being or is to be performed.

Errors and Omissions

The successful bidder shall also carry insurance in a sufficient amount to assure restoration of any plans, drawings, computations or other similar data relating to the work covered by this agreement in the event of loss or destruction until such time as all data has been turned over to the Town.

Contractor Responsibilities

1. The Contractor shall take all responsibility for the work and take all precautions for preventing injuries, including but not restricted to inevitable injuries to persons and property in and about the work; shall bear all losses resulting to him on account of the amount or character of the work. The Contractor shall save harmless the Town and all of its officers and agents against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order of decree, whether by himself or his employees, labor performed or furnished and for all materials used or employed in carrying out this contract. The Contractor shall assume the defense of and indemnify and save harmless, the Town or its departments under whose direction this work is to be done, and their officers and agents from all claims relating to work performed or furnished or materials used in and in doing the work.
2. He shall take all proper precautions to protect property from injury or unnecessary interference; provide proper means of access to the property where the existing access is cut off by the contractor; and replace or put in good condition, satisfactory to the Department Head or his agents; every public or private way, conduit, catch basin, tree, fence or other thing injured or interfered with by the Contractor in carrying out this contract, unless the same has been permanently done away with on approval of the Department Head as being unnecessary for the proper completion and carrying on of this contract.
3. He shall take all proper precautions to protect persons from injury, unnecessary interference or inconvenience; leave an unobstructed way along public or private places for travelers and vehicles and for access to hydrants; provide proper walks over or around any obstruction made in public or private places in carrying out the contract, and maintain from the beginning of any darkness or twilight through the whole of the night, on or near the obstruction, sufficient lights and guards to protect travelers thereby, when the work is suspended put all roadways in proper condition and when the work is completed put the place and its vicinity in proper condition and leave them.
4. The rates bid by the successful bidder shall be the rates paid by the Town of Monterey. No increases in the rates bid shall be allowed under any circumstances and any bid to which escalator clauses are added or appended shall be rejected as being informal.
5. The Director of Operations shall be the sole judge of whether or not items proposed to be supplied are “similar” and approved “equal” to those specified.
6. Should the prospective bidder find discrepancies or omissions in the specifications, he shall notify the Town at once. The Town will issue written instructions on the procurement section of our town website. The Town of Monterey will not assume responsibility for any oral instructions or interpretations of the meaning of specifications or other contract documents to any bidder or any person.
7. A contract may be cancelled at the successful bidder’s expense upon non-performance of the contract.
8. If the successful bidder fails to deliver as ordered, the Town of Monterey reserves the right to cancel the contract and purchase the balance from other sources at the successful bidder’s expense.
9. It is mutually understood and agreed that the successful bidder shall not assign, transfer, convey, sublet, or otherwise dispose of the contract or his right, title, or interest therein, or his power to execute such contract, to any other person, company, or corporation, without the previous written consent of the Town of Monterey.
10. By submission of this bid or proposal, the bidder certifies that:
 - a. This bid or proposal has been independently arrived at without collusion with any other bidder or with any other competitor or potential competitor.

- b. This bid or proposal has not been knowingly disclosed and will not be knowingly disclosed, prior to the opening of the bids or proposals for the project, to any other bidder, competitor, or potential competitor.
 - c. No attempt has been made, or will be made, to induce any other person, partnership, or corporation, or other business entity, not to submit a bid or proposal.
 - d. No member of the Town of Monterey, or any other officer or employee thereof, is directly or indirectly interested in the bid or proposal.
11. No interest on any invoice or statement will be paid by the Town.
 12. The successful bidder shall not be held responsible for any losses resulting if the fulfillment of the terms of the contract shall be delayed by wars, acts of public enemies, strikes, fires, floods, acts of God, or for any other acts not within the control of the successful bidder and which by exercise of reasonable diligence he is unable to prevent
 13. The submission of a bid will be construed to mean that the bidder is fully informed as to the extent and character of the supplies, materials, or equipment required and a representation that the bidder can furnish the supplies, materials, or equipment satisfactorily in complete compliance with the specifications.
 14. The Town of Monterey reserves the right to stop the work to be done under this bid if there is found to be any violation of law, rule, regulation, or statute. The Town will provide written notice to the successful bidder of the exact nature of the reason for work stoppage and time allowed for rectification of the violation. If the successful bidder does not comply with the terms of the written notice of violation, the Town of Monterey reserves the right to declare the contract in default and take appropriate action to endure completion of the work for the public good.

Questions concerning this bid should be made to Director of Operations, Jim Hunt at 413-528-1734.

Bids Due/Bid Opening: 9:15am, April 27, 2023 Town Hall, 435 Main Road, Monterey, MA 01245.

Melissa Noe, Town Administrator

Date: _____

Company: _____

Bid:

Material	\$ per yard delivered	\$ per yard picked up	\$ per ton delivered	\$ per ton Picked up
1 1/2" fractured process gravel				
6" minus bank run gravel				
3/4" crushed gravel				

Signature

Contract & General Conditions for Purchase of Goods

This Contract is entered into on, or as of, this _____ day of _____, 20__ by and between the Town of Monterey, Massachusetts (the “Town”), and

(Vendor)

(Address of Vendor)

_____ (Telephone Number) _____ (Email)

1. This is a Contract for the procurement of the following: _____

This contract is for the purchase of goods and includes the following delivery, installation/setup and maintenance requirements:

The Vendor shall, pursuant to the terms of this Contract, provide all the supplies, materials and equipment necessary and proper to the performance of the Contract.

