



**MISSOURI DEPARTMENT
OF
TRANSPORTATION
SPRINGFIELD, MISSOURI**

REQUEST FOR BID

for

**“BID FOR RETREADING COMMERCIAL TIRES” FOR
MISSOURI DEPARTMENT OF TRANSPORTATION DISTRICT 8
SPRINGFIELD MISSOURI**

Request for Bid

Re-treading of Commercial Truck Tires Missouri Department of Transportation District 8 Springfield, Missouri

Bids in sealed envelopes marked "**D8X2-8033**" Re-treading of Commercial Truck Tires Missouri Department of Transportation District 8 Springfield, Missouri 3025 E. Kearney, Springfield, Missouri 65803, will be received until **1:00 p.m. local time on December 20, 2007** at which time and place bids received will be publicly opened and read.

The vendor shall provide tire-treading services for the Missouri Department of Transportation, in accordance with the terms and conditions set for herein. The vendor must perform service as outlined in the "Scope of Work" and "Specific Requirements" in a manner satisfactory and acceptable to the Missouri Department of Transportation.

All perspective bidders must be certified as a re-treader:

Bids will be accepted from re-treaders who have been certified under the General Services Administration, Federal Tire Program, and/or Quality Assurance Facility Inspection Program (QAFIP) and/or U.S. Government Tire and Re-Tread Plant Program Administered by the D.O.T. and shall submit a copy of the certification with the bid. Lack of certification will be basis for disqualification of bidders.

Bids must be made on forms provided by MoDOT. The right is reserved by the Missouri Department of Transportation to reject any and all bids.

MISSOURI DEPARTMENT OF TRANSPORTATION

Kirk Juranas, District Engineer

SCOPE OF WORK

GENERAL REQUIREMENTS:

Provide Truck Tire Re-Treading services as specified herein for the Missouri Department of Transportation (hereinafter referred to as MoDOT) in a manner consistent with Federal Specifications practices and to the complete satisfaction of MoDOT.

The service will be subject to MoDOT Inspection and approval as stated in the material specification and scope of work statement.

Tire quantities to be serviced are indefinite. The service is for MoDOT's Springfield District. The district covers a twelve county geographic area in Southwest Missouri. The pickup and delivery of tires will be operated from the district warehouse located at 3025 East Kearney, Springfield, Mo.

MATERIAL & SERVICE SPECIFICATIONS:

General:

This specification describes a tire re-treading program for commercial light, medium, and heavy-duty truck radial and bias ply tires.

The program shall be offered by a re-treader certified under the GSA or DOT programs.

Quality control shall be the responsibility of the re-treader and authorized dealer listing for areas solicited in the invitation for bids shall be provided.

RE-TREADING PROCESS:

The re-treading process shall be either a cold caps or mold-cure method.

Operating procedures conforming to industry recognized standards shall be followed and shall consist of the following minimum functions:

1. Conditioning of casing (drying, cracking etc.)
2. Initial inspection with gazing light on sidewall and bead areas.
3. Liner inspection on all tires.
4. Inspection by use of CIA laser photography or equivalent to detect separation.
5. Repairing as required.
6. Buffing to new tire/casing manufacturers re-tread specification using computer controlled radial buff across the crown
7. Computer controlled "cushioned to the casing" or equal
8. Trimming, finishing and final inspection. Checking for any suspect failures that may have occurred during the manufacturing process.
9. Curing time less that 2 hours with temperature variance no greater than 5%

MATERIALS:

All materials used in the re-treading process shall be equal or better than that of new rubber compound and also be cut and chip resistant.

TREAD DESIGNS:

Tread designs offered shall be suitable for highway use on truck drive axles for both on and off highways and mud/snow application. The District will select the tread design for the intended application after reviewing the re-treading manufacturer recommendation.

Tread depth shall range 18/32 to 22/32 for drive axle application dependent up design criteria.

Tread width shall be determined by the requirement of the casing.

The maximum acceptable width shall be used unless otherwise requested by the district. New tire manufacturers specifications will be the determining factor.

CASINGS:

Casings surrendered by MoDOT to contractor for re-treading and return shall remain the property of the surrendering district but will be subject to the same inspection procedures as outlined above.
Casings surrendered by MoDOT exceeding the repair requirements listed above shall be returned to agency with complete descriptive report listing reason/s for rejection.
Disposal of defective casings will be MoDOT responsibility.
No casings older than six years (6) of current date will be used for re-treading or repair.

REPAIR LIMITATIONS:

The following limitations shall apply to casings.

1. Maximum of one (1) section repair.
2. No sidewall section repair.
3. Maximum injury to crown area $\frac{3}{4}$ " and must be located within the center 50% of tread.
4. Maximum allowable number for all nail holes is four (4)

FINAL INSPECTION:

Contractor shall be responsible for final inspection of the retread tire/casing using practices consistent with industry standards for quality assurance.

Re-tread tires shall be properly identified with legible D.O.T. Code in accordance with federal requirements. Additionally any section repairs done other than at the time of re-tread shall be identified with the contractors name and date of installation.

