



Commonwealth of Kentucky

MASTER AGREEMENT

IMPORTANT

Show Doc ID number on all packages, invoices and correspondence.

Doc Description: Guardrail Refurbishing		
Doc ID No: MA 605 0900004596 12	Proc Folder: 1441819	
Procurement Type: Standard Goods		
Effective Date: 2009-06-17	Expiration Date: 2014-06-30	Not To Exceed Amount
Administered By: NANCY ALBRIGHT		Cited Authority: FAP111-35-00-G
Telephone: 502-564-4556	Issued By: Jennifer Houchin	

Reason For Modification: Renew contract for an additional twelve months as per the terms and conditions of the contract. All parties are in agreement. Renewal contract period will be from 07/01/13 thru 06/30/14. There are no optional renewal periods remaining on contract.

V E N D O R	NORTH AMERICAN GALVANIZING CO		
	6310 KENJOY DR		
	LOUISVILLE	KY	40214-2927
	US		

Line	CL Description	Delivery Days	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
1	Guardrail Beams-Refurbishing	0	0.00	LFT	2.17910	0.00	0.00

Extended Description

Vendor Rep: Tom Castle
 Ph: 502-367-6146
 Email: tcastle@nagalv.com

Line	CL Description	Delivery Days	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
2	6' Guardrail Posts-Refurbishing	0	0.00	EA	17.53000	0.00	0.00

Extended Description

See Attached Special Terms and Conditions.

Line	CL Description	Delivery Days	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
3	Punch and Regalvanize Previously Galvanized Posts	0	1.00	LMP	9,860.76000	0.00	9,860.76

Extended Description

\$10,062 to punch 2 holes per post and cold galv. spray punched holes on 2,150 posts. Seven bundles (350 pieces) are currently on the North American Galvanizing yard in Louisville and 36 bundles (1,800 pieces) are currently on the Kentucky DOT yard in Frankfort. The price includes all costs, as well as freight. Cost per piece equates to \$4.68 per piece.

Line	CL Description	Delivery Days	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
4	9' Guardrail Posts-Refurbishing	0	0.00	EA	27.20000	0.00	0.00

Extended Description

Includes punching holes (if necessary), strip, and re-galvanize

Line	CL Description	Delivery Days	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
5	5 Degree Radius Rail Refurbish and Regalvanized	0	0.00	LFT	2.94180	0.00	0.00

Extended Description

5 Degree Radius Rail Refurbish and Regalvanized

Line	CL Description	Delivery Days	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
6	10 Degree Radius Rail Refurbish and Regalvanized	0	0.00	LFT	2.83280	0.00	0.00

Extended Description

10 Degree Radius Rail Refurbish and Regalvanized

Line	CL Description	Delivery Days	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
7	20 Degree Radius Rail Refurbish and Regalvanized	0	0.00	LFT	2.72390	0.00	0.00

Extended Description

20 Degree Radius Rail Refurbish and Regalvanized

Line	CL Description	Delivery Days	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
8	30 Degree Radius Rail Refurbish and Regalvanized	0	0.00	LFT	2.61490	0.00	0.00

Extended Description

30 Degree Radius Rail Refurbish and Regalvanized

Line	CL Description	Delivery Days	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
9	40 Degree Radius Rail Refurbish and Regalvanize	0	0.00	LFT	2.50600	0.00	0.00

Extended Description

40 Degree Radius Rail Refurbish and Regalvanized

Total Order Amount:	9,860.76
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Section 1—Specifications - Service

1.00—Specifications of Commodity and/or Service Requirements

Except as provided herein; conform to all requirements of the Kentucky Transportation Cabinet/Department of Highways 2008 Standard Specifications for Road and Bridge Construction. Section references are to the Standard Specifications..

1.01—Material Requirements

The Department of Highways will furnish used steel beam guardrail and guardrail posts to be cleaned and refurbished. Guardrail beams and posts will generally conform to Standard Drawings RBR-001 and RBR-015. Some beams may have backup plates attached. Some beams and posts may be bent. Beams may be either 10 or 12 gauge and hole and slot spacing may vary. All guardrail beams and posts will have been previously galvanized. Prior to re-galvanizing, punch a $\frac{3}{4}$ " x $2\frac{1}{2}$ " post bolt slot at the mid point of guardrail beams without existing midpoint slots (see Standard Drawing RBR-001). It is estimated that 20% of guardrail beams will require slot punching. Galvanize guardrail beams according to AASHTO M 232. Galvanize guardrail posts according to AASHTO M 111.

1.02—Certification, Sampling, Testing, and Acceptance

Refurbished guardrail beams and posts shall be certified and/or sampled, tested, and accepted in accordance with the Department's Sampling Manual. The Engineer will reject beams with zinc oxide (white rust) in amounts deemed objectionable. All rejected materials shall be acceptably corrected by Vendor at no additional cost to the Department.

