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CCO Form: GS
Approved: 2/15 (AR)

**REQUEST FOR PROPOSALS
FOR
STATE PROPERTY DAMAGE RECOVERY SERVICES
RFP # 6-150923LK
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MHTC Missouri Highways and Transportation Commission
MoDOT Missouri Department of Transportation
RFP Request for Proposals

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INTRODUCTION

This Request For Proposals (**RFP**) seeks proposals from qualified firms (**Offerors**) to furnish the described services to the Missouri Highways and Transportation Commission (“**MHTC**” or “**Commission**”) and its operating arm, the Missouri Department of Transportation (“**MoDOT**”). Proposals in the required format provided for in this RFP must be mailed in a sealed envelope or box, or else delivered by hand or courier service (UPS, Federal Express, DHL, etc.) to be **received on or before 2:00 p.m., Central Time., September 23, 2015**, at the office of the RFP Buyer of Record:

Leann Kottwitz, CPPB
Senior General Services Specialist
Missouri Department of Transportation
Central Office General Services
830 MoDOT Drive; P.O. Box 270
Jefferson City, MO 65109
Email: Leann.Kottwitz@modot.mo.gov

All documents must be sealed and should be clearly marked “**State Property Damage Recovery Services**”.

MHTC reserves the right to reject any and all proposals for any reason whatsoever. Time is of the essence for responding to the RFP within the submission deadlines.

PROPOSAL SUBMITTAL CERTIFICATION BY OFFEROR

- (1) The Offeror shall provide a fee proposal to MHTC in accordance with the terms of this RFP.
- (2) The Offeror agrees to provide the services at the fees quoted, under the terms of this RFP.
- (3) By submission of this proposal, each Offeror and each person signing on behalf of any Offeror, and in the case of a joint proposal, each party thereto as to its own organization, under penalty of perjury, certifies to the best of its knowledge and belief:
 - (A) The prices in this proposal have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Offeror or any competitor; and
 - (B) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the Offeror prior to the opening, directly or indirectly, to any other Offeror or to any competitor; and
 - (C) No attempt has been made or will be made by the Offeror to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition.
 - (D) The Offeror certifies that this proposal is made without any connection with any other person/firm/organization/business entity making a proposal for the same purpose, and is in all respects fair and without collusion or fraud, and that no elected official or other member, officer or employee or person whose salary is payable in whole or in part from the MHTC/MoDOT is directly or indirectly interested therein, or in any portion of the profits thereof.

Authorized Signature of Offeror: _____

Date of Proposal: _____

Printed or Typed Name: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Electronic Mail Address: _____

**SECTION 1:
GENERAL DESCRIPTION AND BACKGROUND**

(A) Request for Proposal This document constitutes a RFP from qualified organizations to provide State Property Damage Recovery services to Services to MHTC/MoDOT as set forth in this RFP.

(B) Background: MoDOT historically has attempted to collect payment(s) for damages that motorists have inflicted on the infrastructure of Missouri interstates and state highways. Such damages include but are not limited to damaged bridges, bridge abutments, guardrails, guard cable, culverts, signs, sign supports, signal support structures, signal boxes and curbs, sidewalks, vehicles, and equipment.

(C) Contract Period: From the notice to proceed through one year.

(D) Renewals/Extensions: The contract shall not bind, not purport to bind, MHTC for any contractual commitment in excess of the original contract period. The MHTC shall have the right, at its sole option, to extend the contract for two (2) additional one-year periods, or a portion thereof. In the event MHTC exercises its options, all terms, conditions, and provisions of the original contract shall remain the same and apply during the extension period. If any of the options are exercised, each extension must be accomplished by a formal contract amendment approved and signed by representatives of the Contractor and Commission, respectively, each of whom being duly authorized to execute the contract amendment on behalf of the Contractor and Commission, respectively, wherein the successful Offeror shall agree the prices stated in the original contract shall not be increased in excess of the renewal periods' pricing, if any, stated on the pricing page of the contract. If the pricing page does not include such renewal prices or if applicable spaces are left blank, and not completed, prices during extension periods shall be the same as during the original contract period. MHTC does not automatically exercise its options based upon the maximum renewal price of increase without documented justification supporting an increase and reserves the right to offer or to request an extension of the contract at a price less than that price derived from the successful Offeror's renewal amounts.

