In the 2006 legislative session House Bill 1944 was signed into law by the Governor. These new eminent domain requirements became effective on August 28, 2006. The new bill added a number of requirements to the use of eminent domain.

The areas of House Bill 1944 that require your attention are the following:

1. For property interests acquired through condemnation or negotiations, the landowner may propose an alternative location for the property to be condemned. The condemning authority will consider all such alternative location proposals, and provide the landowners who propose an alternative location with a written statement verifying that the alternative location has been considered and an explanation of why the alternative location was rejected or accepted (please refer to section 523.265 of the enclosed bill).
2. A written notice shall be given at least sixty days before filing a condemnation petition seeking to acquire an interest in real property. The condemning authority shall provide the owner of record of such property with said notice. The requirements as to what this notice should contain are found within the enclosed copy of the bill in section 523.250.1.
3. The condemning authority shall present a written offer to all owners of record of the property. This needs to be based upon an appraisal prepared by a certified or licensed appraiser or an explanation with supporting financial data (please refer to section 523.253.1,2 of the enclosed bill). A copy of the appraisal or supporting financial data needs to be provided with the written offer. The offer must be made at least thirty days before filing a condemnation petition and shall be held open for the thirty-day period unless an agreement is reached sooner.
4. Displaced owners of a principle place of residence shall have 100 days possession from the filing of the commissioners’ award.
5. If property has been owned continually within the same family (established by blood, marriage or adoption) for fifty years or more, the owner of such property shall also be entitled to a “Heritage Value” payment. This payment is determined by multiplying the offer of fair market value by fifty percent. Therefore, qualifying owners would receive fair market value plus fifty percent.
6. The acquisition of a dwelling owned by the property owner and functioning as the owner’s primary place of residence or any acquisition of the owner’s property within three hundred feet of the owner’s primary place of residence that prevents the owner from utilizing the property in substantially the same manner as it is currently being utilized shall be eligible for a “Homestead Taking” payment. This payment is determined by multiplying the offer of fair market value by twenty-five percent. Therefore, qualifying owners would receive fair market value plus twenty-five percent.
7. In condemnation petitions filed after December 31, 2006, the Circuit Court Judge presiding over the proceedings shall determine if a homestead acquisition has occurred or a heritage value is payable and will apply it to the Commissioners’ Award or Jury Verdict. The Circuit Court Judge will determine the amount to be paid to the property owner by the method that yields the highest result (please refer to Section 523.061 of the enclosed bill). The three methods available to the Circuit Court Judge for determining the amount to be paid are listed below.
   1. An amount equal to fair market value; or
   2. For condemnation of property that results in a homestead acquisition, an amount equal to the fair market value of such property multiplied by one hundred twenty-five percent; or
   3. For condemnation of property that results in any acquisition that prevents the owner from utilizing the property being acquired in substantially the same manner as it was being utilized immediately prior to the acquisition, and involving property owned within the same family for fifty or more years, an amount equal to the sum of the fair market value of such property multiplied by one hundred fifty percent.

Heritage and Homestead Values only apply to those parcels acquired through condemnation. However, in May of this year, MoDOT decided to begin offering the Heritage and Homestead Values to property owners, along with the offer of fair market value. This decision was made in an effort to avoid an increase in the number of parcels acquired through condemnation and project delays. We recommend that you also follow this practice, especially on projects in which the realty rights to be acquired will become a part of the State’s system.

As a reminder, we wish to inform you that RSMo 523.205 states that “Any public agency as defined within RSMo 523.200 which is required, as a condition to the receipt of federal funds, to give relocation assistance to any displaced person, is hereby authorized and directed to give similar relocation assistance to displaced persons when the property involved is being acquired for the same public purpose through the same procedures, and is being purchased solely through expenditure of state or local funds,” (please refer to Sections 523.200 and 523.205 of the attached bill). Therefore, public agencies as so defined are required to offer relocation assistance, if applicable, on all projects. Because MoDOT receives federal funds through the Federal Highway Administration, we are required to follow all sections of the Uniform Relocation Act and Real Property Acquisition Act of 1970. We chose to follow this act on all projects, regardless of the source of funding. As a Local Public Agency, we highly recommend that you consider adhering to the guidelines of this act on any of your projects, regardless of the funding source.

The new law mentioned above does not change the other project procedures such as obtaining “A” dates, negotiation reports, legal descriptions, required items on right of way plans, environmental clearance, cultural clearance, and project clearance certifications.