2. Payment will be made within 30 days of the date of invoice.

3. Definitions:

3.1 Acceptance: All contracts require proper acceptance of the described goods by the Town of Monterey. Proper acceptance shall be understood to include inspection of goods by authorized representatives of the Town to ensure that the goods are complete and are as specified in the Contract.

3.2 Contract Documents: All documents relative to the Contract, including (where used)

Supplements; Invitation for Bids; Instructions to Bidders; Bid Forms; Statement of Tax Compliance; Special Conditions; Notice of Intent to Award Contract; Proposal Forms, Specifications, and all Addenda issued during the bidding period. The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all. In the event of any conflict between any provision or language of the Contract and any provision or language of the Contract Documents, the provision or language of the Contract shall control.

3.3 The Vendor: The “other party” to any Contract with the Town.

3.4 Goods: Goods, Supplies, or Materials, as described in the Contract and General Conditions.

4. Term of Contract and Time for Performance: This Contract shall be substantially complete by the Vendor on or before _____, 20__ unless extended pursuant to a provision for extension contained in the Contract Documents at the sole discretion of the Town, and not subject to assent by the Vendor, and subject to the availability and appropriation of funds. The time stated in the Contract Documents are of the essence of the Contract. By executing this Contract, the Vendor confirms that the contract time is a reasonable period of time for performing the work and achieving substantial completion.

5. Change Orders: Change orders may not increase the quantity of goods by more than twenty-five percent (25%), in compliance with General Laws Chapter 30B, Sec. 13.

6. Subject to Appropriation: Notwithstanding anything in the Contract Documents to the contrary, any and all payments that the Town is required to make under this Contract shall be subject to appropriation or other availability of funds as certified by the Town Accountant.

7. Insurance: Vendor shall maintain adequate insurance in any and all forms to protect both Vendor and the Town against all liabilities, losses, damages, claims, settlements, expenses, and legal fees arising out of or resulting from performance of this agreement. Insufficient insurance shall not release the Vendor from any liability for breach of its obligations under this Agreement.

8. The Vendor's Breach and the Town's Remedies: Failure of the Vendor to comply with any of the terms or conditions of this Contract shall be deemed a material breach of this Contract, and the Town of Monterey shall have all the rights and remedies provided in the Contract and Contract Documents, including, but not limited to, the right to cancel, terminate, or suspend the Contract in whole or in part, the right to maintain any and all actions at law or in equity, or other proceedings with respect to a breach of this Contract, including damages and specific performance, and the right to select among the remedies available to it by all of the above.

9. Claims by Vendor and Liability of Town: All claims by the Vendor against the Town shall, unless otherwise provided by law, be initiated by a written claim submitted to the Town no later than seven (7) calendar days after the event or the first appearance of the circumstances causing the claim.

The claim shall set forth in detail all known facts and circumstances supporting the claim. The Vendor shall continue its performance under this Contract regardless of the submission or existence of any claims.

The liability of the Town under this Agreement is limited to the compensation provided herein for goods actually delivered, and maintained in good working order, to the extent that such compensation is permitted by law. The Town's liability shall in no event include liability for incidental, special or consequential damages or lost profits or for damages of loss from causes beyond the Town's reasonable control.

10. Statutory Compliance:

10.1 This Contract will be constructed and governed by the provisions of applicable federal, state and local laws and regulations and wherever any provision of this Contract or Contract Documents shall conflict with any provision or requirement of federal, state or local law or regulation, then the provisions of law and regulation shall control. Where applicable to the Contract, the provisions of the General Laws are incorporated by reference into this Contract.

10.2 Wherever applicable law mandates the inclusion of any term or provision into a municipal contract, this section shall be understood to import such term or provision into this Contract. To whatever extent any provision of this Contract shall be inconsistent with any law or regulation limiting the power or liability of cities and towns, such law or regulation shall control.

11. Conflict of Interest: Both the Town and the Vendor stipulate to the applicability of the State Conflict of Interest Law (General Laws Chapter 268A), and this Contract expressly prohibits any activity which shall constitute a violation of that law. The Vendor shall be deemed to have investigated the law's applicability to the performance of this Contract, and, by executing the Contract, the Vendor certifies to the Town that neither it nor its agents, employees, or Subcontractors, are in violation of General Laws Chapter 268A.

12. Certification of Tax Compliance: By execution of this Contract the Vendor, pursuant to Section 49A of Chapter 62C of the Massachusetts General Laws, certifies under the penalties of perjury that it has, to the best knowledge and belief of the person(s) who signed this Contract on the vendor's behalf, filed all state tax returns and paid all state taxes required under law.

