



Contract Review Sheet

911288

Purchase Order #: 911288 Amendment #: _____

Contact: Jeniffer Scales Department: Public Works

Phone #: 503-588-5594 Date Sent: Thursday, October 6, 2022

Title: Ennis-Flint Inc. Yellow and White striping paint

Contractor's Name: Ennis-Flint Inc.

Term - Date From: Execution Expires: April 30, 2027

Contract Total: \$ 5,500,000.00 Amendment: \$ - New Total: \$ 5,500,000.00

☐ Incoming Funds ☐ Federal Funds ☐ Reinstatement ☐ Retroactive ☐ Amendment greater than 25%

Source Selection Method: Cooperative Procurement Cooperative # DCS-GOODS-13923-2022

Description of Services or Grant Award

Purchase of yellow and white paint for striping Marion County roads as well as the roads of all of the public agencies that request striping services from Marion County. Multnomah County Cooperative agreement#DCS-GOODS-13923-2022. Agreement is effective 5/1/22 - 4/30/27.

Desired BOC Session Date: 11/30/2022 BOC Planning Date: 11/17/2022

Files submitted in CMS: 11/9/2022 Printed packet & copies due in Finance: 11/15/2022

BOC Session Presenter(s) Scott Wilson

FOR FINANCE USE

Date Finance Received: _____ Date Legal Received: _____

Comments: Y

REQUIRED APPROVALS

DocuSigned by:

 A3538E7AEC704F4... 10/25/2022
 Finance - Contracts Date

DocuSigned by:

 EC27CEB8C3DC4C3... 10/27/2022
 Contract Specialist Date

DocuSigned by:

 D0CFC5B04B9F483... 10/26/2022
 Legal Counsel Date

DocuSigned by:

 DC16351248DE4EC... 10/26/2022
 Chief Administrative Officer Date



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: November 30th, 2022

Department: Public Works

Agenda Planning Date: 11/17/22

Time required: 5 mins

☐ Audio/Visual aids

Contact: Scott Wilson

Phone: 503-365-3129

Department Head Signature:

DocuSigned by:

Brian Nicholas

9793BA7ACD6D443...

TITLE

Consider approval of Purchase Order #911288 for the purchase of traffic paint from Ennis-Flint Inc.

Issue, Description & Background

Purchase of yellow and white striping paint using the Multnomah County's Cooperative agreement#DCS-GOODS-13923-2022. The agreement has a five year term and is effective 5/1/22 - 4/30/27.

Financial Impacts:

For FY22/23, the budgeted amount is \$1,100,000. The total PO amount is \$5,500,000.

Impacts to Department & External Agencies

The paint to be purchased will provide the necessary traffic safety requirements used for striping Marion County roads as well as the roads of all the public agencies that request striping services from Public Works.

Options for Consideration:

1. Approval of PO to purchase striping paint from Ennis-Flint Inc.
2. Deny approval of the PO.

Recommendation:

Public Works recommends the Board of Commissioners approve the PO to purchase striping paint from Ennis-Flint Inc..

List of attachments:

Contract Review Sheet
 Purchase Order Request
 PO#911288
 Multnomah County's Cooperative agreement#DCS-GOODS-13923-2022.

Presenter:

Scott Wilson

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

Copies to:

Jeniffer Scales - jscales@co.marion.or.us



MARION COUNTY FINANCE DEPARTMENT

PO Box 14500
555 Court St NE #4247
Salem, OR 97309-5036

ENNIS FLINT INC
PO BOX 603518
CHARLOTTE NC 28260-3518

Purchase Order		
Purchase Order No	Revision	Page
911288		1
Ship To: MARION COUNTY PUBLIC WORKS 5155 SILVERTON RD NE SALEM OR 97305		
Bill To: MARION COUNTY PUBLIC WORKS 5155 SILVERTON RD NE SALEM OR 97305		

Customer Acct No 50125	Supplier No 544676	Order Date / Buyer J SCALES	Revised Date / Buyer J SCALES
Payment Terms IMMEDIATE	Ship Via BEST METHOD	F.O.B DESTINATION	
Freight Terms PREPAID	Request Or Deliver To MIKE HARMEL 503-588-5591	Confirm To / Telephone ()	

Line #	Description	Delivery Date	Quantity	Unit	Unit Price	Total
1	<p>YELLOW AND WHITE PAINT FOR STRIPING MARION COUNTY ROADS</p> <p>THIS PURCHASE ORDER IS PLACE AGAINST MULTNOMAH COUNTY AGREEMENT#DCS-GOODS-13923-2022.</p> <p>1.</p>					\$5,500,000
Total						\$5,500,000

INSTRUCTIONS TO VENDOR

1. Please direct any questions concerning this purchase order to invoiced department.
2. Purchase Order Number must appear on all invoices, packages and shipping documents relating to this order.
3. Separate invoices must be submitted for each Purchase Order.
4. Do not overship or substitute.
5. If you cannot supply the items requested, please notify issuing authority at once.

Note : Please notify department contact (above) for all inquiries regarding this Purchase Order

DocuSigned by:

Camber Schlag

Authorized By:

C5B2F3DF257F444...

MARION COUNTY PURCHASING
NOT VALID Unless Signed By Purchasing

MARION COUNTY TERMS AND CONDITIONS

1. INSPECTIONS: County may inspect and test the Goods and related Services (collectively, Goods). County may reject non-conforming Goods and require Contractor to correct them without charge or deliver them at a reduced price, as negotiated. If Contractor does not cure any defects within a reasonable time, County may reject the Goods and cancel the PO in whole or in part. This paragraph does not affect or limit County's rights, including its rights under the Uniform Commercial Code, ORS chapter 72 (UCC).

2. DELIVERY: Deliveries will be F.O.B destination. Contractor shall pay all transportation and handling charges. Contractor is responsible and liable for loss or damage until final inspection and acceptance of the Goods. Contractor remains liable for latent defects, fraud, and warranties.

3. PAYMENT: County shall pay Contractor within 30 days from (i) the date the Goods are delivered and accepted or (ii) the date the invoice is received, whichever is later

4. COUNTY PAYMENT OF CONTRACTOR CLAIMS: If Contractor does not pay promptly any claim that is due for Goods or Services furnished to the Contractor by any subcontractor in connection with this PO, the County may pay such claim and charge that payment against any payment due to the Contractor under this PO. The County's payment of a claim does not relieve the Contractor or its surety, if any, from their obligations for any unpaid claims.

5. WARRANTIES: Contractor agrees to perform its services with that highest standard of care, skill and diligence normally provided by a professional individual in the performance of similar services. Contractor represents and warrants that the Goods are new, current, and fully warranted by the manufacturer. Delivered Goods will comply with specifications and be free from defects in labor, material and manufacture. All UCC implied and expressed warranties are incorporated in this PO. Contractor shall transfer all warranties to the County.

6. TERMINATION OF PO: The PO may be terminated under the following conditions: a. By written mutual agreement of both parties. Termination under this provision may be immediate. b. Upon fifteen (15) calendar days written notice by either Party to the other of intent to terminate. c. The County may terminate all or part of this PO for the following reasons: (1) If the consultant fails to provide services, or fails to meet the performance standards as specified in this PO (or subsequent modifications of this PO), within the time specified herein or any extension thereof. Termination under this provision may be immediate; (2) If the consultant fails to start services on the date specified by Marion County in this PO or subsequent modifications to this contract. Termination under this provision may be immediate. (3) Failure of the consultant or Marion County to comply with the provisions of this PO and all applicable federal, state, and local laws and rules may be cause for termination of this contract. Such termination shall be without prejudice to any obligations or liabilities of either party accrued prior to such termination. If this PO is terminated by either party, for reasons other than breach of contract, the County agrees to pay to the consultant all costs and expenses associated with services satisfactorily provided to the effective date of termination.

7. INDEMNIFICATION. The Contractor shall save harmless, indemnify, and defend the County for any and all claims, damages, losses and expenses including but not limited to reasonable attorney's fees arising out of or resulting from Contractor's performance of or failure to perform the obligations of this PO to the extent same are caused by the negligence or misconduct of Contractor or its employees or agents.

8. GOVERNING LAW, VENUE: This PO shall be governed by the laws of the State of Oregon. Any action commenced in connection with this PO shall be in the Circuit Court of Marion County. All rights and remedies of the County shall be cumulative and may be exercised successively or concurrently. The foregoing

is without limitation to or waiver of any other rights or remedies of the County according to law.

9. FORCE MAJEURE: Neither party is responsible for delay or default caused by an event beyond its reasonable control. County may terminate this PO without liability to Contractor upon written notice after determining the delay or default reasonably prevents performance of this PO.

10. SUBCONTRACTING/NONASSIGNMENT. No portion of the PO may be contracted or assigned to any other individual, firm or entity without the express and prior approval of the County.

11. MAINTENANCE, RETENTION, AND CONFIDENTIALITY OF RECORD. The Contractor agrees to establish and maintain records and statistics as follows: Financial records, which indicate the number of hours of service provided under this contract and other appropriate records pertinent to this contract shall be retained for a minimum of three (3) years after the end of the contract period. If there are unresolved audit questions at the end of the three-year period, the records must be maintained until the questions are resolved. To the extent applicable, client records shall be kept confidential in accordance with ORS 179.505, OAR 309-11-020, 45 CFR 205.50 and 42 CFR Part 2.

12. COMPLIANCE WITH APPLICABLE LAWS: The Contractor shall comply with all applicable Federal, State and local laws, rules and regulations. All provisions of ORS 279B (Public Contracts and Purchasing) are incorporated herein to the extent applicable to POs.

13. WORKERS' COMPENSATION: Contractor shall comply with ORS 656.017 and provide the required workers' compensation coverage, unless exempt under ORS 656.126(2). Contractor shall ensure that its Subcontractors, if any, comply with these requirements.

14. SAFETY AND HEALTH REQUIREMENTS: Contractor represents and warrants that the Goods comply with all federal and Oregon safety and health requirements.

15. MATERIAL SAFETY DATA SHEET: Contractor shall provide County with a Material Safety Data Sheet for any Goods which may release, or otherwise result in exposure to, a hazardous chemical under normal conditions of use (OAR 437- 002-0360 and 29 CFR 1910.1020). Contractor shall label, tag or mark such Goods.

16. AMENDMENTS: All amendments to this PO must be in writing, signed by County.

17. SEVERABILITY: If a court of competent jurisdiction declares any provision of this PO to be invalid, the other provisions and the rights and obligations of the parties remain in effect.

18. WAIVER: Failure of either party to enforce any provision of this PO is not a waiver or relinquishment of that party's rights to such performance in the future or to enforce any other provisions.

19. TAX CERTIFICATION: Contractor hereby certifies under penalty of perjury: (a) the number shown on this form is the correct Federal Employer Identification Number; (b) it is not subject to backup withholding because (i) it is exempt from backup withholding, (ii) it has not been notified by the IRS that it is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that it is no longer subject to backup withholding; and (c) it is not in violation of any Oregon tax laws.

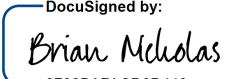
PURCHASE ORDER #911288
ENNIS FLINT INC.
MARION COUNTY SIGNATURE PAGE

BOARD OF COMMISSIONERS:

Chair	Date
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Commissioner	Date
--------------	------

Commissioner	Date
--------------	------

Authorized Signature:  9793BA7ACD6D443...	10/26/2022
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Department Director or designee	Date
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Authorized Signature:  DC16351248DE4EC...	10/26/2022
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Chief Administrative Officer	Date
------------------------------	------

Reviewed by Signature:  D0CFC5B04B9F483...	10/26/2022
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Marion County Legal Counsel	Date
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Reviewed by Signature:  C5B2F3DF257F444...	10/26/2022
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Marion County Contracts & Procurement	Date
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PERMISSIVE COOPERATIVE CHECKLIST

Lead Agency:	Multnomah County	Contract Start Date	5/1/2022
Title:	Low VOC, Solvent-Based Traffic Line Bead Binder Paint	Contract Expiration Date	4/30/2027
Solicitation#	DCS-GOODS-13923-2022	Contract #	PW-5078-22

Requirement	#	Question	Y/N	notes	guidance
279A.215(1)(a)	1	Was the solicitation and award process a manner substantially equivalent to those specified in ORS 279B.055 or 279B.060?	Yes	ORS 279A.215	proceed to question 2
279A.215(1)(b)	2	Does the solicitation allow other governmental bodies to establish contracts or price agreements under the terms, conditions, and prices of the original solicitation? Upload the document or relevant pages into CMS and note in column G where this information can be found.	Yes	Page #9	proceed to question 3
279A.215(1)(b)	3	Does the original contract allow other governmental bodies to establish contracts or price agreements under the terms, conditions, and prices of the original contract? Upload the document or relevant pages into CMS and note in column G where this information can be found.	Yes	Page #9	proceed to question 4
279A.215(2)(a)	4	Is the estimated amount of the procurement over \$250,000?	Yes		Intent to use must be posted
279A.215(2)(b)	5	Has Marion County advertised a notice of intent to establish a contract under the cooperative?	Yes		usable by MC

ORS 279A.200 (1)(g) “Permissive cooperative procurement” means a cooperative procurement in which the purchasing contracting agencies are not identified.

Example: Multnomah County contract & solicitation with cooperative language



Marion County

OREGON

FINANCE DEPARTMENT

October 25, 2022

**BOARD OF
COMMISSIONERS**

Kevin Cameron
Danielle Bethell
Colm Willis

**CHIEF ADMINISTRATIVE
OFFICER**

Jan Fritz

**CHIEF FINANCIAL
OFFICER**

Jeff White

Telephone:
(503) 589-3290

Fax:
(503) 373-4379

RE: NOTICE #PW-5078-22 Purchase Yellow and White striping paint using
Multnomah County Cooperative Agreement #DCS-GOODS-13923-2022.

Notice of Intent to Award

Marion County intends to contract Ennis-Flint Inc. for the above-referenced project.

If you wish to protest the County's Intent to Award, you must do so within seven (7) calendar days by the close of business after the date of the issuance of this notice. Late protests will not be considered.

The protest must comply with the terms of Marion County's Public Contracting Rules, Section 20-0740. Any protest not in compliance will not be considered by the County.

Protests must be directed by mail or courier to Marion County, Attn: Camber Schlag, 555 Court St. NE, Ste. 4247, Salem, OR 97301.

Questions relating to the procurement process must be directed to Camber Schlag, Marion County Contracts & Procurement Manager at 503-566-3944 or via email: cschlag@co.marion.or.us

Thank you to all who submitted proposals.

Sincerely,

Jeniffer Scales



Open Market Bid S-C25102-00004662

Status: 2BS - Sent

- General
- Items
- Address
- Accounting
- Routing
- Attachments(1)
- Notes
- Bidders
- Questions
- Amendments
- Q & A
- Reminders
- Summary

System Warning(s)



Cloned bid is [S-C25102-00004763](#)

Header Information

Bid Number:	S-C25102-00004662	Description:	Notice of Intent - Purchase yellow and white traffic paint	Status:	2BS - Sent
Purchaser:	Jeniffer Scales	Minor Status:			
Organization:	Marion County				
Fiscal Year:	23	Department:	C2510203 - Public Works	Location:	C2510 - Public Works
Show On Web:	Yes	Allow Electronic Quote:	Yes	Required Date:	10/12/2022
Bid Opening Date:	10/19/2022 12:00:00 PM	Available Date:	10/12/2022 11:30:00 AM		
Bid Type:	Closed Bid	Informal Bid:	No		
Estimated Cost:	\$5,500,000.00				
Alternate ID:		Purchase Method:	Open Market	Catalog Id (for contract):	
Blanket/Contract Begin Date:		Blanket/Contract End Date:		Type Code:	
Info Contact:		Bulletin Desc:	NOTICE #PW-5078-22 Purchase Yellow and White striping paint using Multnomah County Cooperative Agreement #DCS-GOODS-13923-2022.	Pre-Bid Conference:	
NIGP Code Certified Required:	No	Acknowledge inclusion required:	No	Hour of Acknowledge inclusion:	0.0
Subcontractor Info:		Quote Notification:	No		
Date Last Updated:	10/12/2022 11:27:04 AM	User Last Updated:	Jeniffer Scales	Item Single Award Only:	Yes
Ship-to Address:		Bill-to Address:		Print Format:	Bid Print New
Solicitation Enabled:	No	Rolling Enrollment Enabled:		Allow vendors to submit multiple / alternate quotes:	<input type="checkbox"/>
Invoice Method:	Three Way Match	Open Enrollment Enabled:	<input type="checkbox"/>	Close Q&A For Vendor Date:	

Bidders:

Vendor Id	Vendor Name	Preferred Delivery Method	Notifications	Responded
V00000335	W. W. Grainger	Email	Bid Available: Emailed to casey.banks@grainger.com at 10/12/2022 11:31:07 AM	No
V00001612	Tommy's Paint Pot	Email	Bid Available: Emailed to virgil@tommyspaint.com at 10/12/2022 11:31:07 AM	No
V00002437	Ennis-Flint, Inc.	Email	Bid Available: Emailed to contracts@ennisflint.com at 10/12/2022 11:31:07 AM	No

Current Org: Marion County



CONTRACT AUTHORIZATION & SIGNATURE REQUEST

This is to notify you that **Contract** DCS-GOODS-13923-2022 **Amendment** _____
is ready for your signature.

STEP 1: Please print and sign the following pages, exhibits, and/or attachments from your contract:

- ☒ Contract or amendment Signature Page
- ☐ Exhibit 3 –Independent Contractor (Complete section A **OR** B if it applies)
- ☐ Exhibit 4 – Workers' Compensation Exemption Certificate
- ☐ Exhibit 5 – Equal Employment Opportunity Certification Statement
- ☐ Exhibit 7 – Criminal History Records Check Certificate
- ☐ ARRA EEO
- ☐ Other:

STEP 2: Return the following documents to the County:

- A **complete copy** of your contract or amendment (you may choose to resend the same PDF file that was emailed to you)
- Copies of your signed signature pages, exhibits, and attachments, as identified in Step 1 above.

Return the documents by one of the following methods:

Scan and email the Contract to: centralcontracts@multco.us

OR

Return the Contract to the following address by mail or hand delivery

Multnomah County Purchasing
ATTN: Contracts
501 SE Hawthorne Blvd., Suite 125
Portland, Or 97214

STEP 3: No work can begin and no payments can be made until Multnomah County has received and executed the Contract or Amendment. You will be notified when your Contract or Amendment has been executed. If you have questions regarding Steps 1 or 2, please contact us at:

Victor Prutz 503-9887997 victor.prutz@multco.us

If you have any questions regarding Contract language or Amendment changes, please call your Department Representative at:

Name and Phone: Jeff Hagen (503) 988-5068

Email: jeffrey.hagen@multco.us



MULTNOMAH COUNTY REQUIREMENTS CONTRACT FOR GOODS

Contract Number: DCS-GOODS-13923-2022

This Requirements Contract for Goods (the "Contract") is between Multnomah County ("County") and Ennis-Flint, Inc. ("Contractor"), each of whom is a "Party" and collectively they are the "Parties." The Contract is comprised of the *Standard Terms and Conditions* and:

Exhibit 1 Bid Pages

Exhibit 2 Specifications and Additional Contract Requirements

The Contract may only be amended or supplemented by a writing that is signed by a duly authorized representative of each Party, clearly recites the Parties' understanding and intent to amend the Contract, and clearly and with specificity describes the terms to be amended or supplemented.

The Parties agree as follows:

Standard Terms And Conditions

1. **Effective Date and Termination Date.** The "Effective Date" of this contract shall be 5/1/2022 12:00 AM or the date, on which each party has signed this Contract, whichever is later. The termination date shall be 4/30/2027 11:59 PM unless this Contract is terminated earlier under **Section 14**, below.
2. **Contractor's Agreement to Sell Goods.** Contractor agrees to sell to County on a requirements basis the items described in **Exhibit 1** (the "Goods") in accordance with the terms and conditions of this Contract and the **Exhibit 2**.
3. **County Purchases Not Required and Subject to Change.** County is not required to make any purchases under this Contract. County may add products to this Contract at prices agreed upon by County and Contractor.
4. **County to Purchase from Primary Vendor; Exceptions.** If Contractor is the primary vendor for the Goods, County shall purchase that item from Contractor unless, for a particular purchase, that item is not available from Contractor or because of the geographic location of Contractor or other reason it is in the County's economic interest to purchase that item from another contractor. If Contractor is shown as the secondary vendor for a Goods, County shall purchase that item from Contractor rather than the primary vendor only when that item is not available from the primary vendor, or because of the geographic location of Contractor or other reason, it is in the County's economic interest to purchase that Good from Contractor.
5. **Payments From County.** County shall pay Contractor for the Goods at the prices set forth in **Exhibit 1**. The invoice shall be mailed to:

Multnomah County Transportation
Attn: Jeff Hagen, Senior Procurement Analyst
1620 SE 190th Ave
Portland, OR 97233
Email: Jeffrey.Hagen@multco.us

Each invoice shall describe the Goods provided, the item numbers and the quantity provided. The invoice shall also identify each purchase order covered by the invoice by the number of the purchase order, the date, and the name of the person placing the order. All Goods shall be invoiced based on the same unit of measure shown on **Exhibit 1**.

County shall pay the invoice within 30 days unless otherwise provided in **Exhibit 2**. Contractor shall bill County as provided in **Exhibit 1**. County shall have the right to withhold from payments due Contractor

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such sums as are necessary in County's sole opinion to protect County from any loss, damage, or claim which may result from Contractor's failure to perform in accordance with the terms of the Contract.

- a. **Discounts for Early Payment.** If the County is entitled to a cash discount for payment within a particular period of time, the time period shall start on the date the entire order is delivered or the date the invoice is received whichever is later.

6. **Delivery, Inspection, Acceptance of Goods.**

- a. **No subcontracting.** If Contractor is creating the Goods specifically for County, under the terms of the Contract, then Contractor shall not subcontract any aspect of the creation of such Goods without the County's prior written consent.
- b. **General Requirements.** All Goods delivered shall be in first class condition and conform with Contract specifications. Acceptance by the County shall be subject to inspection and approval, as further described in **Section 6(c)**, below. In case of conflict between **Exhibit 2** and these *Standard Terms and Conditions*, the terms in **Exhibit 2** shall prevail. The apparent silence of the *Standard Terms and Conditions* and **Exhibit 2** as to any detail or the apparent omission of a detailed description concerning any point shall be regarded as meaning that only best commercial practice is to prevail and that only Goods manufactured with material and workmanship of first quality are to be supplied. All Goods delivered shall be of identical style, quality and appointments as those offered to the trade in general during the course of the model year. All items delivered shall be new current models, free and clear of all liens and encumbrances. Unless otherwise provided in **Exhibit 2**, Goods shall, where appropriate, be prepared for delivery to and use by the County by a factory franchised agent. Each Good delivered shall be accompanied by all pre-delivery inspection sheets, coupons, certificates, descriptive literature, warranty cards and information provided by the manufacturer and furnished to the trade in general. All such documents shall be properly completed and signed in accordance with industry standards. All Goods required by **Exhibit 2** to be UL listed shall indicate the current UL listing on the item. All Goods that are required by **Exhibit 2** to have any other certification shall indicate that certification on the Good or in its accompanying documentation.
- c. **Delivery.** All deliveries shall be FOB destination specified in **Exhibit 2** with all transportation and handling charges paid by Contractor, unless otherwise specified in **Exhibit 2**. Liability for loss or damage shall remain with the Contractor until final inspection and acceptance by the County.
- d. **Inspection and Acceptance.** Goods furnished under this Contract shall be subject to inspection and test by the County at times and places determined by the County. If the County finds any of the Goods furnished to be incomplete or not in compliance with the Contract, the County, at its sole discretion, may either reject some or all of the Goods, require Contractor to correct any defects without charge, or negotiate with Contractor to sell the Goods to the County at a reduced price, whichever the County deems equitable under the circumstances. If Contractor is unable or refuses to cure any defects within a time deemed reasonable by the County, the County may reject the Goods and cancel the Contract in whole or in part. Nothing in this **Section 6(d)** shall in any way affect or limit the County's rights as buyer under the Uniform Commercial Code (UCC), including the rights and remedies relating to rejection under ORS 72.6020 and revocation of acceptance under ORS 72.6080.
- e. **Liens.** Contractor shall not permit any claim to be filed or prosecuted against the County or any lien against the property purchased in connection with this Contract and agrees to assume responsibility should such lien or claim be filed.
- f. **Warranty and Service.** Contractor warrants all Goods delivered to be free from defects in labor, material and manufacture and to be in compliance with the specifications set out in this Contract. All implied and express warranty provisions of the UCC are hereby incorporated by reference. Further, Contractor represents and warrants that this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms. All items delivered shall carry either the standard manufacturer's warranty or service policy providing that warranty work will be performed by any authorized manufacturer's dealer, or if specified in **Exhibit 2**, the warranty and service policy called for in the specifications. In addition, unless

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otherwise noted in **Exhibit 2**, the warranty and service policy indicated above shall include the following terms and conditions:

- i. There shall be no distance or time limitations, not applicable to the trade in general, on either standard or extended warranty or labor. All franchised or authorized dealers of the item in the state shall honor warranty. Warranty maintenance requirements, when performed by County, shall be acceptable to dealer when said work performance meets or exceeds the dealer certification requirements. County shall provide evidence of such work performance upon request, as required by the manufacturer. Any extended warranty period customarily granted shall be made available to County at no additional cost, and
 - ii. County shall be advised of all product recalls on all or any part of the item at no additional cost. All product recall information, replacement parts and labor, shall be provided to the County as soon as available to Contractor.
7. **Hazardous Materials.** Contractor warrants that Goods provided under this Contract comply with all federal Occupational Safety and Health Administration (OSHA) requirements and will all Oregon safety and health requirements including those of the Goods Compensation Division. All Goods that include hazardous materials shall be labeled in accordance with law with the names of the hazardous ingredients, the hazards of the materials and the appropriate precautions. Contractor shall provide a Material Safety Data Sheet as defined by OSHA for any Goods provided under this Contract which may release, or otherwise result in exposure to, a hazardous substance under normal conditions of use. In addition, Contractor shall ensure such Goods are labeled, tagged, or otherwise appropriately marked. Those materials for which toxicological or hazard data are unavailable shall carry a label stating: *"Toxicological and other hazards unknown. Handle as extremely hazardous."*
8. **Recyclable Products.** Contractor shall use recycled and recyclable products to the maximum extent economically feasible.
9. **Quarterly Reports.** Contractor shall provide quarterly reports to County which shows each item purchased from County in the prior quarter, the individual cost of each item, and the total cost of all Goods purchased in the quarter.
10. **Time is of the Essence.** Time is of the essence in the performance of this Contract.
11. **No Assignment.** Contractor shall not transfer any of its interest in this Contract, without the prior written consent of County.
12. **No Third-Party Beneficiaries.** County and Contractor are the only Parties to this Contract and are the only Parties entitled to enforce its terms. Nothing in this Contract gives or provides any benefit or right, whether directly, indirectly, or otherwise, to third-persons unless such third persons are individually identified by name in this Contract and expressly described as intended beneficiaries of this Contract.
13. **Successors in Interest.** The provisions of this Contract shall be binding upon and inure to the benefit of the Parties and their successors and approved assigns, if any.
14. **Early Termination.** This Contract may be terminated as follows:
 - a. County and Contractor, by mutual written agreement, may terminate this Contract at any time.
 - b. County in its sole discretion may terminate this Contract for any reason on 30 days written notice to Contractor.
 - c. Either County or Contractor may terminate this Contract in the event of a breach of the Contract by the other. Prior to such termination the party seeking termination shall give to the other party written notice of the breach and intent to terminate. If the party committing the breach has not entirely cured the breach within 15 days of the date of the notice, then the party giving the notice may terminate the Contract at any time thereafter by giving a written notice of termination.

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- d. Notwithstanding **Section 14(c)**, County may terminate this Contract immediately by written notice to Contractor upon denial, suspension, revocation or non-renewal of any license, permit or certificate that Contractor must hold to provide services under this Contract.

15. Payment on Early Termination. Upon termination pursuant to **Section 14**, payment shall be made as follows:

- a. If terminated under **Sections 14(a)** or **14(b)** for the convenience of the County, the County shall pay Contractor for Goods delivered prior to the termination date if such Goods were provided in accordance with the Contract and accepted by County.
County shall not be liable for direct, indirect or consequential damages. Termination shall not result in a waiver of any other claim County may have against Contractor.
- b. If terminated under **Section 14(c)** by the Contractor due to a breach by the County, then the County shall pay the Contractor for Goods delivered prior to the termination date if such Goods were provided in accordance with the Contract and accepted by County.
- c. If terminated under **Sections 14(c)** or **14(d)** by the County due to a breach by the Contractor, then the County shall pay the Contractor for Goods delivered prior to the termination date provided such Goods were provided in accordance with the Contract and accepted by County, less any setoff to which the County is entitled.

16. Remedies. In the event of breach of this Contract the Parties shall have the following remedies:

- a. If terminated under **Section 14(c)** by the County due to a breach by the Contractor, the County may purchase goods the same as or substantially similar to the Goods from another supplier. If the cost of such coverage Goods over the remaining term of the Contract exceeds the cost that County would have paid under the terms of this Contract if Contractor had not breached the Contract, then the Contractor shall pay to the County the difference between the cost of the coverage goods and the Goods.
- b. In addition to the remedies in **Sections 15** and **16** for a breach by the Contractor, the County also shall be entitled to any other equitable and legal remedies that are available.
- c. If the County breaches this Contract, Contractor's remedy shall be limited to termination of the Contract and receipt of Contract payments to which Contractor is entitled.

17. Access to Records. Contractor shall retain, maintain and keep accessible all records relevant to this Contract ("**Records**") for a minimum of six years, following Contract termination or full performance or any longer period as may be required by applicable law, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever is later. Contractor shall maintain all financial Records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, Contractor shall permit the County's authorized representatives access to the Records at reasonable times and places for purposes of examination and copying.

18. Compliance with Applicable Law. Contractor shall comply with all federal, state, and local laws applicable to the Goods under this Contract, and all regulations and administrative rules established pursuant to those laws, including, without limitation ORS 279B.020 and the following:

- a. Pursuant to ORS 279B.220, Contractor shall: (i) make payment promptly, as due, to all persons supplying to the Contractor labor or material for the performance of the Goods provided for in the Contract; (ii) pay all contributions or amounts due the Industrial Accident Fund from the Contractor or subcontractor incurred in the performance of the Contract; (iii) not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished; and (iv) pay to the Department of Revenue all sums withheld from employees under ORS 316.167.

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- b. Pursuant to ORS 279B.225, Contractor shall, if providing lawn and landscape maintenance services, shall salvage, recycle, compost or mulch yard waste material at an approved site, if feasible and cost-effective.
- c. In accordance with ORS 279B.230, Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the Contractor, of all sums that the Contractor agrees to pay for the services and all moneys and sums that the Contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services. All subject employers working under the Contract warrant they are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
- d. Pursuant to ORS 279B.235, Contractor shall not employ any person for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it. The laborer shall be paid at least time and a half pay when: (i) overtime is in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; (ii) overtime is in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and (iii) Goods is performed on Saturday and any legal holiday specified in a collective bargaining agreement or ORS 279B.020. The requirement to pay at least time and a half for all overtime worked in excess of 40 hours in any one week, shall not apply to individuals who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. sections 201 to 219 from receiving overtime.

19. **Indemnity.** Contractor shall defend, save, hold harmless, and indemnify County and its officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever, including attorneys fees, resulting from, arising out of, or relating to the activities of Contractor or its officers, employees, subcontractors, or agents under this Contract. Contractor shall have control of the defense and settlement of any claim that is subject to this section. However, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of County or any department of County, nor purport to act as legal representative of County or any of its departments, without first receiving from the Multnomah County Attorney's Office authority to act as legal counsel for County, nor shall Contractor settle any claim on behalf of County without the approval of the Multnomah County Attorney's Office. County may, at its election and expense, assume its own defense and settlement.

To avoid ambiguity, under this **Section 19**, Contractor agrees to indemnify and hold harmless County against all claims for patent infringement arising from the purchase, installation, or use of any Goods it delivers to County under the Contract and to assume all expenses, including attorney fees and pay all damages arising from such claim.

20. **Insurance.** Contractor shall ensure that insurance coverages consistent with the following requirements are in place during the term of the Contract:

- a. Workers Compensation insurance in compliance with ORS 656.017 together with Employer's Liability insurance with coverage limits of not less than \$500,000.
- b. Commercial General Liability insurance, on an occurrence basis, with a combined single limit of not less than \$1,000,000, each occurrence for bodily injury and property damage, with an annual aggregate limit of \$2,000,000. This insurance shall include contractual liability coverage.

Coverage must be provided by an insurance company admitted to do business in Oregon or rated A- or better by Best's Insurance Rating. Contractor's coverage will be primary in the event of loss. Contractor shall pay all deductibles and retentions. A cross-liability clause or separation of insureds condition will be included in all commercial general liability policies required by this Contract.

Contractor shall furnish a Certificate of Insurance to the County with the signed Contract. The Certificate shall provide that there shall be no cancellation, termination, material change, or reduction of limits of the insurance coverage without 30 days written notice from the Contractor's insurer to the County. The Certificate shall also state the deductible or retention level. If requested, complete copies of insurance policies shall be provided to the County.

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If Contractor delivers Goods to County by common carrier and will not make deliveries to the County using its own employees, then proof of insurance as set forth in this **Section 20** will not be required.

21. **Waiver.** The failure of the County to enforce any provision of this Contract shall not constitute a waiver by the County of that or any other provision. Waiver of any default under this Contract by County shall not be deemed to be a waiver of any subsequent default or a modification of the provisions of this Contract.
22. **Governing Law/Venue.** The provisions of this Contract shall be construed in accordance with the laws of the State of Oregon and ordinances of Multnomah County, Oregon. Any legal action involving any question arising under this Contract must be brought in Multnomah County, Oregon. If the claim must be brought in a federal forum, then it shall be brought and conducted in the United States District Court for the District of Oregon.
23. **Severability.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Contract did not contain the particular term or provision held invalid.
24. **Merger Clause.** This cover page, *Standard Terms and Conditions*, and the attached exhibits that constitute the Contract are the entire agreement between the Parties. All understandings and agreements between the Parties and representations by either party concerning this Contract are contained in this Contract. No waiver, consent, modification or change in the terms of this Contract shall bind either party unless in writing signed by both Parties. Any written waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given.
25. **Anti-discrimination Clause.** Contractor shall not discriminate based on race, religion, color, sex, marital status, familial status, national origin, age, mental or physical disability, sexual orientation, gender identity, source of income, or political affiliation in programs, activities, services, benefits or employment. Contractor shall not discriminate against minority-owned, women-owned or emerging small businesses. Contractor shall include a provision in each subcontract requiring subcontractors to comply with the requirements of this clause.
26. **Intergovernmental Agreement.** Pursuant to ORS 279A.215, other public agencies may establish contracts or price agreements directly with the Contractor under the terms, conditions and prices consistent with this Contract.



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MULTNOMAH COUNTY REQUIREMENTS CONTRACT FOR GOODS

Contract Number: DCS-GOODS-13923-2022

The Contract may be executed in multiple counterparts and may be electronically signed. Any verified electronic signatures appearing on the Contract are the same as handwritten signatures for the purposes of validity, admissibility, and enforceability. Any reproduction of the Contract made by reliable means is considered an original.

By executing this Contract, each signatory acknowledges they: (a) are a duly authorized representative of their Party, acting with the power and authority to bind their Party as provided in the Contract; (b) have read and understand the agreement, including the attached Exhibits; and (c) agree on behalf of their Party to be bound by its terms as of the Effective Date.

CONTRACTOR SIGNATURE

Signature: Dane Alsabrook

Title: Director of Contract Administration

Name (print): Dane Alsabrook

Date: 4-5-22

MULTNOMAH COUNTY SIGNATURE

This Contract is not binding on the County until signed by the Chair or the Chair's designee.

County Chair or Designee: Brian R. Smith for Deborah Kafoury

Date: 4/5/22

Department Director Review (optional):

Director or Designee: _____

Date: _____

County Attorney Review:

Reviewed: JENNY M. MADKOUR, COUNTY ATTORNEY FOR MULTNOMAH COUNTY, OREGON

By Assistant County Attorney: _____

Date: _____

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**MULTNOMAH COUNTY
REQUIREMENTS CONTRACT FOR GOODS****Contract Number: DCS-GOODS-13923-2022****Exhibit 1: Bid Pages**

Price quotation for Low VOC, Solvent-Based Traffic Line Bead Binder
Paint in colors and sizes specified:

Item	Description	Size	Price per Gallon	Total Price
P 1	White Traffic Paint	325 Gallon	\$21.30	\$6,922.50
P 2	White Traffic Paint	55 Gallon	\$22.20	\$1,221.00
P 3	Yellow Traffic Paint	325 Gallon	\$21.90	\$7,117.50
P.4	Yellow Traffic Paint	55 Gallon	\$22.80	\$1,245.00

Delivery for all items within 20 days After Receipt of Order (ARO).

MULTNOMAH COUNTY REQUIREMENTS CONTRACT FOR GOODS

Contract Number: DCS-GOODS-13923-2022

Exhibit 2: Specifications and Additional Contract Requirements

ESTIMATED PURCHASES

Multnomah County's annual purchase amount is estimated to be \$350,000. The quantities listed below by Multnomah County and other agencies purchasing off this Contract via cooperative purchasing of anticipated one-year purchases, are based on the previous year's usage. Larger or smaller quantities may be purchased and the Contractor agrees to deliver as ordered. The County in no way implies or guarantees that the estimated amounts or any amount will be purchased during the term of the Contract. There will be no minimum order quantity imposed on the County.

The quantities listed below are an estimated annual total of Low VOC Solvent Based Traffic Line Bead Binder Paint in both white and yellow.

Marion County - 50,000
City of Portland - 32,000
Multnomah County - 25,000
Polk County - 12,000
Columbia County - 11,500
Tillamook County - 9,000
City of Salem - 6,000
Total of 145,000 gallons annually.

ADDITIONAL CHARGES

Any additional charges for alterations, quantity or specifications changes, or any services or materials not covered in this Contract shall be itemized in writing by the Contractor and approved by the contact person representing Multnomah County Transportation with whom the order is being coordinated.

ADD/DELETE ITEMS

Multnomah County reserves the right to add, delete or modify items during the term of awarded contract as determined necessary by the County. Modified or new items shall be negotiated with the Contractor and subject to the terms of the contract.

INTERGOVERNMENTAL COOPERATIVE PURCHASING

Pursuant to ORS 279A.215, Multnomah County PCRB Rules, and agreement by the selected Contractor to extend the terms, conditions and prices of the original Contract, this offer shall be extended to any authorized public agency. Said agency/agencies shall have the power and authority to purchase specified goods/services directly from the Contractor under the terms and conditions of the Multnomah County contract. Each Contracting agency will execute a separate contract with Contractor for its own requirements. Quantities listed in this document reflect County's estimated usage only.

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INTERGOVERNMENTAL COOPERATIVE ADMINISTRATIVE FEE (CAF):

A 1.0% annual cooperative administrative fee ("CAF") on eligible revenues will be paid to County for any Intergovernmental Cooperative Purchasing contracts that Contractor agrees to enter into under identical prices and terms and conditions to this Agreement and which did not result from a competitive bid process ("eligible contracts"). The pricing extended to the Participating Entity shall be the same purchase price to the County under this price agreement for each product. Eligible revenues shall mean the revenues on eligible contracts. In the event that the County exercises its unilateral right to early termination under clause EARLY TERMINATION, then Contractor will no longer be liable to County for any CAF otherwise due and payable to County.

A. Volume Sales Reports:

When other Participating Entities are offered the same terms and conditions as the original Agreement between Contractor and County, Contractor shall provide a twice-yearly volume sales report to the County's Transportation Division ("Transportation"). The reports shall include the complete and accurate details regarding all transactions pertaining to sales under the Agreement Terms and Conditions for that Reporting Period. Contractor shall provide the volume sales reports regardless whether or not any sales have been conducted. When no sales have been recorded for the period, a report must be submitted by so stating "No sales for this period".

Volume sales reports may be submitted either by email, US post or electronically submitted to:

Multnomah County Transportation
Business Services
Attn: Jeff Hagen, Procurement Analyst Senior
1620 SE 190th Ave.
Portland, OR 97233

Email: Jeffrey.Hagen@multco.us

County reserves the right to terminate this price agreement if the volume sales reports are not received on a timely basis as described herein, provided however that Contractor is granted the right to cure any breach in this regard within thirty (30) calendar days of written notice by County of said breach.

The sales information shall be supplied to the Transportation Division for the following Reporting Period of January 1 - June 30 and July 1 - December 31. All reports are due by the 30th calendar day following the end of the Reporting Period.

During the term of this price agreement and for the sales during the previous Reporting Period, Contractor shall remit CAF payments to County within thirty (30) calendar days of County's receipt of volume sales report. Contractor shall be responsible for timely reporting and payment. County reserves the right, at its own expense, to audit Contractor's records and other pertinent data.

B. CAF Payments:

All payments shall be due thirty (30) calendar days after County's receipt of the volume sales report. The CAF will NOT be reflected as a separate line-item charge to authorized purchasers. Contractor's bid prices shall reflect all of Contractor's charges to authorized purchasers.

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The County's CAF shall be calculated based upon Participating Entity volume sales report limited to paid-for purchases, net of returns, discounts and credits made by the Participating Entity. The calculation will be as follows:

- County price \$100.00 markup 1%
- Participating Entity pays \$101.00; rebate to be paid to the County = \$1.00 (\$101- (\$101/1.01))
- Contractor shall remit CAF payments in the form of a check to:

Multnomah County Transportation
Business Services
Attn: Jeff Hagen, Procurement Analyst Senior
1620 SE 190th Ave.
Portland, OR 97233

C. Definitions.

These definitions shall apply to the CAF provisions as follows:

"Participating Entity" shall be any public/governmental organization utilizing this Agreement in accordance with purchasing procedures mandated by Local and State procurement statutes and regulations.

"Reporting Period" means the twice yearly reporting of sales as conducted via cooperative procurement under this Agreement.

DELIVERY:

Contractor shall supply a current MSDS sheet with each paint shipment.

The County will specify delivery dates at the time of order placement with a minimum of 15 days' notice of each delivery date. Contractor shall complete delivery by the stipulated delivery date. Contractor shall notify the County, in writing, within 10 calendar days of the stipulated delivery date if delivery cannot be completed as required. Upon receipt of such notice from Contractor the County reserves the right to cancel the order and make a purchase from another vendor. County reserves the right to cancel the contract if:

- Contractor has missed the delivery date by more than one day but less than 15 days on two occasions.
- Contractor missed the delivery date by more than 15 days.

Delivery will be accepted Monday through Thursday between the hours of 6:00AM and 4:00PM. There will be no weekend or legal holidays deliveries. Any exception to this time frame shall be at the discretion of the County. Delivery of paint shall not be contingent upon the return of empty containers. The County reserves the right to conduct random checks and tests of shipments of paint.

Multiple deliveries may be required for any or all locations designated in the section labeled Delivery Locations. Loading and unloading of both full and empty tanks will be the sole responsibility of the Contractor at each site.

The County shall have the option of picking up material at the manufacturer's warehouse whenever the County deems necessary. The County will arrange the pickup date and time with the Contractor prior to pick up. Loading of the tanks or containers onto the ordering agency's truck or trailer shall be the responsibility of the Contractor.

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The County reserves the right to change delivery sites throughout the contract period. New sites may be added and/or others may be dropped. There shall be no charge in cost for delivery site additions or deletions.

Deletion or addition of sites shall not change the Contractor's obligation to provide all products and services described herein to all remaining County locations.

DELIVERY LOCATIONS

All prices shall be Freight On Board (FOB) Destination to the following Multnomah County locations:

Multnomah County Yeon Shops 1620 SE 190th Ave. Portland, OR 97233	Multnomah County Vance Pit 1541 SE 190th Ave. Portland, OR 97233
Multnomah County Hoyt Quarry District 1 Road Maintenance Shop 10814 NW Quarry Rd. Portland, OR 97231	Multnomah County Springdale Shops District 5 Road Maintenance Shop 32620 SE Hurlburt Rd. Corbett, OR 97019

ORDERING

The Contractor shall provide a local or a toll-free telephone number as well as a website or email address for the placing of orders. At a minimum the Contractor shall be available for ordering 7:30AM to 4:30PM Pacific Time, Monday through Friday.

LIQUIDATED DAMAGES

In the event the Contractor should fail to deliver the product by the delivery date stipulated with each purchase, the Contractor shall be assessed liquidated damages of \$2,500.00 per day, beginning 24 hours after the scheduled delivery day, any delays imposed on the County. These damages shall be assessed each calendar day until such time the Contractor delivers the product, or until the County acquires the product from another source. The Contractor shall also apply the additional costs between the cost of product from another source and the contract price. The County will deduct these damages from an invoice per product.

Neither party shall be liable in damages or have the right to terminate this Contract for any delay or default in performing hereunder if such delay or default is caused by conditions beyond the control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license). Wars, Insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.

PRODUCT PERFORMANCE

Contractor shall provide the services of one or more qualified persons responsible for assuring that the product provided under this contract performs properly. Such person(s) shall consult with representatives of the County to resolve performance problems. When necessary, this consultation shall include on-site visits to the County locations or job sites. Resolution of issues may include but is not limited to replacing product, cleaning and or servicing equipment damaged by faulty product or containers.

In the event the Contractor should fail to provide assistance to resolve product and/or equipment problems within 36 hours of request from the County, liquidated damages of \$2,500.00 per day shall be assessed to the Contractor, commencing on the 37th hour, for delays imposed on the County.

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In the event of receipt and use of the wrong product, and the Contractor fails to commence work and provide assistance with a product conversion request from the County within seven (7) days of such request, liquidated damages of \$2,500.00 per day shall be assessed the Contractor, commencing on the 8th day, for delays imposed on the County.

PRICE ADJUSTMENT CLAUSE

All Contract prices shall be protected from increase for the first year of the Contract. Changes in Contract prices or discounts shall be submitted in writing sixty (60) days prior to the proposed date of change, and then only in the same proportion that changes have occurred on the manufacturer's latest published price lists, discount schedules, federal price index, or other means of positive verification. All information regarding any proposed date of price or discount change(s) shall be submitted to the County in writing sixty (60) days prior to the proposed change(s), and the County shall have the right to accept or reject any proposed change(s) in any of the originally contracted prices or discounts.

The County shall be given the immediate benefit of any price decrease. Contractor shall promptly notify the County agency of the amount and effective date of such decrease. This decrease shall apply to orders placed on or after the effective date of the decrease. Invoices shall reflect prices in effect on the date the order was placed with the Contractor.

Should such decreased prices again increase during the term of the contract, including extensions, the County shall honor the increase if acceptable documentation verifying the increase is submitted to the County. The County shall determine what constitutes acceptable documentation.

NONPERFORMANCE

In the event of nonperformance under the resulting contract, the County shall have the right to obtain from other sources such products and/or services as may be required to accomplish the work not performed, and it is agreed that the difference in cost, if any, for said work or goods shall be borne by the Contractor. For purposes of this section, nonperformance shall be defined as failure to appear and perform work and/or deliver goods as specified.

If items ordered by the County are not delivered when required by the contract, the County may terminate the contract. If this occurs within the first year of the contract the County may initiate a contract with the second lowest proposer.

DISPUTES

In the case of doubt or differences of opinions as to the items or service to be furnished hereunder, or the interpretation of the provisions of this procurement, the decision of Multnomah County shall be final and binding on all Parties.

TRIAL PERIOD

The first sixty (60) days of the Contract following the first delivery shall be a trial period as related to the Contract services and specification compliance. The sixty (60) day trial period shall commence when the first order is delivered by the Contractor.

A Contractor who is not in compliance during this trial period may be terminated by the County with ten (10) calendar days notice of noncompliance. Notice will be given in writing via email. The Contractor shall also have the option to give ten (10) calendar days advance written notice of termination to the County during this trial period should conditions arise which would preclude the Contractor from performing or

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complying with the Contract provisions. Should such a termination occur, the County shall have the option to make a new contract award with the next lowest, responsive and responsible bidder.

INSPECTION SAMPLES

The County may request that Contractor furnish and deliver to the County, at no cost to the County, the following items for inspection and approval:

Samples	Two (2) one-quart and four (4) one-pint cans of paint for each type of material bid. 1. Labels will identify the formula, the lot or batch, date of manufacture, type and color.
	One empty representative 350-gallon container.
Drawings & Photos	The following documents, depicting the 350-gallon container the bidder proposes to use:
	Two (2) sets of detailed shop drawings. Drawings shall include details of the security feature(s) and fittings. Drawings shall be a minimum of 2 feet by 3 feet and should include a material list for all parts.
	Two (2) sets of ORIGINAL 8-inch by 10-inch color pictures of: 1. All sides of the container. 2. Top of the container. 3. Valve Guard (See technical Specifications, Paragraph 5(h)) 4. Security feature(s) (See technical Specifications Paragraph 5(h)).

INITIAL ORDER

The awarded Contractor agrees to sell to the County, within twenty (20) calendar days from date of request/order, one (1) each 350-gallon yellow and white paint in the proposed container, as an initial order, at the bid price. Should this initially ordered product cause any equipment failures or problems, the provider of said product shall be responsible to clean, repair and/or replace the affected equipment (the County's choice) at no charge to the County. Any adaptations that need to be made to the County's existing paint equipment, in order to test this initial paint order, will need to be addressed before the Contract is finalized and accepted.

The County's Material Testing Lab or their designee may analyze the initial order sample (including infrared spectroscopy and chromatography).

Contractor shall furnish a certificate, which certifies that the paint being delivered is of the same formulation as the samples submitted.

CONTAINER RETURN AND MAINTENANCE

The Contractor shall accept the return of empty 350-gallon containers and 55-gallon drums at the point of delivery, and will be responsible to haul them from the site at no additional charge to the County.

Contractor will provide annual cleaning of two County owned 350-gallon paint containers.

SUSTAINABILITY SPECIFICATIONS

County encourages sustainability in the performance of this Contract including the following where practical:

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- Use of route optimization for deliveries.
- Use of fuel-efficient vehicles with emissions retrofits.
- Use and supply of products that are manufactured and assembled in the United States.
- Supply of products to meet the Volatile Organic Content specifications listed below.

SECTION 2 TECHNICAL SPECIFICATIONS

APPLICABLE SPECIFICATIONS

The specifications as referenced in ASTM DI 476 as well as all specifications, test methods, and standards included herein and any in effect on the effective date of this Contract shall govern for the entire term of this agreement, unless changed by written request from the County.

SILENCE OF SPECIFICATION

The apparent silence of this specification and supplemental specifications as to any detail, or the apparent omission of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and the only materials and workmanship of first quality are to be used.

NO-TRACKING TIME

"No-tracking" shall be the time required for the line to withstand the running of a standard automobile or light pickup over the line at a speed of approximately 45 mph simulating a passing procedure, without tracking of the reflectorized line when viewed from a distance of 50 feet.

The paint shall dry to a no-tracking condition in no more than 90 seconds when applied at 15 mils wet film thickness at dry pavement temperature of 77 degrees F and 50% relative humidity +/- 5 degrees, with 6 pounds of type B glass beads per gallon of paint.

PHYSICAL PROPERTIES OF THE COATING

ASTM guidelines can be found at www.astm.org

Viscosity (in Krebs Units). Test according to ASTM D562 using the Stormer Viscometer.

@ 10 degrees C 100 K.U. Maximum

@ 25 degrees C 85 – 90 K.U.

@ 50 degrees C 75 K.U. Minimum

Weight per Gallon. The weight per gallon shall be within + 0.20 pounds from the bid sample.

Fineness of Grind. A decrease in the fineness of grind rating of any batch sample of more than one (1) Hegman unit from that of the pre-contract sample shall be cause for rejection. Test in accordance with ASTM D1210.

Bleeding over Asphalt. The paint film shall have a minimum reflectance ratio of 92%. See ASTM D969 for test method.

Stability. Any gelling, settling, discoloration or skins that are not readily re-incorporable shall be cause for rejection. An increase of 10 or more Krebs units at 40 degrees C over the initial 50 degrees C viscosity shall be cause for rejection.

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Settling. Six month rating of six (6) minimum.

Color. The white traffic paint shall have a daylight reflectance of 84% minimum. The yellow traffic paint shall meet Federal Color Standard #13538. See ASTM E97 (White Paint) and ASTM D1729 (Yellow Paint).

Redissolve Test. The immersed portion of the paint film shall be completely dissolved with no evidence of dried paint remaining on the panel or in the paint.

Volatile Organic Content. The volatile organic content of the paint shall be no more than 150 grams/liter excluding those solvents exempted by the EPA or the Oregon Department of Environmental Quality as defined in OAR 430-22-102. The volatile organic content of the paint shall be determined by the procedure set forth in EPA Test Method 24 (40 CFR 60, Appendix A, July 1, 1994).

350 GALLON BULK CONTAINER AND 55-GALLON DRUM PACKING

For the 350-Gallon Bulk Container, the following applies:

- a) The Vendor will furnish, at no cost to the County, returnable stainless-steel containers. The containers shall be new or reconditioned, pressure-tested stainless-steel containers, and shall conform to Federal DOT Specification 57 from CFR 49, Par. 178.251, or current revision and all other appropriate rules and regulations. Reconditioned bulk containers shall be cleaned and free from any and all contaminants prior to being filled with product.
- b) All covers, connections, valves, view ports and vents (items E, F, G, I & K as listed below) shall be cleaned, free of product and operable.
- c) All containers shall be of the same design and shall:
- d) Be of approximately 350 U.S. gallons capacity. One U.S. gallon is defined as 3.785 liters.
- e) Have a base dimension not greater than 48 inches by 48 inches. The containers shall mount and fasten to County-owned equipment without overhanging the sides of the truck or requiring any modifications to the truck. If any hose or fitting modifications are required, the total cost of any such modifications shall be borne by the contractor in an amount not to exceed \$250. Any such modifications shall be submitted to the Traffic Aids Supervisor for prior approval.
- f) Have forklift skids that are at least two-way accessible, on opposite sides with outside dimensions not to exceed 48 inches.
- g) Have at least two lifting lugs that provide stable and safe lifting.
Have covers and valves that can easily be resealed after partial use of contents.
- h) Have either a hinged or a screw top opening of at least 6 inches in diameter that allows for easy viewing of the contents to determine the amount of paint remaining in the container. View port shall be on the top of the container.
- i) Have two-inch ball valve fitted with a male quick-disconnect at bottom of outlet of the container, and a two-inch male quick disconnect with sealable cap at the top of the container.
- j) Have a system that allows the paint to be re-circulated without introducing additional air into the system.
- k) Allow for easy hook-up to County-owned vehicles. Upon request, Contractor shall be responsible to make required modifications to the containers.
- l) Have an automatic air vent allowing air into the container to keep it from collapsing when the paint is extracted.

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- m) Each bulk container shall be labeled or stenciled, legibly, and in a visually prominent location with the following information (Abbreviations may be used):

- 1) Specification/formula number
- 2) Color
- 3) Name of manufacturer
- 4) Date of manufacture, month and year
- 5) Batch number
- 6) Tare weight of empty container
- 7) Hazmat placards as required

For the 55-Gallon Drum, the following applies:

- a) Unless otherwise specified on the order, the paint shall be delivered in clean, strong, tight, open-head steel drums of 55 U.S. gallon capacity.
- b) The lid shall have a standard 2 inch bung and a ¾ inch NPT Plug.
- c) Both body and ends shall be not less than 18-gauge steel.
- d) Full drums shall be capable of being mixed on a drum roller without sustaining crumpling or other damage that would cause the drum to leak.
- e) For the purpose of this contract, "empty" shall mean that the residual product does not exceed the maximum amount allowed by U.S. Department of Transportation for hauling of hazardous material.
- f) The drums and lids shall be lined, with a bonded lining, or treated, if necessary, to prevent rust, corrosion or attack by the paint. The bonded lining shall not come off as skins. Loose, or "sack" liners are not acceptable.
- g) Each drum shall be labeled or stenciled, legibly, and in a visually prominent location with the following information (Abbreviations may be used):

- 1) Specification/formula number
- 2) Color
- 3) Name of manufacturer
- 4) Date of manufacture, month and year
- 5) Batch number
- 6) Tare weight of empty container
- 7) Hazmat placards as required

The Contractor shall, without cost to the County, replace any paint that has become unfit for use, because of contamination from the drum or lid rusting, or by water seeping into the drum upon storage in the drum in an upright position as received, for a period of up to one year from the date of manufacture.

Packing Requirements for both Bulk Containers and Drums shall meet U.S. Department of Transportation hazardous material shipping regulations.

CONTAINER RETURNS

Contractor shall accept the return, and liability of all empty 350-gallon containers and any empty, undamaged 55-gallon drums at the point of delivery. Delivery of paint shall not be contingent upon the return of empty tanks.

WARRANTY OF PRODUCT

The Contractor shall warrant both container and paint, to meet all specifications outlined in this Contract, for a period of twelve (12) calendar months after manufacture. The County will not accept any product more than sixty (60) days after the date of manufacture. The Contractor, shall without cost to the County,

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replace any paint which has become unfit for use including leakage of the containers, dry caking, settling, gelling, clumping, separation, livering or skinning while stored in the original container received from the manufacturer, or that causes any system filter to clog after less than 1,500 gallons of product is used.

The paint must be capable of being readily pumped completely from a 350 gallon container at ground level to a container mounted on the stripping machine without being pre-mixed prior to being transferred.

Transferred paint shall contain all solids so that the paint will match the sample batch which was submitted and tested at the time of manufacture. The viscosity shall not increase by more than 10 kreb units from the matching batch sample viscosity, as determined by Multnomah County's Laboratory or designee.

MEASUREMENTS AND PAYMENT

Weighing each batch delivered and deducting the tare weight of the containers will determine the net weight of paint delivered. The number of gallons to be paid for shall be determined by dividing the total net weight by the weight per gallon of the test sample corresponding to the batch(s) delivered.

The Contractor, per the following test method, will determine the weight per gallon for each batch:

The weight per gallon shall be within +/- 0.20 pounds per gallon from the bid sample. The procedure described in ASTM DI 476 will be used only to calibrate the weight per gallon cup.

To determine the weight per gallon of the paint, the following water-reduction method shall be used (determine all weight to the nearest 0.01 gram):

Step 1. Tare out the weight of the 83.2 ml weight-per-gallon cup and lid.

Step 2. Weigh approximately 40 grams of paint into the cup. Record the weight of the cup, paint, and lid as P.

Step 3. Add a small amount of water and stir thoroughly. Fill the cup to the top with water. Place the lid on the cup and quickly wipe away any excess with one stroke. Record the weight of the cup, lid, water, and paint as M.

Step 4. Clean and dry the cup and lid. Fill with water, replace the lid and wipe away the excess. Record the weight of the cup, lid, and water as S.

Step 5. Calculate the weight per gallon of the paint, using the following equation:

$$\frac{1}{SE} \times \frac{P}{10} = \text{Weight (lbs/gal)}$$