

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
ENNIS PAINT, INC. DBA ENNIS-FLINT**

THIS LINKING AGREEMENT (this "Agreement") is entered into as of this day of , 20 , between the City of Glendale, an Arizona municipal corporation (the "City"), and Ennis Paint, Inc., a North Carolina corporation dba Ennis-Flint ("Contractor"), collectively, the "Parties."

RECITALS

- A. On June 9, 2011, under the Arizona State Cooperative Purchasing Agreement, the State of Arizona entered into a contract with Contractor to purchase the goods and services described in the Waterborne Fast Dry Traffic Paint Contract, Contract No. ADSPO13-036207 ("Cooperative Purchasing Agreement"), which is attached hereto as Exhibit A. The Cooperative Purchasing Agreement permits its cooperative use by other governmental agencies including the City.
- B. Section 2-149 of the City's Procurement Code permits the Materials Manager to procure goods and services by participating with other governmental units in cooperative purchasing agreements when the best interests of the City would be served.
- C. Section 2-149 also provides that the Materials Manager may enter into such cooperative agreements without meeting the formal or informal solicitation and bid requirements of Glendale City Code Sections 2-145 and 2-146.
- D. The City desires to contract with Contractor for supplies or services identical, or nearly identical, to the supplies or services Contractor is providing other units of government under the Cooperative Purchasing Agreement. Contractor consents to the City's utilization of the Cooperative Purchasing Agreement as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the supplies and services set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated by reference, and the covenants and promises contained in this Linking Agreement, the parties agree as follows:

1. Term of Agreement. The City is purchasing the supplies and/or services from Contractor pursuant to the Cooperative Purchasing Agreement. According to the Cooperative Purchasing Agreement purchases can be made by governmental entities from the date of award, which was June 9, 2011, until the date the contract expires on October 27, 2016, unless the term of the Cooperative Purchasing Agreement is extended by the mutual agreement of the original contracting parties. The Cooperative Purchasing Agreement,

however, may not be extended beyond October 27, 2016. The period of this Agreement is the period from the Effective Date of this Agreement until October 27, 2016.

2. Scope of Work; Terms, Conditions, and Specifications.

- A. Contractor shall provide City the supplies and/or services identified in the Scope of Work attached as Exhibit B.
- B. Contractor agrees to comply with all the terms, conditions and specifications of the Cooperative Purchasing Agreement. Such terms, conditions and specifications are specifically incorporated into and are an enforceable part of this Agreement.

3. Compensation.

- A. City shall pay Contractor compensation at the same rate and on the same schedule as provided in the Cooperative Purchasing Agreement, which is attached hereto as Exhibit C.
- B. The total purchase price for the supplies and/or services purchased under this Agreement shall not exceed eighty-five thousand dollars (\$85,000) for the entire term of the Agreement (initial term plus any renewals).

4. Cancellation. This Agreement may be cancelled pursuant to A.R.S. § 38-511.

5. Non-discrimination. Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.

6. Insurance Certificate. A certificate of insurance applying to this Agreement must be provided to the City prior to the Effective Date.

7. E-verify. Contractor complies with A.R.S. § 23-214 and agrees to comply with the requirements of A.R.S. § 41-4401.

8. No Israel Boycott. The Parties agree that they are not currently engaged in, and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.

9. A.M.

8. Notices. Any notices that must be provided under this Agreement shall be sent to the Parties' respective authorized representatives at the address listed below:

City of Glendale
c/o Greg Wheeler
Traffic Engineering Supervisor
6210 West Myrtle Avenue, #111
Glendale, Arizona 85301
623-930-2950

and

Ennis-Flint
c/o Scott Seeley, Vice President
115 Todd Court
Thomasville, NC 27360
336-308-3769

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year set forth above.

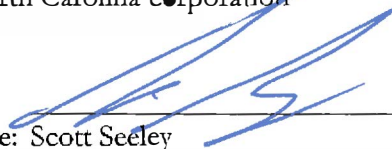
"City"

"Contractor"

City of Glendale, an Arizona
municipal corporation

Ennis-Flint,
a North Carolina corporation

By: _____
Kevin Phelps
City Manager

By: 
Name: Scott Seeley
Title: Vice President

ATTEST:

Julie K. Bower (SEAL)
City Clerk

APPROVED AS TO FORM:

Michael D. Bailey
City Attorney

**LINKING AGREEMENT
BETWEEN
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AND
ENNIS PAINT, INC. DBA ENNIS-FLINT**

EXHIBIT A

Waterborne Fast Dry Traffic Paint Contract, Contract No. ADSP013-036207



Master Blanket Purchase Order ADSP013-036207

Header Information

Purchase Order Number:	ADSP013-036207	Release Number:	0	Short Description:	Waterborne Fast Dry Traffic Paint
Status:	3PS - Sent	Purchaser:	Michael Fleming	Receipt Method:	Quantity
Fiscal Year:	2013	PO Type:	Blanket	Minor Status:	
Organization:	State of Arizona	Location:	SPO - State Procurement Office	Type Code:	Statewide
Department:	ADSP0 - State Procurement Office	Entered Date:	11/16/2012 01:30:30 PM	Control Code:	
Alternate ID:	ADOT11-006021	Retainage %:	0.00%	Discount %:	0.00%
Days ARO:	0	Release Type:	Direct Release	Pcard Enabled:	Yes
Print Dest Detail:	If Different	Tax Rate:		Actual Cost:	\$0.00
Catalog ID:					
Contact Instructions:	Michael Fleming 602-542-2090 michael.fleming@azdoa.gov				

Master Blanket/Contract End Date (Maximum): 06/08/2016 11:59:59 PM

(see page 2)

Project No.:
Building Code:
Cost Code:
Special Purchase Types:
PIJ NUMBER:
Coop Spend To Date:
Commodity Reference Id:
PO External Doc Type:

Agency Attachments:

[PO Terms & Conditions - OLD Solicitation ADOT11-00000407.zip](#) [Contract ADSP013-036207.zip](#) [Ennis Paint COI - Expires 11.1.14.pdf](#) [ADSP013-036207 - Change Order No. 2 Summary.pdf](#) [ADSP013-036207 - Change Order No. 3 Summary.pdf](#) [Ennis Paint COI - Expires 11.1.15.pdf](#) [Change Order Summary 4 - Contact Change.doc](#) [COI Change Order No 5 - Expires 11.1.2016.doc](#) [COI Expires 11.1.2016.pdf](#) [CI](#)

Vendor Attachments:

Agency Attachment Forms:

Vendor Attachment Forms:

Primary Vendor Information & PO Terms

Vendor: [000008368 - ENNIS PAINT INC](#)
 Jessica Townsend
 115 Todd Court
 Thomasville, NC 27360
 US
 Email: contracts@ennisflint.com
 Phone: (336)308-3768
 FAX: (336)475-7900

Payment Terms: Net 30
Shipping Method: Best Way
Shipping Terms: F.O.B., Destination
Freight Terms: Freight Prepaid

PO Acknowledgements:

Document	Notifications	Acknowledged Date/Time
Purchase Order	Emailed to kliska@ennistrafic.com at 11/19/2012 02:36:17 PM	
Change Order 1	Emailed to kliska@ennistrafic.com at 04/15/2013 01:13:15 PM	05/09/2013 07:26:36 AM

Master Blanket/Contract Vendor Distributor List

Vendor ID	Alternative ID	Vendor Name	Preferred Delivery Method	Vendor Distributor Status
000008368	PZ000008368	ENNIS PAINT INC	Email	Active

Master Blanket/Contract Controls

Master Blanket/Contract Begin Date: 06/09/2011
Master Blanket/Contract End Date: 10/27/2016
Cooperative Purchasing Allowed: Yes

Organization	Department	Dollar Limit	Dollars Spent to Date	Minimum Order Amount
ALL ORG - Organization Umbrella Master Control	AGY - Agency Umbrella Master Control	\$0.00	\$1,670,911.70	\$0.00

Item Information

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Print Sequence # 1.0, Item # 1: PREMIUM GRADE WATERBORNE FAST DRY TRAFFIC PAINT (FORMULATION I A& WHITE), 5 GALLON BUCKET 3PS - Sent

NIGP Code: 630-66
 Paints, Traffic

Receipt Method	Qty	Unit Cost	UOM	Discount %	Total Discount Amt.	Tax Rate	Tax Amount	Total Cost
Quantity	0.0	\$56.40	EA - Each	0.00	\$0.00		\$0.00	\$0.00

Manufacturer: _____ Brand: _____ Model: _____
 Make: _____ Packaging: _____
 Project No.: _____

Building Code:
 Cost Code:
 Property Number:

Print Sequence # 2.0, Item # 2: PREMIUM GRADE WATERBORNE FAST DRY TRAFFIC PAINT (FORMULATION I \hat{A} ₂ WHITE), 55 GALLON DRUM 3PS - Sent

NIGP Code: 630-66
 Paints, Traffic

Receipt Method	Qty	Unit Cost	UOM	Discount %	Total Discount Amt.	Tax Rate	Tax Amount	Total Cost
Quantity	0.0	\$591.80	EA - Each	0.00	\$0.00		\$0.00	\$0.00

Manufacturer: Brand: Model:
 Make: Packaging:
 Project No.:
 Building Code:
 Cost Code:
 Property Number:

Print Sequence # 3.0, Item # 3: PREMIUM GRADE WATERBORNE FAST DRY TRAFFIC PAINT (FORMULATION I \hat{A} ₂ WHITE), 250 GALLON TOTE 3PS - Sent

NIGP Code: 630-66
 Paints, Traffic

Receipt Method	Qty	Unit Cost	UOM	Discount %	Total Discount Amt.	Tax Rate	Tax Amount	Total Cost
Quantity	0.0	\$2,605.00	EA - Each	0.00	\$0.00		\$0.00	\$0.00

Manufacturer: Brand: Model:
 Make: Packaging:
 Project No.:
 Building Code:
 Cost Code:
 Property Number:

Print Sequence # 4.0, Item # 4: PREMIUM GRADE WATERBORNE FAST DRY TRAFFIC PAINT (FORMULATION I \hat{A} ₂ WHITE), 345 GALLON TOTE 3PS - Sent

NIGP Code: 630-66
 Paints, Traffic

Receipt Method	Qty	Unit Cost	UOM	Discount %	Total Discount Amt.	Tax Rate	Tax Amount	Total Cost
Quantity	0.0	\$3,594.90	EA - Each	0.00	\$0.00		\$0.00	\$0.00

Manufacturer: Brand: Model:
 Make: Packaging:
 Project No.:
 Building Code:

Cost Code:
Property Number:

Print Sequence # 5.0, Item # 5: PREMIUM GRADE WATERBORNE FAST DRY TRAFFIC PAINT (FORMULATION I A, YELLOW), 5 GALLON BUCKET							3PS - Sent	
NIGP Code: <u>630-66</u> Paints, Traffic								
Receipt Method	Qty	Unit Cost	UOM	Discount %	Total Discount Amt.	Tax Rate	Tax Amount	Total Cost
Quantity	0.0	\$56.90	EA - Each	0.00	\$0.00		\$0.00	\$0.00
Manufacturer:			Brand:			Model:		
Make:			Packaging:					
Project No.:								
Building Code:								
Cost Code:								
Property Number:								

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1 2 3 4 5 6 7 8 9 10

Exit

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**ATTACHMENT 1
OFFER AND CONTRACT AWARD**



ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 West Jackson Street, Suite A, Mail Drop 100P
Phoenix, Arizona 85007-3276
Phone: (602) 712-7211



SOLICITATION NO. ADOT11-00000407

Submit this form with an original signature to the Department

OFFER

TO THE STATE OF ARIZONA:

The bidder hereby offers and agrees to perform in compliance with all terms, conditions, specifications and amendments of this solicitation and any written exceptions in the offer. Signature also acknowledges receipt of all pages indicated in the Table of Contents.

Arizona State Transaction Privilege Tax License Number

No.: 20584370

Federal Employer Identification

No.: 752657523

Ennis Paint, Inc.

Offeror's (Company) Name

1509 S. Kaufman

Address

Ennis Texas 75119
City State Zip

800-331-8118

Phone

800-555-0217

Facsimile

For clarification of this offer, contact:

Dane Alsabrook

Printed Name

dane@ennistraffic.com

Email Address

contracts@ennistraffic.com

Company Email Address

Dane Alsabrook
Signature of Person Authorized to Sign Offer

Dane Alsabrook

Printed Name

4-22-11

Date

Assistant Vice President

Title

ACCEPTANCE OF OFFER AND CONTRACT AWARD (FOR STATE OF ARIZONA USE ONLY)

Your bid is hereby accepted.

The contractor is now bound to perform based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the contractor's bid as accepted by the state.

This contract shall henceforth be referred to as Contract No. ADOT11-006021

Traffic Paint, Various Formulations of Fast-Dry

The contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this contract until contractor receives a purchase order document.

State of Arizona

Effective this 9th day of June, 2011

Gary T. Henry

As Procurement Officer and not personally

5/13/11
Awarded Date

SECTION 1 SPECIFICATIONS

ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 West Jackson Street, Suite A, Mail Drop 100P
Phoenix, Arizona 85007-3276
Phone: (602) 712-7211

SOLICITATION NO. ADOT11-00000407

1. PURPOSE

Pursuant to the Arizona Procurement Code, A.R.S. §41-2501 et seq., the State of Arizona Department of Transportation (ADOT) in conjunction with its political subdivisions here into referred to as the Department, has a requirement for a term contract to purchase containers of various formulations of fast dry resin traffic marking paint.

The Department anticipates considerable activity resulting from contracts that will be awarded as a result of this solicitation; however, no commitment of any kind is made concerning quantities actually acquired. ADOT's annual usage of white paint is estimated at 190,000 gallons and yellow paint is estimated at 121,000 gallons. The quantities given here are based on ADOT's past usage. ADOT reserves the right to increase or decrease these amounts as circumstances may require.

2. GENERAL REQUIREMENTS

The traffic paint shall be specifically designed and manufactured for the purposes specified herein. The Contractor shall have specific knowledge and experience in the areas related to traffic paints and the corresponding use of drop-on glass beads in this type of pavement marking material.

Formulation fast dry resin traffic paint, as specified herein, is defined as a paint that is carefully designed to achieve the needed performance at a variety of single coat application thicknesses, not only in field performance (UV stable, color, durability and retroreflectivity), but in ease of use (stability, proper viscosity, good sprayability). The paint shall use the specified fast dry traffic paint resin technologies along with compatible pigment and additive technologies that allow the formulation to achieve consistent performance under a variety of application considerations batch after batch. All items shall be manufactured in such a manner that they are consistent in formulation, function, performance and color.

3. TRAFFIC PAINT ITEMS:

<u>Item</u>	<u>Description</u>
1	Premium Waterborne Fast Dry Traffic Paint (Formulation I) - White
2	Premium Waterborne Fast Dry Traffic Paint (Formulation I) - Yellow
3	Premium Waterborne Fast Dry Traffic Paint (Formulation II) - White
4	Premium Waterborne Fast Dry Traffic Paint (Formulation II) - Yellow
5	Premium Blended Grade Waterborne Fast Dry Traffic Paint (Formulation III) - White
6	Premium Blended Grade Waterborne Fast Dry Traffic Paint (Formulation III) - Yellow
7	Medium Grade Waterborne Fast Dry Traffic Paint (Formulation IV) - White
8	Medium Grade Waterborne Fast Dry Traffic Paint (Formulation IV) - Yellow
9	Medium Grade Waterborne Fast Dry Traffic Paint (Formulation V) - White
10	Medium Grade Waterborne Fast Dry Traffic Paint (Formulation V) - Yellow
11	Economy Grade Waterborne Fast Dry Traffic Paint (Formulation VI) - White
12	Economy Grade Waterborne Fast Dry Traffic Paint (Formulation VI) - Yellow
13	Economy Grade Waterborne Fast Dry Traffic Paint (Formulation VII) - White
14	Economy Grade Waterborne Fast Dry Traffic Paint (Formulation VII) - Yellow
15	Fast Dry Traffic Paint (Formulation IV, V, VI or VII) - Black

Formulation I shall feature Rohm and Hass Company Rhoplex Fastrack HD-21A resin technology.

Formulation II shall feature the Dow Chemical UCAR Latex DT 400 resin technology.

Formulation III shall be based on a technology or technologies to be determined by the Contractor and can be an alternative formulation utilizing a blend of resin technologies or a variation on the HD-21A or DT 400 formulations (e.g. like a reduced or no methanol formulation, different pigment loading or other significant formulation variation).

SECTION 1 SPECIFICATIONS

ARIZONA DEPARTMENT OF TRANSPORTATION
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SOLICITATION NO. ADOT11-00000407

Formulation IV shall feature Rohm and Hass Company Rhoplex Fastrack 3427 resin technology.

Formulation V shall feature the Dow Chemical UCAR Latex DT 300NA resin technology.

Formulation VI shall feature Rohm and Hass Company Rhoplex Fastrack 2706 resin technology.

Formulation VII shall feature the Dow Chemical UCAR Latex DT 211NA resin technology.

4. MATERIAL REQUIREMENTS:

Basic Characteristics: The waterborne (or water based) fast dry resin traffic paint materials shall be a pre-mixed, one component, lead-free, heavy metal-free, low volatile organic compound (less than 150 grams per liter of VOC) paint that is specifically compounded to be sprayed to pavement surfaces via a spray application method. The products shall not contain any mercury, toluene chlorinated solvents, hydrolyzable chlorine derivatives, ethylene based glycol ethers and their acetates, nor carcinogen as defined in 29-CFR 1910/1200.

The paint shall be designed to be applied at a variety of film (or coat) thicknesses and new and restripe applications and still achieve adequate or better visual and durability performance. At a 15 wet mils application under traffic with an application of 8 to 10 pounds of glass beads per gallon the paint shall have a target durability of at least twelve (12) months. Additionally, the paint shall be designed to be applied at thicker wet films (exception formulations VI and VIII), 15 to 25 wet mils (+/- 5 mils) with the same bead rate and achieve a longer than 24 month durability. The paint shall also be designed to be re-coatable. The formulations shall be primarily designed for an airless spray system with either a single or double paint gun arrangement. The paint shall be suitable for long line (e.g. lane lines, edge lines, gore lines, storage lines) and short line (stop lines, crosswalk lines, legends and symbols).

The paints shall be such that they can achieve the required coverage (e.g. width of line) and wet thickness at application speeds up to 10 miles per hour with one paint application spray gun. With a two paint application spray gun arrangement (one followed by another) the material shall be able to achieve the same performance at 16 mph. This application speed is necessary to maintain traffic. With glass beads applied, this material, upon drying shall produce an adherent reflectorized marking capable of resisting the mechanical and weather wearing elements presented by urban and rural roadway environments in Arizona.

The paint shall conform to all of the applicable federal (Environmental Protection Agency, Federal Highway Administration and Occupational Safety and Health Administration), State (Department of Environmental Quality) and local (county) regulations. The applicable local regulations for the State will be those produced by Maricopa County Environmental Services Department (602/506-5010) which are entitled Maricopa County Air Pollution Control Regulations (e.g. Rule 200). At no time shall these paints materials exude fumes which are toxic or injurious to persons or equipment. The Yellow Lead-Free formulations shall use lead free pigments that conform to the requirements of federal specification TT-P-1952D.

All colors shall meet the applicable Federal Highway Administration (FHWA) color for daytime and nighttime (retroreflective) requirements for pavement markings.

All solid paint components shall be well ground and uniformly dispersed in the paint solution. The paint solution shall not cake or thicken in the container, and shall not become granular or curdled within the specified storage time. Upon delivery and when stored in sealed delivery containers, under normal above freezing temperatures up to a 12 month period, the paint shall show no evidence of excessive settling, gelling, skinning, caking, spoilage, or livering. Any settlement of solids in the paint shall result in a thoroughly wetted soft mass that can be easily and successfully remixed into proper solution via the Department's tote to paint truck paint transfer process or for the smaller containers (1, 5 and 55 gallon) with some form of physical agitation. Upon the paint transfer process or mixing, the paint shall regain a smooth uniform product of the proper consistency. If the paint cannot be mixed back to a uniform totally sprayable liquid state then it shall be considered unfit. The paints shall be able to be pump transferred from a 250 or 345 gallon tote to a paint truck in 20 minutes or less.

SECTION 1 SPECIFICATIONS

ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 West Jackson Street, Suite A, Mail Drop 100P
Phoenix, Arizona 85007-3276
Phone: (602) 712-7211

SOLICITATION NO. ADOT11-00000407

The traffic paints shall be fully compatible and suitable to be placed on newly laid asphaltic pavement surface, micro-sealed surfaces, chip-sealed surfaces, portland cement concrete surfaces and surfaces that have been previously striped with paint, thermoplastic or epoxy pavement marking materials.

The paints, under normal weather conditions (a warm clear sunny day), shall dry to no-track conditions in less than 90 seconds when applied at a thickness of 15 wet mils with 8 pounds of beads per gallon.

The paint shall be capable of being heated and spray applied up to a temperature of 120 degrees F without damaging the formulation or serviceability of the material or the traffic striping equipment from which it is being applied. The 120 degree F limit given here is intended to provide a safety margin against overheating. The paint shall not be damaged or deteriorate when reheated or if held under heated pressure conditions for six hours.

All white and yellow paints shall be able to provide proper anchorage and refraction for single coated and double coated Departmental standard gradation (per the Department's Standard Specification Subsection 708-2.02), American Association of State Highway and Transportation Officials (AASHTO) M247 Type I gradation, modified AASTHO Type I gradation or bigger beads FP-92 Type 3 gradation when applied at a rate of 8 to 10 pounds per gallon.

After proper application and sufficient drying time, the markings produced utilizing the paints supplied shall show no appreciable deformation or discoloration under local traffic conditions with road surface temperatures ranging from -10 degrees to +200 degrees F.

5. COMPOSITIONAL REQUIREMENTS:

General : The exact composition of the paint shall be determined by the contractor within the applicable requirements of this specification. It will be the contractor's responsibility to produce a pigmented waterborne low VOC fast dry traffic paint containing all the necessary resin, solvents, dispersants, wetting agents, preservatives and all other additives, so that the paint shall retain its viscosity, stability and all other necessary properties so that it can be properly applied in the field and achieve the intended function and rated durability.

It is the responsibility of the Contractor to formulate and make their paint in a manner which is consistent with the recommendations of their raw material suppliers. If problems are encountered and satisfactory action is not being taken by the contractor to correct the problems, the Department reserves the right to directly contact the contractor's raw material suppliers to determine if the paint formulation and making recommendations are being followed for the paint in question.

Quantitative Requirements:

(a) Resin Type & Content, Total Solids & Non-Volatile Vehicle Content: The offered paints shall have resin types and concentrations:

Paint formulation I shall be 100% Rohm & Haas Company Rhoplex Fastrack HD-21A.

Formulation II shall be 100% Dow Chemical UCAR Latex DT-400.

Formulation III can be blend of fast dry paint technologies as determined by the contractor or can be an alternative formulation utilizing either HD-21A, DT-400 or some other combination of at least one of these brand name resins.

Formulation IV shall be 100% Rohm & Haas Company Rhoplex Fastrack 3427

Formulation V shall be 100% Dow Chemical UCAR Latex DT-300NA

Formulation VI shall be 100% Rohm & Haas Company Rhoplex Fastrack 2706

Formulation VII shall be 100% Dow Chemical UCAR Latex DT-211NA

SECTION 1 SPECIFICATIONS

ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
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Phoenix, Arizona 85007-3276
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SOLICITATION NO. ADOT11-00000407

The exact method to determine the presence and content (or concentration) of the resin system shall be as recommended by the resin supplier. The Department reserves the right to have paint samples tested by the resin supplier to verify that this requirement is being met.

The total solids (or non-volatile) and non-volatile vehicle content, as expressed as percentage by weight or volume of the paint formulation, shall be designed by the contractor to achieve the specified function and durability performance, given certain minimums. The minimum total solids (or non-volatile) content of the paint formulation, percent by weight of paint, as determined by American Society for Testing and Materials (ASTM) D 2369, is to be as follows:

Total Solids: 77%

Non-Volatile Vehicle (NVV): 41%

The allowable variation from the number identified here shall be two percent (+/- 2%).

Variations for formulations IV thru VII can be +/- 4%.

(b) Viscosity: The viscosity as determined in Krieb units (ku) at 77 F degrees (+/- 3 F degrees) per ASTM D 562 shall be if the following range as long as no other function (e.g. sprayability) is adversely impacted: 85 to 95 ku.

The drying time of the paint formulation shall be defined as the minimum elapsed time, after application, when the paint shall have and shall retain the characteristics required herein and after which normal traffic will leave no impression or imprint on the newly applied stripes or markings. There are a number of tests that define dry time requirements, they are:

(1) No-Track Dry Time - The no-track time, for the paint when it is applied at 15 wet mils with eight pounds of glass beads under standard weather conditions (77 degrees F plus, less than 50% humidity, clear/partly cloudy and normal air flow) is to be 90 seconds or less. Two methods can be used to determine the no-track time:

Method 1 - The no-track dry time shall be the time required for the applied paint line to withstand the running of a passenger type vehicle over the line at a speed of 40 mph without tracking as detected by an observer from a distance of fifty (50) feet.

Method 2 - Utilize the Department's simulated tire imprint test as defined later in this specification. Using this test, the paint shall leave an imprint that is rated "some" or "near none" after 90 seconds.

(2) Dry Time - The maximum paint dry time, at an applied thickness of 15 wet mils with no beads, to no pick as determined by ASTM D 711, for the paints shall be 10 minutes or less.

(3) Dry through Time - The maximum dry through time, as determined by ASTM D 1640 (except no thumb pressure is used when thumb is rotated 90 degrees on paint film), for the fast dry paints shall be 20 minutes or less.

(4) Dry Through/Early Washout - The same test method is to be used as per the "Dry through Time" except the test will be run at 72 degrees F (+/- 3 degrees) at a relative humidity of 90 % (+/- 3%). A 15 wet mil application of paint is to dry within 130 minutes or less.

(c) Weight per Gallon or Density: The weight per gallon of paint in pounds shall be determined per ASTM D 1475 at a temperature of 77 degrees F (+/- 3 F degrees). The weight ranges for formulations I through III per color are:

Yellow: 13.4 to 14 pounds per gallon

White: 13.7 to 14.3 pounds per gallon

The weight/range for formulations IV through VII is to be specified at the time of offer.

SECTION 1 SPECIFICATIONS

ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 West Jackson Street, Suite A, Mall Drop 100P
Phoenix, Arizona 85007-3276
Phone: (602) 712-7211

SOLICITATION NO. ADOT11-00000407

(d) **Pigment Content:** The minimum pigment content, percent by weight, as determined by ASTM D 3727, shall be 60% by weight +/- 2% for the white. The load and/or allowable tolerance can be increased if justified by the contractor for that formulation and approved by the Department. The actual amount of pigment above the requirement minimum used shall be as required to achieve the required appearance, dry times, hide color, durability and retroreflectivity.

The pigment composition shall not contain mercury, lead or hexavalent chromium or any other known heavy metal or component that is known to be hazardous.

(e) **Dry Opacity (Contrast Ratio):** The Dry opacity for the paint will be determined using a black-white Leneta Chart, Form 2C Opacity and a Photovolt 577 Reflectance meter or equal. Using a gap doctor blade a 5 mil film of paint shall be drawn that will cover both black and white portions of the chart. The film shall be allowed to dry 24 hours. After calibrating the reflectance meter according to the manufacturer's instructions, the reflectance will be measured over the white and black portions with the green Tristimulus filter. The dry opacity is calculated as follows:

Reflectance over black/reflectance over white = dry opacity.

The minimum dry opacity for the white shall be 92 and 90 for the yellow.

(f) **Color & Reflectance:** The "daytime" white color shall closely match Federal Test Standard Number 595, color chip no. 17886 and/or per the latest FHWA requirements. The "daytime" yellow color shall closely match Federal Test Standard Number 595, color chip no. 33538 and/or per the latest FHWA requirements. The color will be checked visually and per the equivalent colorimetry.

The "daylight" reflectance (or luminance Factor Y) at 0 degrees – 45 degrees for both the white and yellow paint (per a lab test without beads) will be determined using a 15 mil draw down film sample. The same white sample used to determine the yellowness index as herein specified can also be used for this test. The reflectance for the white paint shall be a minimum of 84. The reflectance for the yellow paint can range from 45 to 58.

The color and reflectance requirements will be determined using a Hunter Laminiscan Spectro-Colormeter or equal in accordance with the requirements of ASTM E 1349 using CIE 1931 2 degree standard observer and CIE standard illuminate D65.

Conformance to the FHWA required nighttime (retroreflective color) shall be verified and tested per a method to be determined by the contractor. The sample tested shall be a 15 wet mils thick draw down with 8 pounds of AASHTO type I glass beads.

(g) **pH:** The actual pH of the formulation shall be per the applicable requirements of the resin supplier and what the contractor has found to work. Typically, the pH should not be any lower than 10.0. However, certain paint formulations have had pH's as low as 9.6. The pH shall be determined per ASTM E 70. The range of acceptable pH shall be set by the contractor based on the recommendations of the resin supplier. When tested, the pH shall fall within that allowable range that has been identified.

(h) **Fineness of Dispersion:** The fineness of dispersion of the paint shall be as required to maintain the suspension of the solids, make the material functional with the application method and result in the desired finish. The fineness of dispersion is to be per HEGMAN as determined per ASTM D 1210 is to be a minimum of 3.0.

(i) **Volatile Organic Compounds (VOCs):** The maximum volatile organic compounds (VOC) in grams per liter (g/l) of any paint, as determined by ASTM D 3960 (7.1.2), shall be no more than 150.

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(j) **Flash Point:** The minimum flash point for the waterborne paints shall be 100 degrees F as determined by ASTM D 93 method A.

(k) **Retroreflectance and Glass Bead Compatibility:** The white and yellow paint materials when applied on the roadway at 12 to 15 wet mils with a minimum drop-on glass bead application rate of 8 to 12 pounds per gallon of either AASHTO M247 Type I or FP-92 Type III beads with a dual moisture proof/adhesion coating shall have the following minimum retroreflectance values as measured by a portable retroreflectometer within zero to 30 days after application:

Paint Color	Retroreflectance Millicandelas	
White	180 for AASHTO Type 1 Beads	250 for FP-92 Type 3 Beads
Yellow	125 for AASHTO Type 1 Beads	150 for FP-92 Type 3 Beads

The Department's standard gradation beads are per Section 708 - PERMANENT PAVEMENT MARKINGS, Subsection 708-2.02 Reflective Glass Beads (Spheres). The AASHTO glass bead gradations are per American Association of State Highway and Transportation Officials (AASHTO) Standard Specifications for Transportation Materials and Methods of Sampling and Testing, Standard Specification for Glass Beads Used in Traffic Paint, AASHTO Designation: M 247.

(l) **Yellowness Index:** The yellowness index for the white paint will be determined as described for dry opacity, only a 15 mil gap proctor blade will be used to draw down the paint. After drying 24 hours, the paint film's reflectance will be measured using the green and amber Tristimulus filters. The yellow index is then calculated as follows:

$$\text{Yellowness index} = (\text{amber} - \text{blue}) / \text{green} \times 100$$

Yellowness index for the white paints shall be a maximum of 10.

(m) **Static Heat Stability:** The static heat stability for the paint will be determined as follows: A one pint sample of the paint in a sealed can is to be placed in a heated air circulation oven at 120 degrees F +/- 1 degrees F for a period of one week. The sample is then to be removed from the oven and the viscosity checked in Krieb units at 77 degrees F +/- 1 degree F according to ASTM D 562. The measured viscosity shall be in the range from 68 to 95.

(n) **Heat-Shear Stability:** The heat-shear stability for the paint shall be determined as follows: A one pint sample of the paint shall be sheared at a high speed in a Waring blender that is heated to a temperature of 120 degrees F. The blender's lid shall be sealed to minimize the loss of volatiles. When the sample of paint reaches 120 degrees F, the blender shall be stopped and the paint poured immediately into a sample can and covered. The sample is to be cooled overnight and then examined for jelling or other signs of instability. The viscosity of the sheared sample is to be measured according to ASTM D-562 in Krieb Units at 77 degrees F (+/- 1 degree F). The measured viscosity shall be in the range of 68 to 95. If not at the upper limit, run total solids on the sheared paint and adjust solids by adding water to reach the original solids content. If the solids content required adjustment, again check the viscosity of the paint, the viscosity must be in the range of 68 to 95.

(o) **Scrub Resistance:** The scrub resistance will be determined according to ASTM D 2486. An appropriate proctor blade is to be used to obtain a dry film thickness of 3 to 4 mils. The sample shall be cured for 24 hours. The scrub test shall be performed at 77 degrees F (+/- 1 degrees F) at 50% (+/- 5%) humidity. The sample shall withstand a minimum of 800 cycles.

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(p) Freeze-Thaw Properties: The paint viscosity or consistency shall not change significantly when the paint is tested for resistance to three (3) cycles of freeze-thaw according to ASTM D 2243. The freeze-thaw property requirement can be reduced or eliminated as a possible formulation III variation. Such a variation needs to be clearly identified and justified by the contractor, based on this the Department will approve or disapprove this variation. The Department may require containers whose paint does not have a specific freeze-thaw treatment (additive) to have special brightly colored warning labels. Note: the Department does have some areas where paint is stored at an elevation of 5,000 feet or more.

(q) Vehicle/Pigment Composition: The paint vehicle composition determined by an infrared spectra test that is conducted per ASTM D 2621, shall not vary.

(r) Field Testing Procedure: If a field evaluation is done, it will be done under the following range of conditions:

Air Temperature: 64 degrees F to 85 degrees F
Surface Temperature: 75 degrees F to 125 degrees F
Conditions: Clear to cloudy
Wind Speed: 0 to 15 miles per hour
Relative Humidity: 10% to 34%
Paint Heated Temperature: 110 degrees F
Bead Application Rate: 8 pounds per gallon
Bead Type: AASHTO Type I with dual adhesion and moisture proof coating
Application Speed: Under 10 miles per hour
Nominal Wet Thickness: 15 mils
Line Width: 6 inches
Time of Applications: 9 am to 4 pm
Paint Containers: 55 gallon Drums

When applied with an air atomized or airless long line paint truck on an asphaltic pavement surface the paint shall be evaluated based on the following criteria:

No-Track Time - The paint shall have a rating of "near none" to "some" per the Department's simulated tire imprint test. The imprint test is to be conducted as follows: (1) Wait 90 seconds after a paint line is installed, (2) Place marking paper over line (cloth or 15 mil roofing material), (3) Place foot into modified tire and rock it back and forth over the applied paint line five times, (4) Observe paint imprint or residue left on cloth or roofing material & (5) Residue is to be based on the following scale: "None," "Near None," "Some" or "A lot."

Ease of Use - The general ability of the paint to be sprayed from an airless or air atomized highway painting system and still maintains a good even line of uniform thickness. The paint shall have a "good" or "very good" rating.

Build-Up - Based on the test, the amount of build-up in the paint gun cup is to be "none" to "moderate."

Workability - The paint, upon the first opening of the container, shall be easily pumpable and be free of any clumps and skins that would interfere with its use. The paint shall not have any evidence of significant separation. Some separation is allowable if it is readily re-mixed and does not infer with the pump transfer. The entire 55 gallon drum of paint shall be able to be pumped into the on-board storage tank within seven minutes or less.

Durability - At the end of 18 months the paint shall have an acceptable retroreflective appearance (as observed at night and as measured) with an acceptable subjective durability, bead retention, color and daytime appearance rating.

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6. BRAND NAME OR EQUAL

There are currently a number of resin and pigment products that have been determined, through evaluation and/or testing, to be equivalent to the requirements of these specifications. The listing of these brands is not intended to limit or restrict competition. Rather, it is to set the standard quality, design, performance and characteristics of the products herein specified.

A listing of the resin and pigment products which appear to be compatible to the requirements are as follows:

(1) **Suitable Fast Dry Paint Resins:**

Rohm and Haas Rhoplex Fastrack HD-21A,
Dow Chemical DT 400NA
Rohm and Haas Rhoplex Fastrack 3427
Dow Chemical DT 300NA
Rohm and Haas Rhoplex Fastrack 2706
Dow Chemical DT 211NA

Or equivalent fast dry traffic paint resin product that can be proven to match the function and performance of the listed products.

(2) **Suitable White Pigments:**

Dupont - TiPure 900

Or equivalent white pigment product suitable for use in a traffic paint and long term outdoor exposure without a loss in needed function and performance.

(3) **Suitable No Lead Yellow Pigments:**

Dominion Color Corporation - DCC117 Organic Yellow,
Clariant/Lansco Organic Yellow,
Englehard - Organic Yellow

Or equivalent yellow pigment products suitable for use in a traffic paint and long term outdoor exposure without a loss in needed function and performance.

Non-listed materials will be considered if sufficient evidence (e.g. results from other pavement marking application and performance field tests), technical information and assurances (a history of good product performance and user satisfaction) is given that assures the Department that those materials are capable of achieving the same or better performance than those listed. Additionally, the Department may request samples of non-listed products to conduct lab and field tests. It is important to note that the listed products are in no-way relieved of any requirement stated herein.

7. CONTAINERS

All re-useable containers (drums and totes) shall be the property of the contractor or the contractor's supplier.

All paint containers shall be capable of withstanding normal shipping and handling without damage or loss of function. All containers shall be airtight and shipped in such a manner that they do not skin or degrade in some other fashion while in transit or when stored. Placing a small quantity of compatible liquid on top of the paint in the container is acceptable, if that layer does not adversely affect the performance of the paint. If a layer of liquid is used, it shall not be counted as a part of the required volume of paint. The contractor shall take appropriate measures to ensure that all containers are filled with the specified volume of paint. All containers shall be easily resealable so to ensure an air tight seal that protects the paint from drying as much as possible. The contractor agrees to warranty the performance of all containers by replacing any damaged paint, without cost to the Department; that occurs because of defective containers or in container preservation methods.

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Re-useable containers that are dented and affects the available volume shall be repaired or retired. Containers shall be cleaned after they are return to the contractor so sufficient room inside the container is maintained for the specified volume of paint. Cleaned containers shall have little or no build-up of dried paint on the inside. If plastic disposable liners are used they shall be secured in such a fashion that they do not interfere with the Department's container to truck pump transfer procedures. The liners shall be secured in such a fashion that allows the paint to be removed completely from the container. The contractor is responsible for the disposal of any liner used in a tote. If liners are used then the weight of the liner and the container shall be indicated separately. The Department reserves the right to prohibit the use of liners if they are found to interfere with the container to truck pump process, are prone to tear/rupture or result in a significant waste of paint. A significant loss of paint caused by defective liner(s) may be back charged to the contractor.

It is the responsibility of the contractor to manage all re-useable containers (totes and drums). All totes are to have a unique inventory number. The contractor shall maintain an inventory control system that enables totes to be tracked as to its location and what type of paint, the date it was filled and the date that it was delivered. It will be the responsibility of the contractor to arrange for loading and shipping of empty totes back to their manufacturing facility. Due to storage area limitation the contractor shall not allow more than 9 empty 345 gallon totes, 12 empty 250 or 220 gallon totes, 62 empty 55 gallon drums or any combination of empty containers that equals a truck load to accumulate at any one location.

All totes shall be stainless steel. The drums shall have a colored FDA approved drum liner that is suitable for long term storage of fast dry paint. All containers shall be suitable labeled as to their contents. The minimum information on the label shall be the contractor's name/address/phone number, color, type of paint (classification plus brand name/code), batch number, the date it was manufactured, volume (drums and totes shall also include empty and full weights) and any other required state/county/federal warning/hazard/regulatory information and plackering. Additionally, all totes shall be labeled with their inventory control number. Containers, at the option of the contractor, can be color coded as to the color of paint contained.

Five gallon buckets, bodies and lids, shall be made of plastic. The lids shall have a reseal able tear plastic or thread pour spout opening in the lid that can be used to pour or access the paint via an insert type of pump device. The main lid shall have an air tight gasket and also be reseal able.

All metals used for any container shall be suitable for the paint which is stored in them. If the metal is not suitable then it shall have an appropriate coating to prevent attack by the paint or by agents in the air space above the paint. This coating shall not come off the container or lid and contaminate the paint.

All containers shall be properly sealed with suitable gaskets and show no evidence of leakage.

All drums and totes shall conform to all the applicable EPA and Department of Transportation rules and regulations for such containers. Additionally, the 55 gallon drums shall conform to the latest United Nations (UN) requirements.

All 55 gallon drums used shall be new or near new. Use of reconditioned drums that are significantly dented shall be cause for rejection of paint. The drums shall have removable lids and airtight band fasteners. All drums shall be shipped and delivered on pallets, unless specified otherwise by the Department at the time of order.

All totes shall be suitably designed and constructed to be able to be lifted by a crane or forklift when full. The maximum size for the 345 gallon totes shall be 50 inches wide by 44 inches in length by 75 inches high. The top of all totes shall have an eighteen inch (+/-) diameter manhole opening with a six inch diameter fill cap in the middle of the manhole. The bottom shall have a female two inch inside diameter opening with a non-restrictive gate valve. The bottom opening shall also have a treated airtight cap that has a retention cord or chain to prevent the cap from being lost. The outlet shall have an "Ever-tite" or compatible quick coupler. The top of the totes shall be supplied with vacuum and pressure relief valves.

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8. STORAGE

All materials shall have a rated shelf or storage life of twelve months from the date of delivery. If the Department's method of storage is not acceptable or there are concerns, then it is the responsibility of the contractor to notify the Department of these concerns in writing. The Department will make every effort to accommodate these concerns; however that may not always be possible.

The contractor shall inform the Department of any acceptable techniques that can be used to preserve paint when it is stored in previously opened containers and striping truck storage tanks. It should be noted that daily agitation in a container or tank is not possible. The timing of certain Department crew schedules and holidays means that paint may have to set in a container for as long as four or five days without the benefit of a crew being there. Thus, the contractor's storage techniques must accommodate this occurrence. Storage techniques that are overly restrictive or result in significant labor are not acceptable.

The only method the Department has to agitate paint in a tote is re-circulating using a pump. Paint can also be agitated via the container to striping truck pump transfer process. Additionally, the Department can agitate and re-circulate paint in the striping vehicle storage tanks. If the contractor requires physical agitation of the paint in the factory filled container then they shall be responsible for developing the method and equipment on how this is to be done. However, such agitation procedures shall not be overly restrictive or result in much additional labor or equipment cost for striping crews.

9. QUALITY CONTROL

The Contractor shall have a quality control process that involves sampling and testing of all paints that are delivered. The tests conducted on each batch of paint shall be of sufficient quantity and quality to ensure that the paints made and delivered are in conformance to the requirements of the specifications. Additionally, this quality control process shall maintain records of these batch tests for a minimum of two years after the paint is made and delivered. Liquid samples of each paint batch shall be maintained at least twelve months after the batch is delivered. If requested, the Contractor shall furnish, at no charge, sample containers.

All batches of paint shall have a unique number assigned to them. This batch number shall be used to correlate quality control test results and identify individual containers filled with paint from that batch. The contractor shall allow the Department full access to all quality control processes, records and samples pertaining to paints produced for this contract. This includes making copies of these records and mailing them (faxing is not allowable) to the Department within 14 calendar days from the time they are requested.

10. QUARTERLY CUSTOMER SERVICE VISITS

The contractor shall, as a minimum, travel to Arizona on a quarterly basis (every 3 months) to conduct customer service visits. Service visits shall be coordinated at least two weeks in advance. The object of the quarterly service visits is to help assure that the paint supply contract is going well, the requirements of the specifications are being met and to determine if there are any problems that need to be addressed. These visits can also be used to conduct training classes and observe/check applications in the field.

The current ADOT Statewide Striping Manager is Jack Hayes (602-278-4749).
The current ADOT Traffic Operations Engineer is Al Zubi (602-712-6913).

11. MANUALS

Once awarded, 10 copies of the user's instruction manual shall be provided to ADOT. The manuals shall be furnished with the delivery of the first shipment of paint. Additional manuals shall be supplied as requested.

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The manuals shall provide complete and comprehensive information on the paint items to be supplied. If any changes, modifications, refinements, additions or alterations of any kind are made throughout the life of this contract that affects the manuals, the contractor shall update all manuals that have been supplied.

The manuals shall be organized and submitted in three ring binders that are clearly marked as the "User's Manual for Traffic Paint." The manual shall be indexed and have tabs that separate the manual into logical sections. As a minimum, the manual shall consist of the following sections:

- (1) Information about the company supplying the products including the name and phone number of a customer service representative. This customer service representative should be a person who is authorized and trained to handle questions about the paint products being supplied. The person should be able to provide detailed technical input on application techniques and solutions to potential problems. As a minimum, a customer service representative shall be available Monday through Friday between 8:00 am to 4:00 pm mountain standard time, excluding holidays. The customer service phone line shall have voice mail so that messages can be left after business hours. All Department calls for information and help shall be answered in a timely and professional fashion.
- (2) Information and specifications about the paint products. The percent volume of solids (% volume solids) per product shall be clearly identified. Yield information for 10 to 30 applied wet mil lines. This includes how many linear feet a gallon of paint will yield for four and six inch wide lines. The corresponding dry mils thickness per product shall be cross referenced to the wet mil thickness. Also, yield information for gallons per mile and square feet per gallon should be included.
- (3) Specific instructions on how the paint products are to be stored and used. As a minimum, this section of the manual shall cover the following topics: handling, mixing, thinning, daily maintenance, weekly maintenance, periodic cleaning, end of season cleaning, hazardous waste, flammability, first aid, storage, cleaning solvents, application temperatures, dry times, dry time acceleration techniques, wet film calibration procedures, wet film thickness field checking procedures, weather, application rates, material temperatures, surface preparation, handling/storage of containers and glass beads application procedures/rates. The contractor shall include a recommended spray tip size, pressure, and heat exchanger settings matrix. A matrix on recommended paint applied wet thickness to surface type (chip seal, micro seal, etc) shall also be included.
- (4) Plastic pocket slip sheet with two flat metal or plastic wet thickness gauges. These devices shall be suitable for measuring the applied wet thickness of paint either on the pavement or on a flat plate. As a minimum, these gauges shall be graduated from a 5 to 30 mils in one mil increments.
- (5) Material Safety Data Sheets (MSDS) on each product. The contractor can provide additional information at their discretion. ADOT will review the content of the manual, if the content is not acceptable or requires changes or additions the contractor shall revise the manual as requested. The Department shall have the right to reproduce any material for Departmental purposes.

12. TRAINING

As a part of this contract at least one training session is to be held annually. One additional training session may be held if requested by ADOT. The training session shall be conducted by a factory or factory trained representative(s) that have extensive related experience. The first training session is to be coordinated and conducted by the contractor within 90 days of the awarding of this contract. The default training site will be at Traffic Operations Office in Phoenix. However, the session may be requested to be held at a State facility in Tucson, Prescott, Holbrook or Flagstaff. The contractor is to contact the Statewide Striping Manager at least three (3) weeks in advance to coordinate the training sessions training site and mutual convenient date and time.

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The training session shall be a minimum of four hours with two fifteen breaks. If the session goes longer, then a one hour break for lunch shall be given. The session shall fully demonstrate how the contracted traffic paint is to be handled and applied. The contractor shall supply whatever is necessary [sample items, tools and materials (including handouts, wet thickness gauges, yield charts-calculators and/or manuals)] to make the demonstrations and properly inform and train ADOT personnel in the use (health, safety and application) of their paint. The use of overheads, supplemental videos, demonstrations and slide presentations are encouraged. The contractor should coordinate with ADOT on the availability of audio-video equipment.

As a minimum the training session shall cover the following areas; traffic paint: introduction to familiarize attendees with the use of traffic paint, paint composition (binder, pigments, solvent & additives), fundamentals of film formation, impacts of application surface, impacts of weather (sun, wind, temperature, humidity and rain), application thickness, wet film calibration, what no-track time means, what dry time means, what cure means, handling, cleaning procedures, spraying, maintenance (daily, weekly and yearly), safety/health/MSDS, disposal of cleaning liquids/waste paint, yield information, customer service procedures and question/answer period. The handling of paint containers (full, semi-full and empty) shall also be addressed in detail, especially those procedures regarding re-useable containers.

13. POST-AWARD PLANT INSPECTION

The contractor shall be subjected to a post-award plant inspection by representatives from ADOT's Materials Lab. This plant inspection will coincide with an ADOT order for paint (minimum of one truck load of each color).

The contractor shall be required to transport and accommodate representatives from ADOT to inspect their manufacturing facility and to sample paint. The purpose of this inspection will be to verify that the paint being produced meets all of the applicable requirements of the specifications and that appropriate quality control measures are being taken when paint is manufactured, containerized and shipped. This includes the inspection and verification of raw materials used, batch sampling methods, specification conformance quality control tests, record keeping on paint batches, tote cleaning methods, container filling methods, verification of container volume quantities and amount of paint shipped. The contractor shall bear all transportation and accommodation costs associated with this plant inspection which is expected to take two to three days.

During the inspection the contractor is to manufacture at least one batch (minimum of 3,200 gallons) of each waterborne paint that applies to their award.

The contractor shall provide ADOT's inspector with a full disclosure of the raw materials used and the make-up of the paint formulations.

As a minimum the formulation information shall include the following:

- **General Information**
 - Product Number, Code, Name and Color
 - Contract Item Number & Description
 - Manufacturer Information and Address

- **Paint Composition**
 - Pigment, percent by weight
 - Vehicle, percent by weight
 - Weight, pounds per gallon at 77 degrees F.
 - Non-volatile, percent by weight of paint
 - Vehicle solids, percent by weight of vehicle
 - VOC excluding water in grams per liter (maximum of 150)
 - VOC excluding water in pounds per gallon

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- **Detailed Pigment Composition (percent by weight and brand as applicable)** - Give content information on rutile titanium dioxide, organic yellow, aluminum silicate, calcium carbonate and iron oxide. The purity of the titanium dioxide and organic yellow pigments in the blend also need to be indicated.
- **Detailed Resin Composition (percent of vehicle by weight and brand by formulation I, II or III, IV, V, VI and VII as offered)**
- **Solvents and Thinners (percent by weight, give information on exact type - not general classification)** - Give content information on types such as propylene glycol, coalescent (e.g. Texanol), methanol, water as applicable.
- **Other additives such as driers, plasticizers, anti-skinning agents (percent by weight)** - Give content information on additives such as defoamer, dispersant, surfactant, thickener, biocide/preservative.

This formulation information will then become the approved formulation for the term of this contract. Changes to the formulation are NOT allowable without the written approval of ADOT's Procurement Officer.

At the contractor's request, all information regarding the exact formulation shall be kept confidential per the applicable requirements of the Arizona Procurement Code, R2-7-104, Confidential Information.

The contractor shall supply adequate sample vessels (e.g. standard friction-seal pint cans) for the purpose of taking paint samples from the test batches. The sample cans shall be lined as necessary to preserve the sample's integrity. The samples shall be taken from the main batch via a process that will result in what is believed to be a representative sample of the paint produced. Sufficient samples shall be taken to conduct all of the required tests as well as an infrared spectra test. Up to three one pint samples may be needed. ADOT will retain these samples for testing at the Materials Laboratory. The contractor shall provide for the shipping of the test samples to ADOT.

Additionally, the contractor shall be given full access to ADOT's inspector for a review of the quality control testing and record keeping procedures used to verify paint batches, and the re-useable container management system and how totes are cleaned, labeled (paint batch number, paint color, etc.), weighed (empty), filled and re-weigh to verify the actual volume of paint placed in the tote.

ADOT reserves the right to repeat the post-award inspection if deemed necessary. Who is responsible for the travel and subsistence costs associated with the repeat inspection will depend on the reason for it. If the inspection is to verify the correction of contractor problems, change in a paint formulation requested by the contractor or to further evaluate a know problem then the contractor will be responsible. If the repeat inspection is due to ADOT requested formulation change or a random check then ADOT will be responsible.

UNIFORM TERMS AND CONDITIONS

Version 8

1. Definition of Terms

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

- 1.1. *"Attachment"* means any item the Solicitation requires the Offeror to submit as part of the Offer.
- 1.2. *"Contract"* means the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement of Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.
- 1.3. *"Contract Amendment"* means a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
- 1.4. *"Contractor"* means any person who has a Contract with the State.
- 1.5. *"Days"* means calendar days unless otherwise specified.
- 1.6. *"Exhibit"* means any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.
- 1.7. *"Gratuity"* means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- 1.8. *"Materials"* means all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.
- 1.9. *"Procurement Officer"* means the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
- 1.10. *"Services"* means the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.
- 1.11. *"Subcontract"* means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.
- 1.12. *"State"* means the State of Arizona and Department or Agency of the State that executes the Contract.
- 1.13. *"State Fiscal Year"* means the period beginning with July 1 and ending June 30.

2. Contract Interpretation

- 2.1. Arizona Law. The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

- 2.2. Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- 2.3. Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:
 - 2.3.1. Special Terms and Conditions;
 - 2.3.2. Uniform Terms and Conditions;
 - 2.3.3. Statement or Scope of Work;
 - 2.3.4. Specifications;
 - 2.3.5. Attachments;
 - 2.3.6. Exhibits;
 - 2.3.7. Documents referenced or included in the Solicitation.
- 2.4. Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 2.5. Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- 2.6. No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.
- 2.7. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3. Contract Administration and Operation

- 3.1. Records. Under A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 3.2. Non-Discrimination. The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.
- 3.3. Audit. Pursuant to ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.
- 3.4. Facilities Inspection and Materials Testing. The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract.

The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

- 3.5. Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.
- 3.6. Advertising, Publishing and Promotion of Contract. The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.
- 3.7. Property of the State. Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.
- 3.8. Ownership of Intellectual Property. Any and all intellectual property, including but not limited to copyright, invention, trademark, trade name, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.
- 3.9. Federal Immigration and Nationality Act. The contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the contract. Further, the contractor shall flow down this requirement to all subcontractors utilized during the term of the contract. The State shall retain the right to perform random audits of contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the contract for default and suspension and/or debarment of the contractor.
- 3.10. E-Verify Requirements. In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.
- 3.11. Scrutinized Businesses. In accordance with A.R.S. § 35-391 and A.R.S. § 35-393, Contractor certifies that the Contractor does not have scrutinized business operations in Sudan or Iran.

3.12 Offshore Performance of Work Prohibited.

Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and involve access to secure or sensitive data or personal client data shall be performed within the defined territories of the United States. Unless specifically stated otherwise in the specifications, this paragraph does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

4. Costs and Payments

4.1. Payments. Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.

4.2. Delivery. Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

4.3. Applicable Taxes.

4.3.1. Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

4.3.2. State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

4.3.3. Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

4.3.4. IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.

4.4. Availability of Funds for the Next State fiscal year. Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

4.5. Availability of Funds for the current State fiscal year. Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:

4.5.1. Accept a decrease in price offered by the contractor;

4.5.2. Cancel the Contract; or

4.5.3. Cancel the contract and re-solicit the requirements.

5. Contract Changes

5.1. Amendments. This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment

within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

- 5.2. Subcontracts. The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.
- 5.3. Assignment and Delegation. The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6. Risk and Liability

- 6.1. Risk of Loss: The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.
- 6.2. Indemnification
 - 6.2.1. Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its departments, agencies, boards and commissions shall be responsible for its own negligence. Each party to this contract is responsible for its own negligence.
 - 6.2.2. Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers."
- 6.3. Indemnification - Patent and Copyright. The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41-621 and § 35-154, this section shall not apply.
- 6.4. Force Majeure.
 - 6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing,

force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.4.2. Force Majeure shall not include the following occurrences:

6.4.2.1. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

6.4.2.3. Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.4.3. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

6.4.4. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

6.5. Third Party Antitrust Violations. The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7. Warranties

7.1. Liens. The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

7.2. Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:

7.2.1. Of a quality to pass without objection in the trade under the Contract description;

7.2.2. Fit for the intended purposes for which the materials are used;

7.2.3. Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

7.2.4. Adequately contained, packaged and marked as the Contract may require; and

7.2.5. Conform to the written promises or affirmations of fact made by the Contractor.

- 7.3. Fitness. The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.
- 7.4. Inspection/Testing. The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.
- 7.5. Compliance With Applicable Laws. The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.
- 7.6. Survival of Rights and Obligations after Contract Expiration or Termination.
- 7.6.1. Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.
- 7.6.2. Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8. **State's Contractual Remedies**

- 8.1. Right to Assurance. If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.
- 8.2. Stop Work Order.
- 8.2.1. The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.
- 8.2.2. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.
- 8.3. Non-exclusive Remedies. The rights and the remedies of the State under this Contract are not exclusive.
- 8.4. Nonconforming Tender. Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default

under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

- 8.5. Right of Offset. The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9. **Contract Termination**

- 9.1. Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.
- 9.2. Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.
- 9.3. Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.
- 9.4. Termination for Convenience. The State reserves the right to terminate the Contract, in whole or in part at any time when in the best interest of the State, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.
- 9.5. Termination for Default.
 - 9.5.1. In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

9.5.2. Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.

9.5.3. The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

9.6. Continuation of Performance Through Termination. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10. Contract Claims

All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

11. Arbitration

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title 41).

12. Comments Welcome

The State Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 201, Phoenix, Arizona, 85007.

**SECTION 3
SPECIAL TERMS AND CONDITIONS**

ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 West Jackson Street, Suite A MD 100P
Phoenix, Arizona 85007-3276
Phone: (602) 712-7211

SOLICITATION NO. ADOT11-00000407

 1. TERM OF CONTRACT

The term of any resultant contract shall commence on the effective day of award and shall continue for a period of twelve months (12) thereafter, unless terminated, cancelled or extended as otherwise provided herein.

2. CONTRACT EXTENSION

By mutual written contract amendment, any resultant contract may be extended for supplemental periods of up to a maximum of forty-eight (48) months.

The State reserves the right to unilaterally extend the period of any resultant contract for thirty-one (31) days beyond the stated expiration date.

3. CHANGES

The State reserves the right to revise the delivery and schedule and make other changes within the general Scope of Work as may be deemed necessary to best serve the interest of the State. All changes shall be documented by formal amendments to the contract.

 4. ELIGIBLE AGENCIES

This contract shall be for the use of all State of Arizona departments, agencies, commissions and boards. In addition, eligible universities, political subdivisions and nonprofit educational or public health institutions may participate at their discretion. In order to participate in this contract, a university, political subdivision, or nonprofit educational or public health institution shall have entered into a Cooperative Purchasing Agreement with the Department of Administration, State Procurement Office as required by Arizona Revised Statutes 41-2632.

5. NON-EXCLUSIVE CONTRACT

Any contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the State. The State reserves the right to obtain like goods or services from another source when necessary. Off-Contract Purchase Authorization may only be approved by the Chief Procurement Officer. Approval shall be at the discretion of the Chief Procurement Officer and shall be conclusive, however, approval shall be granted only after a proper review and when deemed to be appropriate. Off-contract procurement shall be consistent with the Arizona Procurement Code.

6. ORDERING PROCESS

Upon award of a contract the State or any designated Agency may procure the specific material and/or service awarded by the issuance of a contract purchase order to the appropriate contractor. Each contract purchase order must cite the correct contract number. The award of a contract shall be in accordance with the Arizona Procurement Code and all transactions and procedures required by the Code for public bidding shall be complied with. A contract purchase order for the awarded material and/or service that cites the correct contract number is the only document required for the using agency to order and the contractor to deliver the material and/or service.

Any attempts to represent any material and/or service not specifically awarded as being under contract is a violation of the contract and the Arizona Procurement Code. Any such action is subject to the legal and contractual remedies available to the State inclusive of but not limited to contract cancellation, suspension and/or debarment of the contractor.

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7. SHIPPING TERMS

Prices shall include F.O.B. Destination, freight prepaid to any delivery location in the State of Arizona, delivered to the specified receiving point as required by the Department at the time of order. Contractor shall retain title and control of all goods until they are delivered and the contract of coverage has been completed. All risk of transportation and all related charges shall be the responsibility of the contractor. The contractor shall file all claims for visible or concealed damage. Department will notify the contractor as soon as possible of any damaged goods and shall assist the contractor in arranging for inspection if possible.

All shipments of materials shall be in containers and prepared in such a manner that they conform to the applicable Federal, State and Local requirements as well as those specified herein.

The Department will provide the necessary labor and equipment to unload paint shipments. All shipments shall be made via open trailers. The Contractor shall coordinate and schedule when the delivery is to be made. All delivery date and times shall be approved by the Department in advance. All delivery times are subject to availability of an unloading crew.

The shipping invoices (Bill of Lading), shall plainly state "Drivers **SHALL Deliver at the Specified Date and Time, the Department will Unload Shipment. Divers shall call the Shipper if they are delayed and can not make the delivery on time.**" Additionally, this bill of lading shall include the truck driver's name, trucking company name, Contractor's name, delivery location, delivery date, type and amount of paint being delivered and unloaded.

8. DELIVERY

Unless specified otherwise at the time of order all deliveries shall go, in a neat and orderly fashion, to the locations specified within 21 calendar days of receipt of a purchase order. If specified by the Department at the time of order, delivery times may be more than 21 days. If the Department requests a delivery more than 21 days then the Department shall have the right to specify the exact date and time of delivery.

The contractor shall acknowledge to the Department in writing the time and date a purchase order is received. Additionally, the contractor shall acknowledge to the Department in writing the time and date when deliveries will be made. Copies of these orders, bill of lading and delivery receipts shall be included as attachments to all invoices.

The contractor shall retain title and control of goods until delivered and unloaded. Any damage to the shipment due to the actions or non-actions of the contractor or shipper shall be the responsibility of the contractor. All claims for visible or concealed damage to be filed against the shipper shall be the responsibility of the contractor. The Department will notify the contractor as soon as possible of any damaged goods and shall assist the contractor in arranging for inspection if possible.

The Department will unload paint shipments if they are delivered at a date and time when a crew and forklift is available. **ALL SHIPMENTS SHALL BE IN OPEN TRAILERS, UNLESS SPECIFIED OTHERWISE ON THE PURCHASE ORDER.** The contractor is responsible for coordinating acceptable delivery dates and times. Shipments that are delivered at unscheduled dates and times will not be unloaded.

A late shipment of paint can be grounds for the Department to reject the shipment, suspend the contract, cancel the contract or utilize another supplier. The contractor shall maintain a reasonable stock with the appropriate sized containers on hand to maintain the required delivery terms.

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SOLICITATION NO. ADOT11-00000407

9. ACCEPTANCE

Each item delivered shall be subject to a complete inspection by the Department. Inspection criteria shall include, but not be limited to, conformity to the specifications, workmanship, quality and materials.

If the delivered product is returned to the contractor for corrective action, the contractor shall have ten (10) calendar days from the date of rejection for delivery of new or corrected product(s) at no cost to the department. An additional period of fifteen (15) calendar days shall be allowed for inspection of the new or corrected product(s). If the second delivery is rejected, then this shall be cause for contract cancelation with this contractor.

The contractor shall be fully responsible for the transport of the material from and to each location, for installation and/or for the correction of items or workmanship not in compliance with the specifications.

Product returned to the contractor for corrective action may delay payment. Invoices will be processed for payment only after the product is accepted by the Department.

10. INVOICING

Separate invoices are required for each shipment of product. Each separate invoice shall include at a minimum:

- o Description and listing of quantities
- o Date the items were shipped to the State
- o Department contract number/purchase order number
- o Price per unit and total per unit
- o Applicable taxes
- o Total of invoice

Invoices not sent to the proper address, or not containing the necessary and required information may delay payment to the contractor. A contractor whose payments are delayed due to improper invoicing shall make no claim against the State for late or finance charges.

The State will make every effort to process payment for the purchase of product within thirty (30) calendar days after the State has conducted the necessary reviews, and inspections as described herein. DELIVERY OF THE PRODUCT TO THE STATE DOES NOT CONSTITUTE ACCEPTANCE, THEREFORE, ONLY THE STATE ACCEPTANCE DATE WILL BE A VALID DATE FOR STARTING THE THIRTY (30) CALENDAR DAY PAYMENT PERIOD.

11. ESTIMATED QUANTITIES

The Department anticipates considerable activity under any resultant contract(s). The Department reserves the right to increase or decrease amounts as circumstances may require. No guarantee is made concerning any annual quantities to be actually ordered.

12. PRICE REDUCTION

A price reduction adjustment may be offered at any time during the term of a contract and shall become effective upon notice.

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13. PRICE ADJUSTMENT

The Department will review fully documented requests for price increase after any contract has been in effect for twelve (12) months. Fully documented means that the request shall present detailed information and calculations that make it clear how the claimed increase has an impact on the contract unit prices. All assumptions regarding cost factors that have an impact on the requested increase shall also be clearly identified and justified. The requested price increase must be based upon a cost increase that was clearly unpredictable at the time of the offer and can be shown to directly affect the price of the item concerned. Any price increase adjustment will only be made at the time of contract extension and will be a factor in the extension review process. The Department will determine whether the requested price increase or an alternate option, is in the best interest of the State.

14. SAFETY STANDARDS

All items supplied under this contract shall comply with the current applicable Occupational Safety and Health Standards of the State of Arizona Industrial Commission, the National Electric Code, and the National Fire Protection Association Standards.

15. WARRANTY

The contractor warrants:

1. **All Items** - That all items furnished hereunder shall conform to the requirements of this contract and shall be free from defects in design, materials and workmanship.
2. **Storage in Original Containers** - The warranty period on workmanship and materials shall be at least eight months for all paint being stored in its original unopened container inside or outdoors.
3. **Applied Paint** - The warranty period for the durability in terms of retroreflective appearance, durability and general marking appearance of the applied paint as pavement markings shall be a minimum of three months for formulations I - III, two months for formulations IV - V and one month for formulations VI - VII.
4. **Color Stability** - The warranty period for the color appearance without fading or discoloration of the applied paint as a pavement or curb marking shall be twelve (12) months for formulations I - V and ten months for formulations VI and VII.

The warranty shall cover that the paint materials supplied under this contract shall perform as intended for the period of time specified without degradation that is directly related to unsatisfactory performance of those materials either as they are stored or applied to the roadway.

The contractor agrees that they shall, at their own expense, provide all services required to repair or replace any materials found to be defective during the terms defined herein. The contractor shall guarantee that any products used to replace defective products shall meet or exceed the requirements of the specifications and the special terms and conditions. The contractor is responsible for the removal and disposal of all defective materials. The contractor is also responsible for taking actions to prevent similar defects in the future.

In the field fixing (via additives and re-mixing) of defective paint batches in their original shipping containers is not an acceptable solution. Any re-formulation needs to be done at a paint manufacturing facility. All costs associated with a re-formulation including shipping and handling will be the responsibility of the contractor.

**SECTION 3
SPECIAL TERMS AND CONDITIONS**

ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 West Jackson Street, Suite A MD 100P
Phoenix, Arizona 85007-3276
Phone: (602) 712-7211

SOLICITATION NO. ADOT11-00000407

The contractor also warrants that the user manuals and training described herein shall provide the Department with the necessary information and instruction that ensures the effective and safe use of the materials supplied. The contractor shall update the manuals and training sessions as necessary to meet this requirement.

16. CURRENT PRODUCTS

All offered products submitted in response to this solicitation and under any resultant contract shall be in current and ongoing production; shall have been formally announced for general marketing purposes; shall be a model or type currently functioning in a user (paying customer) environment and capable of meeting or exceeding all specifications and requirements set forth in this solicitation.

17. PRODUCT DISCONTINUANCE

The Department may award contracts for particular products and/or models of equipment as a result of this solicitation. In the event that a product or model is discontinued by the manufacturer, the State at its sole discretion may allow the contractor to provide a substitute for the discontinued item. The contractor shall request permission to substitute a new product or model and provide the following:

1. A formal announcement from the manufacturer that the product or model has been discontinued.
2. Documentation from the manufacturer that names the replacement product or model.
3. Documentation that provides clear and convincing evidence that the replacement meets or exceeds all specifications required by the original solicitation.
4. Documentation that provides clear and convincing evidence that the replacement will be compatible with all the functions or uses of the discontinued product or model.
5. Documentation confirming that the price for the replacement is the same as or less than the discontinued product or model.

18. VENDOR REGISTRATION

Prior to issuance of a Purchase Order and subsequent payment, the Contractor shall have a completed State of Arizona Substitute W-9 Form on file with the Procurement Group. No payments shall be made until the forms are on file.

19. CONTRACT ADMINISTRATION

For information regarding the Uniform and Special Terms and Conditions, and Specifications referenced in this Solicitation contact:

Gary Henry, Procurement Officer, (602) 712-7304, ghenry@azdot.gov.

Following award, the contractor shall contact the Procurement Group for guidance or direction in matters of contract interpretation or problems regarding the terms, conditions or scope of the contract. Only the Contract Officer or his/hers authorized designee is authorized to change or amend the specific terms, conditions or provisions of the agreement.

**SECTION 3
SPECIAL TERMS AND CONDITIONS**

ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 West Jackson Street, Suite A MD 100P
Phoenix, Arizona 85007-3276
Phone: (602) 712-7211

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20. NOTICES

All notices, requests, demands, consents, approvals, and other communications which may or are required to be served or given hereunder (for the purposes of this provisions collectively called "Notices"), shall be in writing and shall be sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the party or parties to receive such notice as follows:

a. If intended for the State, to:

Arizona Department of Transportation, Procurement Group
1739 West Jackson Street, Suite A MD 100P
Phoenix, Arizona 85007-3276
Attention: Gary Henry

b. If intended for the contractor, to:

The contractor Name
Address
City, State, Zip
Attention:

Or to such other address as either party may from time to time furnish in writing to the other by notice hereunder. Any notice so mailed shall be deemed to have been given as of the date such notice is received as shown on the return receipt. Furthermore, such notice may be given by delivering personally such notice, if intended for the State, to the Arizona Department of Transportation, Chief Procurement Officer and, if intended for the contractor, to the person named on the Offer & Contract Award of this contract, or to such other person as either party may from time to time furnish in writing to the other by notice hereunder. Any notice so delivered shall be deemed to have been given as of the date such notice is personally delivered to the other party.

21. CANCELLATION FOR POSSESSION OF WEAPONS ON ADOT PROPERTY

This contract may be cancelled if contractor or any subcontractors or others in the employ or under the supervision of the contractor or subcontractors is found to be in possession of weapons.

Possession of weapons (firearms, explosive device, knife or blade of more than three inches, or any other instrument designed for lethal or disabling use) is prohibited on ADOT property pursuant to ADOT Policy, MGT 6.04, "Weapons in the Workplace." Such property includes ADOT owned or leased office building, yards, parking lots, construction sites or state owned vehicles.

Further, if the contractor or any subcontractors or others in the employ or under the supervision of the contractors or subcontractors are asked by an ADOT official to leave the ADOT property, they are advised that failure to comply with such a request shall result in cancellation of the contract and anyone who refuses, whether armed or not, is subject to prosecution under A.R.S. §13-1502, "Criminal trespass in the third degree; classification."

22. INDEMNIFICATION CLAUSE

Contractor shall indemnify, defend, save and hold harmless the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees (hereinafter referred to as "Indemnatee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court cost, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property

**SECTION 3
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ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 West Jackson Street, Suite A MD 100P
Phoenix, Arizona 85007-3276
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SOLICITATION NO. ADOT11-00000407

caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any Federal, State or Local Law, statute, ordinance, rule regulation or court decree. It is the specific intentions of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the State of Arizona.

23. INSURANCE REQUIREMENT

The Contractor shall furnish certificates similar to Certificate of Insurance, Exhibit 1, inclusive of the following requirements to the Department. Certificate(s) shall be received within Five (5) calendar days of notification of tentative award by the Procurement Officer and prior to contract execution.

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.

A. MINIMUM SCOPE AND LIMITS OF INSURANCE:

Contractor shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage.

• General Aggregate	\$2,000,000
• Products – Completed Operations Aggregate	\$1,000,000
• Personal and Advertising Injury	\$1,000,000
• Blanket Contractual Liability – Written and Oral	\$1,000,000
• Fire Legal Liability	\$ 50,000
• Each Occurrence	\$1,000,000

2. Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL)	\$1,000,000
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**SECTION 3
SPECIAL TERMS AND CONDITIONS**

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Procurement Group
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Phoenix, Arizona 85007-3276
Phone: (602) 712-7211

SOLICITATION NO. ADOT11-00000407

- a. The policy shall be endorsed to include the following additional insured language: "The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor".
- b. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- c. Automobile Liability should be required only if the commodity is being delivered to the State of Arizona by the vendor. If the commodity is being shipped by common carrier, automobile liability will not be required.

3. Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$ 500,000
Disease – Each Employee	\$ 500,000
Disease – Policy Limit	\$1,000,000

- a. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- b. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

B. ADDITIONAL INSURANCE REQUIREMENTS:

The policies shall include, or be endorsed to include, the following provisions:

1. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
2. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.

C. NOTICE OF CANCELLATION:

Each insurance policy required by the insurance provisions after thirty (30) days of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except prior written notice has been given to the State of Arizona. Such notice shall be sent by certified mail, return receipt requested directly to:

Arizona Department of Transportation, Procurement Group
1739 West Jackson Street, Suite A MD 100P
Phoenix, AZ 85007-3206
ATTN: Gary Henry

**SECTION 3
SPECIAL TERMS AND CONDITIONS**

ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1739 West Jackson Street, Suite A MD 100P
Phoenix, Arizona 85007-3276
Phone: (602) 712-7211

SOLICITATION NO. ADOT11-00000407

D. ACCEPTABILITY OF INSURERS:

Insurance is to be placed with duly licensed or approved non-admitted insurers in the State of Arizona with an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. VERIFICATION OF COVERAGE:

Contractor shall furnish the State of Arizona with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) similar to Certificate of Insurance, Exhibit 1, as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract. All certificates required by this Contract shall be sent directly to:

Arizona Department of Transportation, Procurement Group
1739 West Jackson Street, Suite A MD 100P
Phoenix, AZ 85007-3206
ATTN: Gary Henry

The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT SECTION.**

F. SUBCONTRACTORS:

Contractors' certificate(s) shall include all subcontractors, as insureds under its policies or Contractor shall furnish to the State of Arizona separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

G. APPROVAL:

Any modification or variation from the insurance requirements in this Contract shall be made by the Department of Administration, Risk Management Section, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

H. EXCEPTIONS:

In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

24. CERTIFICATION OF REQUIREMENTS

ADOT may require reports, records of quality control tests, liquid samples, formulation information or other testing lab reports be submitted for those paint materials supplied. These reports shall contain documentation of testing and other information that indicate that the supplied materials meet or exceed the requirements of these specifications. Requested reports are to be submitted at no cost and within ten working days. Failure to submit these reports within this time frame may be cause to cancel a portion or all of a contract or non-use of those materials.

**SECTION 3
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ARIZONA DEPARTMENT OF TRANSPORTATION
Procurement Group
1738 West Jackson Street, Suite A MD 100F
Phoenix, Arizona 85007-3276
Phone: (602) 712-7211

SOLICITATION NO. ADOT11-00000407

25. PAINT SAMPLES

ADOT may request samples of paint from the contractor. The contractor shall take up to three one-pint samples from a batch of paint intended for ADOT. The contractor shall ship the samples to:

Arizona Department of Transportation
Materials Group - Structural Material Testing Section
1221 North 21st Avenue, Mail Drop 068R
Phoenix, Arizona 85009

Each sample shall be marked with the paint manufacturer's name, type of paint (designation and brand name/number) batch number, date of manufacturer and any other information that is useful or required by law or regulation.

It is anticipated that samples will only be requested on a random basis or when a problem with a shipped batch is encountered. For additional information on ADOT's paint testing program contact Mr. Al Zubi, at 602-712-6913. ADOT reserves the right to field sample paint at anytime.

26. MINIMUM ORDER SIZE

The minimum order size of paint in returnable drums and totes to qualify for FOB destination, freight prepaid, will be one truckload and the minimum order size for buckets will be a pallet load. The Department shall have the option, at no addition shipping cost, to have a pallet or more of five gallon buckets include in any truckload order. A truckload of drums is assumed to be 62 drums (four drums to a pallet) which equates to 3,410 gallons (approximately 37,000 pounds) of paint. It is assumed that a truckload of 250 gallon totes consists of 12 totes per truck which equates to 3,000 gallons (approximately 41,250 pounds) of paint, respectively. It is assumed that a truckload of 345 gallon totes consists of 9 totes which equates to 3,105 gallons (approximately 42,700 pounds) of paint.

The vendor may charge actual shipping costs to orders that do not meet the minimum. Freight Prepaid with transportation charges allowed are to be added as a separate line item on the invoice. At no time may the freight charge exceed those actually charged to the Contractor by the transportation company.

27. CONTRACT PROBLEMS OR CHANGES

If, at anytime during the course of the contract, the Department makes the contractor aware of any problem with their paint, containers or delivery service the contractor shall take immediate action to investigate the cause and to develop a solution. Non-response or an untimely response can be grounds for contract suspension or contract cancellation. The contractor shall coordinate with the responsible Department's Statewide Striping Manager and the Procurement Officer on all problems and solution relating to this contract.

No change to this contract, by the Department or the contractor, is allowable without the expressed written authorization of the Department's responsible Procurement Officer. This includes any change in paint formulation that has been identified as a part of the original offer and the Department's plant inspection. Any paint formulation change may be subject to lab tests, field tests, or repeat plant inspection to provide the Department with sufficient evidence that the change results in equal or better performance. The Department may request that the contractor provide a number of delivers of the new paint for in the field application tests by the Department's striping crews.

**SECTION 3
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ARIZONA DEPARTMENT OF TRANSPORTATION
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Phoenix, Arizona 85007-3276
Phone: (602) 712-7211

SOLICITATION NO. ADOT11-00000407

28. USAGE REPORT

The Contractor shall furnish the State a usage report delineating the acquisition activity against this contract on a quarterly basis at no additional cost to the Department. The format of the report shall be approved by the State and shall disclose the quantity and the dollar value of each contract item by individual purchasing unit.

The usage report shall be due at the end of each calendar quarter as follows:

- January through March (Q1)
- April through June (Q2)
- July through September (Q3)
- October through December (Q4)

The information contained in these contract reports and the accurate and timely submission thereof are critical components used by the State. Failure by the contractor to submit accurate and timely contract reports against this contract may be cause for cancellation of the contract.

29. ADMINISTRATIVE FEE – STATEWIDE CONTRACT

Contractor shall assess an administrative fee in the amount of one (1%) against the sales receipts (payments received) from members of the State Purchasing Cooperative – including cities, counties, school districts and other qualified members. An updated list of State Purchasing Cooperative members may be found at the following URL: <http://azdoa.gov/spo/agency-resources/az-purchasing-coop/arizona-purchasing-cooperative>. At its option, the State may expand the applicability of this fee.

Contractor shall remit the administrative fee to the State quarterly, to the following address and recipient.

Arizona Department of Administration, State Procurement Office
Attention: 'Statewide Contract Administrative Fee'
100 N. 15th Avenue, Suite 104
Phoenix, AZ 85007.

Administrative fees are due no later than thirty (30) days following the end of the calendar quarter in which the fee was assessed. The submission schedule shall be as follows:

January through March (Q1) – Due by April 30
April through June (Q2) – Due by July 31
July through September (Q3) – Due October 31
October through December (Q4) – Due January 31

Administrative fees shall be included in the contract's unit prices for all products and services sold under the contract. Contracts shall not have separate pricing for State agency customers and members of the State Purchasing Cooperative. Administrative fees shall not be assessed separately in the contract or within any invoice issued under the contract, in the form of a separate line item.

Contractor's failure to remit administrative fees in a timely manner or remit fees inconsistent with the contract's requirements may result in the State exercising any recourse available under the contract or as provided for by law.

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
ENNIS PAINT, INC. DBA ENNIS-FLINT**

EXHIBIT B
Scope of Work

PROJECT

The City of Glendale is looking to secure a reputable company to provide Waterborne Fast Dry Traffic Paint.

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND
ENNIS PAINT, INC. DBA ENNIS-FLINT**

EXHIBIT C

METHOD AND AMOUNT OF COMPENSATION

Method and amount of compensation is in accordance with Section 3 of this Agreement.

NOT TO EXCEED AMOUNT

The total amount of compensation paid to Contractor for full completion of all work required by the Project must not exceed \$85,000 for the entire term of the Agreement.

DETAILED PROJECT COMPENSATION

City shall pay Contractor compensation in accordance with the rates as set forth in the State of Arizona Contract No. ADSPO13-034726.

To:

Fax or Email:

Wheeler, Greg
<GWheeler@GLENDALEAZ.com>

<< QUOTE >>



Ennis Paint, Inc. (dba Ennis-Flint)
1509 S. Kaufman
Ennis, TX 75119
(800) 331-8118

PAGE 1
QUOTE DATE 7/14/2016
QUOTE NO 4537
CURRENCY ID USD

S 40099
O CITY OF GLENDALE / AZ
L 5800 W. GLEEN DR., STE 315
D GLENDALE, AZ 85301-2482

T
O

S GENERAL
H CITY OF GLENDALE / AZ
I CITY~S FINANCE DEPARTMENT
P 5850 W. GLENDALE AVENUE
GLENDALE, AZ 85301-2563

T
O

CONTRACT NUMBER ADSP013-036207

TOTAL DUE 63,141.63

CSSR	SLS1	SLS2	DUE DATE	DISC DUE DATE	ORDER NO	ORDER DATE	SHIP DATE	SHIP NO
CSG	20		8/13/2016	7/14/2016	00070911	7/14/2016		

TERMS DESCRIPTION	CUSTOMER PO NO	SHIP VIA	INCOTERMS
Net 30 Days	QUOTE ONLY	TRUCK LOAD	DESTINATION

ITEM ID	LOCATION	QUANTITY	UOM	DISC UNIT PRICE	QUOTE PRICE	EXT QUOTE PRICE
WW0014-SRG345 WB WHT AZ T1 HI BUILD Packaged in Stainless Steel Round 2 way tote filled to 345 gl.	BKF	2,760.000000	GL	10.42	10.420000	28,759.20
WY0014-SRG345 WB YEL AZ T1 HI BUILD Packaged in Stainless Steel Round 2 way tote filled to 345 gal.	BKF	2,760.000000	GL	10.53	10.530000	29,062.80
D Order Notes QUOTE ONLY - SHIPPING INCLUDED - THIS QUOTE IS FOR TWO TRUCKLOADS	BKF	1.000000	EA	0.00	0.000000	0.00

PREPARED BY: CRYSTAL GENTRY
CGENTRY@ENNISFLINT.COM
PHONE: 336-308-3769

TAXABLE	NONTAXABLE	FREIGHT	SALES TAX	MISC	TOTAL
57,822.00	0.00	0.00	5,319.63	0.00	63,141.63

All sales are subject to Ennis Paint, Inc.'s (dba Ennis-Flint) Standard Terms and Conditions of Sale. A copy can be found on the Ennis-Flint website. For Remittance by Credit Card, a 3% transaction fee will be assessed. Discounts do not apply to Freight and other Miscellaneous Charges.

To:

Fax or Email:

<< QUOTE >>



Ennis Paint, Inc. (dba Ennis-Flint)
1509 S. Kaufman
Ennis, TX 75119
(800) 331-8118

PAGE 1
QUOTE DATE 7/14/2016
QUOTE NO 4538
CURRENCY ID USD

S 40099
O CITY OF GLENDALE / AZ
L 5800 W. GLEEN DR., STE 315
D GLENDALE, AZ 85301-2482

T
O

S GENERAL
H CITY OF GLENDALE / AZ
I CITY-S FINANCE DEPARTMENT
P 5850 W. GLENDALE AVENUE
GLENDALE, AZ 85301-2563

T
O

CONTRACT NUMBER ADSP013-036207

TOTAL DUE 18,148.06

CSSR	SLS1	SLS2	DUE DATE	DISC DUE DATE	ORDER NO	ORDER DATE	SHIP DATE	SHIP NO
CSG	20		8/13/2016	7/14/2016	00070916	7/14/2016		

TERMS DESCRIPTION	CUSTOMER PO NO	SHIP VIA	INCOTERMS
Net 30 Days	QUOTE ONLY	LESS THAN TRUCK LOAD	SHIPPING POINT

ITEM ID	LOCATION	QUANTITY	UOM	DISC UNIT PRICE	QUOTE PRICE	EXT QUOTE PRICE
WW0014-PMD250 WB WHT AZ T1 HI BUILD New Caged Poly / Square 4-way / 275G (1040L) Cap / 250G Fill	BKF	750.000000	GL	10.42	10.420000	7,815.00
WY0014-PMD250 WB YEL AZ T1 HI BUILD New Caged Poly / Square 4-way / 275G (1040L) Cap / 250G Fill	BKF	750.000000	GL	10.53	10.530000	7,897.50
D Order Notes QUOTE ONLY - SHIPPING INCLUDED AT \$990.00	BKF	1.000000	EA	0.00	0.000000	0.00

PREPARED BY: CRYSTAL GENTRY
CGENTRY@ENNISFLINT.COM
PHONE: 336-308-3769

TAXABLE	NONTAXABLE	FREIGHT	SALES TAX	MISC	TOTAL
15,712.50	0.00	990.00	1,445.56	0.00	18,148.06

All sales are subject to Ennis Paint, Inc.'s (dba Ennis-Flint) Standard Terms and Conditions of Sale. A copy can be found on the Ennis-Flint website. For Remittance by Credit Card, a 3% transaction fee will be assessed. Discounts do not apply to Freight and other Miscellaneous Charges.