The Department reserves the right to approve a Vendor's facilities before a Contract is awarded. Provide the Division of Materials 30 days notice when shipments are anticipated from a facility that did not ship to the Department of Highways the previous year.

1.03—Method of Measurement

Refurbished guardrail beams will be measured in linear feet. Refurbished guardrail posts will be measured in individual units each. Materials which fail to meet specifications and are rejected by the Engineer will not be measured for payment.

Section 2—Terms and Conditions of the Master Agreement

2.00—Scope of the Contract

The KYTC Division of Purchases issues this Master Agreement for:

Guardrail Refurbishing

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2.01—Contract Components and Order of Precedence

The Commonwealth's acceptance of the offer indicated by the issuance of an Award by the KYTC Division of Purchases shall create a valid Master Agreement consisting of the following:

1. The written Master Agreement between the Parties;
2. Any Addenda to the Solicitation;
3. Any provisions of the Solicitation and all attachments thereto;
4. The Bidder's response to the Solicitation, and
5. The Kentucky Revised Statutes KRS 45A.

In the event of an inconsistency between provisions of the solicitation, the inconsistency shall be resolved by giving precedence in the following order: (a) the Specifications; (b) other provisions of the Solicitation, whether incorporated by reference or otherwise; (c) Contract or Master Agreement Terms and Conditions; (d) FAP 110-10-00 – General Conditions and Instructions for Solicitations and Contracts.

2.02—Initial Contract Period

The Master Agreement will be effective upon award and expire 6/30/10.

2.03—Optional Renewal Period

This Master Agreement may be extended at the completion of the initial contract period for 4 additional one-year periods. This extension must have the written approval of the vendor and the KYTC Division of Purchases. The Commonwealth of Kentucky reserves the right to renegotiate any terms and/or conditions as may be necessary to meet requirements for the extended period. The vendor will be advised of any proposed revisions prior to the renewal periods. In the event proposed revisions cannot be agreed upon, either party shall have the right to withdraw without prejudice from either exercising the option or continuing the contract in an extended period.

2.04—Divisions/Agencies to Be Served

This contract shall be for use by the following Divisions/Agencies of the Kentucky Transportation Cabinet:

Division of Maintenance

No shipments or services are authorized until an official Delivery Order has been fully processed by an authorized agency.

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2.05—Quantity Basis of Contract

This Master Agreement has no guarantee of any specific quantity, and the State is obligated only to buy that quantity which is needed by its agencies.

2.06—Exception to Required Use of Contract

The establishment of this Master Agreement is not intended to preclude the use of similar products when requested by the agency. The Commonwealth of Kentucky reserves the right to acquire large requirements through other competitive processes.

2.07—Basis of Price Revisions

PRICE ADJUSTMENTS: Unless otherwise specified, the prices established by the Master Agreement shall be firm for the contract period subject to the following:

- A. Price Increases: A price increase will not be allowed during the first six (6) months of the contract. Only one price increase will be allowed during the contract period. The price increase must be based on industry wide price changes. The contract holder must request in writing a price increase at least thirty (30) days prior to the effective date, and shall provide firm proof that the price increase(s) is justified. The KYTC Division of Purchases may request additional information or justification. If the price increase is denied, the contract holder may withdraw from the contract without prejudice upon written notice and approval by the KYTC Division of Purchases. Notice of withdrawal must be provided a minimum of forty-five (45) days prior to the effective date.
- B. Price Decreases: The contract price shall be reduced to reflect any industry wide price decreases. The contract holder is required to furnish the KYTC Division of Purchases with notice of any price decreases as soon as such decreases are available.
- C. Extended Contract Periods: If the contract provides for an optional renewal period, a price adjustment may be granted at the time the contract is renewed, subject to price increase justification as required "A. Price Increases". One (1) additional price increase may be granted during the extended contract period. This price increase will not be allowed during the first six (6) months of the extended contract period and will be subject to the conditions in "A" above.

2.08—Addition or Deletion of Items or Services

The KYTC Division of Purchases reserves the right to add new and similar items, with the consent of the vendor, to the contract. If an addition is agreeable to both parties, the KYTC Division of Purchases will issue a Modification. Until such time as the vendor receives a Modification, the vendor shall not accept Delivery Orders from any agency referencing such items or services.

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2.09—Changes and Modifications to the Contract

During the period of the contract, a modification shall not be permitted in any of its conditions and specifications, unless the contractor receives electronic or written approval from the KYTC Division of Purchases. If the contractor finds at any time that existing conditions make modification in requirements necessary, the contractor shall report the matter promptly to the KYTC Division of Purchases for consideration and decision. All contract modifications shall be subject to the provisions of 200 KAR 5:311.