(E) Schedule of Events: Below is the schedule that will be followed. Unless otherwise specified, the time of day will be 7:30 a.m. to 4:00 p.m. Central Time. MHTC reserves the right at its sole discretion to expand this schedule, as deemed necessary, without any notification except for the deadline date for submitting a proposal.

DATE	EVENT
08/24/2015	Issue RFP and Advertise intent to solicit proposals.
09/03/15 2:00 p.m.	Deadline for Offerors to submit written questions and requests for clarification to the RFP Buyer of Record.
09/09/15 2:00 p.m.	Issuance of Amendment with resolution of any questions submitted. The Addendum can be located on our website: http://www.modot.org/business/contractor_resources/g_s_bidding/CO/COcommodities.htm
09/23/15 2:00 p.m.	Deadline for submission of proposals and scheduled public reading of the names of Offerors submitting timely received proposals.

**SECTION 2:
SCOPE OF WORK AND SPECIFIC SERVICES**

(A) Scope of Work: The successful Offeror will be the sole vendor, have exclusive rights, and agrees to provide the following services to MHTC:

➤ The MHTC is seeking an Offeror to provide the services of investigating through various means the individual or party responsible for the damage, and collect on state property damage claims on all Missouri interstates, state highways, lettered routes, and streets, as further outlined in this RFP. Respondents to this RFP should be able to present innovative ideas and plans for recovery of revenue on MoDOT property damage claims; outlining procedures and methods for identifying, pursuing and recovering of monies due MoDOT as a result of motorist damages to MoDOT property on interstate and state roads. The Offeror will be expected to perform the following duties as part of its responsibilities.

(B) Specific Services: The Offerors agree to perform specific services within the above stated scope of work to include, but not be limited to the following:

Process Development

➤ The Offeror will develop a process for, identifying the individual or party responsible for the damage, and collection of outstanding property damage claims.

Identification and Pursuit

➤ The Offeror will be required to:

1. Identify the individual(s) and/or company, which caused the damage.

2. Identify any responsible parties.

3. Identify available insurance coverage.

4. Report all claims of \$500 or more with no promise of payment or where a payment plan has not been established during the previous 9 months. The Offeror will notify and provide MHTC with a monthly report identifying all such claims.

5. The Offeror needs to file all insurance claims unless we inform the Offeror to not file a claim. MHTC retains sole discretion on all decisions in the filing of insurance claims.

6. Identify processes and procedures that will increase the likelihood of recovery and/or increase the dollar amount of the recovery for property damage claim(s) incurred by MHTC.

7. Provide support services to MHTC negotiating payment processes with non-insured and/or under insured responsible individuals or parties.

The successful Offeror will have settlement authority on claims costing \$25,000 or less.

The Offeror may negotiate down to 75% of the total cost of the claim. The Offeror must have approval from MHTC to negotiate any claim below 75% of the total cost of the claim. MHTC reserves sole discretion over all settlement decisions.

If proposal is accepted, the proposal will have to be approved by the MHTC, including delegation of settlement authority to the successful Offeror.

- MHTC reserves sole discretion whether to pursue or not pursue any property damage claim(s).
- **The successful Offeror's provision of the property damage recovery services under this RFP and the Resulting Agreement shall not, under any circumstances, include representation of MHTC or MoDOT in legal proceedings in any court of law in any capacity whatsoever.**

Documentation

- The Offeror will prepare with MoDOT oversight:
 1. Repair estimates.
 2. Invoices for damages to MHTC's property and send to identified responsible parties.
 3. Other documentation and resources as required.
 4. Payment receipts.
 5. MHTC retains the right to all salvage and any action regarding salvage at the sole discretion of MHTC.

Reporting

- The Offeror will provide Quarterly Reporting which list at a minimum:
 1. New incidents with potential property damage.
 2. Summary of new investigations opened.
 3. Settlement negotiations opened.
 4. Property Damage Claims concluded with payment, payment amount and percentage of amount claimed.
 5. Property Damage Claims concluded without payment and case summaries.
 6. The Offeror and MHTC will agree on a variety of reports regarding monitoring & collections on all MHTC identified claims.

**SECTION 3:
REQUIRED ELEMENTS OF PROPOSAL AND SUBMISSION**

(A) Required Elements of Proposal: Each Offeror shall provide a cover letter signed by an authorized firm representative stating he/she has read and understands all of the terms and conditions of doing business with MHTC in response to this request for proposal. Each Offeror's proposal must be divided into sections corresponding to the list of elements described below.

