Missouri Highways and Transportation Commission

Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions

MISSOURI DEPARTMENT OF TRANSPORTATION
INFORMAL QUOTE GUIDELINES AND DOCUMENTATION
FOR PURCHASES FROM $3,000 TO $24,999.99
THIS IS NOT AN ORDER
REQUEST FOR QUOTATION

It is the vendor's responsibility to read and comply with all conditions, specifications, and instructions outlined in this document. This document and any subsequent attachments shall supersede all confirmation forms, receipts, or any other paperwork needed to secure materials, equipment, or services.

TODAY'S DATE: JULY 15, 2009	QUOTE DUE BY (DATE AND TIME): JULY 23, 2009 BY 10:00AM	F.O.B. REQUIREMENTS: DESTINATION
TO BE DELIVERED/COMPLETED NO LATER THAN: AS REQUIRED	QUOTATION #: **D610-034-R6** THIS QUOTATION # SHOULD BE REFERENCED ON ALL MAILING LABELS, ENVELOPES, AND OTHER CORRESPONDENCE.	BUYER NAME/TELEPHONE NUMBER: KRISTI COPPINGER 314-301-1439

Procurement Mailing Address #:	**Delivery Location:**
MISSOURI DEPARTMENT OF TRANSPORTATION DISTRICT 6 PROCUREMENT OFFICE 2309 BARRETT STATION RD. BALLWIN, MO 63021 **Facsimile #:** 314-301-1437	MISSOURI DEPARTMENT OF TRANSPORTATION 2309 Barrett Station Rd. Ballwin, MO 63021

ALL QUOTATIONS MUST BE EXTENDED AND TOTALED. AVAILABILITY (DELIVERY) TIME MUST BE LISTED

Estimated Quantities	U/M	DESCRIPTION (including size and/or part #'s)	UNIT PRICE	UNIT PRICE EXTENSION	DELIVERY TIME
564	GAL	**0600322120 – Heavy Duty Predilute 50/50, 1-gallon containers** per attached specifications. Bids will be considered on the following brands ONLY: Fleet Charge, Texaco, Champion, and Preston.			
1020	GAL	**0600315100 – Heavy Duty Anti-Freeze/Summer Coolant, 1-gallon containers** per attached specifications, MGS-07-03. Bids will be considered on the following brands ONLY: Fleet Charge, Texaco, Champion, and Preston.			

Indicate Brand & Part Number that will be furnished ⇨	

Please see attached pages for additional conditions, instructions, and specifications.

Contract period for 6-months beginning August 1, 2009 through January 31, 2010.

TOTAL ORDER EXTENSION:			

VENDOR NOTE: Quantities listed above are estimated. Actual quantities purchased during the contract period could be fewer or greater. Pricing to remain firm until January 31, 2010.

NOTE ON PACKAGING AND CARTON QUANTITIES: Product shall be shipped in the original OEM packaging and be clearly marked as to manufacturer, model number, quantity, brand, and size. Unless otherwise noted herein, one-gallon containers shall be furnished in cartons of six (6) containers in each carton.

VENDOR NAME:	
FEDERAL ID #:	

THIS IS NOT A SEALED BID – BIDS CAN BE FAXED TO NUMBER ABOVE

VENDOR INFORMATION

D610-034-R6, HEAVY DUTY PREDILUTE 50/50 AND HEAVY DUTY ANTI-FREEZE/SUMMER COOLANT

(THIS PAGE MUST BE TURNED IN ALONG WITH PAGES 1, 3, 4, AND 5)

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):

MINORITY BUSINESS ENTERPRISE (MBE)?	YES	NO
WOMEN BUSINESS ENTERPRISE (WBE)?	YES	NO
Would your company like information on becoming a registered/certified MBE/WBE vendor?	YES	NO

VENDOR NOTE: Prior to any contract issuance, the Bidder must be in compliance with the laws regarding conducting business in the State of Missouri.

NOTE ON SAMPLES: MoDOT reserves the right to request up to three (3) gallons of each product as a sample from the bidders if deemed necessary before award of bid. Bidder will have five (5) working days from date of request to provide samples. Samples shall be furnished to MoDOT at no charge, will become the property of MoDOT, and will not be returned. Failure to submit the sample as requested may cause for bidder disqualification. **DO NOT** submit samples with your bid – upon request only.