13. Indemnification:

13.1 To the fullest extent permitted by law the Vendor shall indemnify and defend and save harmless the Town and all of its officers, agents and employees, against all suits, demands, claims, judgments or liability of every name, nature, and description arising out of, relating to, or in consequence of the acts or omissions of the Vendor, or any subcontractor, in the performance of the work covered by the Contract or the failure to comply with the terms and conditions thereof; and the Vendor shall at its own cost and expense defend any and all such suits and actions.

13.2 The Vendor further covenants to indemnify, defend and hold harmless the Town, its officers, agents, and employees from and against each and every demand, claim, judgment or liability for or on account of the use of any patented invention, article or appliance included in the materials and equipment agreed to be furnished, supplied or used under this Contract.

14. Termination:

14.1 If the Vendor shall be adjudged as bankrupt, or if it shall make a general assignment for the benefit of its creditors, or if a receiver of its property shall be appointed, or if the Contract or any claim

thereunder shall be assigned by the Vendor otherwise than as herein specified, or that the Vendor has violated any of the provisions of the Contract, the Town may notify the Vendor to cancel all orders and the Town may thereupon terminate the contract. In such case, the Vendor shall not be entitled to receive any further payment until the goods have been purchased. If the unpaid balance of the contract price shall exceed the expense of procuring the goods elsewhere, including compensation for additional architectural, managerial, legal and administrative services, such excess shall be paid to the Vendor. If such expenses shall exceed such unpaid balances, the Vendor shall pay the difference to the Town. The obligation for payment shall survive the termination of the Contract.

14.2 The Vendor shall not be relieved of liability to the Town by virtue of any termination of this Contract, and any claim for damages against the Vendor relating to the Vendor's performance under this Contract shall survive any termination hereunder.

14.3 Notwithstanding any other provision of this Agreement, the Town reserves the right at any time in its absolute discretion to suspend or terminate this Agreement in whole or in part for its convenience upon seven (7) days written notice to the Vendor. The Town shall incur no liability by reason of such termination except for the obligation to pay compensation for all work performed by the Vendor and accepted by the Town to the termination date.

15. Taxes: The Town is exempt from payment of certain Sales and Use taxes applicable in the Commonwealth of Massachusetts. At the Vendor's request, Tax Exemption Certificates will be furnished by the Town to the Vendor with respect to such tax exempt articles as may be required under this Agreement. The Vendor shall not pay, and the Town shall not reimburse or pay the Vendor or any other party either directly or indirectly for any tax for which an exemption is provided under law.

16. Assignment: Assignment of this Contract is prohibited, unless assignment is provided for expressly in the Contract Documents.

17. Liability of Public Officials: To the full extent permitted by law, no official, employee, agent or representative of the Town of Monterey shall be individually or personally liable on any obligation of the Town under this Contract.

18. Notices: Any notice permitted or required under the provisions of this Contract to be given or served by either of the parties hereto upon the other party hereto shall be in writing and signed in the name or on the behalf of the party giving or serving the same. Notice shall be deemed to have been received at the time of actual service or three (3) business days after the date of a certified or registered mailing properly addressed. Notice to the Vendor shall be deemed sufficient if sent to the address set forth in the Contract. Notice to the Town shall be deemed sufficient if sent to the Town Administrator, P.O. Box 308, Monterey, MA 01245.

19. Binding on Successors: This contract shall be binding upon the Vendors, its assigns, transferees, and/or successors in interest and, where not corporate, the heirs and estate of the Vendor.

20. Severability: If any provision of this contract shall be found invalid for any reason, such invalidity shall be construed as narrowly as possible and the balance of the contract shall be deemed to be amended to the minimum extent necessary to provide to the parties substantially the benefits set forth in this contract.

21. Certification of Non-Debarment or Suspension: By execution of this Contract, the Vendor, pursuant to Massachusetts General Laws Chapter 29, Section 29F, certifies under the penalties of perjury that it is not presently debarred or suspended from doing public construction work in the Commonwealth

pursuant to said section, or any applicable debarment or suspension provisions of any other chapter of the Massachusetts General Laws or any rule or regulation promulgated thereunder.

22. Amendments: This Contract may be amended or modified only by written instrument duly executed by the parties.

23. Independent Contractor: The Vendor is not an employee or agent of the Town but is an independent contractor.

24. No Privity of Contract Between Town and Other Parties: Nothing contained in this Contract shall create, or be interpreted to create, privity or any other contractual agreement between the Town and any person or entity other than the Vendor.

TOWN:

VENDOR:

By:

By:

Title:

Title:

Date Signed:

Date Signed:

CERTIFICATE OF NON-COLLUSION

The undersigned certifies under the pains and penalties of perjury that this contract has been obtained in good faith and without collusion or fraud with any other person. As used in this certification, the word 'person' shall mean any natural person, business, partnerships, corporation, union, committee, club, or other organization, entity, or group of individuals.

Name of Business: _____

Signature: _____

Name of Person signing Bid: _____

CERTIFICATE OF COMPLIANCE WITH TAX LAWS

Pursuant to Commonwealth of Massachusetts General Laws, Chapter 62C, Section 49A, I certify

under the penalties of perjury that, _____

(Contractor)

is in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

(Contractor)

By: _____

Contractor's Federal Tax I.D. No. _____