1. Experience, Expertise and Reliability: With regard to documenting its experience, expertise, and reliability in property damage recovery for governmental and/or quasi-governmental agencies, public sector agencies, and/or transportation organizations, the Offeror must provide information related to previous and current contractual relationships considered identical or similar in scope to the one anticipated to result between MHTC and the successful Offeror pursuant to this RFP. At a minimum, the following information must be provided:

A. Name, address, telephone number of contracting agency/entity, and a contact person who can verify all data submitted.

B. Contract dates.

C. A brief, written description of the specific services provided, search methods used, and the results associated with the specific services provided.

D. List of any pending legal action(s) involving your firm that could directly or indirectly impact the services provided to MHTC.

2. Qualification and Expertise of Key Personnel: Each Offeror must provide detailed information documenting the experience and qualifications of the key personnel who would be assigned to perform work under the Resulting Agreement between MHTC and the successful Offeror entered into pursuant to this RFP. Acceptable information shall include, but not be limited to, resumes detailing education, qualifications, previous work assignments, training, continuing education, certifications, etc. A work assignment organizational chart should be included in this section. Staff may be changed if those personnel leave the organization, are promoted or are assigned to another office. These personnel may also be changed for other reasons at the discretion of the Offeror provided that replacements have substantially the same or better qualifications or experience. However, in all cases, MHTC retains the right to approve or reject replacements.

3. Proposed Method of Performance: Each Offeror must present a written narrative demonstrating the method and/or manner in which it proposes to satisfy the requirements of this RFP. The language of the narrative shall be straightforward and limited to

facts, solutions to the problems, and plans of proposed action as well as the timeline for completion of proposed action.

A. Method: By reading the proposal, MHTC must be able to gain a comfortable grasp of the services to be provided and the methods proposed by the Offeror to provide them. A detailed explanation should be included to understand how the services comply with the requirements of this RFP.

4. Proposed Fee: Offerors must complete **SECTION 6: PRICING PAGE** of this RFP as specifically directed therein.

5. References: List at least three (3) references for which the Offeror firm provided services which are similar in nature to the services requested in this proposal over the past three (3) calendar years. MHTC reserves the right to determine which references to call and whether or not to call all references for all Offerors. The reference list should include:

- The client's name, address, telephone number, email address and fax number,
- A brief description of work satisfactorily completed with location,
- Dates of contracts,
- Names and addresses of owners, and
- Name of contact person.

6. Overall Clarity and Quality of Proposal: The proposals will be evaluated based on the adequacy of the Offeror's response in addressing each of the Required Elements of the Proposal listed above.

(B) Submission of Proposals: Offerors are responsible for submission of accurate, adequate and clear descriptions of the information requested. Omissions, vagueness or inaccurate descriptions or responses shall not be interpreted in favor of the Offeror and shall be grounds for rejection. This document is not an offer to contract, but is an RFP. Neither the issuance of the RFP, preparation and submission of a response, nor the subsequent receipt and evaluation of any response by the MHTC, will commit the MHTC to award a contract to any Offeror even if all of the requirements in the RFP are met. The MHTC may modify these requirements in whole or in part and/or seek additional Offerors to submit proposals. Only the execution of the Resulting Agreement will obligate the MHTC in accordance with the terms and conditions contained therein.

1. Proposal Format: The Offeror's submittal must include one (1) original hardcopy document. Three (3) electronic copies of the proposal are desired in addition to the hardcopy document. Electronic copies of the proposal must be in Microsoft compatible format or in ".pdf" and stored on CD(s) or flash drive(s). The Offeror shall ensure the electronic copy of the proposal document stored in all media is identical to the original hardcopy response document. In case of a discrepancy, the original hardcopy proposal document language shall govern.

2. Signatures: Any form containing a signature line in this RFP and any amendments, pricing pages, etc., must be manually signed and returned as part of the proposal.

3. Pricing: The Offeror is required to specify the pricing associated with this RFP as a firm fixed price. The successful Offeror will be responsible for performing all services listed in this RFP at the prices listed on **SECTION 6: PRICING PAGE** of the RFP. MHTC will not be liable for any charges beyond those detailed in the proposal.

A. MHTC shall not make any payment to the successful Offeror in advance of the services rendered by the successful Offeror.

B. Each Offeror is responsible for its own expense in preparing, delivering or presenting a proposal, and for subsequent interviews or negotiations with MHTC, if any, as provided for in this RFP.