LIMITED WARRANTY:

Every re-tread and/or repair produced by a qualified supplier is warranted to be free from defects in workmanship and materials to give satisfactory service under normal operating conditions for the life or applicable period set forth under (coverage) below but not more than the number of years indicated on the individual contract specifications.

A re-tread and/or repair failing to deliver satisfactory service, due to conditions related to workmanship, materials, or casing related conditions under the terms of this warranty, shall be credited at the current contract buying price. Failures in the first 25% of tread life 100% warranty, thereafter prorated to unused portion. Last 25% of tread life 0% warranty.

Example: 22/32 re-tread fails with 11/32 remaining. A credit of 50% of the contract price will be issued.

22/32 re-tread fails with 5/32 remaining. No credit is due.

If no measurable tread remains, the following percentage table applies:

Date recapped to adjustment date – 120 days and less	100%
Date recapped to adjustment date – 121 days and less	75%
Date recapped to adjustment date – 241 days and less	50%
Date recapped to adjustment date – 361 days and less	25%
Date recapped to adjustment date – 481 days and less	0%

Adjustment credit will issued be for the re-tread and/or repair only.

EXCLUSIONS:

This warranty does not cover re-treads and repairs rendered unserviceable due to the following causes.

1. Road Hazard (i.e., Cuts, Snags, Bruise, Punctures, Impact Brake)
2. Improper inflation
3. Wheel Misalignment
4. Vehicle Damage
5. In-correct or Improper Mounting
6. Damage caused by abuse, neglect, collision, fire, curbing-vandalism, or chemical corrosion.

This warranty does not provide compensation for the loss of time, loss of use of vehicle, inconvenience, or consequential damage. This warranty is for the exclusive benefit of the original customer and is not assignable.

THE FOREGOING WARRANTY IS IN LIEU OF ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE.

PROJECT CONTACTS:

A. Bidding Contact.

Richard Gardner, CPPB
Senior General Services Technician
Telephone: 417-895-7811
Email: Richard.gardner@modot.mo.gov

MoDOT
3025 E. Kearney
Springfield, Mo. 65803

B. Information Contact.

Brian Woods
Senior Warehouse Supply Agent
Telephone: 417-895-7708
Email: brian.woods@modot.mo.gov

MoDOT
3025 E. Kearney
Springfield, Mo. 65803

BIDDER'S RESPONSIBILITY:

The vendor shall submit an invoice to MoDOT, Business & Benefits Department, 3025 E. Kearney Springfield, Missouri 65803

The Vendor shall not assign any interest in the contract and shall not transfer any interest, whatsoever, in the contract without the prior written consent of MoDOT.

QUALIFICATION OF BIDDER:

Bids will be accepted from re-treaders who have been certified under the General Services Administration, Federal Tire Program, and/or Quality Assurance Facility Inspection Program (QAFIP) and/or U.S. Government Tire and Re-Tread Plant Program Administered by the Department of Transportation and shall submit a copy of the certification with the bid.

Re-tread tires furnished under this contract shall meet the requirement of Federal Specification under GSA or D.O.T. program and must send a copy of certification with the bid.

PRODUCT LIABILITY:

Bidders must submit proof of product liability coverage of at least one (1) million dollars.

PICKUP & DELIVERY:

All re-treads will be returned within ten (10) working days from date of pickup. Notification must be given in writing at time of pickup for re-treads that cannot meet this delivery schedule.

Pickup receipt must contain tire serial numbers. All rejected casing after final inspection will be returned and receipted by serial numbers and reason for rejection.

Pickup and delivery of tires must be accomplished during normal work hours 7:30 to 4:00 Monday thru Friday excluding holidays. The location for the pickup and delivery will be at the District 8 Warehouse at 3025 East Kearney, Springfield, Mo.

ESTIMATED QUANTITIES FOR A TWELVE (12) MONTH PERIOD

Tire Size	MINIMUM TREAD DEPTH	ESTIMATED QUANTITIES
11R-22.5	22/32	195

METHOD OF AWARD:

Service will be awarded based on an "All or None" basis. Award will be made according to the re-tread method selected by MoDOT and the low unit price per tire for either method.

EXCEPTION TO CONTRACT PURCHASES:

MoDOT reserves the right to purchase re-tread tires from other sources for the express purpose of testing to accumulate data for use in promulgating new specifications for future use. Existing contracts for specific sizes of re-tread tires for specific districts will remain in effect until their expiration dates or until cancellation where the terms and conditions allow for cancellation.

CONTRACT PERIOD:

The contract begins on January 15, 2008
This bid will be awarded for the period of twelve (12) months.

This Contract shall remain in effect for a minimum period of four (4) months. Following this four (4) month period, the contract may be cancelled upon a thirty (30) day written notice by either party. Such cancellation will be without prejudice to either party.

The Missouri Department of Transportation shall have the right, if mutually agreed, to extend the contract period for two (2) one year periods, or any portion thereof.

PRICING PAGE:

ITEM #1 – PRICING: Re-Treading of MoDOT supplied tires.