6-MONTH RENEWAL OPTION FOR HEAVY DUTY PREDILUTE 50/50 AND HEAVY DUTY ANTI-FREEZE/SUMMER COOLANT

In the event that the Missouri Highway Transportation Commission (MHTC) exercises its options to renew the contract for one (1) 6-month period pursuant to the applicable provisions outlined in this document, the Bidder shall provide below the maximum percentage of increase or minimum percentages of decrease for each renewal period. The Bidder is cautioned that the percentages shall be computed against the ORIGINAL contract prices during renewal periods. Furthermore, the Bidder is advised that the MHTC does not automatically grant increases at the time of renewing the contract and that if an increase is requested, documentation of need must be provided at the time of renewal.

RENEWAL PERIOD

_____**% of maximum increase OR**

_____**% of maximum decrease**

_____ _____

Vendor Signature Vendor Name Printed

MISSOURI SERVICE-DISABLED VETERAN BUSINESS PREFERENCE

By virtue of statutory authority, RSMo 34.074, a preference will be given all contracts for the performance of any job or service to service-disabled veteran business either doing business as Missouri firms, corporations, or individuals; or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing bids, in their entirety, are comparable.

Definitions:

Service-Disabled Veteran is defined as any individual who is disabled as certified by the appropriate federal agency responsible for the administration of veterans' affairs.

Service-Disabled Veteran Business is defined as a business concern:

a. Not less than fifty-one (51) percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than fifty-one (51) percent of the stock of which is owned by one or more service-disabled veterans; and
b. The management and daily business operations of which are controlled by one or more service-disabled veterans.

If an Offeror meets the definitions of a service-disabled veteran and a service-disabled veteran business as defined in 34.074 RSMo and is either doing business as a Missouri firm, corporation, or individual; or maintains a Missouri office or place of business, the Offeror **must** provide the following with the proposal in order to receive the Missouri service-disabled veteran business preference over a non-Missouri service-disabled veteran business when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing proposals, in their entirety, are comparable:

a. A copy of a letter from the Department of Veterans Affairs (VA), or a copy of the Offeror's discharge paper (DD Form 214, Certificate of Release or Discharge from Active Duty) from the branch of service the Offeror was in, stating that the Offeror has a service-connected disability rating ranging from 0 to 100% disability; and
b. A completed copy of this exhibit

(NOTE: For ease of evaluation, please attach copy of the above-referenced letter from the VA or a copy of the Offeror's discharge paper to this Exhibit.)

By signing below, I certify that I meet the definitions of a service-disabled veteran and a service-disabled veteran business as defined in 34.074 RSMo and that I am either doing business as a Missouri firm, corporation, or individual; or maintain Missouri offices or places of business at the location(s) listed below.

Veteran Information	Business Information
Service-Disabled Veteran's Name, (Please Print)	Service-Disabled Veteran Business Name
Service-Disabled Veteran's Signature	Missouri Address of Service-Disabled Veteran Business

Form e-14

PREFERENCE IN PURCHASING PRODUCTS

DATE:_____

The bidder's attention is directed to Section 34.076 RSMo. 1986 which gives preference to Missouri corporations, firms, and individuals when letting contracts or purchasing products.

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

All bidders must furnish the information requested below.

FOR CORPORATIONS:
State in which incorporated_____

FOR OTHERS:
State of domicile_____

FOR ALL BIDDERS:
List address of Missouri offices or places of business

_____

_____

_____

_____

_____

_____

_____

(MUST BE COMPLETED AND SIGNED)

FIRM NAME: _____

ADDRESS: _____

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

BY: _____

NOTE: For bid to be considered, the attachment entitled "Preference in Purchasing Products" must be on file in this office and must be dated in the current calendar year.

HEAVY DUTY ANTI-FREEZE AND SUMMER COOLANT MGS-07-03

1.0 DESCRIPTION. This specification covers a universal low silicate heavy duty anti-freeze and summer coolant suitable for use in the cooling systems of liquid-cooled internal combustion engines.

2.0 MATERIALS. Heavy-duty anti-freeze shall conform to the following material requirements.

2.1 General.

2.1.1 It shall be an inhibited ethylene glycol formulation, suitable for use in the cooling systems of liquid-cooled internal combustion engines for protection against freezing in ambient temperatures as low as minus 60 F. It shall provide corrosion protection for aluminum and all car and truck engine metals.

2.1.2 It shall be compounded with suitable inhibitor ingredients to prevent foaming, gelling and corrosion when diluted with water to normal usage concentrations.

2.1.3 It shall be distinctively colored with a dye which will in no way harmfully affect the material for its intended use. The preferred color is green to blue-green.

2.1.4 It shall be a homogeneous mixture substantially free from suspended matter.

2.1.5 It shall not be adversely affected by storage, up to two years from date of delivery, under any climatic condition including exposure to temperatures below the freezing point of the material.

2.1.6 It shall be compatible with other products found satisfactory under these specifications in that a mixture of diluted or concentrated form shall neither unfavorably affect the properties, or appreciably affect the utilization of anti-freeze testers with the material.

2.1.7 Solutions of the material, in concentrations employed in cooling systems, shall not cause any corrosion or deposits that might hinder or impede the free flow of coolant and shall not be injurious to all metals, hoses, gaskets and pump seals under normal operation conditions for at least one winter's driving.

2.1.8 It shall meet all requirements of ASTM D-6210, ASTM D-4985, and ASTM 3306.

2.1.9 It shall not contain 2 Ethylhexanoate.

2.2 Physical and Chemical Requirements

Specific gravity, 60/60 F (15.5 C)	1.110 to 1.145
Freezing Point, 50 vol % in distilled water, °F (°C), max	- 34 (- 37)
Boiling Point,[a] undiluted, °F (°C), min	325 (163)
Boiling Point, 50 volume % in distilled water, °F (°C), min	226 (108)
Ash Content, mass %, max	5
pH, 50 volume % in distilled water	7.5 - 11.0
Reserve alkalinity, mL, min	10
Water, mass %, max	5
Chloride ion, ppm, max	25

[a] Some precipitate may be observed at the end of the test. This should not be cause for rejection.

3.0 PACKAGING.

3.1 The heavy-duty anti-freeze shall be packaged in sealed one-gallon containers that contain one U.S. Standard gallon of heavy-duty anti-freeze based on the specific gravity at 60°F/60°F.

3.1.1 All containers shall be approved by the engineer and shall be of such design and type as to insure satisfactory shelf life for periods up to two years. The containers shall have a leak-proof plastic or foil seal affixed to the opening in addition to the cap. Fiber containers will not be accepted.

3.1.2 Each container shall be durable and labeled, showing the brand name of the heavy-duty anti-freeze, the name of the manufacturer, and that the contents are a universal heavy-duty antifreeze and summer coolant that is safe for aluminum and all engine metals. Each container shall have a "Protection Table" showing the amount of heavy-duty anti-freeze required to obtain protection against freezing at temperatures down to minus 60°F in cooling systems having capacities of approximately 8 to 25 quarts.

3.2 The one-gallon containers shall be furnished in cartons of 6 containers each.

3.2.1 Each carton shall also contain six (6) tags, sized approximately 4-3/8" x 2-3/8", with reinforced eye and wire tie for attaching to radiator filler. Pressure-sensitive labels may be used in lieu of tags. The tags or labels shall have spaces labeled:

Date:
Quantity Installed:
Degree of Protection:

3.2.2 Each carton shall be labeled as to lot or batch number and filling date.

3.3 Shipment of the material may be made on pallets; however, no separate payment will be made for the pallets. Charges for the pallets will be considered as being included in the unit bid price of the heavy-duty anti-freeze.

4.0 TEST METHODS.

4.1 Testing shall be done in accordance with the prescribed methods of the ASTM Specifications, except freezing point shall be tested by cloud and pour point determination ASTM D97-85.

5.0 ACCEPTANCE.

5.1 When the low bid has been determined and prior to any award, the low bidder shall furnish the required certification and a one-gallon sample of the material on which the bid is based for test purposes. The sample shall be submitted, in a container meeting the requirements of this provision, to State Materials Engineer, Missouri Department of Transportation, 1617 Missouri Boulevard, Dock A, Jefferson City, MO 65109. Failure to submit the required material will be cause for bidder disqualification. The award will be made subsequently, based on satisfactory compliance. The one-gallon sample is in addition to any purchased quantities and shall be furnished at no cost.

5.2 Shipments of heavy-duty anti-freeze will be accepted on the basis of any tests deemed necessary, performed on samples of the material, and satisfactory compliance with this specification.

5.3 Any material that does not fully comply with specifications as supplied, or which shows evidence of being adversely affected by storage up to two years, may be rejected.

5.4 Any cartons leaking at the time of delivery will be rejected and shall be replaced with no cost to the department.

6.0 ORDERING INFORMATION.

6.1 Heavy-duty anti-freeze is to be ordered by number of gallons. The quantity is normally in multiples of 6 gallons (case).

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, 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 Project Tax Exemption Certificate will be furnished to the successful Bidder/Offeror upon request if applicable.

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 (6^{th}) 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.

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. By virtue of statutory authority, RSMo 34.074, a preference will be given all contracts for the performance of any job or service to service-disabled veteran business either doing business as Missouri firms, corporations, or individuals; or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing bids, in their entirety, are comparable.

1) If attached, the document entitled **"MISSOURI SERVICE-DISABLED VETERAN PREFERENCE"** should be completed and returned with the solicitation documents.

d. 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.

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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

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

January I	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

2. 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.**