4. Proposal Life: The Offerors must include a statement in the proposal that indicates the length of time during which MHTC may rely on all proposal commitments. All proposals made in response to this RFP and quoted pricing must remain in effect for a period of not less than 90 days after the date for proposal submission. Any proposal accepted by MHTC for the purpose of contract negotiations shall remain valid until superseded by a contract or until rejected by MHTC.

5. Submission of All Information Required: The Offerors must respond to this RFP by submitting all the information required herein for its proposal to be evaluated and considered for award. Failure to submit all the required information shall be deemed sufficient cause for disqualification of a proposal from consideration.

6. Public Inspection: The Offerors are hereby advised that all proposals and the information contained in or related thereto are subject to Missouri Open Records Act and after contract award and execution of the Resulting Agreement shall be open to public inspection and may be viewed and copied by any member of the public; therefore, MHTC does not assume any responsibility whatsoever in the event that such information is used or copied by individual persons or organizations.

A. Offerors claiming a statutory exception to the Missouri Open Records Act must place all confidential documents (including the requisite number of copies) in a sealed envelope clearly marked "Confidential" and must indicate in the proposal and on the outside of that envelope that confidential materials are included. The Offeror must also specify which statutory exception provision applies. MHTC reserves the right to make determinations of confidentiality. If MHTC does not agree that the information designated is confidential under one of the disclosure exceptions to the Missouri Open Records Act, it may either reject the proposal or discuss its interpretation of the allowable exceptions with the Offeror. If agreement can be reached, the proposal will be considered. If agreement cannot be reached, MHTC will remove the proposal from consideration for award and return the proposal to the Offeror.

B. MHTC will not consider prices to be confidential information.

C. The Offeror must submit its proposal based on the conditions contained in this paragraph without reservations.

7. Clarification of Requirements: It shall be the Offerors' responsibility to ask questions, request changes or clarification, or otherwise advise MHTC/MoDOT if any language, specifications or requirements of the RFP appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFP to a single source.

A. Any and all communication from Offerors regarding specifications, requirements, competitive proposal, etc., must be directed to the RFP Buyer of Record listed herein, unless the RFP specifically refers the Offerors to another contact. Such communication shall be received by the date noted in **SECTION 1: GENERAL DESCRIPTION AND BACKGROUND, (E) Schedule of Events.**

B. Every attempt will be made to ensure that the Offeror receives an adequate and prompt response. However, in order to maintain a fair and equitable proposal process, all Offerors will be advised, via the issuance of an amendment to the RFP, of any relevant or pertinent information related to the procurement. Therefore, Offerors are advised that unless specified elsewhere in the RFP, any questions received after the listed date may not be answered.

8. Interview Conference: After an initial screening of the written proposals, any, or all of the Offerors submitting a proposal in response to this RFP may be required to give an oral presentation of their proposal. Additional technical information may be requested for clarification purposes, but in no way to change the original written proposal submitted. MHTC reserves the right, in its sole discretion, to decide to conduct interviews with any or all of the Offerors. If an interview is conducted, it is preferred that the interviewed Offeror's personnel to be assigned to the work, as well as key representatives, be present at and participate in the interview.

9. Official Position of MHTC: Offerors are cautioned that the only official position of the MHTC and MoDOT is that which is issued by MHTC in the RFP or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.

SECTION 4: EVALUATION FACTORS AND PROCESS:

(A) **Evaluation Factors:** The following factors shall be considered in the evaluation of the proposals:

1. Evaluation Criteria: Any agreement for services resulting from this RFP shall be awarded to the Offeror providing the best proposal to MHTC. After determining

responsiveness, proposals will be evaluated in accordance with the following criteria and maximum points per each criterion:

Evaluation Criterion Description	Total Possible Points
Experience, Expertise, and Reliability	30
Qualification and Expertise of Key Person	20
Proposed Method of Performance	20
Proposed Fee	20
Overall Clarity and Quality of Proposal.	10

2. Historic Information: MHTC reserves the right to consider historic information and facts, whether gained from the Offeror's proposal, presentations or interviews as applicable, references, or other sources, including but not limited to the listed subcontractors, in the evaluation process.

3. Responsibility to Submit Information: Each Offeror is cautioned that it is the Offeror's sole responsibility to submit information related to the evaluation criteria and MHTC is under no obligation to solicit such information if it is not included with the Offeror's proposal. Failure of the Offeror to submit such information may cause an adverse impact on the evaluation of the Offeror's proposal.