Prices indicated below shall be net, F.O.B. MoDOT 3025 E. Kearney, Springfield, Mo., for the following types, sizes, and tread designs for re-treading acceptable tire casings.

Bidder must offer pricing for all sizes indicated and designate the style of tread to be used. Lug style over the road drive tread such as Goodyear, Bandag "RTP", Michelin "XZY" OR Oliver "XDT".

TREAD STYLE _____

Original Contract Price			
TIRE SIZE	MINIMUM TREAD DEPTH IN.	COLDCAPS PRICE PER TIRE	MOLD-CURE PRICE PER TIRE
11R-22.5	22/32	\$	\$

Renewal Period – The bidder shall provide below the maximum percentage of increase or minimum percentage of decrease for the renewal period. The percentage shall be computed against the ORIGINAL CONTRACT PRICE during the renewal period.

1st Year Renewal Period _____ % of Maximum increase or

2nd Year Renewal Period _____ % of Maximum decrease

ITEM #2 – PRICING: Vendor supplied caps and casing.

Prices indicated below shall be net, F.O.B. MoDOT 3025 E. Kearney, Springfield, Mo., for Vendor supplied cap and casing. In the event MoDOT cannot supply a suitable casing for recapping, and must purchase Cap and Casing from vendor.

Bidder must offer pricing for all sizes indicated and designate the style of tread to be used. Lug Style over the road drive tread such as Goodyear, Bandag "RTP", Michelin "XZY", OR Oliver "XDT".

TREAD STYLE _____

Original Contract Price			
TIRE SIZE	MINIMUM TREAD DEPTH IN.	COLDCAPS PRICE PER TIRE	MOLD-CURE PRICE PER TIRE
11R-22.5	22/32	\$	\$

Renewal Period – The bidder shall provide below the maximum percentage of increase or minimum percentage of decrease for the renewal period. The percentage shall be computed against the ORIGINAL CONTRACT PRICE during the renewal period.

1st Year Renewal Period _____ % of Maximum increase or

2nd Year Renewal Period _____ % of Maximum decrease

SIGNATURE _____

DATE _____

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VENDOR INFORMATION

Vendor Name /Mailing Address		Vendor Contact Information (including area codes):				
		Phone #:				
		Fax #				
		Cellular #				
Printed Name and Title of Responsible Officer or Employee:		Signature:				
Is your company registered/certified with the State of Missouri as a (please circle):		Is your firm MBE Certified?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
		Is your firm WBE Certified?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Would your company like information on becoming a registered/certified MBE/WBE vendor?		Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	
List all agencies your firm is currently certified with?						

PREFERENCE IN PURCHASING PRODUCTS

DATE: _____

The bidders attention is directed to Section 34.076 RSMo 2000 which gives preference to Missouri corporations, firms, and individuals when letting contracts or purchasing products.

Bids/Quotations received will be evaluated on the basis of this legislation.

All vendors submitting a bid/quotation must furnish ALL information requested below.

FOR CORPORATIONS:

State in which incorporated: _____

FOR OTHERS:

State of domicile: _____

FOR ALL VENDORS:

List address of Missouri offices or places of business:

THIS SECTION MUST BE COMPLETED AND SIGNED:

FIRM NAME: _____

ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP:** _____

BY (signature required): _____

Federal Tax I.D. #: _____ **if no Federal Tax I.D. # - list Social Security #:** _____

NOTE: For bid/quotation to be considered, the "Preference in Purchasing Products" form must be on file in the General Services (Procurement) Division and must be dated in the current calendar year.

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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.
- g. 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 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.
- b. 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 or post-award contract.
- 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,

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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.
- e. The MHTC reserves the right to purchase goods and services using the state-purchasing card.

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.

Executive Order

- a. The Contractor shall comply with all the provisions of Executive Order 07-13, issued by the Honorable Matt Blunt, Governor of Missouri, on the sixth (6th) day of March, 2007. This Executive Order, which promulgates the State of Missouri's position to not tolerate persons who contract with the state engaging in or supporting illegal activities of employing individuals who are not eligible to work in the United States, is incorporated herein by reference and made a part of this Agreement.
 - 1) "By signing this Agreement, the Contractor hereby certifies that any employee of the Contractor assigned to perform services under the contract is eligible and authorized to work in the United States in compliance with federal law."
 - 2) In the event the Contractor fails to comply with the provisions of the Executive Order 07-13, or in the event the Commission has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States in violation of federal law, the Commission reserves the right to impose such contract sanctions as it may determine to be appropriate, including but not limited to contract cancellation, termination or suspension in whole or in part or both.
 - 3) The Contractor shall include the provisions of this paragraph in every subcontract. The Contractor shall take such action with respect to any subcontract as the Commission may direct as a means of enforcing such provisions, including sanctions for noncompliance.

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.

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- 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 Offeror shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Offeror's performance of its obligations under this Agreement.

SPECIAL TERMS AND CONDITIONS

Award

- a. Award of this bid/quote/proposal will be made on an "All Or Nothing" basis using the "lowest and best" principle of award.

Delivery – Additional Requirements

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

January 1	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

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

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.