2.10—Equipment

All equipment must be new and current model(s). The Commonwealth recognizes the rapid advancement of technology. If the vendor can provide new equipment of advanced technology after the award of the contract, the Commonwealth and the bidder may choose by mutual agreement to install such equipment. The price of the new technology equipment cannot exceed the cost of the award contract.

2.11—Basis of Shipment

All shipments shall be F.O.B. Destination to the receiving agency. The vendor shall be fully responsible for all shipments and freight charges involved to the ordering agency. The responsibility for filing freight claims lies with the vendor.

2.12—Notices

Unless otherwise instructed, all notices, consents, and other communications required and/or permitted by the Master Agreement shall be in writing.

After the Award, all programmatic communications are to be made to the Agency Contact Person listed below with a copy to the Division of Purchases.

Wheeler Nevels or Rusty Wallace
Division of Maintenance
Kentucky Transportation Cabinet
Phone: 502-564-4556
E-mail: Wheeler.Nevels@ky.gov or Rusty.Wallace@ky.gov

With copy to:

Lindsay Jackson, CPPB
Division of Purchases
Kentucky Transportation Cabinet
Phone: 502-564-4630
E-mail: Lindsay.Jackson@ky.gov

After the Award, all communications of a contractual or legal nature are to be made to the KYTC Division of Purchases.

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2.13—Deliveries (See Section 5.00)

REFURBISHING TIME: Refurbishing Time will be calendar days guaranteed by the Vendor for each truckload lot, beginning with receipt of verbal or written delivery order from the Department until return of refurbished materials to the Department's Bailey Bridge Yard. Indicate on the bid sheets the guaranteed refurbishment time for each item. Bids without guaranteed refurbishing time or a guaranteed refurbishing time of more than 15 calendar days will be rejected as non-responsive. The Vendor agrees to and further authorizes the Transportation Cabinet to deduct a \$250 penalty per calendar day beyond the Vendor's guaranteed refurbishing time for each truckload lot that is not refurbished and delivered to the Department's Bailey Bridge Yard.

Vendor guarantees a refurbishing time of **eight (8)** calendar days.

Minimum order will be one truckload lot consisting of 9 bundles of guardrail beams (5,467.5 linear feet) or 18 bundles of guardrail posts (900 posts), unless mutually agreed by the Engineer and the Vendor at the time order is placed. Guardrail beams and posts shall be picked up and delivered in truckload lots and will not be mixed. The beams will be stacked 45 per bundle (3 wide, 15 high, overlapped) and the posts will be stacked and banded 50 per bundle (5 wide, 10 high, overlapped). Subject to the Engineer's approval, the vendor may request alternate stacking and bundling sizes.

Pick up guardrail beams and posts at the Department's Bailey Bridge Yard in Frankfort, Kentucky; the Department will load the materials onto the Vendor's truck. Deliver refurbished beams and posts in similar bundles to the Department's Bailey Bridge Yard; the Department will unload the materials from the Vendor's truck. The Bailey Bridge Yard will be open for pickup and delivery of materials between the hours of 8:00 a.m. to 3:30 p.m. Monday through Friday. No pickup or delivery will be allowed on Saturdays, Sundays, and Official State Holidays.

Deliver refurbished materials within the Vendor's guaranteed delivery time after receipt of delivery order. Verbal requests for delivery will be confirmed in writing.

2.14—Inspection

All supplies, equipment and services shall be subject to inspection or tests by the Commonwealth prior to acceptance. In the event supplies, equipment or services are defective in material or workmanship or otherwise not in conformity with specified requirements, the Commonwealth shall have the right to reject the items or services or require acceptable correction at the vendor's expense.

2.15—Invoices

Invoices, if required, shall be prepared and transmitted to the agency receiving the goods or services. One copy shall be marked "original" unless otherwise specified. Each invoice shall contain at least the following information:

- a. Contract and order number;

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- b. Item numbers;
- c. Description of supplies or services;
- d. Sizes;
- e. Quantities
- f. Unit prices; and
- g. Extended totals.

2.16—Payments

A bill shall be paid within 30 working days of either the receipt of correct invoice, or receipt of goods or services in satisfactory condition. A penalty payment of one percent (1%) per month shall be added to the amount due the vendor for each full or partial month that the payment exceeds 30 working days. As an incentive for earlier payment, bidders for state contracts are encouraged to offer discounts for payments made in less than the prescribed 30 days.

2.17—Post Contract Agreements

The Master Agreement shall represent the entire agreement between the parties. Prior negotiations, representations, or agreements, either written or oral, between the parties hereto relating to the subject matter hereof shall be of no effect upon this contract. The Commonwealth shall not be required to enter into nor sign further agreements, leases, company orders or other documents to complete or initiate the terms of the contract. Any such documents so obtained will be non-binding on the State and be cause for breach of contract.

2.18—Subcontracts

The vendor shall notify the Commonwealth of any planned use of subcontractors in regards to the resulting contract. If the KYTC Division of Purchases is provided evidence of the vendor making such an arrangement without submitting the proper information prior to use of the subcontractor, the contract may be cancelled immediately.

This provision will not be taken as requiring the approval of contracts of employment between the vendor and their personnel.

All payments will be made directly to the contracted vendor. It is the vendor's responsibility to make payment to the subcontract. Payments shall not be made to the subcontractor by the Commonwealth. Subcontractors having nonpayment issues that could not be resolved with the Vendor, should report in detail these incidents to the buyer of record for this solicitation.

The Vendor shall ensure that all contractors or subcontractors comply with all applicable Federal, State, and Local laws, regulation, mandates, and terms of this solicitation and resulting contract.

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Additionally, the Vendor shall not contract with any contractor or subcontractor that utilizes the services of illegal immigrants. Attached is the required affidavit regarding contractor or subcontractor employees.

The vendor is responsible for supplying the subcontractor with a copy of any applicable prevailing wage rates and the terms and conditions of the solicitation.

2.19—Service Performance

All services performed under contract shall be in accordance with the terms and conditions of the contract. It will be the agency’s responsibility to ensure that such services rendered are performed and are acceptable.

The relationship between the State and the Contractor is that of client and independent Contractor. No agent, employee, or servant of the Contractor or any of its subcontractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this Contract.

Deviations of services performed will not be made without the written approval of the KYTC Division of Purchases. Problems that arise under any aspect of performance should first be resolved between the vendor and the agency. If such problems and/or disagreements cannot be resolved they should be referred to the KYTC Division of Purchases for mediation.

2.20—Assignment

The vendor shall not assign this Master Agreement in whole or in part to another vendor at any time during the initial or optional renewal terms of the contract, without the consent, guidance and approval of the Commonwealth. Any assignment hereunder entered into, subsequent to the execution of the contract with the prime vendor, must be annotated and approved by the Commonwealth. Any purported assignment without this consent shall be null and void.

2.21—Termination of Contracts

A contract may be terminated for default by the vendor, for the convenience of the Commonwealth, or for lack of appropriation in accordance with 200 KAR 5:312.

2.22— Endorsements

The Contractor shall not refer to the Award of Contract in commercial advertising in such a manner as to state or imply that the firm or its services are endorsed or preferred by the Commonwealth of Kentucky.

2.23—EEO ACT

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The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding \$500,000. The Contractor shall comply with all terms and conditions of the Act, if applicable.

Failure to comply with the Act may result in non-award, withdrawal of award, cessation of contract payments, etc.

Vendors/Contractors must submit the following documents in accordance with the requirements of the solicitation—EEO-1: Employer Information Report, Affidavit of Intent to Comply and Subcontractor Report or a copy of the Kentucky EEO Approval Letter issued by the Finance and Administration Cabinet, Office of EEO and Contract Compliance.

Vendors/Contractors may obtain copies of the required EEO documents from the Finance and Administration Cabinet’s e-Procurement Web page under Standard Attachments and General Terms at the following address: <http://eprocurement.ky.gov/attachments.htm>.

Vendors/Contractors must advise each subcontractor/subvendor—with a subcontract of more than \$500,000—of the subcontractor’s obligation to comply with the KY EEO Act. Further, Vendors/Contractors are responsible for compiling EEO documentation from their subcontractors/subvendors and submitting the documentation to the Finance and Administration Cabinet, Office of EEO and Contract Compliance. (Note: contracts below the second tier are exempt from EEO reporting.)

Failure to complete, sign and submit all required documents will delay the award process as incomplete submissions will not be processed. Further, alternate versions of the required documents will not be accepted or processed.

Pursuant to KRS 45.610 (2), the Finance and Administration Cabinet, Office of EEO and Contract Compliance reserves the right to request additional information and/or documentation and to conduct on-site monitoring reviews of project sites and/or business facilities at any point for the duration of any contract which exceeds \$500,000 to ascertain compliance with the Act and such rules, regulations and orders issued pursuant thereto.

All questions regarding EEO forms or contract compliance issues must be directed to the Finance and Administration Cabinet, Office of EEO and Contract Compliance via e-mail: Finance.ContractCompliance@ky.gov or via telephone: (502) 564-2874.

2.24—Prevailing Wage

If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

2.25—Kentucky Sales and Use Taxes

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Sales of tangible personal property or services to the State of Kentucky and its agencies are not subject to state sales or use taxes.

2.26—Extension Period

This contract may be extended at the termination of all contract renewal periods for additional time not to exceed **90 days**. This extension must be accompanied by the written approval of the vendor and the Division of Purchases

2.27—Extending Master Agreement To Other Agencies

The Division of Purchases reserves the right, with the consent of the vendor, to offer this master agreement to other state agencies or political subdivisions who may have need for the product (s).