(B) Proposal Review/Evaluation: MHTC will select a group of individuals to comprise the proposal review team. MHTC may, in its sole discretion, form a subgroup of the proposal review team, consisting of one or more team members, to comprise a separate proposal evaluation team that would be responsible for evaluating proposals with regard to compliance with RFP requirements. All evaluation team members will use the evaluation criteria stated above and present the evaluations to the review team for further action in the proposal evaluation and contract award process. If MHTC opts to not create a separate subgroup proposal evaluation team, the proposal review team shall also act as the proposal evaluation team.

SECTION 5: TERMS AND CONDITIONS

(A) Agreement Components: The Resulting Agreement between MHTC and the successful Offeror shall incorporate by reference as its components the following: the RFP and any written amendments thereto and the proposal submitted by the successful Offeror in response to the RFP. In case of a conflict between or inconsistency in the terms contained in the RFP and the proposal submitted by the Offeror in response to the RFP, the terms of the RFP shall govern. In the event of a conflict between or inconsistency in the terms of the RFP and the Resulting Agreement, the terms of the Resulting Agreement shall govern. MHTC reserves the right, in its sole discretion, to clarify any relationship in writing and such written clarification

shall govern in case of any conflict with or inconsistency in the applicable requirements stated in the RFP and the successful Offeror's proposal.

(B) MHTC's Representative: The Director of Risk and Benefits Management is designated as MHTC's representative with authority to act on behalf of MHTC for the purpose of administering the Resulting Agreement. MHTC's representative may designate by written notice other persons having the authority to act on behalf of MHTC in furtherance of the performance of the Resulting Agreement. Each Offeror shall fully coordinate its activities with the designated representative and shall consult the MHTC representative regarding any problem arising out of the provision of the services to the MHTC pursuant to this RFP and the Resulting Agreement. As the work of the successful Offeror progresses, advice and information on matters covered by the Resulting Agreement shall be made available by the successful Offeror to the designated representative throughout the effective period of the Agreement. MHTC reserves the right to limit the authority of Buyer of Record and MHTC's representative provided herein as it deems necessary in its sole discretion at any time and from time to time throughout the duration of the RFP process and the Contract Period.

(C) Assignment: The successful Offeror shall not assign, transfer, or delegate any interest in the services to be provided under this RFP and the Resulting Agreement without the prior written consent of the MHTC representative. The successful Offeror may at its own expense employ clerical or technical assistance in the performance of the services under this RFP and the Resulting Agreement, such clerical and technical assistance provider being as fully bound as the Offeror to all confidentiality and work product provisions of this RFP and the Resulting Agreement.

(D) Amendments: Any change in the Resulting Agreement, whether by modification or supplementation, must be accompanied by a formal contract amendment signed and approved by the duly authorized representative of the successful Offeror and MHTC.

(E) Disputes Under the RFP and Resulting Agreement: The MHTC representative and/or Buyer of Record, as applicable, will decide all questions which may arise as to the quality, quantity, and acceptability of any Offeror's proposals submitted in response to this RFP, and of the services under this RFP and the Resulting Agreement performed by the successful Offeror and as to the rate of progress of the services; all questions which may arise as to the interpretation of the services to be performed under this RFP and the Resulting Agreement; all questions as to the acceptable fulfillment of the Resulting Agreement on the part of the successful Offeror; the proper compensation for performance or breach of the Resulting Agreement; and all claims of any character whatsoever in connection with or growing out of the services to be performed or performed by the successful Offeror, whether claims under this RFP and the Resulting Agreement or otherwise. The decision of the MHTC representative and/or Buyer of Record, as applicable, shall be conclusive, binding, and incontestable.

(F) Successors and Assigns: The Commission and the Offerors agree that this RFP and, as applicable, the Resulting Agreement as well as all agreements entered into under the provisions of this RFP, shall be binding upon the parties thereto and their successors and assigns.

(G) Sole Beneficiary: The Resulting Agreement will be made for the sole benefit of the parties thereto and nothing in this RFP or the Resulting Agreement shall be construed to give any rights or benefits to anyone other than the Commission and the successful Offeror.

(H) Cancellation of Resulting Agreement: MHTC may cancel the Resulting Agreement at any time by providing the successful Offeror with a written notice of cancellation. Should the Commission exercise its right to cancel the Resulting Agreement, cancellation will become effective upon the date specified in the notice of cancellation.

