



Marion County
OREGON
FINANCE DEPARTMENT

Contract Review Sheet

PO-910240

Purchase Order #: **PO-910240** Amendment #: _____

Contact: **Tim Beaver** Department: **Public Works**

Phone #: **503-365-3100** Date Sent: **Wednesday, July 13, 2022**

Title: **Purchase order for the purchase of a John Deere 6110R tractor w/boom mower package**

Contractor's Name: **Deere & Co. (Pape Machinery)**

Term - Date From: **Execution** Expires: **June 30, 2023**

Contract Total: \$ **211,499.01** Amendment: \$ **-** New Total: \$ **211,499.01**

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

Source Selection Method: **Cooperative Procurement** Cooperative # **SPA 1744**

Description of Services or Grant Award

Purchase order for the purchase of a John Deere 6110R tractor w/boom mower package. CMS record PW-4939-22.

Desired BOC Session Date: **8/10/2022** BOC Planning Date: **7/28/2022**

Files submitted in CMS: **7/20/2022** Printed packet & copies due in Finance: **7/26/2022**

BOC Session Presenter(s) **Scott Wilson**

FOR FINANCE USE

Date Finance Received: **7/15/2022** Date Legal Received: _____

Comments: **Y**

REQUIRED APPROVALS

Finance - Contracts _____ Date _____ Contract Specialist _____ Date _____

Legal Counsel _____ Date _____ Chief Administrative Officer _____ Date _____



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: August 10, 2022

Department: Public Works Agenda Planning Date: July 28, 2022 Time required: 5 min

☒ Audio/Visual aids PowerPoint

Contact: Scott Wilson Phone: 503-365-3129

Department Head Signature:

TITLE Consider approval of PO # 910240 to Deere & Co. for the purchase of a 2023 John Deere 6110 Tractor with a boom mower.

Issue, Description & Background Public Works utilizes a diversified fleet of heavy and medium equipment types to perform its road maintenance tasks.

The tractor mower will provide year-round roadside vegetation control performing shoulder mowing and brush cutting for improved safety sight distance and vegetation encroachment along the roadway clear zone areas within the Right-of Way.

Financial Impacts: For FY 2022/2023 the PO amount for the tractor mower is \$211,499.01 and awarded through the Oregon State Pricing Agreement Cooperative #1744. Funding is approved by CE #23-312 for the purchase of the equipment.

Impacts to Department & External Agencies This purchase is essential to replace equipment that has surpassed its useful life and will be replacing our existing 2003 John Deere tractor mower.

Options for Consideration:
1. Approve PO # 910240 to Deere & Co. for the purchase of a John Deere 6110 tractor with a boom mower.
2. Withhold approval of PO # 910240 to Deere & Co. for the purchase of a John Deere tractor with a boom mower.

Recommendation: Public Works recommends that the Board approves option #1 and approve the Purchase Order to Deere & Co. for the purchase of the 2022 John Deere 6110 Tractor with a boom mower.

List of attachments:
1. Contract Review Sheet
2. Purchase Order # 910240
3. Approved Purchase Order Request Form

Presenter: Scott Wilson

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

Copies to: Tim Beaver, tbeaver@co.marion.or.us
Jennifer Scales, JScales@co.marion.or.us



MARION COUNTY FINANCE DEPARTMENT

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

DEERE & CO
21748 NETWORK PL
CHICAGO IL 60673-1217

Purchase Order		
Purchase Order No	Revision	Page
910240		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	Supplier No 568470	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 ERIC STEWART	Confirm To / Telephone ()	

Line #	Description	Delivery Date	Quantity	Unit	Unit Price	Total
1	CE#23-312 JOHN DEERE 6110R TRACTOR W/BOOM MOWER PACKAGE THIS PURCHASE IS PLACED AGAINST STATE OF OREGON SOLICITATION # AND/OR PRICE AGREEMENT #1744.		1			\$211,499.01
					Total	\$211,499.01

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

Authorized By: _____
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.

**MARION COUNTY SIGNATURES
BOARD OF COMMISSIONERS:**

_____	_____
Chair	Date

_____	_____
Commissioner	Date

_____	_____
Commissioner	Date

Authorized Signature: _____	_____
Department Director or designee	Date

Authorized Signature: _____	_____
Chief Administrative Officer	Date

Reviewed by Signature: _____	_____
Marion County Legal Counsel	Date

Reviewed by Signature: _____	_____
Marion County Contracts & Procurement	Date

[illegible]

Jeniffer Scales

From: Dennis Mansfield
Sent: Tuesday, July 12, 2022 3:02 PM
To: Jason Sykes
Cc: Jeniffer Scales; Eric Stewart; Scott W. Wilson; Tim Beaver; Kay Alejandre
Subject: RE: PO Request 2018 John Deere 770G Motor Grader CE# 23-310

Approved for \$280,590.05

Scott, this requires Board Session paperwork and suit/tie presentation. 😊

Dennis

From: Jason Sykes <JSykes@co.marion.or.us>
Sent: Tuesday, July 12, 2022 2:50 PM
To: Dennis Mansfield <DMansfield@co.marion.or.us>
Cc: Jeniffer Scales <JScales@co.marion.or.us>; Eric Stewart <EStewart@co.marion.or.us>; Scott W. Wilson <SWWilson@co.marion.or.us>; Tim Beaver <TBeaver@co.marion.or.us>
Subject: FW: PO Request 2018 John Deere 770G Motor Grader CE# 23-310

Good afternoon, Dennis

Attached is an approved PO in the amount of \$280,590.05 for your review and approval.

Thank you



Jason Sykes
Marion County Public Works
Fleet & Communications Supervisor
✉ JSykes@co.marion.or.us
☎ (503) 365-3196 (office)
📱 (503) 798-8864 (mobile)

From: Eric Stewart <EStewart@co.marion.or.us>
Sent: Tuesday, July 12, 2022 2:15 PM
To: Jason Sykes <JSykes@co.marion.or.us>
Cc: Jeniffer Scales <JScales@co.marion.or.us>; Tim Beaver <TBeaver@co.marion.or.us>; Scott W. Wilson <SWWilson@co.marion.or.us>
Subject: PO Request 2018 John Deere 770G Motor Grader CE# 23-310

Jason,


For your review and approval, please see attached PO request for the purchase of a John Deere 770G Motor Grader.


Thank you,



O R E G O N

Eric Stewart | Fleet Specialist
Fleet, Marion County Public Works

 estewart@co.marion.or.us

 (503) 365-3161 (office)



JOHN DEERE

Quotes are valid for 30 days from the creation date of the quote OR until the contract expires.

A Purchase Order or Letter of Intent is required for all orders.

To expedite the delivery of equipment, the below information must be included on your Purchase Order or Letter of Intent.

For any questions, please contact:

Kirk Gilman

Pape Machinery, Inc.
5101 Lardon Road Ne
Salem, OR 97305

Tel: 503-581-5033
Mobile Phone: 503-710-0340
Fax: 503-588-1558
Email: kgilman@papemachinery.com

- Vendor: Deere & Company
- ☐ 2000 John Deere Run
Cary, NC 27513
- ☐ Signature
- ☐ Shipping address
- ☐ Billing address
- ☐ Billing email address

If information is not included, the Purchase Order or Letter of Intent will be returned.



Quote Id: 25867138

**ALL PURCHASE ORDERS MUST BE MADE OUT
TO (VENDOR):**

Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580; DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT
TO DELIVERING DEALER:**

Pape Machinery, Inc.
5101 Lardon Road Ne
Salem, OR 97305
503-581-5033
agsalem@papemachinery.com

Prepared For:

MARION COUNTY

Proposal For:

Delivering Dealer:

Kirk Gilman

Pape Machinery, Inc.
5101 Lardon Road Ne
Salem, OR 97305

503-581-5033
agsalem@papemachinery.com

Quote Prepared By:

Kirk Gilman
503-710-0340
kgilman@papemachinery.com



JOHN DEERE



Quote Id: 25867138

**ALL PURCHASE ORDERS MUST BE MADE OUT
TO (VENDOR):**

Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580; DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT
TO DELIVERING DEALER:**

Pape Machinery, Inc.
5101 Lardon Road Ne
Salem, OR 97305
503-581-5033
agsalem@papemachinery.com

05 January 2022

5155 SILVERTON RD NE
SALEM, OR 97305

Customer Signature

Proposal Date

Kirk Gilman
503-581-5033
Pape Machinery, Inc.


ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):

Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580; DUNS#: 60-7690989

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Pape Machinery, Inc.
5101 Lardon Road Ne
Salem, OR 97305
503-581-5033
agsalem@papemachinery.com

Quote Summary

Prepared For:

MARION COUNTY
5155 SILVERTON RD NE
SALEM, OR 97305
Business: 503-365-3161
EStewart@co.marion.or.us

Delivering Dealer:

Pape Machinery, Inc.
Kirk Gilman
5101 Lardon Road Ne
Salem, OR 97305
Phone: 503-581-5033
Mobile: 503-710-0340
kgilman@papemachinery.com

This sale is subject to Papé's Terms and Conditions of Sale effective on the date hereof, which are incorporated in full by this reference. The Terms and Conditions of Sale are available at www.pape.com/terms, and will also be sent by mail or e-mail to the purchaser upon request.

