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Approved: 03/16 (AR)

**REQUEST FOR PROPOSALS
FOR
CRASH TESTING MoDOT DEVICES
RFP # 6-170208LK
TABLE OF CONTENTS**

INTRODUCTION.....	4
PROPOSAL SUBMITTAL CERTIFICATION	5
SECTIONS:	
1. GENERAL DESCRIPTION AND BACKGROUND	6
(A) Request for Proposal.....	6
(B) Background	6
(C) Contract Period.....	6
(D) Renewal/Extensions	7
(E) Schedule of Events	7
(F) Overview	7
(G) Requirements of the Research Team	8
(H) Data Ownership	8
2. SCOPE OF WORK AND SPECIFIC SERVICES	9
(A) Scope of Work	9
(B) Specific Services	9
3. REQUIRED ELEMENTS OF PROPOSAL AND SUBMISSION.....	10
(A) Required Elements of Proposal	10
1. Experience, Expertise and Reliability	10
2. Qualification and Expertise of Key Personnel	11
3. Proposed Method of Performance.....	11
4. Proposed Fee.....	11
5. References	11
6. Overall Clarity and Quality of Proposal.....	12
7. Accredited Laboratory	12
(B) Submission of Proposals	12
1. Proposal Format.....	12
2. Signatures	12
3. Pricing	12
4. Proposal Life.....	13
5. Submission of All Information Required.....	13
6. Public Inspection	13
7. Clarification of Requirements	13
8. Interview Conference.....	14
9. Official Position of MHTC	14

4. EVALUATION FACTORS AND PROCESS	14
(A) Evaluation Factors	14
1. Evaluation Criteria	14
2. Historic Information	15
3. Responsibility to Submit Information.....	15
(B) Proposal Review/Evaluation	15
5. TERMS AND CONDITIONS.....	15
(A) Agreement Components	15
(B) MHTC's Representative.....	15
(C) Assignment.....	16
(D) Amendments.....	16
(E) Disputes Under the RFP and Resulting Agreement	16
(F) Successors and Assigns	16
(G) Sole Beneficiary.....	16
(H) Cancellation of Resulting Agreement.....	16
(I) Bankruptcy	17
(J) Status as Independent Contractor.....	17
(K) Subcontractor	17
(L) MBE/WBE Participation Encouraged.....	17
(M) Nondiscrimination.....	17
(N) Executive Order	17
(O) Non-employment of Unauthorized Aliens	18
(P) Proof of Lawful Presence	19
(Q) Requirements to do Business in Missouri.....	19
(R) Law of Missouri to Govern	19
(S) Venue.....	19
(T) Ownership of Reports.....	19
(U) Release to Public/Confidentiality.....	19
(V) Prohibition Against Kickbacks/Nonsolicitation	19
(W) Conflict of Interest	20
(X) Audit of Records	20
(Y) Indemnification.....	20
(Z) Insurance.....	20
(AA) Section Headings	21
(BB) Severability	21
(CC) No Adverse Inference	21
6. PRICING PAGE.....	22

LIST OF ACRONYMS

MHTC	Missouri Highways and Transportation Commission
MoDOT	Missouri Department of Transportation
RFP	Request for Proposals
FHWA	Federal Highway Administration
MPO	Metropolitan Planning Organization
MASH	Manual for Assessing Safety Hardware

Exhibit 1:	Annual Worker Eligibility Verification Affidavit
Exhibit 2:	Applicant Affidavit for Sole-Proprietorship or Partnership.....
Exhibit 3:	MoDOT Devices for Crash Testing

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 PM Local Time, February 8, 2017** 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 “**CRASH TESTING MoDOT DEVICES**”.

This RFP is being issued under, and governed by, the provisions of Title 7 – Missouri Department of Transportation, Division 10 – Missouri Highways and Transportation Commission, Chapter 11 – Procurement of Supplies, of the Code of State Regulations (7 CSR 10-11).

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 prospective qualified Offerors to provide the capabilities, experience, and resources required to perform crash testing on ad hoc traffic control devices to the Commission and MoDOT, as set forth in this RFP.

(B) Background: MHTC is seeking a qualified Offeror who can provide crash testing on ad hoc traffic control devices. It is the intent of this RFP to have the successful Offeror enter into a Professional Services Agreement with MHTC (hereinafter “**Resulting Agreement**”), to supply crash testing on ad hoc traffic control devices as outlined herein.

MoDOT currently uses the standards in the Manual on Uniform Traffic Control Devices (MUTCD) for these objects placed in our right of way. The specifications for the devices outlined in this document have gone through rigorous testing to be forgiving to errant vehicles should they strike the device.

While maintaining our transportation system, some of the specifics outlined in the MUTCD may be altered to be implemented more efficiently in the field. These modifications may change the dynamics of the device and influence how it will perform when struck by a vehicle.

With the safety of our customers in mind, MoDOT is looking to evaluate these modified devices to assess their performance during a crash.

Where applicable and as described in this document, MoDOT intends to share this data with external partners such as Metropolitan Planning Organizations (MPO’s), universities, other state agencies, and consultants.

MoDOT operates as a customer focused and results driven, state agency under a decentralized organization structure with headquarters in Jefferson City, and is governed by the MHTC, a six (6) member Commission appointed by the Governor. The Central Office provides oversight and support to seven (7) geographical districts primarily responsible for delivery of MoDOT’s mission and tangible results.

Each district contains approximately fifteen percent (15%) of the total road mileage in the state highway system. MoDOT employs approximately 5,100 full-time employees. About eighty percent (80%) of those employees work in the seven (7) districts with the remainder working in the various divisions with the Central Office facility.

(C) Contract Period: The Contract Period for the performance of the services described in this RFP is from the date of the fully executed Resulting Agreement through the later of one (1) year. The successful Offeror shall perform any and all the services listed herein as often as requested by MHTC for the entire duration of the Contract Period as defined herein at the Guaranteed-Not-To-Exceed Prices submitted by the successful Offeror in response to **SECTION 6: PRICING PAGE** of this RFP.

(D) Renewal Information: The contract shall not bind, not purport to bind, the Commission for any contractual commitment in excess of the original contract period. The Commission shall have the right, at its sole option, to extend the contract *for four (4) one-year periods*, or any portion thereof. In the event that the Commission exercises its options to extend the contract, such 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.

(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
<u>1/11/17</u>	Issue RFP and Advertise intent to solicit proposals.
<u>1/18/17</u>	Deadline for Offerors to submit written questions and requests for clarification to the RFP Buyer of Record.
<u>1/20/17</u>	Issuance of Amendment with resolution of any questions submitted. http://www.modot.org/business/contractor_resources/g_s_bidding/CO/COcommodities.htm
<u>2/8/17@2:00 PM local time</u>	Deadline for submission of proposals and scheduled public reading of the names of Offerors submitting timely received proposals.

(F) Overview:
MoDOT is seeking a qualified Offeror that demonstrates the capabilities, experience, and resources required to perform crash testing on ad hoc traffic control devices.

The Offeror will be responsible for coordinating with an approved testing facility to fabricate the test device, procure test vehicle(s), conduct physical crash testing, and return the crash site to an acceptable condition to the test agency. The crash testing will be conducted following criteria from the Manual for Assessing Safety Hardware (MASH). Upon completion of crash testing, the Offeror will analyze results, modify the design (as appropriate), and submit the findings to MoDOT.

Examples of the devices to be tested may be available for viewing by request at various MoDOT facilities.

A final report will be completed, inclusive of updated (as necessary) standard engineering drawings and specifications, along with any recommendations. If the testing was unsuccessful, the Offeror will prepare a final report on all aspects of the testing with an analysis of design problems and recommendation on how to overcome these issues.

The parameters of the test will be provided in specific detail, such that the tests performed can be replicated, and the results of the crash tests will be accurate and reliable.

MoDOT may select up to five devices for testing as the budget allows. Details regarding the devices to be tested are located in Exhibit 3. MoDOT intends to test several more devices as funds become available in the future.

While testing all of these devices is desirable, doing so may not be feasible based on the available budget. **Therefore, responses to this RFP shall include separate costs for each device being tested.**

The results of these tests may not be shared with any other entity without written approval from MoDOT.

MoDOT may share this data with external partners such as MPO's, universities, other state agencies and consultants.

As described later in this document, MoDOT shall reserve the right to validate the provided data. Validation tests may be used as justification for contract termination as described in Section 5 and will also be used to determine if the optional contract renewals are exercised.

A contract will be awarded to a single vendor based on the selection criteria described later in this document. Details of the requirements are included in Section 2, Scope of Work.

(G) Requirements of the Research Team:

Due to the nature of this study, the proposed research team must include at least one individual who is knowledgeable and experienced in performing current MASH testing. The proposal must demonstrate this requirement is met in the "Experience" and "Personnel" sections as well as in the attached resumes.

Laboratories must be current on the FHWA Safety Program *Laboratories Accredited to Crash Test Roadside Safety Hardware* website at the date of the solicitation expiration.

(H) Data Ownership:

It is the intent of this RFP to secure for MoDOT full rights to the crash data to use in support of internal organization operations, external performance measure reporting, publications, or studies.

All data provided by the Offeror shall be available for full use by MoDOT and its partners, including MPO's, universities, other state agencies, and consultants.