(I) Bankruptcy: Upon filing for any bankruptcy or insolvency proceeding by or against any Offeror or assignee, whether voluntarily, or upon the appointment of a receiver for the benefit of creditors, Commission reserves the right and sole discretion to reject the Offeror's proposal, or, as applicable, either cancel the Resulting Agreement or affirm the Resulting Agreement and hold the successful Offeror responsible for damages.

(J) Status as Independent Contractor: The successful Offeror 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 MHTC or MoDOT. Therefore, the successful Offeror shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, or other such benefits or obligations.

(K) Subcontractor: Any Offeror's proposal must identify all subcontractors, if any, and outline the contractual relationship between the Offeror and each subcontractor. Either a copy of the executed subcontract or a letter of agreement over the official signature of the firms involved must accompany each proposal. MHTC must approve the successful Offeror's subcontracting any portion of the services to be provided under the Agreement. The successful Offeror is responsible for the performance of any obligations that may result from this RFP and the Agreement and shall not be relieved by the non-performance of any subcontractor.

(L) MBE/WBE Participation Encouraged:

1. Affirmative Action Program: Offerors are encouraged to submit copies of their existing affirmative action programs, if any. Offerors are also encouraged to directly hire minorities and women as direct employees of the Offerors.

2. Minority Participation Encouraged: Offerors are encouraged to obtain minority business enterprise (MBE) and women business enterprise (WBE) participation in this work through the use of subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful participation for M/WBEs (i.e. 10% MBE and 5% WBE participation).

3. Offeror's Responsibility Unconditional: Regardless of which persons or firms, if any, that the successful Offeror may use as subcontractors or suppliers of goods or services for the services to be provided, the successful Offeror ultimately remains responsible and liable to MHTC for the complete, accurate, and professional quality/performance of these services.

(M) Nondiscrimination: The Offerors shall comply with all state and federal statutes applicable to the Offerors relating to nondiscrimination, including, but not limited to, Chapter 213, RSMo; Title VI and Title VII of Civil Rights Act of 1964 as amended (42 U.S.C. Sections 2000d and 2000e, *et seq.*); and with any provision of the “Americans with Disabilities Act” (42 U.S.C. Section 12101, *et seq.*).

(N) Executive Order: The Offerors 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. Offeror’s Certification: By signing the proposal to this RFP, the Offeror hereby certifies that any employee of the Offeror assigned to perform services herein is eligible and authorized to work in the United States in compliance with federal law.

2. Failure to Comply: In the event the Offeror 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 Offeror 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 reject the Offeror’s proposal or, as applicable, 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. Incorporation of Provisions: The successful Offeror shall include the provisions of this paragraph in every subcontract. The successful Offeror 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.

(O) Non-employment of Unauthorized Aliens: Pursuant to Section 285.530, RSMo., no business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Missouri. As a condition for the award of any contract or grant in excess of five thousand dollars by the State or by any political subdivision of the State to any Offeror, or for any Offeror receiving a state-administered or subsidized tax credit, tax abatement, or loan from the state, the Offeror shall:

1. Enrollment in Federal Work Authorization Program: By sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. E-Verify is an example of a federal work authorization program. The Offeror must affirm its enrollment and participation in the E-Verify federal work authorization program with respect to the employees proposed to work in connection with the services requested herein by providing acceptable enrollment and participation documentation consisting of completed copy of the E-Verify Memorandum of Understanding (**MOU**). For Offerors that

are not already enrolled and participating in a federal work authorization program, E-Verify is available at http://www.dhs.gov/xprevprot/programs/gc_1185221678150.shtm.

2. Annual Worker Eligibility Affidavit: By sworn affidavit, affirm that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Offerors are required to complete and submit with their proposal the affidavit referenced herein, which is provided within this document and attached as **Exhibit 1**.

(P) Proof of Lawful Presence For Sole Proprietorships and Partnerships: If the Offeror is a sole proprietorship or partnership, pursuant to Section 208.009, RSMo., each sole proprietor and each general partner shall provide affirmative proof of lawful presence in the United States. Such sole proprietorship or partnership is eligible for temporary public benefits upon submission by each sole proprietor and general partner of a sworn affidavit of his/her lawful presence on the United States until such lawful presence is affirmatively determined, or as otherwise provided by Section 208.009, RSMo. As applicable, Offerors are required to complete and submit with their proposals the copy of the affidavit referenced herein, which is provided within this document and attached as **Exhibit 2**.

