

**MISSOURI DEPARTMENT OF TRANSPORTATION  
GENERAL SERVICES  
2309 Barrett Station Road  
Ballwin, MO 63021**

REQUEST NO.	D611-066-RB	
DATE	December 9, 2010	
PAGE NO.	1	NO. OF PAGES 37

SEALED BIDS, SUBJECT TO THE ATTACHED CONDITIONS WILL BE RECEIVED AT THIS OFFICE UNTIL

**2:00p/m., Local Time, December 30, 2010**

AND THEN PUBLICLY OPENED AND READ FOR FURNISHING THE FOLLOWING SUPPLIES OR SERVICES.

**BIDS TO BE BASED F.O.B. MISSOURI DEPARTMENT OF TRANSPORTATION**

Submit net bid as cash discount stipulations will not be  
Route 40, North Outer Road, South Outer Road and Ramps between I-270 and Route 340

DEFINITE DELIVERY DATE SHOULD BE SHOWN. THE BIDDER MUST SIGN AND RETURN BEFORE DATE AND TIME SET FOR OPENING.

**BUYER:** Athena Nance, Sr. Procurement Agent      **BUYER TELEPHONE:** 314-301-1440  
**BUYER EMAIL:**  
athena.nance@modot.mo.gov

**SERVICES**

**Upgrade Existing Non-Standard Guardrail Applications along Route 40**

This solicitation seeks bids from qualified companies who can provide Guardrail Upgrades and Installation

**Components of Agreement:** The Agreement between MHTC and the successful Bidder shall consist of: the RFB and any written amendments thereto, the "Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions" that are attached to this RFB, the bid submitted by the Bidder in response to the RFB and the post-award contract agreement signed between the parties. However, MHTC reserves the right to clarify any relationship in writing and such written clarification shall govern in case of conflict with the applicable requirements stated in the RFB or the Bidder's bid. The Bidder is cautioned that its bid shall be subject to acceptance by MHTC without further clarification.

**Return sealed bid to the address shown at the top of this page.**

Missouri Highways and Transportation Commission  
Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions

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(SEE ATTACHED FOR TERMS, CONDITIONS, AND INSTRUCTIONS)

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*In compliance with the above Request For Bid, and subject to all conditions thereof, the undersigned bidder agrees to furnish and deliver any or all the items on which prices were bid within the timeframe specified herein, after receipt of formal purchase order.*

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_____	<b>Firm Name:</b>	_____
_____	<b>Address:</b>	_____
_____	<b>By (Signature):</b>	_____
<b>Email Address:</b> _____	<b>Type/Print Name</b>	_____
<b>Is your firm MBE certified?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<b>Title:</b>
		<b>Is your firm WBE certified?</b> <input type="checkbox"/> Yes

Form E-103 (Rev. 11-04)

**Note to Respondent:** A vendor must be in compliance with the laws regarding conducting business in the State of Missouri. The compliance to conduct business in the state shall include but may not be limited to: Registration of business name, vendors MUST submit a bid/proposal that correctly and accurately identifies the company name that is registered to do business in the State of Missouri. The Missouri Department of Transportation reserves the right to reject any or all bids, and to accept or reject any items thereon and to waive technicalities. All bids must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.

- **General Wage Order # 54 to apply. (See Attachment 001)**
- **"EXCESSIVE UNEMPLOYMENT IS IN EFFECT"**

Only Missouri laborers and laborers from nonrestrictive states are allowed by law to be employed on Missouri's public works projects when the unemployment rate exceeds 5 percent for two consecutive months. ([See Sections 290.550 through 290.580 RSMo](#)).

*Restrictive states are as follows:* Alaska, Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Idaho, Illinois, Iowa, Maine, Massachusetts, Mississippi, Montana, Nevada, New Jersey, North Dakota, Oklahoma, South Dakota, and the U.S. Virgin Islands, West Virginia and Wyoming.

- **Bidders 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. Bidders are encouraged to obtain 10% MBE and 5% WBE participation.

## 1. INTRODUCTION AND GENERAL INFORMATION

### 1.1 Introduction:

This Request For Bid seeks bids from qualified organizations to provide Guardrail Upgrades and Installation located in St. Louis County (Route 40; North Outer Road, South Outer Road and Ramps between I-270 and Route 340) with an effective contract period from Notice to Proceed through April 15, 2011 to the Missouri Highways and Transportation Commission (MHTC) and Missouri Department of Transportation (MoDOT). Each bid must be mailed in a sealed envelope to Ms. Athena Nance, Procurement Unit, 2309 Barrett Station Road, Ballwin, MO 63021 or hand-delivered in a sealed envelope to the Procurement Office in the Highway and Transportation Building at 2309 Barrett Station Road, Ballwin, MO. All questions regarding the RFB shall be submitted to Ms. Athena Nance within five (5) days of bid closing. Bids must be returned to the office of Ms. Athena Nance no later than 2:00./p.m., CST, December 30, 2010.

Vendor is advised to review project site prior to submission of bid pricing. No MoDOT staff need be present.

### RFB Coordinator:

**Ms. Athena Nance**  
**Sr. Procurement Agent**  
**2309 Barrett Station Road**  
**Ballwin, MO 63021**  
**PHONE: 314-301-1440**

### 1.2 General Information:

**1.2.1** This document constitutes an invitation for competitive, sealed bids for Guardrail Upgrades and Installation Services as set forth herein.

**1.2.2** Organization - This document, referred to as a Request for Bid (RFB), is divided into the following parts:

- 1) Introduction and General Information
- 2) Bid Requirements
- 3) Bid Submission
- 4) Pricing Page
- (5) Exhibits A, E through K – Within Request for Bid
- (6) Exhibits B,C, D – Attachments to Request for Bid
- (7) General Wage Order 54 – Attachment to Request for Bid
- (8) Terms and Conditions

**1.2.3** This document contains requirements related to the newly revised statute.

Effective January 1, 2009 and pursuant to RSMo 285.530 (1), 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. Additional specific information is included herein.

<http://www.moga.mo.gov/statutes/C200-299/2850000530.HTM>

E-Verify is an example of a federal work authorization program. For vendors 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](http://www.dhs.gov/xprevprot/programs/gc_1185221678150.shtm)

## **2. Bid Requirements**

### **2.1 General Requirements:**

All traffic control and mobilization will be supplied by successful bidder and must adhere to MoDOT's approved traffic control devices and procedures.

**Visit to Job Site may be done at Bidders discretion. MoDOT staff will not be required to be present.**

Successful bidder must indicate if they have any previous experience with Guardrail Upgrades and Installation Services

Upon acceptance, the successful bidder's work must receive final approval by MoDOT Engineer to warrant workmanship and performance through July 1, 2011. If MoDOT Engineer determines improper installation then replacement will be done at no additional cost to MoDOT.

Completion date: To be completed on or before April 15, 2011.

### **2.2 Required Specifications** - All materials, equipment, and/or services bid upon must comply with MoDOT Specifications and any other provisions outlined in the solicitation documents.

#### **2.2.1 Hours of Operation:** Monday through Friday days allowed, 9:00 AM to 3:00 PM.

Weekend and holiday work hours require prior approval by the engineer and may not be allowed. All equipment and materials shall be removed, pavement cleaned, all traffic control devices removed or set aside, and all lanes open by 3:00 PM. NO EXCEPTIONS ALLOWED.

#### **2.2.2** No work shall be scheduled on the following holidays: New Year's Day. Please obtain permission to schedule work two (2) hours before or two (2) hours after a local major event, Cardinal Baseball games, Rams Football games, Blues Hockey games or any other event from the designated MoDOT Engineer.

## **2.3 Liquidated Damage Requirements:**

- 2.3.1** The contractor shall agree and understand that providing the Service – Guardrail Upgrades and Installation Services in accordance with the requirements stated herein is considered critical to the efficient operations of MoDOT. However, since the amount of actual damages would be difficult to establish in the event the contractor fails to comply with the contractual requirements, the contractor shall agree and understand that the amount identified below as liquidated damages shall be reasonable and fair under the circumstances.
- a. In the event the contractor fails to provide the Service – Guardrail Upgrades and Installation Services in accordance with the contractual requirements specified herein, the contractor shall be assessed liquidated damages in the amount of \$1000.00 per day for each such delinquent day.
  - b. The contractor shall further agree and understand that such liquidated damages shall either be deducted from the total amount due the contractor or paid by the contractor as a direct payment to MoDOT, at the sole discretion of MoDOT.
  - c. The contractor shall agree and understand that the liquidated damages described herein shall not be construed as a penalty.
  - d. The contractor shall agree and understand that all assessments of liquidated damages shall be within the discretion of the MoDOT and shall be in addition to, not in lieu of, the rights of the MoDOT to pursue other appropriate remedies.
  - e. The contractor shall agree and understand that if the Service – Guardrail Upgrades and Installation Services is rejected due to not meeting specifications, all cost associated with returning such Service – Guardrail Upgrades and Installation Services to the contractor shall be paid by the contractor, at no additional cost to MoDOT.

## **2.4 Invoicing and Payment Requirements:**

- 2.4.1** The contractor shall submit an itemized invoice to the following address after the completion of deliverables, as specified herein.  
Missouri Department of Transportation- Project # 36LF WSRSL40  
Business and Benefits  
1590 Woodlake Drive  
Chesterfield, MO 63017-5712
- 2.4.2** Each invoice should be itemized in accordance with items listed on the purchase order and/or contract. The statewide financial management system has been designed to capture certain receipt and payment information. Therefore, each invoice submitted must reference the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- 2.4.3** The contractor shall be paid in accordance with the firm, fixed prices stated on the pricing page(s) of this document after completion of deliverables specified herein and acceptance by MoDOT.
- 2.4.4** Other than the payment specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever.

**2.4.5** MoDOT is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Federal Excise Tax Exemption Certificate will be furnished to the successful bidder upon request.

**2.4.6** Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The Missouri Highways and Transportation Commission (MHTC) shall not make any advance deposits.

**2.4.7** The MHTC assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any authorized quantity is subject to the MHTC's rejection and shall be returned at the contractor's expense.

**2.5 Other Contractual Requirements:**

**2.5.1** Contract Period - The contract shall commence from the date of award until April 15, 2011.

**2.5.2** Inspection Specifications - MoDOT reserves the right to inspect the material at the point of manufacture, intermediate storage point, or at a destination which shall be at the discretion of MoDOT.

**2.5.3** RSMo 285.530 - The contractor understands and agrees that by entering into a contractual agreement with MoDOT, they certify the following:

- a. The contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws. This includes, but is not limited to, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and INA Section 274A.
- b. If the contractor is found to be in violation of this requirement or the applicable state, federal and local laws and regulations, and if the State of Missouri has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States, the state shall have the right to cancel the contract immediately without penalty or recourse and suspend or debar the contractor from doing business with the state.
- c. The contractor agrees to fully cooperate with any audit or investigation from federal, state or local law enforcement agencies.

**3. BID SUBMISSION**

**3.1 Bid Submission Information:**

**3.1.1** All bids must be received in a sealed envelope clearly marked "**D611-066-RB Guardrail Upgrades and Installation Services**".

**3.1.2** All bids must be received at the following address no later than December 30, 2010 at 2:00p.m., CST.

The Missouri Department of Transportation  
Procurement Division  
Attn: Athena Nance  
2309 Barrett Station Road

Ballwin, MO 63021

- 3.1.3 The bidder may withdraw, modify or correct his bid after it has been deposited with the Department provided such request is submitted in writing and received at the location designated for the bid opening prior to the time specified for opening bids. Such a request received as specified will be attached to the bid and the bid will be considered to have been modified accordingly. No bid may be modified after the time specified for the opening of bids.
- 3.1.4 Open Competition / Request For Bid Document:
- a. It shall be the bidder's responsibility to ask questions, request changes or clarification, or otherwise advise MoDOT if any language, specifications or requirements of an RFB appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFB to a single source. Any and all communication from bidders regarding specifications, requirements, competitive bid process, etc., must be directed to the buyer from MoDOT, unless the RFB specifically refers the bidder to another contact. Such communication should be received at least three (3) working days prior to the official bid opening date. All questions should be submitted in writing.
  - b. Every attempt shall be made to ensure that the bidder receives an adequate and prompt response. However, in order to maintain a fair and equitable bid process, all bidders will be advised, via the issuance of an amendment to the RFB, of any relevant or pertinent information related to the procurement. Therefore, bidders are advised that unless specified elsewhere in the RFB, any questions received less than five (5) working days prior to the RFB opening date may not be answered. All questions should be submitted in writing.
  - c. Bidders are cautioned that the only official position of the MoDOT is that which is issued by MoDOT in the RFB or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.
  - d. MoDOT monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among bidders, price-fixing by bidders, or any other anticompetitive conduct by bidders which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General's Office for appropriate action.
- 3.1.5 Pursuant to 285.530 RSMo, the bidder must affirm enrollment and participation in a federal work authorization program with respect to the employees proposed to work in connection with the services requested herein by:
- a. Submitting a completed Signature and Identity of Bidder form, attached herein,
  - b. Submitting a completed, notarized copy of the applicable portion of Exhibit A, WORKER ELIGIBILITY VERIFICATION AFFIDAVIT **or** APPLICANT AFFIDAVIT FOR SOLE-PROPRIETORSHIP OR PARTNERSHIP, and
- 3.1.6 **Proposal/Bid Guaranty/Contract Bond:**
- a. Each bid/proposal shall be accompanied by a Bid Bond, Certified Check, Cashier's Check or Bank Money Order payable to the Director of Revenue – Credit State Road Fund for an amount equal to Five Percent (5%) of the amount of the BID submitted. This is to act as a guarantee that the bidder, if awarded the contract, will furnish an acceptable performance and payment bond (Contract Bond) or

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a cashier's check, a bank money order or a certified check made payable to "Director of Revenue--Credit State Road Fund" in an amount equal to One Hundred (100%) of the contract price.

- b. If a BID BOND is used (in lieu of a certified check, cashier's check, or bank money order), it must be in the form provided and executed by the bidder as principal and by a surety company authorized to do business in the MoDOT as surety. The agent executing the same on behalf of the surety company must attach a current Power of Attorney setting forth his authority to execute the bond involved.
  - c. Certified Checks, Cashier's Checks or Bank Money Orders of unsuccessful bidders will be returned as soon as the award is made. The checks or bank money orders of the successful bidder(s) will be retained until the contract is executed and a satisfactory Performance and Payment (Contract Bond) is furnished. Bid Bonds will not be returned except on specific request of the bidder.
- 3.1.7 Bids will be reviewed to determine if the bid complies with the mandatory requirements, and to determine the lowest and best bid.
- 3.1.8 Cost Determination - The low bid shall be determined by adding all of the firm, fixed prices on the pricing page for the original contract period to obtain a total price.
- 3.1.9 Contract Award – The contract will be awarded to the lowest responsive bidder determined as specified above.
- a. Award of this bid will be made on an “All Or Nothing” basis using the “lowest and best” principle of award.
- 3.1.10 **NOTE:** The bidder must be in compliance with the laws regarding conducting business in the MoDOT. Within ten (10) business days of notification, the bidder will need to provide a copy of his/her Missouri Secretary of State’s “Certificate of Good Standing” prior to the issuance of any contract or initial purchase order by MoDOT.

**4. PRICING PAGE**

**4.1 D611-066-RB Guardrail Upgrades and Installation Services** - The bidder shall provide a firm, fixed price in the table below for the original contract period. All costs associated with providing the required deliverables/services shall be included in the prices stated below. Please see attached Exhibits A-D before applying cost. **Vendor is advised to review project site prior to submission of bid pricing. No MoDOT staff need be present.**

Item #	Commodity Code and Description	Unit of Measure U/M	Quantity	Unit Price	Item Cost
001	Guardrail Type A	LF	911	\$	
002	Guardrail Type A, 7 ft Post 3 ft-1.5 IN Spacing	LF	125	\$	
003	Type A Crashworthy End Terminals	Each	29	\$	
004	End Anchor	Each	1	\$	
005	Traffic Control and Mobilization	Lump Sum	1	\$	

**TOTAL COST \$ \_\_\_\_\_**

**(TITLE):**

\_\_\_\_\_  
 Authorized *Signature*

\_\_\_\_\_  
*Date*

**COMPANY NAME:**

**Exhibit A**

**Miscellaneous Contract Requirements and Specification**

**A. Purpose & Work Location**

The purpose of this project is to upgrade existing non standard guardrail applications along Route 40 to prepare the Route for future Interstate status.

This project is located on Route 40, North Outer Road, South Outer Road and Ramps between I-270 and Route 340. The log mile and roadway direction of each work location is shown in the list below. Exhibit B-1 and B-2 of the contract documents includes an aerial map with log mile designations indicating each location.

**WORK LOCATIONS**

Location #	Log Mile	Direction
1	20.6	EB 40 RT
2	21.0	EB 40 RT
3	21.8	EB 40 SOR RT
4	22.0	EB 40 RT
5	22.2	EB 40 RT
6	22.3	EB 40 141 RP RT
7	22.4	EB 40 RT
8	22.7	EB 40 SOR LT
9	23.0	EB 40 RT
10	23.1	EB 40 RT
11	23.2	EB 40 RT
12	23.6	EB 40 RT
13	24.6	EB 40 RT
14	25.2	EB 40 RT

Location #	Log Mile	Direction
15	20.2	WB 40 RT
16	20.8	WB 40 RT
17	21.0	WB 40 RT
18	21.6	WB 40 NOR RT
19	22.0	WB 40 NOR RT
20	22.0	WB 40 RT
21	22.3	WB 40 141 RP RT
22	22.4	WB 40 RT
23	22.5	WB 40 NOR RT & LT
24	22.6	WB 40 RT
25	22.8	WB 40 NOR LT.
26	23.0	WB 40 RT
27	23.1	WB 40 NOR LT
28	23.2	WB 40 RT
29	23.4	WB 40 RT

**B. Project Contact for Contractor**

All questions concerning this project during the construction process shall be forwarded to the project contact listed below:

Thomas Montes-De-Oca, PE  
Transportation Project Manager  
District 6  
1590 Woodlake Drive  
Chesterfield, MO. 63017

Telephone Number (314-453-5031)

Fax Number (314-340-4119)

E-Mail [Thomas.Montas-De-Oca@modot.mo.gov](mailto:Thomas.Montas-De-Oca@modot.mo.gov)

### **C. Work Description**

This work consists of removing existing guardrail terminal end sections and replacing with type "A" crashworthy end terminals and installing guardrail as shown on the plans or as directed by the engineer. At location #13, the existing crashworthy end terminal will be removed and reinstalled. All removed guardrail shall become the property of the contractor and shall be properly disposed of off the right of way. No direct pay will be made for existing guardrail removal or the removal and reinstallation of existing crashworthy end terminals.

Work on guardrail or crashworthy end terminals when the adjacent travel or auxiliary lane is open to traffic during non-working hours shall adhere to the following requirements:

- (a) The contractor shall provide a schedule of work prior to the beginning of work.
- (b) Remove no more guardrail or crashworthy end terminals than can be replaced in the same day.
- (c) Schedule guardrail and crashworthy end terminal installation to ensure guardrail beam or crashworthy end terminal is properly attached to all installed posts at the end of each work day.
- (d) Ensure end sections or terminals exposed to traffic meet current standards. Guardrail or crashworthy end terminal shall be maintained to within 3 inches (75 mm) of the nominal barrier height shown on the plans.
- (e) Notify the engineer prior to delivery of the material to the project.

If guardrail or crashworthy end terminal cannot be replaced the same day as removal, traffic control measures meeting the approval of the engineer shall be provided. The contractor will not be compensated for any additional traffic control items required to perform this work. In all cases, the contractor shall ensure that the guardrail or crashworthy end terminal installation is fully anchored before opening the adjacent lane to traffic.

The shoulders and slopes shall be in accordance with all standards shown on the plans or shall be as directed by the engineer before the installation of any guardrail or crashworthy end terminals.

Galvanized material shall be handled in a manner to avoid damage to the surface. No punching, drilling, cutting or welding will be permitted after galvanizing, except as approved by the engineer to provide for lapped beams, or for changes in location of splices necessitated by field clearances. Any galvanized material on which the galvanizing has been damaged will be rejected or may, with the engineer's approval, be repaired in accordance with Sec 1080.

Posts may be wood or steel. The same material shall be used for all new installations within a single project, except for end treatments. If the project requires an extension of existing guardrail, the new post material for the extension shall match the existing material. Wood posts for end anchors shall be installed as shown on the plans. Posts may be installed by either drilling or driving. Posts installed by drilling shall have sufficiently sized holes to permit thorough compaction of backfill material around the posts. The backfill material shall be compacted in layers not exceeding 12 inches (300 mm) high. Posts installed by driving may be driven by a power hammer or any other method approved by the engineer. Any mushrooming on the top of the post shall be removed. Damaged zinc coating on galvanized posts shall be field repaired in accordance with Sec 1081. If, in the judgment of the engineer, the exposed portion of a wood post is split or the driving process noticeably worsens the check cracking, the post shall be replaced by the contractor at the contractor's expense.

Beams shall be spliced by lapping in the direction of traffic. The use of 25-foot (7.62 m) sections of beam rails and channels, if required, will be permitted for bridge anchor sections, and any place where true line and grade can be maintained.

End anchors shall be installed on ends of guardrail runs where crashworthy end terminals are not required.

Delineators shall be placed on all guardrail located 2 feet (600 mm) or less from the edge of the shoulder. Delineators shall be spaced at 50-foot (15 m) intervals. Delineator reflector colors shall correspond with pavement marking. Delineators shall be sheeted on one side, facing oncoming traffic, unless otherwise specified. Where guardrail divides opposing lanes of travel, the delineators shall have retro-reflective sheeting on both sides corresponding to adjacent pavement markings. Guardrail located on ramps shall have red reflective sheeting placed on the reverse side of the reflector. Guardrail located on two lane roads shall have retro-reflective sheeting on both sides corresponding to the adjacent pavement markings. If there are not edgelines present, white retro-reflective sheeting shall be used. Delineators will be installed according to manufacturer's recommendations. Any damaged or missing delineators shall be replaced by the contractor at the contractor's expense.

Type A end terminal installations shall be a minimum of 50 feet (15 m) long. Additional Type A guardrail shall be provided by the contractor, at the contractor's expense, to increase the Type A end terminal to a length of 50 feet (15 m).

End terminals and crash cushions shall be fabricated and installed in accordance with the manufacturer's approved shop drawings, recommendations and as shown on the plans. Any units damaged during the term of the contract shall be replaced immediately at the contractor's expense.

Where a specific end terminal or crash cushion is shown by product name, that unit shall be used as shown on the plans. No substitutions will be permitted without prior approval from the engineer.

The contractor shall not install flared Type "A" end terminals in medians or on curbs. The contractor shall not install Type B end terminals on paved surface locations, unless the location is temporary and the paved area is to be resurfaced after removal of the system. The contractor may use Type C, D, and E end terminals where Type B units are specified or shown on the plans.

Crashworthy end terminals located 12 feet (3.6 m) or less from the edge of the traveled way shall be furnished with a modified Type 3 object marker. The marker size, shape, method of attachment and placement shall be approved by the engineer prior to installation.

See Exhibit "D" for standard plans regarding guardrail installation.

#### **D. Traffic Control**

All traffic control shall be provided by the contractor as shown in Exhibit "C" of the contract documents. Traffic control quantities are set-up for one work zone location. Lane closures will be as directed by the designated engineer for each work location. Cost for additional work zones will be at the expense of the contractor. Standard MUTCD compliant signs, channelizers, flashing arrow panels, etc shall be used. Signs shall be removed while not in use.

**E. QUANTITIES**

**GUARDRAIL QUANTITIES**

Location #	Log Mile	Direction	Type A Guardrail (L.F.)	Type A Guardrail 7 FT. Post, 3 FT.-1.5 Inch Spacing (L.F.)	End Anchor (Each)	Crashworthy End Treatment (Each)
1	20.6	EB 40 RT	0			1
2	21.0	EB 40 RT	0			1
3	21.8	EB 40 SOR RT	25			1
4	22.0	EB 40 RT	0			1
5	22.2	EB 40 RT	0			1
6	22.3	EB 40 141 RP RT	0			1
7	22.4	EB 40 RT	87.0			1
8	22.7	EB 40 SOR LT	0			1
9	23.0	EB 40 RT	12.0			1
10	23.1	EB 40 RT	25.0			1
11	23.2	EB 40 RT	25.0			1
12	23.6	EB 40 RT	38.0			1
13	24.6	EB 40 RT	125.0			Remove & Reinstall Existing
14	25.2	EB 40 RT	125.0			1
15	20.2	WB 40 RT	25.0			1
16	20.8	WB 40 RT	50.0			1
17	21.0	WB 40 RT	0			1
18	21.6	WB 40 NOR RT	100			1
19	22.0	WB 40 NOR RT	75.0			1
20	22.0	WB 40 RT	0			1
21	22.3	WB 40 141 RP RT	25.0			1
22	22.4	WB 40 RT	12.0			1
23	22.5	WB 40 NOR LT & RT	LT50+RT50 100			2
24	22.6	WB 40 RT	0			1
25	22.8	WB 40 NOR LT.	0			1
26	23.0	WB 40 RT	25.0			1
27	23.1	WB 40 NOR LT	0	125	1	1
28	23.2	WB 40 RT	12.0			1
29	23.4	WB 40 RT	25.0			1
<b>TOTALS</b>			<b>911</b>	<b>125</b>	<b>1</b>	<b>29</b>

Work performed will be paid for by the total quantity of unit of measurement for each item.

**TRAFFIC CONTROL QUANTITIES**

Quantity	Description
4	Sign- WO3-5 Speed Limit, 2-35 & 2-50 Ahead Symbol (48"x48")
2	Sign-W020-1 Road/Bridge/Ramp Work Ahead (48"x 48")
2	Sign W020-5 Right/Center/Left Lane Closed Ahead (48"x48")
2	Sign W020-6a Right/Center/Left Lane Closed (48"x48")
2	Sign G023-1 Work Zone Plaque (36"x12")
4	Sign R2-1 Speed Limit, 2-35 & 2-50, (36"x48")
2	Advance Warning Rail System
10	Flag Assembly
15	Channelizer (Trim Line)
14	Direction Indicator Barricade
1	Flashing Arrow Panel

Work performed for Traffic Control shall include any equipment, materials and labor required and will be paid for as 1 Lump Sum.

**F. Utilities**

For informational purposes only, the following is a list of names, addresses, and telephone numbers of the known utility companies in the area of the construction work for this improvement:

**Utility Name**

**Known Required  
Adjustment**

Mr. Kent Thaemert  
**Laclede Gas Company**  
6400 Graham Road  
Berkeley, MO 63134  
Telephone: 314-522-2297

None

Mr. Francis Kaiser  
**Metropolitan St. Louis Sewer District**  
2350 Market Street  
St. Louis, Missouri 63103  
Telephone: 314-768-6204

None

Missouri Highways and Transportation Commission  
Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions

Mr. Donald Torbett

**MCI**

6929 North Lakewood Rd.  
Tulsa, OK 74117  
Telephone: 918-877-7333

**None**

Mr. Dave Pruitt

**Missouri American Water Company**

727 Craig Road  
St. Louis, MO 63141  
Telephone: 314-996-2336

**None**

Mr. Kirk Thaelke

**LightCore, a CenturyLink Company**

Mail Stop W2M5  
1151 CenturyLink Dr. Bldg. A  
Wentzville, MO 63385  
Telephone: 636-887-4752

**Please Read**

Mr. Jay Estes

**ATT Distribution- Formerly SBC**

12930 Olive Blvd.  
Creve Coeur, MO 63141  
Telephone: 314-851-2345

**None**

Mr. Daniel Head

**AmerenUE**

1901 Chouteau Avenue  
P.O. Box 66149  
St. Louis, MO 63166-6149  
Telephone: 314-554-2129

**None**

Cory Birk

**Charter Communications**

941 Charter Commons  
Town & Country, Missouri 63017  
Telephone: 314-568-5237

**None**

The Missouri Department of Transportation and LightCore, a CenturyLink Company have fiber optic lines that are known to be parallel with Highway 40. These facilities may be within two feet of where you will need to install guardrail posts. If this situation arises the contractor shall, at its own expense, pothole the utility to determine its exact location. If the facility is found to be in conflict then the contractor shall coordinate with LightCore or MoDOT to get the facility relocated. There will be no direct pay associated with compliance with this provision.

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The existence and approximate location of utility facilities known to exist, as shown on the plans, are based upon the best information available to the Commission at this time. This information is provided by the Commission "as-is" and the Commission expressly disclaims any representation or warranty as to the completeness, accuracy, or suitability of the information for any use. Reliance upon this information is done at the risk and peril of the user, and the Commission shall not be liable for any damages that may arise from any error in the information. It is, therefore, the responsibility of the contractor to verify the above listing information indicating existence, location and status of any facility. Such verification includes direct contact with the listed utilities.

The contractor agrees that any effects of the presence of the utilities, their relocation, contractor's coordination of work with the utilities and any delay in utility relocation shall not be compensable as a suspension of work, extra work, a change in the work, as a differing site condition or otherwise including but, without limitation, delay, impact, incidental or consequential damages. The contractor's sole remedy for the effects of the presence of utilities, delay in their relocation or any other effects shall be an excusable delay as provided in Section 105.7.3. The contractor waives, for itself, its subcontractors and suppliers the compensability of the presence of utilities, delay in their relocation and any cost to the contractor, it's subcontractors and suppliers in any claim or action arising out of or in relation to the work under the contract.

The contractor shall be solely responsible and liable for incidental and consequential damage to any utility facilities or interruption of the service caused by it or its subcontractors operation. The contractor shall hold and save harmless the Commission from damages to any utility facilities interruption of service by it or it's subcontractor's operation.

It shall be noted by the contractor that MoDOT is a member of Missouri One Call (800 Dig Rite). Some work on this project may be in the vicinity of MoDOT utility facilities, which includes but is not limited to traffic signal cables, highway lighting circuits, ITS cables, cathodic protection cables, etc. Prior to beginning work, the contractor shall request locates from Missouri One Call. The contractor shall also complete the Notice of Intent to Perform Work form located at the Missouri Department of Transportation website:

<http://www.modot.mo.gov/asp/intentToWork.shtml>

The contractor shall submit the form over the web (preferred method) or by fax to the numbers on the printed form. The notice must be submitted a minimum of 2 and a maximum of 10 working days prior to excavation just as Missouri One Call requires.

**G. Working Hours**

Monday through Friday days allowed, 9:00 AM to 3:00 PM.

Weekend and holiday work hours require prior approval by the engineer and may not be allowed.

All equipment and materials shall be removed, pavement cleaned, all traffic control devices removed or set aside, and all lanes open by 3:00 PM. NO EXCEPTIONS ALLOWED.

**H. Site Restoration**

Restore to its original condition any disturbed areas at sites including, but not limited to guardrail, end anchor and crashworthy end treatment installations. Restoration shall be accomplished by placing material equivalent to that of the adjacent undisturbed area. Disturbed unpaved areas shall be fertilized and either seeded and mulched or sodded as directed by the engineer. The engineer will have the final authority in determining the acceptability of the restoration work.

The cost of restoration of disturbed areas will be incidental. No direct payment will be made for any materials or labor, which is performed under this provision.

### **I. Changes in the Work**

When necessary to satisfactorily complete the project, the Missouri Department of Transportation (MoDOT) reserves the right to change quantities or make other changes for which there are no provisions included in the contract.

If the work does not involve a significant change in the quantity (either up or down) of an established contract item, then the contractor shall complete the work as necessary and payment will be made at the established contract unit prices.

A significant change is defined as an increase in excess of 125% or decrease below 75% of the original contract quantity on a major item of work. A major item of work is defined as any contract item with an original value in excess of 10% of the original contract amount.

If the work involves a significant change in the quantity of a major item then an equitable adjustment may be made to that item's unit price. Either MoDOT or the contractor may request that such an adjustment be made and the contractor shall furnish such information needed to establish the equitable price adjustment. Such adjustment will be determined based on the contractor's actual costs to perform the work, excluding any anticipated profits from work not performed. This determination will be consistent with the contractor's other proven costs to perform the contract work, as shown in the contractor's bid computations and project cost records.

If the change involves an item for which no price is established in the contract then an equitable adjustment will be agreed to by both MoDOT and the contractor prior to performance of the work. Such adjustment will be determined based on the contractor's actual costs to perform the work. If a basis cannot be agreed upon, then an adjustment will be made in such amount as MoDOT may determine to be fair and equitable.

## **Exhibits B-D –Attachments to Request for Bid**



**Exhibit F**

**PREFERENCE IN PURCHASING PRODUCTS**

DATE: \_\_\_\_\_

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

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

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

**FOR CORPORATIONS:**

State in which incorporated: \_\_\_\_\_

**FOR OTHERS:**

State of domicile: \_\_\_\_\_

**FOR ALL VENDORS:**

List address of Missouri offices or places of business:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**THIS SECTION MUST BE COMPLETED AND SIGNED:**

**FIRM NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**CITY:** \_\_\_\_\_ **STATE:** \_\_\_\_\_ **ZIP:** \_\_\_\_\_

**BY (signature required):** \_\_\_\_\_

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

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

**Exhibit G**

**MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT**

The bidder's attention is directed to the Missouri Domestic Products Procurement Act, Sections 34.350 to 34/359, RsMO, which requires all manufactured goods or commodities used or supplied in the performance of this contract or any subcontract to be manufactured or produced in the United States.

Section 34.355, RsMO, requires the vendor or contractor to certify his compliance with Section 34.353 and, if applicable, Section 34.359, RsMO, at the time of bidding **and** prior to payment. Failure to comply with Section 34.353, RsMO, during the performance of the contract **and** to provide certification of compliance prior to payment will result in nonpayment for those goods or commodities.

Section 34.353.2, RsMO, specifies that it does not apply where the total contract is less than Twenty-Five Thousand Dollars (\$25,000.00). If your total bid is Twenty-Five Thousand Dollars (\$25,000.00) or more, you **must** complete this form as directed below.

**Failure to complete and return this document with this bid will cause the State to presume the manufactured goods or products listed in the bid are not manufactured or produced in the United States, and the bid will be evaluated on that basis. Please read the certification appearing below on this form.**

If all the goods or products specified in the attached bid which the bidder proposes to supply to the State shall be manufactured or produced in the "United States" as defined in Section 34.350, RsMO, check the box at left.

If only one item of any particular goods or products specified in the attached bid is manufactured or produced in the "United States" as defined in Section 34.350, RsMO, check the box at left and list the items (or item number) here:

\_\_\_\_\_

\_\_\_\_\_

If any or all of the goods or products specified in the attached bid which the bidder proposes to supply to the State are **not** manufactured or produced in the "United States" as defined in Section 34.350, RsMO, then: (a) check the box at left; (b) list below, by item (or item number), the country other than the United States where each good or product is manufactured or produced; and (c) check the boxes to the left of the paragraphs below if applicable and list the corresponding items (or item numbers) in the spaces provided.

Item (or item number)	Location Where Item Manufactured or Produced

(attach an additional sheet if necessary)

The following specified goods or products cannot be manufactured or produced in the United States in sufficient quantities or in time to meet the contract specifications. Items (or item numbers):

\_\_\_\_\_

\_\_\_\_\_

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The following specified goods or products must be treated as manufactured or produced in the United States, in accordance with an existing treaty, law, agreement, or regulation of the United States, including a treaty between the United States and any foreign country regarding export-import restrictions or international trade. Items (or item numbers):

---

---

**CERTIFICATION**

**By submitting this document, completed as directed above, with a bid, the bidder certifies under penalty of making false declaration (Section 575.060, RsMO) that the information contained in this document is true, correct and complete, and may be relied upon by the State in determining the bidders qualifications under and in compliance with the Missouri Domestic Products Procurement Act.**

**The bidder's failure to complete and return this document with the bid as directed above will cause the State to presume the manufactured goods or products listed in the bid are not manufactured or produced in the United States, and the bid will be evaluated on that basis pursuant to Section 34.353.3(2), RsMO.**

**Exhibit H**

**SIGNATURE AND IDENTITY OF BIDDER**

The undersigned states that the correct LEGAL NAME and ADDRESS of (1) the individual Bidder, (2) each partner or joint venture (whether individuals or corporations, and whether doing business under a fictitious name), or (3) the corporation (with the state in which it is incorporated) are shown below; that (if not signing with the intention of binding himself to become the responsible and sole contractor) he is the agent of, and duly authorized in writing to sign for the Bidder or Bidders; and that he is signing and executing this (as indicated in the proper spaces below) as the proposal of a

( ) sole individual ( ) partnership ( ) joint venture

( ) corporation, incorporated under laws of state of \_\_\_\_\_

Dated \_\_\_\_\_.

Name of individual, all partners,  
or joint ventures:

Address of each:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

doing business under the name of:

Address of principal place of business in Missouri

(If using a fictitious name, show  
this name above in addition  
to legal names)

(If a corporation, show its name above)

ATTEST: (SEAL)

_____	_____
-------	-------

Secretary

Title

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(NOTE: If the Bidder is doing business under a FICTITIOUS NAME, the Proposal shall be executed in the legal name of the individual, partners, joint ventures, or corporation, with the legal address shown, and REGISTRATION OF FICTITIOUS NAME filed with the Secretary of State, as required by Sections 417.200 to 417.230, RS Mo. If the Bidder is a CORPORATION NOT ORGANIZED UNDER THE LAWS OF MISSOURI, it shall procure a CERTIFICATE OF AUTHORITY TO DO BUSINESS IN MISSOURI, as required by Section 351.570 and following, RS Mo. A CERTIFIED COPY of such Registration of Fictitious Name or Certificate of Authority to do Business in Missouri shall be filed with the Missouri Highways and Transportation Commission, as required by the Standard specifications, Sec 102.6.6 and 102.6.7.



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\_\_\_\_\_  
Affiant Signature

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

\_\_\_\_\_  
Notary Public

My commission expires:

***[documentation of enrollment/participation in a federal work authorization program attached]***



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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 J**

**BID BOND – D611-066-RB Guardrail Upgrades and Installation Services**

**KNOW ALL MEN BY THESE PRESENTS**, that we \_\_\_\_\_

\_\_\_\_\_,  
as Principal and \_\_\_\_\_, as Surety are held and firmly bound  
unto the **STATE OF MISSOURI** (acting by and through the **Missouri Highways and Transportation Commission**)  
in the penal sum of:

\_\_\_\_\_ **Dollars**  
**(\$ \_\_\_\_\_)** to be paid to the **State of Missouri or to the Missouri Highways and Transportation Commission**, to be credited to the State Road Fund, the Principal and Surety binding themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this \_\_\_\_\_

**THE CONDITION OF THIS OBLIGATION** is such that:

**WHEREAS**, the Principal is submitting herewith a bid to the Missouri Highways and Transportation Commission for furnishing Supply and Installation of Inlaid Pavement Markers as set out in the bid to which this bond is attached.

**NOW THEREFORE**, if the Missouri Highways and Transportation Commission shall accept the bid of the Principal and if said Principal shall properly execute and deliver to the Missouri Highways and Transportation Commission the contract and contract bond in compliance with the requirements of the bid, the specifications and the provisions of law, to the satisfaction of the Highways and Transportation Commission, then this obligation shall be void and of no effect, otherwise to remain in full force and effect.

In the event the said Principal shall, in the judgment of the Missouri Highways and Transportation Commission, fail to comply with any requirement as set forth in the preceding paragraph, then the State of Missouri acting through the Missouri Highways and Transportation Commission shall immediately and forthwith be entitled to recover the full penal sum above set out, together with court costs, attorney's fees and any other expense of recovery.

**(SEAL)**

\_\_\_\_\_  
Principal

By

\_\_\_\_\_  
Signature

**(SEAL)**

\_\_\_\_\_  
Surety

By

\_\_\_\_\_  
Attorney-in-Fact

**NOTE:** This bond must be executed by the PRINCIPAL and by a CORPORATE SURETY authorized to conduct surety business in the State of Missouri.

**Exhibit K**

**MISSOURI SERVICE-DISABLED VETERAN BUSINESS PREFERENCE**

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

Definitions:

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

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

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

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

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

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

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

Veteran Information

Business Information

---

Service-Disabled Veteran's Name, (Please Print)

Service-Disabled Veteran Business Name

---

*Service-Disabled Veteran's Signature*

Missouri Address of Service-Disabled Veteran  
Business

---

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**STANDARD SOLICITATION PROVISIONS**

- a. The Missouri Department of Transportation (MoDOT) reserves the right to reject any or all bids/quotes/proposals, and to accept or reject any items thereon, and to waive technicalities. In case of error in the extension of prices in the bid/quote/proposal, unit prices will govern.
- b. All bids/quotes/proposals must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.
- c. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown, within the State of Missouri.
- d. Time of delivery is a part of the consideration and, if not otherwise stated in the solicitation documents, must be stated in definite terms by the Bidder/Offeror and must be adhered to. If time varies on different items, the Bidder/Offeror shall so state.
- e. If providing bids/quotes/proposals for commodities, the Bidder/Offeror will state brand or make on each item. If bidding or proposing other than the make, model or brand specified, the manufacturer's name, model number or catalog number must be given.
- f. **For bids/proposals of \$25,000 or more**, no bids/proposals by telephone, telegram or telefax will be accepted.
- g. The date specified for the returning of bids/quotes/proposals is a firm deadline and all bids/quotes/proposals must be received at the designated office by that time. The Department does not recognize the U.S. Mail, Railway Express Agency, Air Express, or any other organization, as its agent for purposes of accepting proposals. All proposals arriving at the designated office after the deadline specified will be rejected.

**GENERAL TERMS AND CONDITIONS**

**General Performance**

- a. Bidders 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. Bidders are encouraged to obtain 10% MBE and 5% WBE participation.
- b. This work is to be performed under the general supervision and direction of the Missouri Department of Transportation (MoDOT) and, if awarded any portion of the work, the Contractor agrees to furnish at his own expense all labor and equipment required to complete the work, it being expressly understood that this solicitation is for completed work based upon the price(s) specified and is not a solicitation for rental of equipment or employment of labor by MoDOT, and MoDOT is to have no direction or control over the employees used by the Contractor in performance of the work.

**Deliveries**

- a. Unless otherwise specified on the solicitation documents or purchase order, suppliers shall give at least 24 hours advance notice of each delivery. Delivery will only be received between the hours of 8:00 a.m. to 3:00 p.m., Monday through Friday. Material arriving after 3:00 p.m. will not be unloaded until the following workday. No material will be received on Saturday, Sunday or state holidays.
- b. If the prices bid herein include the delivery cost of the material, the Contractor agrees to pay all transportation charges on the material as FOB - Destination. Freight costs must be included in the unit price bid and not listed as a separate line item.
- c. Any demurrage is to be paid by the Contractor direct to the railroad or carrier.

**Nondiscrimination**

- a. The Contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- b. All solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of the Contractor's obligations under this contract and the Regulations, will be relative to nondiscrimination on the grounds of race, color, or national origin.
  - 1) **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, MoDOT shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
    - i. withholding of payments to the Contractor under the contract until the Contractor complies, and/or,
    - ii. cancellation, termination or suspension of the contract, in whole or in part.

**Contract/Purchase Order**

- a. By submitting a bid/quote/proposal, the Bidder/Offeror agrees to furnish any and all equipment, supplies and/or services specified in the solicitation documents, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the solicitation documents, amendments thereto, and/or Best and Final Offer (BAFO) request(s) with any changes/additions, (2) the Contractor's proposal and/or submitted pricing, and (3) the MHTC's acceptance of the proposal and/or bid by purchase order or post-award contract.
- c. A notice of award does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services, the Contractor must receive a properly authorized purchase order and/or notice to proceed.
- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the Contractor and the duly authorized representative of the MHTC, by a modified purchase order prior to the effective date of such modification. The Contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification.

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**Subcontracting**

- a. It is specifically understood that no portion of the material or any interest in the contract, shall be subcontracted, transferred, assigned or otherwise disposed of, except with the written consent of MoDOT. Request for permission to subcontract or otherwise dispose of any part of the work shall be in writing to MoDOT and accompanied by documentation showing that the organization which will perform the work is particularly experienced and equipped for such work.
- b. Consent to subcontract or otherwise dispose of any portion of the work shall not be construed to relieve the Contractor of any responsibility for the production and delivery of the contracted work and the completion of the work within the specified time.
- c. All payments for work performed by a subcontractor shall be made to the Contractor to whom the contract was awarded and the purchase order issued.

**Invoicing and Payment**

- a. MoDOT is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the Contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Project Tax Exemption Certificate will be furnished to the successful Bidder/Offeror upon request if applicable.
- b. Each invoice should be itemized in accordance with items listed on the purchase order and/or contract. The statewide financial management system has been designed to capture certain receipt and payment information. Therefore, each invoice submitted must reference the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- c. Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The Missouri Highways and Transportation Commission (MHTC) shall not make any advance deposits.
- d. The MHTC assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any authorized quantity is subject to the MHTC's rejection and shall be returned at the Contractor's expense.
- e. The MHTC reserves the right to purchase goods and services using the state-purchasing card.

**Applicable Laws and Regulations**

- a. The contract shall be construed according to the laws of the State of Missouri. The Contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract.
- b. The Contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations. Prior to the issuance of a purchase order and/or notice to proceed, the Contractor may be required to submit to MoDOT a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.
  - 1) Prior to the issuance of a purchase order and/or notice to proceed, all **out-of-state** Contractors **providing services** within the state of Missouri must submit to MoDOT a copy of their current Transient Employer Certificate from the Department of Revenue, in addition to a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.
- c. The exclusive venue for any legal proceeding relating to or arising, out of the contract shall be in the Circuit Court of Cole County, Missouri.

**Executive Order**

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

**Preferences**

- a. In the evaluation of bids/quotes/proposals, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.

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- b. By virtue of statutory authority, RSMo. 34.076 and 34.350 to 34.359, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri. Such preference shall be given when quality is equal or better and delivered price is the same or less.
  - 1) If attached, the document entitled **"PREFERENCE IN PURCHASING PRODUCTS"** should be completed and returned with the solicitation documents.
  - 2) If attached, the document entitled **"MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT"** should be completed and returned with the solicitation documents. **Applies if bid is Twenty-Five Thousand Dollars (\$25,000.00) or more.**
- c. By virtue of statutory authority, RSMo 34.074, a preference will be given all contracts for the performance of any job or service to service-disabled veteran business either doing business as Missouri firms, corporations, or individuals; or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing bids, in their entirety, are comparable.
  - 1) If attached, the document entitled **"MISSOURI SERVICE-DISABLED VETERAN PREFERENCE"** should be completed and returned with the solicitation documents.
- d. In the event of a tie of low bids, the MHTC reserves the right to establish the method to be used in determining the award

**Remedies and Rights**

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the MHTC of any existing or future right and/or remedy available by law in the event of any claim by the MHTC of the Contractor's default or breach of contract.
- b. The Contractor agrees and understands that the contract shall constitute an assignment by the Contractor to the MHTC of all rights, title and interest in and to all causes of action that the Contractor may have under the antitrust laws of the United States or State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or produced by the Contractor in the fulfillment of the contract with the MHTC.
- c. In the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request MoDOT to enter into such litigation to protect the interests of the MHTC, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

**Cancellation of Contract**

- a. The MHTC may cancel the contract at any time for a material breach of contractual obligations or for convenience by providing the Contractor with written notice of cancellation. Should the MHTC exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Contractor.
- b. If the MHTC cancels the contract for breach, the MHTC reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the MHTC deems appropriate and charge the Contractor for any additional costs incurred thereby.

**Bankruptcy or Insolvency**

- a. Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assigned the benefit or creditors, the Contractor must notify MoDOT immediately. Upon learning of any such actions, the MHTC reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the Contractor responsible for damages.

**Inventions, Patents, and Copyrights**

- a. The Contractor shall defend, protect, and hold harmless the MHTC, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the Contractor's performance or products produced under the terms of the contract.

**Inspection and Acceptance**

- a. No equipment, supplies, and/or services received by MoDOT pursuant to a contract shall be deemed accepted until MoDOT has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the Contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
- c. The MHTC reserves the right to return any such rejected shipment at the Contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. The MHTC's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the MHTC may have.

**Warranty**

- a. The Contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by MoDOT, (2) be fit and sufficient for the purpose expressed in the solicitation documents, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
- b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the MHTC's acceptance of or payment for said equipment, supplies, and/or services.

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**Status of Independent Contractor**

- a. The Contractor represents itself to be an independent Contractor offering such services to the general public and shall not represent itself or its employees to be an employee of the MHTC. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save and hold the MHTC, its officers, agents and employees harmless from and against any and all losses (including attorney fees) and damage of any kind related to such matters.

**Indemnification**

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

**SPECIAL TERMS AND CONDITIONS**

**Insurance**

The Contractor shall maintain or cause to be maintained at Contractor's own expense commercial general liability, automobile liability, worker's compensation insurance against negligent acts, errors or omissions of the Contractor, or its subcontractors and anyone directly or indirectly employed by any of them. Any insurance policy required as specified in this Section shall be written by a company that is licensed and authorized to issue such insurance in the state of Missouri and shall provide insurance coverage for not less than the following limits of liability:

- a. 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;
- b. 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;
- c. Missouri State Workmen's Compensation policy or equivalent in accordance with state law.

Upon request from the Commission, the Contractor shall provide the Commission with certificates of insurance evidencing the required coverage and that such insurance is in effect.

**Required Specifications**

- a. All materials, equipment, and/or services bid upon must comply with the attached MoDOT Specification and any other provisions outlined in the solicitation documents.
- b. The material to be supplied under the contract will comply with the quality and gradation requirements of the **Missouri Standard Specifications for Highway Construction, Edition of 2004**, and any revisions thereto, unless modified by these specifications.

**Proposal/Bid Guaranty/Contract Bond**

- d. Each proposal shall be accompanied by a Bid Bond, Certified Check, Cashier's Check or Bank Money Order payable to the Director of Revenue – Credit State Road Fund for an amount equal to Five Percent (5%) of the amount of the BID submitted. This is to act as a guarantee that the bidder, if awarded the contract, will furnish an acceptable performance and payment bond (Contract Bond) or a cashier's check, a bank money order or a certified check made payable to "Director of Revenue--Credit State Road Fund" in an amount equal to One Hundred (100%) of the contract price.
- e. If a BID BOND is used (in lieu of a certified check, cashier's check, or bank money order), it must be in the form provided and executed by the bidder as principal and by a surety company authorized to do business in the State of Missouri as surety. The agent executing the same on behalf of the surety company must attach a current Power of Attorney setting forth his authority to execute the bond involved.
- f. Certified Checks, Cashier's Checks or Bank Money Orders of unsuccessful bidders will be returned as soon as the award is made. The checks or bank money orders of the successful bidder(s) will be retained until the contract is executed and a satisfactory Performance and Payment (Contract Bond) is furnished. Bid Bonds will not be returned except on specific request of the bidder.

**Information and Reports**

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- a. The Contractor shall provide all information and reports required by the Regulations, or Directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Missouri Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or Directives. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information the Contractor shall so certify to the Missouri Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

**Prevailing Wage**

- a. If the bid/quote/proposal is accepted, the vendor will be required to comply with the prevailing wages as fixed by the Missouri Department of Labor and Industrial Relations, in effect as of the date of the issuance of the solicitation, for each affected craft and type of workmen in the following county(ies): **St. Louis County**. The Annual Wage Order #54 may be inspected at any District Office or at the Central Office in Jefferson City, MO.
- b. The Contractor shall submit notarized weekly payroll affidavit documentation included with the project request for payment. The successful vendor must provide a lien waiver from all material suppliers.

**Permits, Licenses and Safety Issues**

- a. The contract price shall include any necessary permits and licenses required by law incidental to the work. Local ordinances requiring building permits are not applicable to state agencies.
- b. The Contractor will comply with local laws involving safety in the prosecution of the work.

**Award**

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

**Failure to Execute Contract**

- a. Failure to execute the contract and file acceptable performance payment (Contract Bond) or cashier's check, bank money order or certified check within **15 days** after the contract has been mailed to the bidder shall be just cause for the cancellation of the award and the forfeiture of the proposal guaranty. Award may then be made to the next lowest responsible bidder, or the work may be re-advertised and performed under contract or otherwise, as the Commission may decide. No contract shall be considered effective until it has been executed by all parties thereto.

**Notice to Proceed**

- a. Within **30 days** after the execution of the contract, a "**Notice to Proceed**" will be issued by the Department. A purchase order will be attached to the "Notice to Proceed," which will specify the date or dates that the Contractor can start delivery, roadway or stockpile delivery and will also include the completion dates. These dates will be in accordance with the dates shown in the proposal.

**Delivery – Additional Requirements**

- a. The Contractor shall furnish the Missouri Department of Transportation with a planned delivery schedule at least 16 hours before starting delivery.
- 1) Notification should be during the normal workday preceding the day on which the Contractor desires to initiate delivery.
  - 2) It will be necessary for a representative of the Missouri Department of Transportation to be present when the material is delivered.
  - 3) No material will be accepted that has been dumped in the absence of the department's aggregate materials checker.
- b. Unless otherwise specified in the proposal, deliveries will be a minimum of **500 Tons Per Day**. No deliveries will be made during the period from **30 minutes before sundown to sunrise**. No deliveries will be made on **Saturdays, Sundays and holidays** unless specifically authorized by the engineer.
- c. The following days shall be construed as **official holidays** under the terms of the contract:

January 1	New Year's Day
Third Monday in January	Martin Luther King, Jr.'s Birthday
February 12	Lincoln's Birthday
Third Monday in February	Washington's Birthday
May 8	Truman's Birthday
Last Monday in May	Memorial Day
July 4	Independence Day
First Monday in September	Labor Day
Second Monday in October	Columbus Day
November 11	Veteran's Day
Fourth Thursday in November	Thanksgiving Day
December 25	Christmas Day

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- d. When any of the above **holidays falls** on a **Sunday**, the holiday will be observed on the following **Monday**; when any of the above **holidays falls** on a **Saturday**, the **holiday** will be observed on the immediately preceding **Friday**.
- e. Contractor will not be required to provide dozers, loaders, motor graders, or other equipment for shaping of stockpiles, constructing ramps or runways, or leveling of the top of a completed lift, unless otherwise noted herein.

**Incentive for Accelerated Delivery**

- a. If, prior to the delivery deadline, the Contractor's average daily delivery rate **exceed 1,250 tons** for the total award, the Contractor will be paid an incentive for accelerated delivery in the amount of **2%** of the weighted average bid price per ton for the total tons delivered exceeding **1,250 tons per day**.

**EXAMPLE:**

Total Tons of Award	20,000 tons
Total Value of Award	\$107,200
Number of Days for Delivery from 2 sources at same time	5 days
Total number of delivery days	2 x 5 = 10 days
Average bid price per ton = \$107,200	20,000 tons = \$5.36 per ton
Average daily delivery rate = 20,000 tons	10 days = 2,000 tons per day
Daily tonnage Supplier due Incentive Pay = 2,000 tons - 1,250 tons = 750 tons per day	
Total tons delivered exceeding daily min. rate = 750 tons x 10 = 7,500 tons	

**INCENTIVE PAY = 0.02 x \$5.36/Ton x 7,500 Tons = \$ 804.00**

- b. Delivery from two sources on the same day to one or more maintenance sites will be counted as two days of delivery. Delivery from three sources on the same day to one or more maintenance sites will be counted as three days of delivery, etc.
- c. The average daily delivery rate is the total tons per award to a supplier divided by the number of days used to deliver the material. The weighted average bid price per ton is the total value of the award divided by the total tons per award.
- d. No incentive for accelerated delivery will be paid to a Contractor who is being charged liquidated damages on any item in the same award.

**Legal Weights**

- a. Provisions of the Missouri Statutes relative to legal weights in regard to axle and gross weights, gross weights in relation to axle spacing and Supplementary Bridge limits all contained in **Sections 304.180 and 304.190 RSMo** are understood and will be abided by. The Department will not accept loads, which exceed legal weights.
- b. It is understood and agreed that the Missouri Department of Transportation may prohibit the use of large trucks hauling heavy loads of material over low type bituminous roads and during adverse weather conditions.

**Increase or Decrease Quantities**

- a. The Highways and Transportation Commission reserves the right to increase or decrease the quantity of material twenty-five percent (25%), subject to the maximum quantity specified by the bidder in his proposal.
- b. The quantity finally ordered by the Commission will be furnished by the bidder at the same unit price per ton.

**Basis of Measurement for Payment**

- a. For truck delivery, the quantities for basis of payment are to be determined as provided in **Section 310** of the **Missouri Standard Specifications for Highway Construction, Edition of 2004**, and any revisions thereto.

**Temporary Suspension of Work**

- a. The **District Engineer** shall have authority to suspend work wholly or in part for such period or periods as may be deemed necessary when weather or other conditions are such that in the opinion of the engineer, the work may be done at a later time with advantage to the Department or for failure on the part of the Contractor to comply with any of the provisions of the Contract.
- b. If the Department suspends the work for its own advantages and not because of the Contractor's failure to comply with the Contract, the Contractor will be allowed an equal number of calendar days after the completion date for the completion of the work. The Department may at its discretion give the Contractor an extension of time for completing the work where the Contractor incurs delays for causes beyond his control.
- c. Normal rainfall is not considered a cause qualifying for an extension of time. Claim for extension of time for all causes must be submitted by the Contractor in writing within **30 Days** after the claimed cause for the delay has ceased to exist.

**Cancellation of Contract**

- a. If the Contractor/supplier fails to carry out the performance of the work with sufficient workmen and equipment to insure the completion of the delivery within the time specified or becomes insolvent or is adjudicated a bankrupt or

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commits any act of bankruptcy or insolvency or allows any final judgment to stand against him for a period of ten (10) days, the Missouri Department of Transportation may give notice in writing by registered mail to the Contractor/supplier and the surety of such delay, neglect or default.

- b. If, within ten (10) days after such notice the Contractor/supplier does not proceed to remedy to the satisfaction of the Department's representatives the faults specified in said notice, or the surety does not proceed to take over the deliveries, the Department shall have full power and authority, without impairing the obligation of the Contractor/supplier under the contract or the surety under the bond, to take over the completion of the work and arrange for the shipment of any materials necessary to complete the work and the Contractor/supplier and the surety will be responsible for any additional costs incurred by the Department in obtaining the completion of the deliveries.

**Liquidated Damages**

- a. In the event the successful Contractor fails to deliver the material within the time specified, the Department and the public will sustain damages because of such delay in delivery, the exact extent of which would be difficult to ascertain, and in order to liquidate such damage in advance it is agreed that the **sum of one-thousand dollars (\$1000.00) per day**, for each assessable calendar day on which the delivery has not been completed, is reasonable and the best estimate which the parties can arrive at as liquidated damages, and it is therefore agreed that said amount will be withheld from payments due the Contractor or otherwise collected from the Contractor as liquidated damages.
- b. **Saturdays, Sundays, holidays and days whereas the Department has suspended work** shall not be assessable days.

**Environmental Issues**

Attention of the bidder is invited to the **Land Reclamation Act, Chapter 444, Laws of 1971, (House Bill 519)** and the necessity for compliance if applicable.

The Contractor shall take necessary precautions and shall schedule and conduct his operations so as to avoid or minimize siltation of streams while removing gravel there from.

**Prohibition Of Employment Of Unauthorized Aliens:**

- a. Pursuant to RSMo 285.530 (1), 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 a business entity, or for any business entity receiving a state-administered or subsidized tax credit, tax abatement, or loan from the state, the business entity shall, 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. Every such business entity shall sign an affidavit affirming that it does not knowingly employ any person who is unauthorized alien in connection with the contracted services. [RSMO 285.530 (2)] A copy of the affidavit referenced above is provided within this document.

E-Verify is an example of a federal work authorization program. Acceptable enrollment and participation documentation consists of **completed** copy of the E-Verify Memorandum of Understanding (MOU). For vendors 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](http://www.dhs.gov/xprevprot/programs/gc_1185221678150.shtm).

**Construction Safety Program**

- a. Missouri law, 292.675 RSMo, requires the awarded Contractor and its subcontractor(s) to provide a ten-hour occupational safety and health administration (OSHA) construction safety program (or a similar program approved by the Missouri Department of Labor and Industrial Relations as a qualified substitute) for their on-site employees (laborers, workmen, drivers, equipment operators, and craftsmen) who have not previously completed such a program and are directly engaged in actual construction of the improvement (or working at a nearby or adjacent facility used for construction of the improvement). The Contractor and its subcontractor(s) shall require all such employees to complete this ten-hour program, pursuant to 292.675 RSMo, unless they hold documentation on their prior completion of said program. Penalties for non-compliance include Contractor forfeiture to the Commission in the amount of \$2,500, plus \$100 per contractor and subcontractor employee for each calendar day such employee is

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employed beyond the elapsed time period for required program completion under 292.675 RSMo.