Quote ID: 25867138
Created On: 05 January 2022
Last Modified On: 13 July 2022
Expiration Date: 31 August 2022

Equipment Summary	Selling Price	Qty	Extended
DIAMOND MOWERS DIAMOND BOOM MOWER PACKAGE Contract: OR Lawn and Grounds Maint Equip 1744 (PG 25 CG 22) Price Effective Date:	\$ 82,529.77 X	1 =	\$ 82,529.77
ALLIED AIR COMPRESSOR PACKAGE Contract: OR Lawn and Grounds Maint Equip 1744 (PG 25 CG 22) Price Effective Date:	\$ 4,848.00 X	1 =	\$ 4,848.00
JOHN DEERE 6R 110 Tractor Contract: OR Lawn and Grounds Maint Equip 1744 (PG 25 CG 22) Price Effective Date: March 29, 2021	\$ 124,121.24 X	1 =	\$ 124,121.24
Equipment Total			\$ 211,499.01

* Includes Fees and Non-contract items

Quote Summary

Equipment Total	\$ 211,499.01
Trade In	
SubTotal	\$ 211,499.01

Salesperson : X _____

Accepted By : X _____

**ALL PURCHASE ORDERS MUST BE MADE OUT
TO (VENDOR):**

Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580; DUNS#: 60-7690989

**ALL PURCHASE ORDERS MUST BE SENT
TO DELIVERING DEALER:**

Pape Machinery, Inc.
5101 Lardon Road Ne
Salem, OR 97305
503-581-5033
agsalem@papemachinery.com

Est. Service	\$ 0.00
Agreement Tax	
Total	\$ 211,499.01
Down Payment	(0.00)
Rental Applied	(0.00)
Balance Due	\$ 211,499.01

Salesperson : X _____

Accepted By : X _____



JOHN DEERE

Selling Equipment



Quote Id: 25867138 Customer Name: MARION COUNTY

ALL PURCHASE ORDERS MUST BE MADE OUT
TO (VENDOR):

Deere & Company
2000 John Deere Run
Cary, NC 27513

FED ID: 36-2382580; DUNS#: 60-7690989

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5101 Lardon Road Ne
Salem, OR 97305
503-581-5033
agsalem@papemachinery.com

DIAMOND MOWERS DIAMOND BOOM MOWER PACKAGE

Hours: 0

Stock Number:

Contract: OR Lawn and Grounds Maint Equip 1744 (PG 25
CG 22)

Selling Price *
\$ 82,529.77

Price Effective Date:

* Price per item - includes Fees and Non-contract items

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
1		1	\$ 81,076.67	0.00	\$ 0.00	\$ 81,076.67	\$ 81,076.67
Dealer Attachments/Non-Contract/Open Market							
BL16242	Clutch Kit - CLUTCH KIT, PREPARATION FOR FRONT I	1	\$ 1,453.10	0.00	\$ 0.00	\$ 1,453.10	\$ 1,453.10
Dealer Attachments Total			\$ 1,453.10		\$ 0.00	\$ 1,453.10	\$ 1,453.10
Total Selling Price			\$ 82,529.77		\$ 0.00	\$ 82,529.77	\$ 82,529.77

ALLIED AIR COMPRESSOR PACKAGE

Equipment Notes:

Hours: 0

Stock Number:

Contract: OR Lawn and Grounds Maint Equip 1744 (PG 25
CG 22)

Selling Price *
\$ 4,848.00

Price Effective Date:

* Price per item - includes Fees and Non-contract items

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
1		1	\$ 4,848.00	0.00	\$ 0.00	\$ 4,848.00	\$ 4,848.00
Total Selling Price			\$ 4,848.00		\$ 0.00	\$ 4,848.00	\$ 4,848.00

JOHN DEERE 6R 110 Tractor

Selling Equipment

Quote Id: 25867138 **Customer Name:** MARION COUNTY

ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):

Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580; DUNS#: 60-7690989

ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:

Pape Machinery, Inc.
5101 Lardon Road Ne
Salem, OR 97305
503-581-5033
agsalem@papemachinery.com

Equipment Notes:

Hours:

Stock Number:

Selling Price *

Contract: OR Lawn and Grounds Maint Equip 1744 (PG 25 CG 22)

\$ 124,121.24

Price Effective Date: March 29, 2021

* Price per item - includes Fees and Non-contract items

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
441AL	6R 110 Tractor	1	\$ 123,749.00	22.00	\$ 27,224.78	\$ 96,524.22	\$ 96,524.22
Standard Options - Per Unit							
183A	JDLINK™ Capable	1	\$ -600.00	22.00	\$ -132.00	\$ -468.00	\$ -468.00
190A	Gen 4 4200 CommandCenter™	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
0202	United States	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
0409	English	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
0660	Less Loader Package	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
0700	Less Loader Equipment	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
873C	Premium Panorama Roof Light Package	1	\$ 3,305.00	22.00	\$ 727.10	\$ 2,577.90	\$ 2,577.90
878W	Panorama Glass Roof	1	\$ 697.00	22.00	\$ 153.34	\$ 543.66	\$ 543.66
1558	AutoPowr™ Infinitely Variable Transmission (IVT™) 50 km/h (31 mph)	1	\$ 10,205.00	22.00	\$ 2,245.10	\$ 7,959.90	\$ 7,959.90
1755	No ISOBUS Ready / GreenStar™ Ready	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
1950	Less Application	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
2014	Premium Cab Package	1	\$ 6,974.00	22.00	\$ 1,534.28	\$ 5,439.72	\$ 5,439.72
2159	Premium Seat	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
2203	Less Cab Suspension	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
2522	Mirrors - Electrical Adjustable And Manual Telescopic with Wide Angle	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
2624	Panorama Doors left and right	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
2664	Premium Radio	1	\$ 982.00	22.00	\$ 216.04	\$ 765.96	\$ 765.96
2704	CommandArm	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00

Selling Equipment

Quote Id: 25867138 **Customer Name:** MARION COUNTY

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Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580; DUNS#: 60-7690989

ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:

Pape Machinery, Inc.
5101 Lardon Road Ne
Salem, OR 97305
503-581-5033
agsalem@papemachinery.com

3223	Hydraulic Pump - 114 L/min	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
3331	3 Electronic Selective Control Valves (SCV) - Premium	1	\$ 2,883.00	22.00	\$ 634.26	\$ 2,248.74	\$ 2,248.74
3400	No Midstack SCV	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
3831	Rear PTO - 540/540E/1000 - for Flange Axle	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
4121	Telescopic Draft Links with Ball End - Category 3N	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
4213	Center Link with Ball End - Category 3	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
4410	Sway Blocks	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
5010	Flanged-Type Rear Axle	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
5093	2-Position steel wheels	1	\$ -638.00	22.00	\$ -140.36	\$ -497.64	\$ -497.64
5234	Rear Wheels 460/85R38 (18.4R - 38)	1	\$ 2,496.00	22.00	\$ 549.12	\$ 1,946.88	\$ 1,946.88
5999	Rear and Front Tire Brand - No Preference	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
6070	4WD front axle - TLS Plus with brakes	1	\$ 6,201.00	22.00	\$ 1,364.22	\$ 4,836.78	\$ 4,836.78
6092	Adjustable steel wheels	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
6220	Front Wheels 380/85R24	1	\$ 806.00	22.00	\$ 177.32	\$ 628.68	\$ 628.68
7702	Shipment Preparation - By Ship Overseas	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
8011	Front Fenders for Mechanical Front-Wheel Drive (MFWD) - Rigid	1	\$ 639.00	22.00	\$ 140.58	\$ 498.42	\$ 498.42
8020	Fender Extension - One-Piece Side and Rear Extension (Adjusted to Tire Size)	1	\$ 729.00	22.00	\$ 160.38	\$ 568.62	\$ 568.62
8756	Hydraulic Trailer Brake System	1	\$ 484.00	22.00	\$ 106.48	\$ 377.52	\$ 377.52
Standard Options Total			\$ 35,163.00		\$ 7,735.86	\$ 27,427.14	\$ 27,427.14
Technology Options/Non-Contract/Open Market							
1880	Less Receiver	1	\$ 0.00	22.00	\$ 0.00	\$ 0.00	\$ 0.00
Technology Options Total			\$ 0.00		\$ 0.00	\$ 0.00	\$ 0.00
Dealer Attachments/Non-Contract/Open Market							
AL205893	Shade Curtain - SHADE CURTAIN, ATTACHMENT, 6R, FRON	1	\$ 217.80	22.00	\$ 47.92	\$ 169.88	\$ 169.88



JOHN DEERE

Selling Equipment



Quote Id: 25867138

Customer Name: MARION COUNTY

ALL PURCHASE ORDERS MUST BE MADE OUT
TO (VENDOR):

Deere & Company
2000 John Deere Run
Cary, NC 27513
FED ID: 36-2382580; DUNS#: 60-7690989

ALL PURCHASE ORDERS MUST BE SENT
TO DELIVERING DEALER:

Pape Machinery, Inc.
5101 Lardon Road Ne
Salem, OR 97305
503-581-5033
agsalem@papemachinery.com

Dealer Attachments Total	\$ 217.80	\$ 47.92	\$ 169.88	\$ 169.88
Value Added Services	\$ 0.00		\$ 0.00	\$ 0.00
Total				
Total Selling Price	\$	\$ 35,008.56	\$	\$
	159,129.80		124,121.24	124,121.24

Notice: When operated in California, any off-road diesel vehicle may be subject to the California Air Resources Board In-Use Off-road Diesel Vehicle Regulation. It therefore could be subject to retrofit or accelerated turnover requirements to reduce emissions of air pollutants. For more information, please visit the California Air Resources Board website at:

<http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm>.



JDLink Account Setup Form

THIS FORM MUST BE TURNED IN TO REGION SALES ADMINISTRATOR AT THE TIME OF SETTLEMENT.

Territory Manager

CSA

Machine Serial Number

Company/Customer Name

Business Address

Phone

JDLink Admin Information

First Name

Last Name

E-mail Address

Ask customer if they have an existing MyJohnDeere/JDLink Account

Sales Admin Initials

MJD/JDLink Username

Opt Out of Active Data Monitoring

☐ Terminate the collection or sharing of JDLink data for use in monitoring or diagnosing or providing service solutions.