(Q) Requirements to do Business in Missouri: Offerors must comply with the following requirements to do business in Missouri:

1. Registration with Secretary of State: The Offerors must be registered and maintain good standing with the Secretary of State of the State of Missouri, Missouri Department of Revenue, and other regulatory agencies, as may be required by law or regulations. Prior to execution of the Resulting Agreement, the successful Offeror shall submit to MHTC a copy of its current Authority Certificate from the Secretary of State of the State of Missouri and/or a copy of its Certificate of No Tax Due from the Missouri Department of Revenue.

2. Transient Employer Certificate: All out-of-state Offerors providing services within the State of Missouri must provide a copy of their current Transient Employer Certificate issued from the Missouri Department of Revenue. For assistance with obtaining a Transient Employer Certificate, please call the Missouri Department of Revenue at (573) 751-0459.

(R) Law of Missouri to Govern: This RFP and the Resulting Agreement shall be construed according to the laws of the State of Missouri. The Offeror shall comply with all local, state, and federal laws and regulations relating to this RFP and, if applicable, the performance of the Agreement.

(S) Venue: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(T) Ownership of Records: All documents, reports, exhibits, etc., produced by the Offerors at the direction of MHTC's representative and information supplied by MHTC's

representative shall remain the property of MHTC.

(U) Release to Public/Confidentiality: No material or reports prepared by the successful Offeror shall be released to the public without the prior consent of MHTC's representative. The Offerors shall not disclose to third parties confidential factual matters provided by MHTC's representative except as may be required by statute, ordinance, or order of court, or as authorized by MHTC's representative. The Offerors shall notify MHTC immediately of any request for such information.

(V) Prohibition Against Kickbacks and Gratuities/Nonsolicitation: Any kickback, gratuity, or other payment by the Offeror to any person employed by or on behalf of the Commission is prohibited except when such payment is made pursuant to the express terms of this RFP and, as applicable, the Resulting Agreement. Each Offeror warrants that it has not employed or retained any company or person, other than a bonafide employee working for the Offeror, to solicit or secure this RFP and as applicable the Resulting Agreement, and that the Offeror has not paid or agreed to pay any company or person, other than a bonafide employee, a fee, commission, percentage, brokerage fee, gift, or other consideration, which is contingent upon or Resulting from the award of this RFP and, as applicable, the Resulting Agreement. For breach or violation of this warranty, the Commission shall have the right to reject the Offeror's proposal and, as applicable, annul the Resulting Agreement without liability, or in its discretion, to withhold or recover said amounts from the compensation due or paid under the Resulting Agreement.

(W) Conflict of Interest: Each Offeror covenants that it presently has no actual conflict of interest or appearance of conflict of interest and shall not acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the services under this Agreement. The Offeror further covenants that no person having any such known interest shall be employed or conveyed an interest, directly or indirectly, in this RFP and the Resulting Agreement.

(X) Audit of Records: The successful Offeror must maintain all working papers and records relating to the Agreement. These records must be made available at all reasonable times at no charge to MHTC and/or the Missouri State Auditor during the term of the Agreement and any extension thereof, and for three (3) years from the date of final payment made under the Agreement. MHTC's representative shall have the right to reproduce and/or use any products derived from the successful Offeror's work without payment of any royalties, fees, etc. MHTC's representative shall at all times have the right to audit any and all records pertaining to the services.

(Y) Indemnification: Each Offeror shall defend, indemnify, and hold harmless the Commission, including its members and MoDOT 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 submittal of its proposal in response to the RFP, performance of its obligations under this RFP and, as applicable, the Agreement.

(Z) Insurance: For proposal purposes, Offerors must submit copies of certificates

of insurance for general and automobile liability and workers' compensation in the following coverage limits. The successful Offeror must provide original certificates prior to commencing services.

1. General Liability: Not less than \$500,000 for any one person in a single accident or occurrence, and not less than \$3,000,000 for all claims arising out of a single occurrence;

2. Automobile Liability: Not less than \$500,000 for any one person in a single accident or occurrence, and not less than \$3,000,000 for all claims arising out of a single occurrence;

3. Missouri State Workmen's Compensation: Policy or equivalent coverage in accordance with state law.

(AA) Section Headings: All section headings contained in this RFP and the Resulting Agreement are for the convenience of reference only and are not intended to define or limit the scope of any provision of this RFP and the Resulting Agreement.