MoDOT shall have the right to create visualizations and summary statistics of the data (i.e. graphs, charts, tables, etc.) for presentations and distribution to the general public and may work with external partners in order to do so. MoDOT will not assume any liability for use of the data by third parties or access to the data by third parties.

Contracting organizations, including universities, providing services on behalf of MoDOT shall be subject to the same rights and restrictions given herein, but limited to the context of the

contracted service. This includes organizations engaged by or acting on behalf of MoDOT to evaluate the accuracy and other parameters data.

SECTION 2: SCOPE OF WORK AND SPECIFIC SERVICES

(A) Scope of Work: The successful Offeror agrees to provide to MHTC the following professional crash testing services:

➤ The Offeror shall be responsible for coordinating with an approved testing facility to procure the test device, procurement of test vehicle(s), conducting physical crash testing, and returning the crash site to an acceptable condition to the test agency. Given the ad hoc nature of these devices, MoDOT will provide one of each test device to be used as a preliminary example.

➤ If a modified device is known to not meet MASH test standards, then further coordination with MoDOT will be required.

➤ The Offeror will perform an initial evaluation of the selected ad hoc devices. This evaluation could be based on previous experience, expertise, and/or computer simulations. The Offeror may suggest slight modifications to the devices to improve the chances of a successful test, prior to performing the crash tests. Any revisions to the devices will need to be approved by MoDOT.

➤ The crash testing will be conducted following criteria from the Manual for Assessing Safety Hardware (MASH) for TL-3 testing. A video that documents the performance of the device during the crash testing will be provided to MoDOT.

➤ Upon completion of crash testing, the Offeror will analyze results, suggest modifications to the device (as appropriate), and submit the findings to MoDOT. The Offeror shall provide a final report, inclusive of updated (as necessary) standard engineering drawings and specifications, along with any recommendations. If the testing was unsuccessful, the final report shall include all aspects of the testing with an analysis of design problems and recommendation on how to overcome these issues.

➤ MoDOT may select up to five devices for testing as the budget allows. Details regarding the devices to be tested are located in Exhibit 3. While testing all of these devices is desirable, doing so may not be feasible based on the available budget. **Therefore, responses to this RFP shall include separate costs for each device being tested.**

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

➤ The crash testing will be conducted following criteria from the Manual for Assessing Safety Hardware (MASH) for TL-3 testing.

- E-mail and phone communications with MoDOT contacts are required monthly to provide on-going updates of progress. The frequency of these communications may be increased should the need arise.
- A technical memo will be provided to MoDOT as the crash testing results for individual traffic control devices become available. These memos will include a listing of results from the research, a list of recommendations based on the list, and a preliminary list of ideas to implement the recommendations.
- Testing documentation, including report contents and presentation formats, will be consistent with those outlined in the Manual for Assessing Safety Hardware (MASH).
- Upon completion of the crash testing, the Offeror will analyze the results, suggest modifications to the device (as appropriate), and submit relevant data to FHWA (or its consultant) for acceptance. MoDOT will be copied on all documents submitted to FHWA.
- Once the design is accepted by FHWA to MASH TL-3, a final report will be completed, inclusive of updated (as necessary) standard engineering drawings and specifications. A copy of the FHWA acceptance letter must also be provided.
- A draft version of the final report will be provided for review. One or more revisions should be anticipated. The final report must have the standard documentation form completed and should have sections consistent with the typical research report. The final report will be inclusive of updated (as necessary) standard engineering drawings and specifications, along with any recommendations.
- If the testing was unsuccessful, the Offeror will include in the final report on all aspects of the testing with an analysis of design problems and recommendation on how to overcome these issues.

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 performing crash testing services, the Offeror must provide information related to previous and current contractual relationships considered identical or similar in this RFP during the past three (3) years. The description should include a list of the agencies which your institution has served or currently serves. 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, 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 proposer 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.

B. Performance Timeline/Milestones: In order to show feasibility, a timetable setting forth appropriate milestones shall be included in Offeror's proposal, with sufficient detail explaining how Offeror will meet those timelines/milestones.

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, 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.

7. Accredited Laboratory: Laboratories must be current on the FHWA Safety Program *Laboratories Accredited to Crash Test Roadside Safety Hardware* website at the date of the solicitation expiration or the Offerors response will be viewed as not responsive to the RFP and no longer considered.

(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 Offeror's corresponding Opens Records Act 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	Maximum Points
Experience, Expertise, and Reliability	15
Qualification and Expertise of Key Personnel	15
Proposed Method of Performance	15
Proposed Fee	25
References	10
Overall Clarity and Quality of Proposal	15
Project Schedule	5
Accredited Laboratory	Pass/Fail

From this evaluation, the Department may establish a short list of prospective candidates to invite for an Oral Presentation. Scores will be assessed given information presented or information clarified during the Oral Presentation, if conducted.

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: MoDOT's State Traffic and Highway Safety Engineer 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 accomplished by a formal contract amendment approved and signed by representatives of the Successful Offeror and Commission, respectively, each of whom being duly authorized to execute the contract amendment on behalf of the Successful Offeror and Commission, respectively.

(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 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.

(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 by providing the successful Offeror with 60 days 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. The Offeror will be compensated for non-cancellable costs incurred prior thereto.

(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: Out-of-state 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 a court of competent jurisdiction.

(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 review of MHTC's representative.

(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: The Offeror covenants to the best of its knowledge, 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 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 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.

[The remainder of page intentionally left blank.]

**SECTION 6:
PRICING PAGE**

The Offeror shall provide a guaranteed, not-to-exceed total price for each of the following device. All costs associated with providing the required services shall be included in the stated guaranteed, not-to-exceed total prices.

In addition, the Offeror shall provide an itemized breakdown of each of the guaranteed, not-to-exceed total prices detailing the services involved and the costs associated with the services. Offeror may use additional pages if necessary.

Guaranteed Not-To-Exceed Price for Each Device		
No.	Device	Cost
1	X-Foot Signs with Trim-line Bases	
2	Crash the System with just two bolts instead of four	
3	Guardrail/Guard Cable Sign Mount with Post Style	
4	Sign Modification with PSST Base	
5	Guardrail/Guard Cable Sign Mount welded to Temporary Sign Stand	

Based on the available budget, it may not be feasible for MoDOT to test each of these devices. The devices to be tested will be finalized during the contracting phase.

In addition, the Offeror shall provide an itemized breakdown of the additional services not mentioned in the RFP that the MHTC may take into consideration.

003. Miscellaneous Services	
	\$
	\$
	\$
	\$
	\$

Offeror Printed or Typed Name: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

1st Renewal Guaranteed Not-To-Exceed Price for Each Device		
No.	Device	Cost
1	X-Foot Signs with Trim-line Bases	
2	Crash the System with just two bolts instead of four	
3	Guardrail/Guard Cable Sign Mount with Post Style	
4	Sign Modification with PSST Base	
5	Guardrail/Guard Cable Sign Mount welded to Temporary Sign Stand	

2nd Renewal Guaranteed Not-To-Exceed Price for Each Device		
No.	Device	Cost
1	X-Foot Signs with Trim-line Bases	
2	Crash the System with just two bolts instead of four	
3	Guardrail/Guard Cable Sign Mount with Post Style	
4	Sign Modification with PSST Base	
5	Guardrail/Guard Cable Sign Mount welded to Temporary Sign Stand	

3rd Renewal Guaranteed Not-To-Exceed Price for Each Device		
No.	Device	Cost
1	X-Foot Signs with Trim-line Bases	
2	Crash the System with just two bolts instead of four	
3	Guardrail/Guard Cable Sign Mount with Post Style	
4	Sign Modification with PSST Base	
5	Guardrail/Guard Cable Sign Mount welded to Temporary Sign Stand	

4th Renewal Guaranteed Not-To-Exceed Price for Each Device		
No.	Device	Cost
1	X-Foot Signs with Trim-line Bases	
2	Crash the System with just two bolts instead of four	
3	Guardrail/Guard Cable Sign Mount with Post Style	
4	Sign Modification with PSST Base	
5	Guardrail/Guard Cable Sign Mount welded to Temporary Sign Stand	

Offeror Printed or Typed Name: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

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:

Exhibit 3: MoDOT Devices for Crash Testing

1. X-Foot Signs with Trim-line Bases



For this “temporary-type” sign stand, the sign type could be a critical component of a successful crash test. Metal signs are usually the most scrutinized of the different sign types. The crash testing laboratory will be asked to provide their expert opinion of the success rate of metal signs, plastic signs, and roll-up signs. The crash testing laboratory will also be asked to give their recommendation on which sign type should be used in the testing. MoDOT will then decide which sign type(s) will be used for testing the device.

There are three types of ballast that may be implemented out in the field. The crash testing laboratory will provide their recommendation if all three ballast types need to be tested or if testing one type of ballast will be sufficient. If all three need to be tested then the offeror will supply separate cost estimates to test each ballast type and MoDOT will decide which one(s) will be tested.

2. Crash the system with just two bolts instead of four



MoDOT has a couple other post mounted scenarios to be tested at a future date. The offeror may be asked by MoDOT if any other scenarios can be crash tested with the selected scenario.

3. Guardrail/Guard Cable Sign Mount with Post Style



4. Sign Modification with PSST Base



5. Guardrail/Guard Cable Sign Mount welded to Temporary Sign Stand