By signing you agree to cancel subscriptions, disengage the data collection modules, and are deactivating your machine permanently.

Signature

Date

SALES ADMINISTRATOR MUST SUBMIT COMPLETED FORM WITH SETTLEMENT PAPERWORK.

TERMS AND CONDITIONS OF SALE

TERMS AND CONDITIONS OF SALE: Sales Orders are based on the terms and conditions stated herein. Unless otherwise provided on the face hereof, offers are good for acceptance for a period of 30 days from the date hereof. An order by the Buyer shall constitute an acceptance of the terms and conditions herein proposed. If, and only if, no offer of sale is issued by Seller, then the invoice shall be deemed: an acceptance of the Buyer's order; a written confirmation; and a final, complete, and exclusive written expression of the agreement between Seller and Buyer. Buyer is hereby notified that additional or different terms from those contained herein are objectionable.

1. Taxes. Buyer shall pay all local, state, and federal taxes arising from or related to any sale or lease to which this document relates, except for taxes upon or measured by net income of Seller.

2. Delivery. Stated or promised delivery dates are estimates only based upon Seller's best judgment and Seller shall not be responsible for deliveries later than promised regardless of the cause. Delivery periods are projected from the date of receipt of any order by Seller, but if equipment to be furnished by Seller is to be manufactured specifically to fill a particular order, delivery periods will be projected from the date of Seller's receipt of complete manufacturing information. If the furnishing of equipment on orders accepted by Seller is hindered or prevented by public authority or by the existence of war or other contingencies, including, but not limited to, shortage of materials, fires, labor difficulties, accidents, delays in manufacture or transportation, acts of God, embargoes, inability to ship, inability to insure against war risks or substantially increased prices or freight rates, or other causes beyond Seller's control, the obligation to fill or complete such orders shall be excused by Seller's option.

3. Transportation and Claims. Prices quoted are net F.O.B. point designated in writing by Seller. When no F.O.B. point is designated in writing by Seller, prices for new equipment shall be deemed to be net F.O.B. point of manufacture and prices for all other equipment shall be deemed to be F.O.B. Seller's place of business at which the order for the equipment is accepted. When transportation is allowed, the price charged will be adjusted to reflect the lowest transportation rates in effect at the time of shipment even though such rates may differ from those quoted by Seller. Seller's responsibility for the equipment shall cease and all risk of loss shall become the Buyer's upon delivery of the equipment to the first carrier for shipment to the Buyer or his consignee, even though such delivery shall be made prior to the arrival of the equipment at the F.O.B. point designated, and any and all claims for shortages, deliveries, damages or non-delivery must be made by the Buyer or his consignee to the carrier. Seller shall in no event be responsible for shortages in shipments unless notice of such shortage is given in writing to Seller within 15 days after receipt of shipment.

4. Payment and Security. Buyer agrees to pay in full for the equipment at time of delivery. Buyer agrees to pay the late charge on any past due balance at the rate of 18% per annum. The signator warrants that he/she has authority to execute this order on behalf of any party for whom he/she signs, and that such party has the power to enter into this agreement and perform its terms. As security for all of Buyer's obligations to Seller, Buyer grants to Seller a security interest in the equipment and authorizes Seller to file all documents necessary to perfect Seller's security interest. The security interest granted hereunder is in addition to any other rights available to Seller, and Seller shall have all of the rights and remedies available to a secured party under the Uniform Commercial Code, all of which are cumulative. Throughout the duration of Seller's security interest. Buyer shall keep the equipment fully insured against theft and loss or damage by fire and other casualty as Seller may from time to time require in accordance with such terms as Seller may require.

5. Buyer to Furnish. Performance by Seller is subject to the Buyer furnishing a satisfactory credit rating certificate, letter of credit, evidence of financing, or any other similar papers necessary for the satisfactory completion of such order.

6. Laws Governing. All orders will be governed by the laws of the State of Oregon.

7. Assignment. The right to any monies due or to become due hereunder may be assigned by Seller, and Buyer, upon receiving notice of such assignment, shall make payment as directed.

8. Limitations of Warranties. If "NEW" warranty is indicated on the reverse side or if new equipment is purchased hereunder, all warranties are strictly given only by the manufacturer. Copies of manufacturer's warranty can be obtained from Seller. If "USED" warranty is indicated on the reverse side. Seller hereby warrants to Buyer that the equipment or components thereof designated on the reverse side, shall be free under normal use and service from defects in material and workmanship for the period shown, commencing on the date of delivery. Buyer's exclusive remedy for breach of the limited warranty shall be the repair or replacement of the warranted equipment without charge to Buyer when returned at Buyer's expense to the Seller's facility where the equipment was purchased, with proof of purchase. Buyer must give notice of any warranty claim not later than 7 days after the expiration of the warranty period and must return the equipment to Seller for repair or replacement no later than 30 days after expiration of the warranty period. Any action against Seller for breach of the limited warranty must be commenced within one year after the date of delivery of the equipment. Seller's warranty does not extend to any defect, claim, or damage attributable to the failure to operate and/or maintain the equipment in accordance with the manufacturer's specifications, or due to the failure to operate or maintain the equipment in accordance with any recommendations of Seller. If "AS IS" is indicated on the reverse side, no warranty of any kind is being given and the equipment is being sold with all faults. THE WARRANTIES IN THIS PARAGRAPH AND ON THE REVERSE SIDE ARE THE EXCLUSIVE WARRANTIES GIVEN BY SELLER AND SUPERSEDE ANY PRIOR, CONTRARY, OR ADDITIONAL REPRESENTATIONS, WHETHER ORAL OR WRITTEN. SELLER HEREBY DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY IMPLIED WARRANTIES OTHERWISE ARISING FROM COURSE OF DEALING OR USAGE OF TRADE. SELLER SHALL NOT BE LIABLE FOR ANY LOSS, INJURY, OR DAMAGE TO PERSONS OR PROPERTY RESULTING FROM THE FAILURE OR DEFECTIVE OPERATION OF THE EQUIPMENT; NOR WILL SELLER BE LIABLE FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND SUSTAINED FROM ANY CAUSE. This exclusion applies regardless of whether such damages are sought for breach of warranty, breach of contract, negligence, or strict liability in tort or under any other legal theory.

9. Rental Purchase Option. If rental purchase option (RPO) is granted in any addendum, the purchase price shall be tendered to Seller coincidentally with the exercise of the purchase option provided that Buyer is not then in default in performing all of the terms and conditions of lease with Seller.

10. Notice. This paragraph shall serve as notice that The Papé Group, Inc. has assigned its rights to sell its rental equipment (as may be described in this sales order) and its rights to sales proceeds (including "trade-in assets" related thereto) to North Star Deferred Exchange as part of an IRC Sec. 1031 exchange.

11. Attorneys Fees. In the event suit or action is instituted against Buyer on account of or in connection with or based upon the terms hereof, the Buyer agrees to pay, in addition to the costs and disbursements provided by law, such sum as the court may adjudge reasonable attorney's fees in both the trial and appellate courts, or in connection with any bankruptcy proceeding.

12. Entire Agreement. The foregoing and any addendum shall constitute the complete and exclusive agreement between the parties, and it is expressly understood and agreed that no promises, provisions, terms, warranties, conditions, guarantees, or obligations whatsoever, either expressed or implied, other than as herein set forth or provided for shall be binding on either party. Each party may transmit its signature by facsimile to the other party and such facsimile signatures shall have the same force and effect as an original signature.



State of Oregon
Price Agreement No. 1744
With

Deere & Company

to provide the following:

Lawn & Grounds-Maintenance Equipment, Accessories, Related Products and
Maintenance/Repair (if available).

Price Agreement No. 1744 ("Price Agreement") is created as a result of a qualifying and acceptable bid submission to Solicitation No. DASPS-2301-21 and is between the State of Oregon (the "State"), acting by and through its Department of Administrative Services – Procurement Services ("DAS-PS"), on behalf of all Oregon state agencies, ORCPP members and MCUA holders and Deere & Company, a Delaware Corporation ("Contractor").

Section 1 –Agreement

1.1 Parties

1.1.1 The only parties to this Price Agreement are DAS-PS and Contractor.

1.1.2 Authorized Purchasers may purchase goods ("Goods"), services ("Services") or related products specified in Exhibit D by issuing ordering instruments creating separate contracts ("Contracts"). The only parties to each of these Contracts are the Authorized Purchaser and Contractor. DAS-PS is an intended third-party beneficiary of each Contract.

1.2 Process

1.2.1 Authorized Purchasers may order Goods or Services during the Term of this Price Agreement using any of the following ordering instruments:

1. DAS-approved Purchase Order form. See Sample as Exhibit A to this Price Agreement.
2. Authorized Purchaser's standard form
3. State P-card of Oregon Transaction System ["SPOTS"] Card
 - (CC Transaction Fees may be added by Contractor, if applicable)

Each ordering instrument must specify, at a minimum, the following details:

1. Price Agreement No. 1744.
2. The specific Goods or Services and quantity of each item ordered.
3. The net price.

4. The requested delivery schedule.
 5. The delivery location(s).
 6. The invoicing address.
 7. Authorized Purchaser's authorized representative and relevant contact information including e-mail address.
- 1.2.2 A Contract created by an ordering instrument consists only of the terms specified or required by this Price Agreement. Additional, different or conflicting terms and conditions in any ordering instrument or any other form used by an Authorized Purchaser or Contractor may not vary the terms of a Contract. Additional, different or conflicting terms and conditions on a purchase order or other form are of no effect.
- 1.2.3 Authorized Purchaser(s) who are State of Oregon agencies may issue Purchase Orders for any value under this Price Agreement.
- 1.2.4 Contractor shall accept ordering instruments from Authorized Purchasers complying with the provisions of this Price Agreement until the termination or expiration of this Price Agreement.
- 1.2.5 An ordering instrument deemed accepted by Contractor unless Contractor rejects the ordering instrument within two (2) business days after received. Contractor May reject an ordering instrument: i) using the same means used to deliver the ordering instrument, or ii) by e-mail, provided the email address is evident on the ordering instrument. Contractor shall specify the reason(s) for rejection.
- 1.2.6 Accepted ordering instruments establish separate Contracts between Authorized Purchasers and Contractor and include the terms set forth in Sections 2 and 3. When used in Contracts, "Price Agreement" means specifically Price Agreement No. 1744.
- 1.2.7 DAS-PS is not obligated or liable under any Contract unless DAS-PS is acting as the Authorized Purchaser of the Goods or Services, Services or related products.
- 1.2.8 Nothing in this Price Agreement obligates DAS-PS or Authorized Purchasers to purchase any Goods, Services or related products at any time during the Term of this Price Agreement.
- 1.2.9 Contractor shall reject an ordering instrument from any entity not identified as an Authorized Purchaser under this Price Agreement unless an amendment executed prior to the order allowing such entity to purchase materials specifically listed in this Price Agreement.
- 1.2.10 Contractor shall reject any ordering instrument not meeting the requirements of this Price Agreement.
- 1.2.11 DAS-PS reserves the right to add equipment types to this Price Agreement as they become available or mandated through new legislation by the State of Oregon. These types may originate through existing manufacturers and their authorized distribution channels.
- 1.2.12 Unless otherwise approved by DAS PS, all equipment must be no older than one year beyond the manufacturer's current model year, new and unused, and free of damage, rust, and other defects that may affect appearance or serviceability

1.3 Pricing

- 1.3.1 Except as provided in this Section 1.3, During the Term of this Agreement, Contractor shall offer Goods to Authorized Purchasers at prices not exceeding those represented in Exhibit D.
- 1.3.2 Contractor understands and agrees that the prices listed in Exhibit D are deemed as Not-to-Exceed (“NTE”) prices but may negotiate lower prices with an Authorized Purchaser. In such cases, the negotiated lower prices only applies to Contracts between such Authorized Purchaser and Contractor.
- 1.3.3 Contractor shall subtract from prices charged to Authorized Purchasers any unit price decrease achieved or gained by Contractor whether through the manufacturer or otherwise. Contractor shall give Authorized Purchasers the immediate benefit of the decrease. Contractor shall promptly notify the DAS-PS Contract Administrator of the amount and effective date of the decrease.
- 1.3.4 Either party to this Price Agreement may request a price adjustment for some or all of the Goods, subject to the restrictions specified below. Contractor may request a unit price increase no more than once in any 12-month period during the initial term and any subsequent extensions, if issued. Contractor must submit a request to the DAS-PS Contract Administrator in writing at least 60 days prior to the proposed, effective date of the increase. The request must show all proposed increases by line item and include, at a minimum, support documentation from the U.S. Bureau of Labor Statistics Producer Price Index (“PPI”) and/or Consumer Price Index (“CPI”) along with documentation validating the increase to Contractor. Other relevant manufacturer or industry data substantiating the increase is encouraged and will be accepted for consideration. DAS-PS reserves the right, in its sole discretion, to determine whether to agree to a price increase. DAS-PS further reserves the right to require additional documentation or independently verify the basis and validity of any proposed price increase utilizing its internal price review and analysis protocols. DAS-PS may accept, reject or offer a lesser increase amount. Additionally, if there has been a price adjustment during the 12-month period preceding the commencement of an extension period, any price adjustment agreed to for such extension period shall not take effect until a period of 12 months from the effective date of such prior adjustment has elapsed.

1.4 Contractor Reporting and Payment Requirements

Contractor shall generate and submit to DAS-PS quarterly sales reports based on sales generated from Authorized Purchasers. Contractor shall pay an administrative fee of two percent (2%) of all sales generated using this Price Agreement. This fee is expected to be reflected in the net price charged to the Authorized Purchaser. Additional instructions and information are provided in Exhibit C of this Price Agreement.

1.5 Term of Agreement; Termination

- 1.5.1 The initial term of this Price Agreement begins on the last date it has been signed by DAS-PS, Contractor, and other required approvals, if applicable, have been obtained (“Effective Date”) and terminates on the 4th anniversary of the Effective Date unless terminated as allowed in this Price Agreement. DAS-PS has, in its sole discretion, the option to extend the term of this Price

Agreement for up to three additional two-year extension periods provided the maximum term of this Price Agreement does not exceed ten (10) years. DAS-PS will exercise the option to extend, if at all, by giving Contractor written notice no later than 30 calendar-days before the expiration of the then-current term. The initial term, and all extension terms are collectively referred to herein as the “Term” of this Price Agreement.

- 1.5.2 Upon termination or expiration of this Price Agreement, Contractor shall not accept new ordering instruments.
- 1.5.3 Termination of this Price Agreement also terminates any outstanding ordering instruments under which an Authorized Purchaser and Contractor agreed to have Contractor deliver specific quantities of Goods or Services on a pre-determined, future date or schedule. The intent is to terminate Blanket Purchase Order(s) or “BPOs”, if any exist, at the time of termination.
- 1.5.4 Except as provided in Section 1.5.3, termination of this Price Agreement does not terminate any right or obligation of a party under a Contract or ordering instrument accepted by Contractor before termination of this Price Agreement.
- 1.5.5 Parties’ Right to Terminate for Mutual Consent. This Price Agreement allows termination any time by mutual written consent of DAS-PS and Contractor.
- 1.5.6 DAS-PS Right to Terminate. DAS-PS may, in its sole discretion, terminate this Price Agreement, in whole or in part, for any reason upon 30 Calendar Days’ written notice to Contractor.
- 1.5.7 In the event the Price Agreement reaches its 10-Year, maximum allowable term including extensions, DAS-PS reserves the right to exercise a one-time, 30-day extension beyond maximum term date.

1.6 Insurance

- 1.6.1 Contractor shall obtain and maintain all insurance specified in Exhibit B for the term of this Price Agreement and through full performance of all Contracts entered into under this Price Agreement.

1.7 Miscellaneous

- 1.7.1 Choice of Law. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Price Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement.
- 1.7.2 Designation of Forum and Consent to Jurisdiction. A party bringing a legal action or proceeding against the other arising out of or relating to this Price Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.
- 1.7.3 Amendment(s). No amendment of this Price Agreement is valid unless it is in writing and signed

by both DAS-PS and Contractor.

- 1.7.4 **Transfer.** Contractor shall not assign, delegate or otherwise transfer any of its rights or obligations under this Price Agreement without first obtaining the written consent of DAS-PS. DAS-PS' consent to any subcontract (or other delegation of duties) does not relieve Contractor of any of its duties or obligations under this Price Agreement. This Price Agreement is binding upon and inures to the benefit of each of the parties, and, except as otherwise provided their permitted legal successors and assigns.
- 1.7.5 **Counterparts.** This Price Agreement may be executed in two or more counterparts, each of which is an original, and all of which, together, deemed the same instrument, notwithstanding that the parties are not signatories to the same counterpart.
- 1.7.6 **Force Majeure.** Neither DAS-PS nor Contractor will be held responsible for delay or default caused by fire, riot, acts of God, war, or any other cause not within the control of the party whose performance is interfered with, and which delay or default such party is unable to prevent by the exercise of reasonable diligence. DAS-PS may terminate this Price Agreement upon written notice after determining such delay or default will reasonably prevent successful performance of this Price Agreement within a time period that is acceptable to DAS-PS.

In the event of any such delay, Contractor's obligations shall be suspended to the extent and duration of the cause of the delay. However, Contractor shall make all reasonable efforts to eliminate the cause of any such delay, and upon the cessation of such cause, shall resume performance of Contractor's obligations with all reasonable diligence. If necessary, the period for performance under this Price Agreement will be extended to enable Contractor to fulfill its obligations hereunder once such cause has been removed.

- 1.7.7 **Entire Agreement.** This Price Agreement, together with the attached exhibits, constitutes the entire agreement between the parties and merges all prior and contemporaneous communications with respect to the subject matter.
- 1.7.8 **Notices.** Except as otherwise expressly provided in this Price Agreement, any communications between the parties, or notices to be given under this Price Agreement, are effective only if given in writing by personal delivery, email or United States Postal Service, postage prepaid, to the Contract Administrator for Contractor or DAS-PS, as applicable, at the address or number set forth below the applicable signature block following Section 4, or to such other addresses or numbers as either party may later indicate pursuant to this Section. Any communication or notice via the United States Postal Service is deemed given five (5) days after mailing. Any communication or notice by personal delivery is deemed given immediately upon such delivery. Any communication or notice by email is deemed given when the recipient, by an email sent to the email address for the sender or by a notice given by another method in accordance with this section, acknowledges having received that email, with an automatic "read receipt" not constituting acknowledgment of an email for purposes of this section.
- 1.7.9 **No Third Party Beneficiaries.** DAS-PS and Contractor are the only parties to this Price Agreement and are the only parties entitled to enforce its terms. Nothing in this Price Agreement gives, is intended to give, or will be construed to give or provide, any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by

name herein and expressly described as intended beneficiaries of the terms of this Price Agreement. This section is not intended to, and shall not, limit the rights and benefits of any Authorized Purchaser under Contracts or other ordering instruments entered into with Contractor pursuant to this Price Agreement and which may incorporate provisions of this Price Agreement.

- 1.7.10 Waiver. The failure of DAS-PS to enforce any provision of this Price Agreement or the waiver of any violation or nonperformance of this Price Agreement in one instance does not constitute a waiver by DAS-PS of that or any other provision nor is it a waiver of any subsequent violation or nonperformance. Such failure to enforce waiver, if made, is effective only in the specific instance and for the specific purpose given.
- 1.7.11 Certification of Compliance with Tax Laws. Contractor has complied with the tax laws of the State and the applicable tax laws of any political subdivision of the State. Contractor shall comply with all tax laws of the State and all applicable tax laws of any political subdivision of the State, for the term of this Price Agreement. For the purposes of this subsection, “tax laws” include: (i) all tax laws of the State, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318; (ii) all tax provisions imposed by a political subdivision of the State that applied to Contractor, to Contractor’s property (whether tangible or intangible), operations, receipts, or income, or to Contractor’s performance of, or compensation for, any work performed by Contractor; (iii) all tax provisions imposed by a political subdivision of the State that applied to Goods or Services provided by Contractor; and (iv) all rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Any failure to comply with the provisions of this subsection 1.7.11 constitutes a material default under this Price Agreement. Such default entitles DAS-PS to terminate this Price Agreement and pursue and recover any and all damages arising from the default or termination of the Price Agreement, and to pursue any or all remedies available under this Price Agreement, at law, or in equity, including but not limited to:

- Termination of this Price Agreement,
- Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to State’s or Authorized Purchaser’s setoffright, without penalty; and
- Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief.

DAS-PS may recover any, and all, damages suffered as the result of Contractor's default under this subsection or under any other provision of this Price Agreement, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement Goods or Services.

- 1.7.12 Recycled Products: Contractor shall, to the maximum extent economically feasible in the performance of this Agreement, use recycled products where possible. This includes paper, “PETE” and other materials, as defined in ORS 279A.010 [1][gg], [hh] and [ii].
- 1.7.13 Records Archiving: Contractor shall retain, maintain and keep accessible all records relevant to the this Price Agreement (the “Records”) for a minimum of six (6) years, or such longer period as

may be required by applicable law following termination of the Price Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to the Price Agreement and any Contract, whichever date is later. Financial Records must be kept in accordance with Generally Accepted Accounting Principles (GAAP). During the record-retention period established in this section, Contractor shall permit DAS-PS and the State of Oregon and their duly authorized representatives, and the federal government access to the Records at a reasonable time and place for purposes of examination and copying.

1.7.14 Performance Evaluations: DAS-PS may conduct evaluations of Contractor's performance during the Term of this Price Agreement. DAS-PS will compile and maintain completed evaluations, which will become a written record of Contractor's performance. DAS-PS may also maintain, as part of that written record, information obtained from Contractor during an exit interview following Price Agreement termination. DAS-PS may provide copies of any documents in the written record to Contractor and third parties upon request. DAS-PS may use performance evaluations in any way it deems necessary, in its sole discretion, including but not limited to making responsibility determinations and decisions to award contracts.

1.7.15 Reporting. This Price Agreement and Contract(s) with Authorized Purchasers who are state agencies will be reported to the Oregon Department of Revenue. The Department of Revenue may take any and all actions permitted by law relative to the collection of taxes due to the State of Oregon or a political subdivision, including (i) garnishing Contractor's compensation under this Price Agreement or a Contract and (ii) exercising a right of setoff against Contractor's compensation under a Contract for any amounts which may be due and unpaid to the State of Oregon or its political subdivisions for which the Department of Revenue collects debts.

1.7.16 Pay Equity Compliance: If the Contractor has more than 50 employees and the contract value is \$500,000.00 or higher, Contractor shall submit to Agency a true and correct copy of an unexpired Pay Equity Compliance Certificate issued to Contractor by the Oregon Department of Administrative Services.

For more information on Pay Equity Certification, visit
<https://www.oregon.gov/das/Procurement/Pages/PayEquity.aspx>

1.7.17 Survival: All rights and obligations cease upon termination or expiration of this Price Agreement, except for the rights and obligations and declarations which expressly or by their nature survive termination of this Price Agreement, including without limitation this Section 1.7.17, and provisions regarding warranties and liabilities, independent Contractor status and taxes and withholding, compensation, Contractor's representations and warranties, indemnification, control of defense and settlement, remedies, dispute resolution, order of precedence, maintenance and access to records, notices, severability, successors and assigns, third party beneficiaries, waiver, headings, and integration.

Section 2 – Standard Terms for Contracts under this Price Agreement

2.1 Contract Documents and Order of Precedence:

The Contract consists of the ordering instrument and the provisions in Sections 2 and 3 of the Price Agreement. In the event of a conflict between the ordering instrument and

provisions in Sections 2 and 3, the provisions in Sections 2 and 3 take precedence.

2.2 Payment:

Authorized Purchaser is solely responsible for payment under this Contract. Contractor shall look solely to Authorized Purchaser for payment of all amounts due under this Contract. Subject to Authorized Purchaser's acceptance of Goods or Services, payment is due from Authorized Purchaser within 45 calendar days after receipt of the invoice.

2.3 Overdue Charges:

At Contractor's option, Contractor may assess overdue account charges to Authorized Purchaser up to a maximum rate of two-thirds of one percent per month (8% per annum).

2.4 Delivery:

Delivery is deemed complete once Goods are in the control of the Authorized Purchaser. If Goods are not delivered within the terms cited in the Contract, substitute comparable products may be purchased by the Authorized Purchaser from another source for which any additional costs incurred by the Authorized Purchaser is subject to reimbursement by the Contractor. Late or non-complying deliveries are subject to contract termination by the Authorized Purchaser.

2.5 Payment Address:

Payments by Authorized Purchaser must be sent to the address on Contractor's Invoice.

2.6 Invoices:

Contractor shall invoice Authorized Purchaser only after valid acceptance of Goods or Services has been confirmed in writing by Authorized Purchaser. Invoices must be sent to the address provided by Authorized Purchaser and must include, at a minimum, the following:

- 2.6.1 Price Agreement No. 1744
- 2.6.2 Purchase Order No.
- 2.6.3 Quantity of Goods or Services
- 2.6.4 Unit Price of Goods or Services
- 2.6.5 Total Invoice Value

2.7 Prices:

Contractor represents all prices for Goods or Services under a Contract will be equal to or better than the prices listed in the Price Agreement.

2.8 Cancellation, Inspections and Acceptance:

Authorized Purchaser may cancel an order in whole or in part before the Goods or Services described are delivered or performed. Authorized Purchaser has ten (10) calendar days from date of delivery of the entire order to inspect and accept or reject the Goods or Services. If Authorized Purchaser rejects the Goods or Services, Authorized Purchaser will provide Contractor with written notice of such rejection. Notice of rejection must include itemization of apparent defects, including, but not limited to, discrepancies between the Goods or Services and the applicable specifications or warranties (including variance from demonstrations or sample characteristics where demonstrations or samples have been provided), or otherwise nonconforming Goods or Services (including late delivery). If Authorized Purchaser elects to provide Contractor with an opportunity to cure the rejected

Goods or Services, notice of rejection must also specify the time period in which such cure must be completed. Authorized Purchaser may elect to have Contractor deliver substitute, conforming Goods or Services at no additional cost within 14 calendar days of Contractor's receipt of notice of rejection or other acceptable timeline, if warranted and agreed to by both parties. If Goods or Services are rejected or the acceptance of such Goods or Services is revoked, Contractor shall refund any payments made with regard to the rejected Goods or Services and shall, at Contractor's sole cost and expense, remove the Goods or Services within seven (7) calendar days of Authorized Purchaser's notice of rejection or revocation of acceptance. Nothing contained in Section 2.8 precludes Authorized Purchaser from other remedies to which it may be entitled upon rejection, or revocation of acceptance, of Goods or Services.

2.9 Contractor's Representations and Warranties:

- 2.9.1 Employee Status: Contractor warrants that it and its personnel are not "officers," "employees, or "agents" of Authorized Purchaser, as those terms are used in ORS 30.265.
- 2.9.2 Warranty on Materials, Design & Manufacture: Contractor represents and warrants all Goods supplied are new, unused, and free from defects in materials, design and manufacture. Contractor further represents and warrants all Goods are in compliance and meet or exceed all specifications as described in Exhibit D (Attachment D).
- 2.9.3 Warranty on Service Standards: Contractor warrants all Services shall be performed in a good, workman-like manner in accordance with the highest standards prevalent in the industry.
- 2.9.4 Warranty of Title: Contractor represents and warrants all Goods are free and clear of any liens or encumbrances and Contractor has full legal title to the Goods. Contractor further warrants no other person or entity has any right, title or interest in the Goods which is superior to, or infringes upon, the rights granted to the Authorized Purchaser upon acceptance of Goods.
- 2.9.5 Warranty on Safety and Health Requirements: Contractor represents and warrants Goods or Services provided under this Contract comply with all applicable federal health and safety standards including, but not limited to, Occupational Safety and Health Administration (OSHA) and all Oregon safety and health requirements including, but not limited to, those of the Oregon Consumer and Business Services Department.
- 2.9.6 Manufacturer Warranty: Contractor shall have all manufacturer warranties covering the Goods and component parts, if any, transferred to the Authorized Purchaser and provide warranty documents to Authorized Purchaser at time of delivery at no charge.
- 2.9.7 Warranties Cumulative: The warranties set forth in this Section 2.12 are in addition to, and not in lieu of, any other warranties provided under the Price Agreement or the Contract. All warranties provided are cumulative and intended to afford Authorized Purchaser the broadest warranty protection available.

2.10 Compliance with Applicable Laws And Standards:

2.10.1 Contractor shall comply with all federal, state and local laws, regulations, and ordinances applicable to this Contract as adopted or amended from time to time.

2.10.2 Authorized Purchaser's performance under this Contract is conditioned upon Contractor's compliance with the obligations intended for contractors under ORS 279B.220, 279B.225 (if applicable to this Contract), 279B.230 and 279B.235 (if applicable to this Contract), which are incorporated into this Contract by reference. Contractor shall, to the maximum extent economically feasible in the performance of this Contract, use recycled products where possible. This includes paper, "PETE" and other materials as defined in ORS 279A.010 [1][gg], [hh] and [ii].

2.10.3 In the event of a conflict between the specifications in this Contract and applicable federal or state law, the law prevails. Contractor shall make any modifications required to achieve compliance with applicable law. When Contractor is notified, or becomes aware, of any required modifications, Contractor shall immediately notify DAS-PS and Authorized Purchaser.

2.10.4 **Recalled Goods, Services or Components:** In the event any Goods, Services or component parts are recalled by a regulatory body, the manufacturer or discovered by Contractor not to be in compliance with applicable specifications, Contractor shall immediately notify DAS-PS and Authorized Purchaser of the recall or non-compliance, and shall provide copies of the notice or other documentation. Upon notification, Authorized Purchaser may elect to do any of the following:

2.10.4.1 Cancel any portion of the ordering instrument.

2.10.4.2 Reject the Goods or Services.

2.10.4.3 Revoke its acceptance of the Goods or Services.

2.10.4.4 Require Contractor to complete necessary modifications, where applicable, in a timely manner, at no charge to Authorized Purchaser.

2.10.4.5 Terminate the Contract.

In the event of rejection or revocation of acceptance under this subsection, Contractor shall promptly remove the Goods or Services at its sole cost and expense, and reimburse Authorized Purchaser for any payments made.

2.11 **Foreign Contractor:** If the amount of the Contract exceeds ten thousand dollars (\$10,000), and if Contractor is not domiciled in or registered to do business in the State, Contractor shall promptly provide to the Oregon Department of Revenue all information required by that department with respect to the Contract. Authorized Purchaser may withhold final payment under the Contract until Contractor has met this requirement.

2.12 **Safety Data Sheet:** Where applicable, Contractor shall provide Authorized Purchaser at time of delivery with a Safety Data Sheet ("SDS") as defined by the Occupational Safety and Health Administration (OSHA) for any Goods provided under the Price Agreement, which may release or otherwise result in exposure to a hazardous chemical under normal conditions of use. In addition, Contractor must properly label, tag or mark such Goods. Additionally, Contractor shall deliver EPA labels and SDS information if available and as requested by Authorized Purchaser.

2.13 Time Is Of The Essence: Time is of the essence for performance of Contractor's obligations under this Contract.

2.14 Force Majeure: Neither Authorized Purchaser nor Contractor will be held responsible for delay or default caused by fire, riot, acts of God, war, or any other cause which is beyond a party's reasonable control. Contractor shall make all reasonable efforts to remove or eliminate such causes of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Contract. Authorized Purchaser may terminate this Contract upon written notice to Contractor after reasonably determining the delay or default will likely prevent successful performance of the Contract within a time frame acceptable to Authorized Purchaser.

2.15 Funds Available and Authorized; Payments: If Authorized Purchaser is an agency of the State of Oregon or another governmental body, payment obligations under this Contract are conditioned upon Authorized Purchaser's receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Authorized Purchaser, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Contract. At the time the ordering instrument was issued, Authorized Purchaser had sufficient funds available and authorized to make payments under this Contract.

2.16 Independent Contractor Status; Responsibility for Taxes and Withholding:

2.16.4 Contractor is an independent contractor. Although the Authorized Purchaser reserves the right (i) to determine (and modify) the delivery schedule for Goods or Services and (ii) to evaluate the quality of completed performance, Authorized Purchaser cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing any obligations required by this Contract.

2.16.5 Contractor is responsible for all federal and state taxes applicable to compensation or payments paid to Contractor under this Contract and, unless Contractor is subject to backup withholding, Authorized Purchaser will not withhold from such compensation or payments any amount(s) to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Contractor under this Contract, except as a self-employed individual.

2.17 Indemnification:

2.17.4 Contractor shall defend, save, hold harmless, and indemnify Authorized Purchaser, the State of Oregon and its officers, employees and agents from and against all claims, suits, actions, proceedings, losses, damages, liabilities, awards and costs of every kind and description (including reasonable attorney's fees and expenses at trial, on appeal and in connection with any petition for review) (collectively, "claim") which may be brought or made against any Authorized Purchaser, the State of Oregon or any agencies thereof, or the agents, officials or employees of any of the foregoing, and arising out of or related to (i) any personal injury, death or property damage caused by any alleged act, omission, error, fault, mistake or negligence of Contractor, its employees, agents, related to this Contract, (ii) any act or omission by

Contractor that constitutes a material default of this Contract, including without limitation any default of warranty, or (iii) the infringement of any patent, copyright, trade secret or other proprietary right of any third party by delivery or use of the Goods or Services. Authorized Purchaser or the State of Oregon will promptly notify Contractor in writing of any claim of which Authorized Purchaser or the State becomes aware. Contractor's obligations under this section do not extend to any claim solely caused by (i) the negligent or willful misconduct of Authorized Purchaser, or (ii) Authorized Purchaser's modification of Goods or Services without Contractor's approval and in a manner inconsistent with the purpose and proper usage of such Goods or Services.

- 2.17.5 The Oregon Attorney General must give written authorization to any legal counsel purporting to act in the name of, or represent the interests of, the State of Oregon or its officers, employees or agents prior to such action or representation. Further, the State of Oregon, acting by and through its Department of Justice, may assume its own defense, including that of its officers, employees and agents, at any time when in the State's sole discretion it determines that (i) proposed counsel is prohibited from the particular representation contemplated; (ii) proposed counsel is not adequately defending or able to defend the interests of the State of Oregon, its officers, employees or agents; (iii) important governmental interests are at stake; or (iv) the best interests of the State of Oregon are served thereby. Contractor's obligation to pay for all costs and expenses includes those incurred by the State of Oregon in assuming its own defense and that of its officers, employees, or agents under this section.

2.18 Default:

2.18.1 By Contractor: Contractor is in default under this Contract if:

- 2.18.1.1 Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;
- 2.18.1.2 Contractor no longer holds a license or certificate required for Contractor to perform its obligations under this Contract;
or
- 2.18.1.3 Contractor commits any default of any covenant, representation warranty, obligation or certification under this Contract, provided Contractor may cure the default within the period specified in Authorized Purchaser's notice of default when Authorized Purchaser determines the default is curable by Contractor within a time period acceptable to Authorized Purchaser.

2.18.2 By Authorized Purchaser: Authorized Purchaser is in default of this Contract if:

- 2.18.2.1 Authorized Purchaser fails to pay Contractor any amount pursuant to the terms of this Contract and fails to cure within twenty (20) business days after delivery of Contractor's notice of nonpayment or such longer period as Contractor may specify in such notice; or
- 2.18.2.2 Authorized Purchaser commits any default of any covenant, representation, warranty, or obligation under this Contract and

such default is not cured within twenty (20) business days after delivery of Contractor's notice of default or such longer period as Contractor may specify in such notice.

2.19 Default Remedies:

2.19.1 Authorized Purchaser's Remedies: If Contractor is in default under Section 2.22.1, in addition to the remedies afforded elsewhere in this Contract, Authorized Purchaser may recover any and all damages suffered as the result of Contractor's default, including but not limited to direct, indirect, incidental and consequential damages, as provided in ORS 72.7110 to 72.7170. Authorized Purchaser may, at its option, pursue any or all of the remedies available to it under this Contract and at law or in equity, including, but not limited to:

- 2.19.1.1 Termination of the Contract as provided in Section 2.23;
- 2.19.1.2 Withholding all monies due for invoiced Goods or Services which Contractor is obligated but has failed to deliver or perform within any scheduled completion dates or has performed inadequately or defectively;
- 2.19.1.3 Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief; and
- 2.19.1.4 Exercise of its right of setoff, and withholding of monies otherwise due and owing in an amount equal to Authorized Purchaser's setoff without penalty to Authorized Purchaser.

These remedies are cumulative to the extent they are not inconsistent and Authorized Purchaser may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

2.19.2 Contractor's Remedies: If Authorized Purchaser terminates this Contract, or if Authorized Purchaser is in default under Section 2.18.2 and whether or not Contractor elects to exercise its right to terminate this Contract under Section 2.20, Contractor's sole remedy is a claim against Authorized Purchaser for the unpaid purchase price for Goods or Services delivered and accepted by Authorized Purchaser, less previous amounts paid and the amount of any claim(s) which Authorized Purchaser has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under this section, Contractor shall pay any excess to Authorized Purchaser upon writtendemand.

2.20 Termination:

2.20.1 By Mutual Consent: This Contract may be terminated at any time by mutual written consent of Authorized Purchaser and Contractor.

2.20.2 Rights Of Authorized Purchaser. Authorized Purchaser may, at its sole discretion, terminate a Contract or other ordering instrument for convenience with thirty (30) calendar days' written notice. Authorized Purchaser may terminate a Contract or other ordering instrument immediately upon notice to Contractor, or at such later date as Authorized Purchaser may establish in such notice, upon the occurrence of any of the following events: (a) Authorized Purchaser fails to receive funding, appropriations,

limitations, allotments, or other expenditure authority sufficient to allow Authorized Purchaser, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Contract; (b) federal or state laws, regulations, or guidelines are modified or interpreted in such a way so as to prohibit either the purchase of the Goods or Services by Authorized Purchaser under the Price Agreement, or Authorized Purchaser's payment for such Goods or Services from the planned funding sources; or (c) Contractor is in default under this Contract under Section 2.18.1. Upon receipt of written notice of termination, Contractor shall stop performance under this Contract if and as directed by Authorized Purchaser.

2.20.3 Rights of Contractor: Contractor may terminate a Contract with a minimum twenty (20) calendar-days written notice to Authorized Purchaser, if Authorized Purchaser is in default of such Contract as described in Section 2.18.2.

2.21 Access to Records: Contractor shall retain, maintain and keep accessible all records relevant to this Contract (the "Records") for a minimum of six (6) years. Longer periods may apply if or such longer if required by law following expiration, termination of Contract or until the conclusion of any audit, controversy or litigation arising out of, or related to, the Contract, whichever date is later. Financial Records must be kept in accordance with Generally Accepted Accounting Principles (GAAP). During the record-retention period established in this section, Contractor shall permit DAS-PS, Authorized Purchaser duly-authorized representatives and the federal government access to the Records at a reasonable time and place for purposes of examination and copying.

2.22 Notices: Except as otherwise expressly provided in this Contract, any communications between the parties, or notices given under this Contract, are effective only if given in writing by personal delivery, email or United States Postal Service, postage prepaid, to the party's authorized representative. For Authorized Purchaser, the authorized representative and the address or number for notices or communications to be given to that authorized representative are as identified in the ordering instrument or as later indicated by Authorized Purchaser pursuant to this section. For Contractor, the authorized representative and the address or number for notices or communications to be given to Contractor are as identified below the signature block for Contractor following Section 4 of the Price Agreement. Any communication or notice via the United States Postal Service is deemed given five (5) days after mailing. Any communication or notice by personal delivery is deemed given immediately upon such delivery. Any communication or notice by email is deemed given when the recipient, by an email sent to the email address for the sender or by a notice given by another method in accordance with this Section 2.22, acknowledges having received that email, with an automatic "read receipt" not constituting acknowledgment of an email for purposes of this section.

2.23 Ordering Instruments; Acknowledgements: The parties acknowledge and agree, other than designation of quantities, types of Goods or Services, destination, dates and scheduled delivery of other performances, any purchase order or acknowledgement document is for the convenience of the parties to initiate or confirm order of Goods or Services under this Contract. No other terms or conditions contained in those documents are of any force, effect or binding upon the parties.

2.24 Governing Law: This Contract is governed and construed in accordance with the laws of the State of Oregon, without regard to principles of conflicts of laws.

2.25 Venue; Consent To Jurisdiction:

2.25.1 State Contract Venue; Consent To Jurisdiction: Any claim, action, suit or proceeding (collectively, "Claim") between an Authorized Purchaser that is an agency of the State of Oregon and Contractor that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. Contractor hereby consents to the in personam jurisdiction of said courts and waives any objection to venue in such courts, and waives any claim that such forums are inconvenient. Nothing herein may be construed as a waiver of the State of Oregon's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or jurisdiction based thereon.

2.25.2 ORCPP Contract Venue; Consent To Jurisdiction: Any claims between Contractor and an Authorized Purchaser other than an agency of the State of Oregon that arise from or relate to this Contract order must be brought and conducted solely and exclusively within the Circuit Court of the county in which such Authorized Purchaser resides, or at the Authorized Purchaser's option, within such other county as the Authorized Purchaser is entitled under the laws of the relevant jurisdiction to bring or defend Claims. If any such claim must be brought in a federal forum, then unless otherwise prohibited by law it must be brought and conducted solely and exclusively within the United States District Court for the District in which such Authorized Purchaser resides. Contractor hereby consents to the in personam jurisdiction of said courts and waives any objection to venue in such courts, and waives any claim that such forums are inconvenient. Nothing herein may be construed as a waiver of Authorized Purchaser's sovereign or governmental immunity, if any, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to claims or jurisdiction based thereon.

2.26 Survival: All rights and obligations cease upon termination or expiration of this Contract, except for the rights and obligations and declarations that expressly or by their nature survive termination of this Contract, including without limitation this Section 2.30, and provisions regarding warranties and liabilities, independent Contractor status and taxes and withholding, compensation, Contractor's representations and warranties, control of defense and settlement, remedies, dispute resolution, order of precedence, maintenance and access to records, notices, severability, successors and assigns, third party beneficiaries, waiver, headings, and integration.

2.27 Severability: If any provision of this Contract is declared by a court of competent jurisdiction to be illegal or otherwise invalid, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the parties will be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

2.28 Assignments, Subcontracts and Successors: Contractor shall not assign, sell, transfer, or subcontract rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written consent of Authorized Purchaser. Further, no such written consent relieves Contractor of any obligations under the Contract, and any assignee, transferee, or delegate will be considered the agent of Contractor. The provisions of this Contract are binding upon, and inure to the benefit of the parties and

their respective successors and permitted assigns.

2.29 Merger Clause, Amendment and Waiver: This Contract constitutes the entire agreement between Contractor and Authorized Purchaser on the subject matter of this Contract. There are no understandings, agreements, or representations, oral or written, not specified in this Contract on the subject matter. No amendment of this Contract is valid unless it is in writing and signed by the parties. No waiver or consent is effective unless in writing and signed by the party against whom it is asserted. Waivers and consents are effective only in the specific instance and for the specific purpose given. The failure of Authorized Purchaser to enforce any provision of this Contract is not a waiver by Authorized Purchaser of that or any other provision.

2.30 Certification of Compliance with Tax Laws: Contractor has complied with the tax laws of the State and the applicable tax laws of any political subdivision of the State. Contractor shall, for the term of this Contract, comply with all tax laws of the State and all applicable tax laws of any political subdivision of the State. For the purposes of this section, "tax laws" includes: (i) all tax laws of the State, including but not limited to ORS 305.620 and ORS chapters 118, 314, 316, 317, 318, 321 and 323, ORS 320.005 to 320.150, ORS 403.200 to 403.250; (ii) any tax provisions imposed by a political subdivision of the State that applied to Contractor, to Contractor's property (whether tangible or intangible), operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; (iii) any tax provisions imposed by a political subdivision of the State that applied to Goods or Services provided by Contractor; and (iv) any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Any failure to comply with the provisions of this subsection 2.30 constitutes a material default under this Contract. Such default entitles Authorized Purchaser to terminate this Contract and pursue and recover any and all damages arising from the default or termination of the Contract, and to pursue any or all remedies available under this Contract, at law, or in equity, including but not limited to:

1. Termination of this Contract, in whole or in part;
2. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to Authorized Purchaser's setoff right, without penalty; and
3. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. Authorized Purchaser may recover any, and all, damages suffered as the result of Contractor's default under this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement Goods or Services.

2.31 Intended Beneficiary. DAS-PS is an intended beneficiary of this Contract. The parties to this Contract may modify the ordering instrument or terminate this Contract without the consent of DAS-PS.

2.32 Assignment of Antitrust Rights. Contractor irrevocably assigns to the State of Oregon any claim for relief or cause of action which Contractor now has or which may accrue to Contractor in the future by reason of any violation of 15 U.S.C. § 1-15 or ORS 646.725 or ORS 646.730, in connection with any Goods or Services provided to Contractor for the purpose of carrying out Contractor's obligations under this Contract, including, at the State's option, the right to control any such litigation on such claim for relief or cause of action. Contractor shall require any subcontractors hired to perform any of Contractor's duties under this Contract to irrevocably assign to the State of Oregon, as third party beneficiary, any right, title or interest that has accrued or which may accrue in the future by reason of any violation of 15 U.S.C. § 1-15 or ORS 646.725 or ORS 646.730, in connection with any Goods or Services provided to the subcontractor for the

purpose of carrying out the subcontractor's obligations to Contractor pursuant to this Contract, including, at the State's option, the right to control any such litigation on such claim for relief or cause of action.

Section 3 – Special Terms for Contracts under this Price Agreement


3.1 Credit Card Payments by Authorized Purchasers to Contractor for Accepted Goods

If Authorized Purchaser and Contractor mutually accept using a "SPOTS" Card (Credit Card) to satisfy payments due for Goods or Services and Contractor incurs additional transactional fees for accepting this form of payment, these fees may be added to the final invoice total provided the amount has been pre-approved by the Authorized Purchaser at time of transaction. This fee is indicated in Exhibit D of the Price Agreement and part of the price list.

Section 4 – Certifications of Contractor's Duly-Authorized Representative

The undersigned person executing this Price Agreement on behalf of Contractor hereby certifies as follows:

- (a) He/she is a duly authorized representative of Contractor, has been authorized by Contractor to make all representations, attestations, and certifications contained in this Price Agreement and to execute this Price Agreement on behalf of Contractor;
- (b) Contractor is bound by and will comply with all requirements, specifications, and terms contained in this Price Agreement;
- (c) Contractor will furnish the Goods or Services in accordance with Contracts under this Price Agreement; and
- (d) Contractor shall furnish federal identification number or social security number under a separate document.
- (e) All Contractor affirmations contained in its Bid related to this Price Agreement are true and correct.
- (f) Contractor has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 or against a business enterprise owned or controlled by or that employs a disabled veteran as defined in ORS 408.225 in obtaining any required subcontracts, and that Contractor is not in violation of any nondiscrimination laws.

Contractor Name	<u>Deere & Company</u> 2000 John Deere Run Cary, North Carolina, 27513
Title	<u>Andrew Roman - Contract Administrator</u>
Authorized Signature	<u></u>
Date	<u>June 4, 2021</u>

DAS-PS Name	<u>Darwin Kumpula</u>
Title	<u>Procurement Manager</u>
Authorized Signature	<u>Darwin Kumpula</u> <small>Digitally signed by Darwin Kumpula Date: 2021.06.04 08:23:30 -07'00'</small>
Date	<u>04-Jun-2021</u>

Contract Administrator (if other than above)

Name	<u>John Starrs</u>
Contact Info.	<u>John.Starrs@Oregon.gov</u> <u>(971)-349-2539</u> 1225 Ferry Street Salem, OR. 97301

Authorized for Legal Sufficiency by Mr. Marc Bocci, Senior Assistant Attorney General, via Email 6/2/2021.

Exhibit A

		DAS-PS Approved Purchase Order STATE OF OREGON		PURCHASE ORDER (PO) NO.		PAGE #		
Authorized Purchaser's Authorized Representative			Purchase Order Date		Requisition No.			
Contractor Name and Address				Authorized Purchaser's Invoicing Address				
Contractor FEIN		Price Agreement number		Authorized Purchaser's Authorized Representative Email Address				
Deliver to Address				Authorized Purchaser's Authorized Representative Phone and Fax Number				
				Delivery Schedule or Delivery Date				
I t e m	Description			Q u a n t i t y	U / M	Unit Price	Net Price	
						Sub Total		
						Freight		
						Total		
This Purchase Order, in addition to any exhibits or addenda attached, is placed against State of Oregon Solicitation # _____ and Price Agreement _____. The terms and conditions contained in the Price Agreement apply to this purchase and take precedence over all other conflicting terms and conditions, express or implied. There are no understandings, agreements or representations, oral or written, not specified herein.								
Agency's Authorized Representative to Make Purchase						Date		

EXHIBIT B – INSURANCE REQUIREMENTS:

Contractor shall obtain at Contractor's expense the insurance specified in this Exhibit B prior to performing under this Contract and shall maintain it in full force and at its own expense throughout the duration of this Contract, as required by any extended reporting period or tail coverage requirements, and all warranty periods that apply. Contractor shall obtain the following insurance from insurance companies or entities authorized to transact the business of insurance and issue coverage in the State of Oregon and acceptable to Agency. Coverage shall be primary and non-contributory with any other insurance and self-insurance, with the exception of Professional Liability and Workers' Compensation. Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

WORKERS' COMPENSATION & EMPLOYERS' LIABILITY

☒ **Required**

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If Contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

COMMERCIAL GENERAL LIABILITY:

☒ **Required**

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project or operation. Coverage must be written on an occurrence basis in an amount of not less than **\$1,000,000.00** per occurrence. Annual aggregate limit shall not be less than **\$2,000,000.00**.

AUTOMOBILE LIABILITY INSURANCE:

☒ **Required**

Automobile Liability Insurance covering Contractor's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than **\$1,000,000.00** for bodily injury and property damage. Coverage written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability) allowed. Use of personal automobile liability insurance coverage acceptable if evidence the policy includes a business use endorsement.

An endorsement to the Commercial General Liability or Automobile Liability policy, covering Contractor's or subcontractor's liability for bodily injury, property damage and environmental damage resulting from sudden accidental and gradual pollution and related clean-up cost incurred by the Contractor that arise from the Goods delivered or Services (including transportation risk) performed by Contractor under this Contract is also acceptable.

EXCESS/UMBRELLA INSURANCE:

Combinations of primary and excess/umbrella insurance allowed to meet the required limits of insurance.

ADDITIONAL INSURED:

All liability insurance except for Workers' Compensation, Professional Liability, Network Security and Privacy Liability (if applicable), required under this Contract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

WAIVER OF SUBROGATION:

Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor May acquire against the Agency or State of Oregon by virtue of the payment of any loss. Contractor will obtain any endorsement that May be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Agency has received a waiver of subrogation endorsement from the Contractor or the Contractor's insurer(s).

TAIL COVERAGE:

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, Contractor shall maintain either tail coverage or continuous, claims-made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of this Contract, for a minimum of 24 months following the later of (i) Contractor's completion and Agency's acceptance of all Services required under this Contract, or, (ii) Agency or Contractor termination of this Contract, or, iii) The expiration of all warranty periods provided under this Contract.

CERTIFICATE(S) AND PROOF OF INSURANCE:

Contractor shall provide to Agency Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this Contract. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance Agency has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

NOTICE OF CHANGE OR CANCELLATION:

The Contractor or its insurer must provide at least 30 days' written notice to Agency before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

INSURANCE REQUIREMENT REVIEW:

Contractor agrees to periodic review of insurance requirements by Agency under this Contract and to provide updated requirements as mutually agreed upon by Contractor and Agency.

STATE ACCEPTANCE:

All insurance providers are subject to Agency acceptance. If requested by Agency, Contractor shall provide complete copies of insurance policies, endorsements, self-insurance documents and related documents to Agency's representatives responsible for verification of the coverages required under this Exhibit B.

EXHIBIT C

Volume Sales Reports / Vendor Collected Administrative Fee

<https://www.oregon.gov/das/Procurement/Pages/Supplier.aspx>

Volume Sales Report (VSR)

1. Contractor shall submit a Volume Sales Report (VSR) to Department of Administrative Services, Procurement Services (DASPS) no later than thirty (30) calendar days after the end of each calendar quarter. Calendar quarters end March 31, June 30, September 30, and December 31.
2. Contractor shall not reflect the Vendor Collected Administrative Fees (VCAF) as a separate line item charge to Authorized Purchasers.
3. The VSR must contain:
 - a) Complete and accurate details of all receipts (for both sales and refunds) for the reported period;
 - b) The information identified in DASPS document titled Volume Sales Report Template. This document should be supplied by the DASPS Contract Administrator at time of execution.
 - c) Such other information as DASPS may reasonably request. Contractor shall send a VSR to DASPS each quarter, whether or not there are sales. When no sales have been recorded for the quarter a report must be submitted stating "No Sales for the Quarter." This report may be sent by e-mail without any attachment provided the subject title clearly identifies Contractor's company name, the relevant Price Agreement Number, and the reporting period for the VSR.
4. Contractor shall provide the VSR in MS Excel (.xls, .xlsx) format and in spreadsheet form. The VSR must be submitted by e-mail unless the size of the file precludes transmission by email. VSR may be submitted by CD if the file precludes transmission by email. Delivered print outs of VSRs or faxed VSRs are not acceptable. Approval from the Contract Administrator must be obtained for deviations from these requirements.
5. Contractor shall submit the first VSR to the DASPS Contract Administrator for review and approval. The approved first VSR and subsequent VSRs must be submitted to VCAF.REPORTING@OREGON.GOV. The Contract Administrator's receipt or acceptance of any of the VSRs furnished pursuant to the Price Agreement shall not preclude DASPS from challenging the validity thereof at any time.
6. Procurement Services reserves the right to terminate the Price Agreement if VSRs are not received as scheduled or in the prescribed format.

Vendor Collected Administrative Fee (VCAF)

1. The Department of Administrative Services (DAS) will invoice the Contractor based on the approved VSR. Within 30 days from the date of invoice receipt, the Contractor shall remit payment to DAS to the "remit to" address listed on the invoice.
2. Contractor shall not reflect the VCAF as a separate Quote, PO or Invoice line item charge to Authorized Purchasers.
3. Contractor shall keep records showing the sales of Goods pursuant to the Agreement in sufficient detail to

enable DASPS to determine the VCAF payable by Contractor and further agrees to permit its books and records to be examined from time to time to the extent necessary to verify the Volume Sales Reports. Such examination is to be made at the expense of DASPS by any auditor appointed by DASPS who is reasonably acceptable to Contractor, or, at the option and expense of Contractor, by a certified public accountant appointed by Contractor.

4. In the event that such examination reveals underpayment of the VCAF, Contractor shall immediately pay to DASPS the amount of deficiency, together with any interest owed. If the examination reveals an underpayment of 5% or more, Contractor shall reimburse DASPS for the cost of the audit.
5. The VCAF is a charge generally equal to 2% (Two Percent) of Contractor's gross total sales, less any credits or refunds, made to Authorized Purchasers during the calendar quarter. In some instances, due to market conditions, the VCAF may vary from the 2% (Two Percent) standard. In all instances, the contract will clearly state the rates of the applicable VCAF.
6. If VCAF is not paid by the invoice due date, the past due balance may accrue interest at a rate of 18% per annum until such past due amount has been paid in full. In addition, the account balance will be assigned to the Oregon Department of Revenue, and subsequently a private collection firm, for collection as required by Oregon Revised Statute 293.231. At that time, you will also become responsible for the payment of an additional collection fee of up to 35.14% percent of the amount you owe. This additional percentage will apply to any increase in the amount you owe due to the accrual of interest on the unpaid principal amount. DASPS' right to interest on late payments shall not preclude DASPS from exercising any of its other rights or remedies pursuant to the Price Agreement or otherwise with regards to Contractor's failure to make timely remittances.
7. Contractor shall make VCAF payments by Automated Clearing House (ACH) transactions.
8. ACH Credit transactions will be initiated by Contractor to initiate transfer of funds from a bank account of Contractor's choosing to the bank for DASPS after Contractor receives from Department of Administrative Services Shared Financial Services (DAS SFS) a completed authorization agreement for ACH Credits. These payment transactions will be processed upon receipt of invoice from DAS SFS. Contractor shall comply with DAS SFS's reasonable instructions to facilitate this method of payment as noted with the receipt of the first invoice email.

In the event ACH is not available as a means of invoice payment, the Contractor may remit in the form of a check. The check MUST reference the PS invoice number. Payments must be mailed to:

DAS-SFS-Cashier
155 Cottage ST NE
Salem, OR 97301

Exhibit D – Price List

(Refer to separate document titled: “Exhibit D Pricing PA# 1744 – Deere & Company”)