(BB) Severability: If any clause or provision of this RFP and/or the Resulting Agreement is found to be void or unenforceable by a court or agency of proper jurisdiction, then the remaining provisions not void or unenforceable shall remain in full force and effect.

(CC) No Adverse Inference: This RFP and/or the Resulting Agreement shall not be construed more strongly against one party or the other. No rule of construction which requires that any allegedly ambiguous provision be interpreted more strongly against one party than the other shall be used in interpreting this RFP and/or the Resulting Agreement.

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**SECTION 6:
PRICING PAGE**

FEE SCHEDULE: The Offeror shall indicate below all fees for providing services in accordance with the provisions and requirements stated herein:

1. Historically, MoDOT has experienced and anticipates a claim volume of approximately ten million dollars (\$10,000,000.00) per year. The Offeror shall provide a percentage fee quote for the cost of anticipated services rendered based on the historic volume. The percentage proposed should be the percentage of the collected claims which the Offeror will retain/charge the MHTC. The Offeror would provide the remainder of the percentage to the MHTC. It is to be understood that MoDOT in no way guarantees such a volume and that such dollar figure is being used as a straw number for the purposes of fee quotation and evaluation.

Quote the percentage fee for State Property Damage Recovery _____ %

2. Historically, MoDOT has also experienced and anticipates approximately two (2) claims per year that are of an exceptionally large amount. MoDOT believes that expenses for pursuing such claims are not much greater than the average claim and desires Offerors to provide a maximum dollar amount that would be charged per claim. The maximum amount per claim that will be charged, provided by Offerors below as a dollar amount, will apply to all claims, not just those that are of an exceptionally large amount. The maximum is also not limited to two claims per year. The MHTC has determined to utilize the two claims per year solely for the purposes of the evaluation to be able to determine which Offeror is providing the most advantageous financial proposal to the MHTC.

Quote a maximum dollar fee per claim \$ _____

B. **RENEWAL INFORMATION:** The Offeror shall provide below the maximum percentage of increase for each renewal period.

1st Renewal Period: _____% of recovered monies per claim

2nd Renewal Period: _____% of recovered monies per claim

3rd Renewal Period: _____% of recovered monies per claim

Signature

Date

EXHIBIT 2

APPLICANT AFFIDAVIT FOR SOLE-PROPRIETORSHIP OR PARTNERSHIP

(a separate affidavit is required for each owner and general partner)

STATE OF _____)
) ss
COUNTY OF _____)

On this _____ day of _____, 20____, before me appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instruments, who being by me duly sworn, deposed as follows:

My name is _____, and I am of sound mind, capable of making this affidavit, and personally certify the facts herein stated, as required by Section 208.009, RSMo, for failure to provide affirmative proof of lawful presence in the United States of America:

I am the _____ of _____, which is applying for a public benefit (grant, contract, and/or loan) administered/provided by the Missouri Highways and Transportation Commission (MHTC), acting by and through the Missouri Department of Transportation (MoDOT).

I am classified by the United States of America as: (check the applicable box)

- a United States citizen.
- an alien lawfully admitted for permanent residence. I am aware that Missouri law provides that any person who obtains any public benefit by means of a willfully false statement or representation, or by willful concealment or failure to report any fact or event required to be reported, or by other fraudulent device, shall be guilty of the crime of stealing pursuant to Section 570.030, RSMo, which is a Class C felony for stolen public benefits valued between \$500 and \$25,000 (punishable by a term of imprisonment not to exceed 7 years and/or a fine not more than \$5,000 – Sections 558.011 and 560.011, RSMo), and is a Class B felony for stolen public benefits valued at \$25,000 or more (punishable by a term of imprisonment not less than 5 years and not to exceed 15 years – Section 558.011, RSMo).

I recognize that, upon proper submission of this sworn affidavit, I will only be eligible for temporary public benefits until such time as my lawful presence in the United States is determined, or as otherwise provided by Section 208.009, RSMo.

I understand that Missouri law requires MHTC/MoDOT to provide assistance in obtaining appropriate documentation to prove citizenship or lawful presence in the United States, and I agree to submit any requests for such assistance to MHTC/MoDOT in writing.

I acknowledge that I am signing this affidavit as a free act and deed and not under duress.

Affiant Signature

Affiant's Social Security Number or
Applicable Federal Identification Number

Subscribed and sworn to before me this _____ day of _____, 20_____.

Notary Public

My commission expires: