

CONTRACT DOCUMENTS

**LANCASTER COUNTY
NEBRASKA**

**Annual Service
Polypatch Applicator Rental and Mastic Pave Patch
Bid No. 18-080**

**Maxwell Products, Inc.
650 S. Delong St.
SLC, UT 84104
(801) 972-2090**

**LANCASTER COUNTY
CONTRACT TERMS**

THIS CONTRACT, made and entered into by and between **Maxwell Products, Inc., 650 S. Delong St., SLC, UT 84104**, hereinafter called "Contractor", and the County of Lancaster, Nebraska, a political subdivision of the State of Nebraska, hereinafter called the "County".

WHEREAS, the County has caused to be prepared, in accordance with law, Specifications, Plans, and other Contract Documents for the Work herein described, and has approved and adopted said documents and has caused to be published an advertisement for and in connection with said Work, to-wit:

Polypatch Applicator Rental and Mastic Pave Patch, Bid No. 18-080

and,

WHEREAS, the Contractor, in response to such advertisement, has submitted to the County, in the manner and at the time specified, a sealed Proposal/Supplier Response in accordance with the terms of said advertisement; and,

WHEREAS, the County, in the manner prescribed by law has publicly opened, read aloud, examined, and canvassed the Proposals/Supplier Responses submitted in response to such advertisement, and as a result of such canvass has determined and declared the Contractor to be the lowest responsible bidder for the said Work for the sum or sums named in the Contractor's Proposal/Supplier Responses, a copy thereof being attached to and made a part of this Contract;

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor and the mutual covenants herein contained, the Contractor and the County have agreed and hereby agree as follows:

1. The Contractor agrees to (a) furnish all tools, equipment, supplies, superintendence, transportation, and other accessories, services, and facilities; (b) furnish all materials, supplies, and equipment specified to be incorporated into and form a permanent part of the complete work; (c) provide and perform all necessary labor in a substantial and workmanlike manner and in accordance with the provisions of the Contract Documents; and (d) execute and complete all Work included in and covered by the County's award of this Contract to the Contractor, such award being based on the acceptance by the County of the Contractor's Proposal, or part thereof, as follows:

Agreement to Rental of Applicator for three (3) months with purchase of Pave Patch

2. The County agrees to pay to the Contractor for the performance of the Work embraced in this Contract, the Contractor agrees to accept as full compensation therefore, the following sums and prices for all Work covered by and included in the Contract award and designated above, payment thereof to be made in the manner provided by the County:

The County will pay for products/service, according to the Line Item pricing as listed in Contractors Proposal/Supplier Response, a copy thereof being attached to and made a part of this Contract. The County shall order on an as-needed basis for the duration of the contract. The estimated cost of products or services for County agencies shall not exceed \$33,100.00 during the contract term without approval by the Board of Commissioners.

3. Equal Employment Opportunity. In connection with the carrying out of this project, the contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, disability, age or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer;

recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

4. E-Verify. In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section.
5. Termination. This Contract may be terminated by the following:
 - 5.1) Termination for Convenience. Either party may terminate this Contract upon thirty (30) days written notice to the other party for any reason without penalty.
 - 5.2) Termination for Cause. The County may terminate the Contract for cause if the Contractor:
 - 5.2.1) Refuses or fails to supply the proper labor, materials and equipment necessary to provide services and/or commodities.
 - 5.2.2) Disregards Federal, State or local laws, ordinances, regulations, resolutions or orders.
 - 5.2.3) Otherwise commits a substantial breach or default of any provision of the Contract Document. In the event of a substantial breach or default the County will provide the Contractor written notice of said breach or default and allow the Contractor ten (10) days from the date of the written notice to cure such breach or default. If said breach or default is not cured within ten (10) days from the date of notice, then the contract shall terminate.
6. Independent Contractor. It is the express intent of the parties that this contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the County and employees of the County shall not be deemed to be employees of the Contractor. The Contractor and the County shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the County's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.
7. Period of Performance. This Contract shall be effective upon execution by both parties. The term of the Contract shall be a one (1) year term with the option to renew for three (3) additional one (1) year terms.
8. Assignment. Contractor shall not assign its duties and responsibilities under this Contract without the express written permission of the County.
9. The Contract Documents comprise the Contract, and consist of the following:
 1. Contract Terms
 2. Accepted Proposal/Supplier Response
 3. Insurance Certificate with Endorsements
 4. Special Provisions
 5. Proprietary Information for Bids/Quotes/RFP's
 6. Instructions to Bidders
 7. Insurance Requirements
 8. Sales Tax Exemption Form 13
 9. Notice to Bidders

The herein above mentioned Contract Documents form this Contract and are a part of the Contract as if hereto attached. Said documents which are not attached to this document may be viewed at: lincoln.ne.gov - Keyword: Bid - Awarded or Closed bids.

This Contract contains the complete and entire Contract between the parties and may not be altered or amended except in writing executed, making specific references to this Contract, by a duly authorized officer of the Contractor and by a duly authorized official of the County.

The Contractor and the Owners hereby agree that all the terms and conditions of this Contract shall be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Contractor and the Owners do hereby execute this contract upon completion of signatures on:

Vendor Signature Page
Lancaster County Signature Page


Vendor Signature Page

CONTRACT
Annual Service
Polypatch Applicator Rental and Mastic Pave Patch
Bid No. 18-080
Lancaster County
Maxwell Products, Inc.

EXECUTION BY CONTRACTOR

IF A CORPORATION:

Attest:

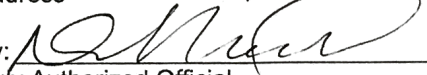

Secretary



Seal

Maxwell Products, Inc.
Name of Corporation

650 S. DeLong St. SLC, UT 84104
Address

By: 
Duly Authorized Official

Business Development
Legal Title of Official

IF OTHER TYPE OF ORGANIZATION:

Name of Organization

Type of Organization

Address

By: _____
Member

By: _____
Member

IF AN INDIVIDUAL:

Name

Address

Signatur

Lancaster County Signature Page

**CONTRACT
Annual Service
Polypatch Applicator Rental and Mastic Pave Patch
Bid No. 18-080
Lancaster County
Maxwell Products, Inc.**

EXECUTION BY LANCASTER COUNTY, NEBRASKA

Contract Approved as to Form:

The Board of County Commissioners of
Lancaster, Nebraska

Deputy Lancaster County Attorney

dated _____

City of Lincoln/Lancaster County (Lincoln Purchasing) Supplier Response

Bid Information		Contact Information		Ship to Information	
Bid Creator	Rachelle Hinze Buyer	Address	Purchasing	Address	
Email	rhinze@lincoln.ne.gov		440 S. 8th St.		
Phone	1 (402) 441-8313 x		Lincoln, NE 68508		
Fax	1 (402) 441-6513 x	Contact	Rachelle Hinze, Buyer	Contact	
			Purchasing		
Bid Number	18-080	Department		Department	
Title	Polypatch Applicator Rental and Mastic Pave Patch	Building		Building	
			Suite 200		
Bid Type	Bid	Floor/Room		Floor/Room	
Issue Date	4/17/2018 01:15 PM (CT)	Telephone		Telephone	
Close Date	5/4/2018 12:00:00 PM (CT)	Fax		Fax	
		Email	rhinze@lincoln.ne.gov	Email	

Supplier Information

Company Maxwell Products, Inc.
 Address 650 S. Delong St.
 SLC, UT 84104
 Contact Dave McIntosh
 Department
 Building
 Floor/Room
 Telephone (801) 972-2090
 Fax (801) 972-5536
 Email dave.m@maxwellproducts.com
 Submitted 5/1/2018 05:07:28 PM (CT)
 Total \$79,900.00

By submitting your response, you certify that you are authorized to represent and bind your company.

Signature Nicole Maxwell

Email nicole@maxwellproducts.com

Supplier Notes

We are bidding with Maxwell Products GAP MOD 202 for the material. The rental kettle is a Marathon Mastic Mixer.

Bid Notes

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 "PLEASE NOTE YOUR COMPANY MAY HAVE BEEN ADDED TO THIS BID DUE TO YOUR COMPANY NOT UPDATING YOUR COMMODITIES".
 . ALL VENDORS ARE STRONGLY ENCOURAGED TO UPDATE THEIR PROFILE AT THIS TIME TO ENSURE FUTURE NOTIFICATIONS OF BIDS AND QUOTES FOR THE CITY OF LINCOLN AND LANCASTER COUNTY.
 VENDORS SHOULD SELECT COMMODITIES AND SERVICES LISTED UNDER THE BOLD CATEGORIES IN ORDER TO RECEIVE BIDS AND QUOTES THAT ARE SPECIFIC TO YOUR BUSINESS.
 FOR ASSISTANCE CALL 402-441-8103

Bid Activities

Bid Messages

Bid Attributes

Please review the following and respond where necessary

#	Name	Note	Response
1	U.S. Citizenship Attestation	<p>Is your company legally considered an Individual or Sole Proprietor: YES or NO</p> <p>As a Vendor who is legally considered an Individual or a Sole Proprietor I hereby understand and agree to comply with the requirements of the United States Citizenship Attestation Form, available at: http://www.sos.ne.gov/business/notary/citizenforminfo.html</p> <p>All awarded Vendors who are legally considered an Individual or a Sole Proprietor must complete the form and submit it with contract documents at time of execution.</p> <p>If a Vendor indicates on such attestation form that he or she is a qualified alien, the Vendor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Vendor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.</p> <p>Vendor further understands and agrees that lawful presence in the United States is required and the Vendor may be disqualified or the Contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. 4-108.</p>	YES
2	Bid Documents	<p>I acknowledge and accept that it is my responsibility as a Bidder to promptly notify the Purchasing Department Staff prior to the close of the bid of any ambiguity, inconsistency or error which I may discover upon examination of the bid documents including, but not limited to the Specifications.</p>	Yes
3	Instructions to Bidders	<p>I acknowledge reading and understanding the Instructions to Bidders.</p>	Yes
4	Insurance Requirements and Endorsements Vendors are strongly encouraged to forward this information to your insurance agent to determine if you need additional coverage on your policy and IF ADDITIONAL COST IS REQUIRED	<p>Vendor agrees to provide insurance coverage for each checked box on the Insurance Clause document in the Bid Attachments including the submission of the Certificate of ACORD and the applicable endorsements.</p> <p>Insurance Certificate and required Endorsements are required at time of contract execution by the vendor.</p> <p>Vendors are strongly encouraged to send the insurance requirements and endorsement information to their insurance agent prior to bid close in order to expedite the contract execution process.</p>	Yes
5	Sample Contract	<p>I acknowledge reading and understanding the sample contract.</p>	Yes

6	Term Clause of Contract	I acknowledge that the term of the contract is for a one (1) year term with the option for three (3) additional one (1) year renewals from the date of the executed contract. (a) Are your bid prices firm for the first one (1) year contract period. YES or NO _____ (b) Are your bid prices subject to escalation/de-escalation YES or NO _____ (c) If (b), state period for which prices will remain firm: through _____	(a) Yes (b) No
7	Rental Terms and Conditions	Vendors are asked to attach any and all terms and conditions related to the rental of the polypatch applicator to the Response Attachment section of the ebid response. Failure to provide terms and conditions shall mean the Vendor accepts the terms as provided by the bid documents.	Yes
8	PolyPatch Applicator Maintenance and or Repair	The City will not be responsible for any maintenance or repairs to the PolyPatch Applicator which will be rented. Vendor must repair/replace the PolyPatch Applicator the same day as requested by the City. The City will not pay for rental of PolyPatch Applicator which are not in operation due to repair/maintenance	(No Response Required)
9	Tax Exempt Certification Forms	Materials being purchased in this bid are tax exempt and unit prices are reflected as such. A Purchasing Agent Appointment form and a Exempt Sales Certificate form shall be issued with contract documents. (Note: State Tax Law does not provide for sales tax exemption for proprietary functions for government, thereby excluding the purchases of pipes to be installed in water lines and purchase of water meters.)	Yes
10	Purchase Order, Contract and Delivery Contact	The City/County Purchasing Department issues Purchase Orders and Contracts via email to a designated contact person of the awarded Vendor. This designee will be the primary contact with the department through the delivery of the product/services. Please list the name, email address and phone number of the person who will be the contact person for the PO to be awarded.	Dave McIntosh, Dave.m@maxwellproducts.com, 720-323-7777
11	Delivery	State number of delivery days ARO. FOB to the City/County at the location specified with all transportation charges paid.	14 days
12	Contact	Name of person submitting this bid:	Nicole Maxwell
13	Electronic Signature	Please check here for your electronic signature.	Yes

Line Items

#	Qty	UOM	Description	Response
1	12	EA	Polypatch Applicator Rental ONLY BID MONTHLY RATE	\$5,200.00

Item Notes: Lancaster County Engineer is interested in renting a trailer mounted, 2 Ton, Diesel Fueled Polypatch Applicator. The equipment will be rented on a monthly basis as needed for a period of one year. Vendor shall provide delivery and pickup of equipment. Vendor assumes all responsibility for repairs and maintenance of equipment being bid. County will not pay for days when equipment is out of service due to maintenance issues or any other problems with the operation of the equipment. Monthly rental price does NOT include price for material used in the equipment. Term of contract will be one year from date of execution. During that time the County Engineer will order the equipment as-needed in one month increments. In the event that an additional week is needed, the cost will be negotiated by the Vendor and Engineer office. The County guarantees no set number of rental months during the term of the contract.

Supplier Notes: \$5200.00 per month, our machine is the Marathon Mastic Mixer

2	35,000	Lbs	Right Pointe Black Pave Patch with Aggregate Finished Product Properties 1.7 Specific Gravity 350-400 degree recommended application temperature 400 degree maximum safe heating temperature. ONLY BID PER POUND!	\$0.50
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Item Notes: Vendor shall bid the following product which will be used in the trailer-mounted, polypatch applicator. Unit price shall include delivery. County prefers the brand and model listed. If bidding an alternate product you must indicate the brand and model number in the Supplier Notes section. Vendor must indicate the pack size and any minimum order requirements in the Supplier Notes section of their ebid response. Price must include delivery to location listed above.

Supplier Notes: We are bidding Maxwell Products Gap MOD 202 at \$0.50 per pound. Material comes in meltable Polyskin packaging weighing roughly 34 lbs per block.

Response Total: \$79,900.00

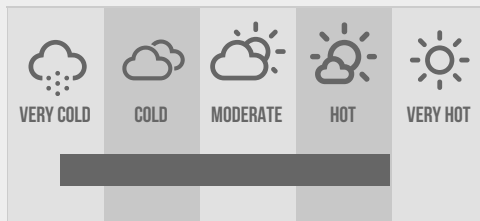
MAXWELL PRODUCTS

GAP MASTIC MOD 202

DATA SHEET

MAXWELL PRODUCTS, INC.
SALT LAKE CITY, UT
800.266.2090

GAP Mastic is a hot-applied, polymer modified asphalt mixed with engineered aggregates and modifiers designed to fill wide cracks and defects, to prevent water infiltration, and restore ride quality. GAP material is designed as a permanent repair solution for wide thermal cracks, fatigue cracking, rutting, and depressed, broken-up areas. It is also recommended for use around solid structures in flexible pavements like manholes, gutters, and drains.



SPECIFICATION

BINDER

TEST METHOD:	RESULT:
CONE PENETRATION : 77°F (25°C), 150G, 5S : ASTM D5329	70 DMM MAX
SOFTENING POINT : ASTM D36	200°F (93°C) MIN
FLEXIBILITY : 1 IN (25MM) MANDREL, 90 DEG BEND, 2S : ASTM D3111	PASS - 10°F (-23°C)
TENSILE ADHESION : 77°F (25°C) : ASTM D5329	600% MIN
RESILIANCE : 77°F (25°C) : ASTM D5329	35% MIN

AGGREGATE

TEST METHOD:	RESULT:
SIEVE ANALYSIS : NO. 4 SIEVE, PASSING : MANUFACTURER'S CERTIFICATION	90% MIN
SIEVE ANALYSIS : NO. 16 SIEVE, PASSING : MANUFACTURER'S CERTIFICATION	30% MAX

APPLICATION INSTRUCTIONS

Read and follow application instructions before use. This product must be heated using indirect heating methods, either a double boiler or hot oil circulating kettle. Equipment must be capable of maintaining constant agitation to the material to keep aggregate suspended evenly.

Maximum safe heating temperature: 400°F (204°C).

Recommended application temperature: 340°F (171°C).

WARRANTY

Maxwell Products, Inc. warrants that our products will be free from defects in material or workmanship and will conform to our published specifications at the time of shipment. In the event our products fail to conform to our published specifications at the time of shipment, we will, at our expense and sole option, replace our defective product or give you a full or partial refund of the purchase price from Maxwell Products. Claims must be made within three (3) months of the date of purchase. MAXWELL PRODUCTS HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY AND ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

Generated May 1, 2018.

Please visit <http://maxwellproducts.com> for the current version of this document.

Description:

Gap is a hot-applied polymer modified asphalt binder combined with specially engineered aggregates and modifiers designed to fill wide cracks and potholes to prevent water infiltration and restore ride quality. It is formulated with a low viscosity for ease of installation and enhanced crack penetration. This material is extremely flexible, which enables it to perform exceptionally well in cold weather, yet also has a high softening point so it will not track or rut with traffic.

Applicable Uses:

Maxwell Products Gap materials are designed specifically for the repair of wide thermal cracks, pot holes, rutting and depressed broken-up areas in asphalt and concrete pavement surfaces; also for use around solid structures in flexible pavement like manholes, gutters, and drains. When applied properly as per the instructions below, Gap creates a load bearing, weather resistant, durable bond; sealing distressed areas and resulting in a long-term maintenance solution to otherwise unmanageable pavement problems.

Melting:

The material shall be melted using a manufactured applicator specifically designed for the melting, heating, and application of modified polymerized asphalt sealants with aggregate. Melter agitator must be capable of keeping aggregate evenly suspended in heated material. Place Gap material in the applicator, and melt by heating the transfer oils to temperatures of 450°F - 525°F. Overnight heating elements available on some applicators may expedite material heat-up. Begin agitation when material has melted sufficiently for the agitator to turn, and continue heating until material temperatures meet the recommended application temperatures. Continue agitation as material is applied. To increase efficiency add fresh material continuously at the rate material is dispensed.

CAUTION: do not add material while agitation is in progress. Stop agitator before adding material.

Pavement Temperatures:

At the time of placing the sealant, the pavement temperature should be a minimum of 40°F. Application at lower temperatures may result in less adhesion due to the possible presence of excess moisture. If the surface temperature is less than 40°F, and the sealant must be applied, a heat lance or other appropriate means can be used to warm and dry the asphalt. Use of a heat lance on Portland concrete surfaces is not recommended. In all cases, care should be taken to insure the cracks are clean and dry so that the necessary adhesion is obtained.

Procedures:

Cracks and distressed areas should be opened to a minimum width of 1 inch and a minimum depth of 1 inch, which is necessary to provide an adequate reservoir for the sealant, allowing for expansion and contraction of the surface and crack. Although not required, milling or routing to a depth of 1 inch with a breadth of 4 inches to 10 inches across cracks may improve bonding, enhance ride smoothness, and create a clean finished appearance. A variety of equipment including routers, random crack saws, milling equipment, and power brushes can be used to open up and clean cracks. Care should be taken to insure that bonding surfaces are free of oil, dirt, dust, moisture, and any other contaminants that would inhibit good bonding of the sealant to the asphalt. To maximize adhesion, spray the repair area with a thin coating of Gap primer using a solvent resistant weed sprayer. (Gap material should be applied at least 6 inches beyond the repair area.) All weeds should be removed and cracks sterilized, if necessary, to prevent weed growth through the sealant.

In areas that do not have a build-up of oil, dirt, or other residue, preparation may be accomplished by using high-powered, oil-free compressed air or a heat lance. When using a heat lance, care should be taken that the asphalt is not overheated, causing excessive separation of the asphalt and aggregate.

Gap materials should be applied to distressed areas spanning voids of no more than 12 inches in width or diameter and 4 inches in depth. Skin patches and alligator repairs should not be applied in the event that deterioration is so great that reconstruction is the more cost effective solution.

The above specifications should be viewed as a guideline and may be modified according to unique project specifications.



SAFETY PRECAUTIONS

The following safety precautions should be taken to prevent injury when working with Gap.

1. Always wear gloves with wristlets and proper clothing that will cover arms and legs.
2. Wear safety glasses or goggles to protect the eyes.
3. Only use tools approved for applying Gap.
4. Take care when loading the melter. Turn off the agitation and only introduce blocks into the melter in a manner that will prevent splashing of the sealant onto the operator.
5. Take care to avoid breathing the sealant fumes.
6. Use proper traffic control procedures to provide adequate safety from moving vehicle traffic when applying Gap on roads and highways, or other areas exposed to vehicle or aircraft traffic.
7. Use measures meeting or exceeding local regulatory requirements to prevent pedestrian or other traffic from gaining access to the work area while sealant is still in the uncured or molten state.

MAXWELL PRODUCTS

SAFETY DATA SHEET

GAP MASTIC

**Manufacturer/Supplier:**

Maxwell Products, Inc.
650 South Delong St.
Salt Lake City, UT 84104
Phone: 1.800.266.2090
Fax: 1.801.972.5536
www.maxwellproducts.com

Emergency telephone number:

Infotrac: 1-800-535-5053, 1-352-323-3500

2. HAZARD(S) IDENTIFICATION

▲ HAZARDS EXEMPT WHEN IN BONDED FORM OR WHEN IT CANNOT BE RELEASED DUE TO CUTTING, GRINDING, HEATING, ETC.

Classification of the substance or mixture:

GHS08 Health hazard, Carc. 1B H350 May cause cancer,
GHS07, Skin Irrit. 2 H315 Causes skin irritation, Eye Irrit. 2B H320
Causes eye irritation.

Signal word: Danger

Hazard-determining components of labeling:

Asphalt
Distillates (petroleum), solvent-refined heavy naphthenic
Trade Secret(s)

Hazard statements:

Causes skin and eye irritation.
May cause cancer.

Precautionary statements:

Do not handle until all safety precautions have been read and understood.
Wear protective gloves/protective clothing/eye protection/face protection. (see section 8)
Read application instructions before use.
IF IN EYES: Rinse cautiously with water for several minutes.
Remove contact lenses, if present and easy to do. Continue rinsing.
Specific treatment (see section 4).
If skin irritation occurs: Get medical advice/attention.

If eye irritation persists: Get medical advice/attention.
Dispose of contents/container in accordance with local/regional/national/international regulations

Hazards not otherwise classified (HNOC): None known.

Classification system:**NFPA ratings (scale 0 - 4)****HMIS-ratings (scale 0 - 4)**

HEALTH	1	Health = 1
FIRE	1	Fire = 1
REACTIVITY	0	Reactivity = 0

3. COMPOSITION / INFORMATION ON INGREDIENTS

▲ HAZARDS EXEMPT WHEN IN BONDED FORM OR WHEN IT CANNOT BE RELEASED DUE TO CUTTING, GRINDING, HEATING, ETC.

Chemical characterization: Mixtures

Description: Mixture of the substances listed below with nonhazardous additions

Dangerous components:

8052-42-4	Asphalt - Flam liq. 3 H226, Carc. 2 H351, Skin Irrit. 2 H315, STOT SE 3 H335, Eye Irrit. 2B H320	10-50%
64741-96-4	Distillates (petroleum), solvent-refined heavy naphthenic - Carc. 1B H350	0-25%
	Aggregate - Carc. 1A H350, STOT RE 1 H372, Acute Tox. 4 H332, STOT SE 3 H335, Eye Irrit. 2B H320	30-70%
	Trade Secret(s) - Carc. 2 H351, Acute Tox. 4 H302, Skin Irrit. 2 H315, STOT SE 3 H335, Eye Irrit. 2B H320, Carc. 1B H350	

Additional information:

Trade Secret(s) made in accordance with paragraph (i) of §1910.1200 of 29 CFR 1910.1200, the OSHA Hazard Communication Standard.

4. FIRST AID MEASURES

After skin contact: Immediately wash with water and soap and rinse thoroughly. Consult a doctor if needed.

After inhalation: If irritation occurs, remove to fresh air. Consult a doctor if needed.

After eye contact: Rinse opened eye for several minutes under running water. If symptoms persist, consult a doctor

After swallowing: Immediately consult a doctor

Most important symptoms and effects, both acute and delayed: No further relevant information available.

Indication of any immediate medical attention and special treatment needed: No further relevant information available.

5. FIRE-FIGHTING MEASURES

Suitable extinguishing agents: Use fire fighting measures that suit the environment.

Special hazards arising from the substance or mixture: No further relevant information available.

Advice for firefighters:

Protective equipment: As in any fire, wear self-contained breathing apparatus pressure-demand (NIOSH approved or equivalent) and full protective gear to prevent contact with skin and eyes.

6. ACCIDENTAL RELEASE MEASURES

Personal precautions, protective equipment and emergency procedures: Not required.

Environmental precautions: Do not allow to enter sewers or ground water.

Methods and material for containment and cleaning up: Dispose of collected material according to regulations.

Reference to other sections

See Section 7 for information on safe handling.

See Section 8 for information on personal protection equipment.

See Section 13 for disposal information.

7. HANDLING & STORAGE

Precautions for safe handling: No special requirements.

Storage: No special requirements.

8. EXPOSURE CONTROLS / PERSONAL PROTECTION

Components with occupational exposure limits:

8052-42-4 Asphalt	
REL	Short-term value: C 5* mg/m ³ *15-min; See Pocket Guide App. A
TLV	Long-term value: 0.5* mg/m ³ *inh. fraction; as benzene-soluble aerosol; BEIp
Aggregate	
REL	See Quartz listing
REL	Long-term value: 0.05* mg/m ³ *respirable dust - see pocket guide App. A
TLV	Long-term value: 0.025* mg/m ³ *as respirable fraction
Trade Secret(s)	
REL	Long-term value: 20 mppcf ppm (containing <1% Quartz)
REL	Long-term value: 2* mg/m ³ *respirable dust
TLV	Long-term value: 2* mg/m ³ *as respirable fraction; E
STEL	Short-term value: 10 mg/m ³
TWA	Short-term value: 10 mg/m ³
REL	Short-term value: 5 mg/m ³
REL	Long-term value: 15 mg/m ³

Ingredients with biological limit values:

8052-42-4 Asphalt	
BEI	- urine end of shift at end of workweek 1-Hydroxypyrene with hydrolysis (non-quantitative)

Additional Information: The lists that were valid during the creation of this SDS were used as basis.

General protective and hygienic measures:

Keep away from foodstuffs, beverages and feed.

Wash hands before breaks and at the end of work.

Breathing equipment: Not required.

Protection of hands: Leather gloves suggested.

Safety equipment required for application.

Read and understand application instructions before use.

9. PHYSICAL AND CHEMICAL PROPERTIES

Appearance:

Form:..... Solid
Color:..... Brown/Black

Odor:..... Petrol Like
pH Value:..... Not applicable

Change in condition:

Melting point/melting range..... 175°-250° F (79°-121° C)
Boiling point/boiling range:..... 599° F (315° C)

Flash Point:..... >430° F (>221° C)

Flammability (solid, gaseous):..... Not determined

Ignition Temperature:..... >700° F (>371° C)

Decomposition Temperature:..... Not determined

Auto igniting:..... Product is not self igniting

Danger of Explosion:..... Product does not present an explosion hazard

Explosion Limits:

Lower:..... Not determined
Upper:..... Not determined

Vapor Pressure:..... Not applicable

Density @ 68° F (20° C):..... Specific gravity 1.2 - 2.0

Relative Density:..... Not determined

Vapor Density:..... Not applicable

Evaporation Rate:..... Not applicable

Solubility in / Miscibility with:

water @ 68° F (20° C):..... < 0.0001 g/l

Partition coefficient (n-octanol/water):..... Not determined

Viscosity:

Dynamic:..... Not applicable
Kinematic:..... Not applicable

10. STABILITY AND REACTIVITY

Reactivity: No relevant information available.

Thermal decomposition / conditions to be avoided: No decomposition if used according to specifications.

Possibility of hazardous reactions: No dangerous reactions known.

Conditions to avoid: No further relevant information available.

Incompatible materials: No further relevant information available.

Hazardous decomposition products: No dangerous decomposition products known

11. TOXICOLOGICAL INFORMATION

HAZARDS EXEMPT WHEN IN BONDED FORM OR WHEN IT CANNOT BE RELEASED DUE TO CUTTING, GRINDING, HEATING, ETC.

Acute toxicity:

LD/LC50 values that are relevant for classification: Trade Secret(s)

Inhalative	LC50/96h	1033 mg/l (trout)
------------	----------	-------------------

LD/LC50 values that are relevant for classification: Trade Secret(s)

Oral	LD50	>5000 mg/kg (rat)
Dermal	LD50	>5000 mg/kg (rabbit)
Inhalative	LC50/4h	>5 mg/l (rat)

Primary irritant effect:

On the skin: Irritant to skin and mucous membranes.

On the eye: Irritating effect. Causes serious eye irritation.

Additional toxicological information: The product shows the following dangers according to internally approved calculation methods for preparations: Irritant, Carcinogenic

IARC (International Agency for Research on Cancer

"In 1997, IARC (the International Agency for Research on Cancer) concluded that crystalline silica inhaled from occupational sources can cause lung cancer in humans. However in making the overall evaluation, IARC noted that "carcinogenicity was not detected in all industrial circumstances studied. Carcinogenicity may be dependent on inherent characteristics of the crystalline silica or on external factors affecting its biological activity or distribution of its

polymorphs." (IARC Monographs on the evaluation of the carcinogenic risks of chemicals to humans, Silica, silicate dust and organic fibres, 1997, Vol. 68, IARC, Lyon, France.) In June 2003, SCOEL (the EU Scientific Committee on Occupational Exposure Limits) concluded that the main effect in humans of the inhalation of respirable crystalline silica dust is silicosis. "There is sufficient information to conclude that the relative risk of lung cancer is increased in persons with silicosis (and, apparently, not in employees without silicosis exposed to silica dust in quarries and in the ceramic industry). Therefore, preventing the onset of silicosis will also reduce the cancer risk..." (SCOEL SUM Doc 94-final, June 2003) According to the current state of the art, worker protection against silicosis can be consistently assured by respecting the existing regulatory occupational exposure limits. May cause cancer. Occupational exposure to respirable dust and respirable crystalline silica should be monitored and controlled"

8052-42-4	Asphalt	2b
	Aggregate	1
	Trade Secret(s)	2a, 2b, 3

NTP (National Toxicology Program):

	Aggregate	K
--	-----------	---

OSHA-Ca (Occupational Safety and Health Administration):

None of the ingredients are listed.

12. ECOLOGICAL INFORMATION

Aquatic toxicity:

	Aggregate
EC50	218 mg/l (green algae)

Persistence and degradability: No further relevant information available.

Bioaccumulative potential: No further relevant information available

Mobility in soil: No further relevant information available.

Additional ecological information:

General notes:

- Water hazard class 3 (Self-assessment): extremely hazardous for water
- Do not allow product to reach ground water, water course or sewage system, even in small quantities.
- Danger to drinking water if even extremely small quantities leak into the ground.

Results of PBT and vPvB assessment:

PBT: Not applicable.

vPvB: Not applicable.

Other adverse effects: No further relevant information available

13. DISPOSAL CONSIDERATIONS

Waste treatment methods:

- Must not be disposed of together with household garbage.
- Do not allow product to reach sewage system.

Uncleaned packagings: Dispose according to official regulations

14. TRANSPORT INFORMATION

UN-Number:

DOT, ADR, ADN, IMDG, IATA.....Non-regulated Material

UN proper shipping name DOT, ADR, ADN, IMDG, IATA.....Non-regulated Material

Transport hazard class(es) DOT, ADR, ADN, IMDG, IATA Class.....Non-regulated Material

Packing group DOT, ADR, IMDG, IATANon-regulated Material

Environmental hazards Not Applicable

Special precautions for user Not Applicable

Transport in bulk according to Annex II of MARPOL73/78 and the IBC Code Not Applicable

UN "Model Regulation":.....Non-regulated Material

15. REGULATORY INFORMATION

HAZARDS EXEMPT WHEN IN BONDED FORM OR WHEN IT CANNOT BE RELEASED DUE TO CUTTING, GRINDING, HEATING, ETC.

Sara:

Section 355 (extremely hazardous substances): None of the ingredients are listed.

Section 313 (specific toxic chemical listings): None of the ingredients are listed.

TSCA (Toxic Substances Control Act):

8052-42-4	Asphalt
64741-96-4	Distillates (petroleum), solvent-refined heavy naphthenic
	Aggregate
	Trade Secret(s)

Proposition 65:

Chemicals known to cause cancer:

	Aggregate
--	-----------

Chemicals known to cause reproductive toxicity for females: None of the ingredients are listed.

Chemicals known to cause reproductive toxicity for males: None of the ingredients are listed.

Chemicals known to cause developmental toxicity: None of the ingredients are listed.

Carcinogenic Categories:

EPA (Environmental Protection Agency): None of the ingredients are listed.

TLV (Threshold Limit Value established by ACGIH):

8052-42-4	Asphalt	A4
	Aggregate	A2
	Trade Secret(s)	A4

NIOSH-Ca (National Institute for Occupational Safety and Health)

8052-42-4	Asphalt
	Aggregate

Signal word: Danger**Hazard-determining components of labeling:**

Asphalt

Distillates (petroleum), solvent-refined heavy naphthenic

Aggregate

Trade Secret(s)

Hazard statements: Causes skin and eye irritation, May cause cancer.**Precautionary statements:**

Do not handle until all safety precautions have been read and understood.

Read application instructions before use.

IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing.

If skin irritation occurs: Get medical advice/attention.

If eye irritation persists: Get medical advice/attention.

IF ON SKIN: Wash with plenty of soap and water.

Dispose of contents/container in accordance with local/regional/national/international regulations.

National regulations: The product is subject to be classified according with the latest version of the regulations on hazardous substances.**State Right to Know:**

8052-42-4	Asphalt - Flam liq. 3 H226, Carc. 2 H351, Skin Irrit. 2 H315, STOT SE 3 H335, Eye Irrit. 2B H320	10-50%
64741-96-4	Distillates (petroleum), solvent-refined heavy naphthenic - Carc. 1B H350	0-25%
	Aggregate - Carc. 1A H350, STOT RE 1 H372, Acute Tox. 4 H332, STOT SE 3 H335, Eye Irrit. 2B H320	30-70%
	Trade Secret(s) - Carc. 2 H351, Acute Tox. 4 H302, Skin Irrit. 2 H315, STOT SE 3 H335, Eye Irrit. 2B H320, Carc. 1B H350	

Chemical safety assessment: A Chemical Safety Assessment has not been carried out.**16. OTHER INFORMATION**

This information and recommendations in this safety data sheet are, to the best of our knowledge, accurate as of the date of issue. Nothing herein shall be deemed to create warranty, expressed or implied, and shall not establish a legally valid contractual relationship. It is the responsibility of the user to determine applicability of this information and the suitability of the material or product for any other particular purpose.

Date of preparation / last revision: 07-21-2015 / 5**Abbreviations and acronyms:****ADR:** European Agreement concerning the International Carriage of Dangerous Goods by Road**ADN:** European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways**IMDG:** International Maritime Code for Dangerous Goods**DOT:** US Department of Transportation**IATA:** International Air Transport Association**ACGIH:** American Conference of Governmental Industrial Hygienists**EINECS:** European Inventory of Existing Commercial Chemical Substances**ELINCS:** European List of Notified Chemical Substances**CAS:** Chemical Abstracts Service (division of the American Chemical Society)**NFPA:** National Fire Protection Association (USA)**HMIS:** Hazardous Materials Identification System (USA)**LC50:** Lethal concentration, 50 percent**LD50:** Lethal dose, 50 percent**PBT:** Persistent, Bioaccumulative and Toxic**vPvB:** Very Persistent and Very Bioaccumulative**Flam. Liq. 3:** Flammable Liquids Hazard Category 3**Acute Tox. 4:** Acute toxicity, Hazard Category 4**Skin Irrit. 2:** Skin corrosion/irritation, Hazard Category 2**Eye Irrit. 2B:** Serious eye damage/irritation, Hazard Category 2B**Carc. 1A:** Carcinogenicity, Hazard Category 1A**Carc. 1B:** Carcinogenicity, Hazard Category 1B**Carc. 2:** Carcinogenicity, Hazard Category 2**STOT SE 3:** Specific target organ toxicity - Single exposure, Hazard Category 3**STOT RE 1:** Specific target organ toxicity - Repeated exposure, Hazard Category 1

HANDLING OF MATERIALS

Care should be taken when placing blocks of sealant into the melter to make sure hot melted sealant from inside the melter does not splash on the operator.

CAUTION: do not add material while agitation is in progress. Stop agitator before adding material.

POT LIFE OF SEALANT

Gap has been developed using the latest technology allowing an extended pot life at application temperature. When the sealant is being drawn out of the melter during the application process, care should be taken to maintain the pouring temperature especially when adding new sealant to the melter. The sealant may be reheated after initial heat-up if new blocks of sealant are added during the heat-up process.

If sealant has been overheated or exceeded the pot life it may get stringy and begin to gel. At this point the material should be removed from the melter and discarded.

EQUIPMENT CLEAN UP

Follow the melter manufacturer's guidelines for properly cleaning your equipment after each use of the machine, making sure all flames are extinguished before starting the clean up procedure. The sealant can be cleaned from equipment with petroleum-based or citrus-based solvents. Caution should be taken that the solvent does not contaminate the sealant. Solvents must be disposed of in accordance with federal, state, and local laws and guidelines.

STORAGE OF SEALANT

Gap sealants are shipped in waterproof PolySkin™ containers allowing for worry free storage. Pallets should be kept wrapped until used and should not be left in the sun for long periods of time. If pallets are to be stored for a period of time greater than six months, it is recommended that they be covered with a tarp to prevent damage to packaging from UV Exposure.

For more information please contact Maxwell Products.

Toll Free 800-266-2090

Phone: 801-972-2090

Fax: 801-972-5536

Email: contact@maxwellproducts.com

Web: www.maxwellproducts.com

**Mail: Maxwell Products, Inc.
650 Delong Street (2350 W.)
Salt Lake City, UT 84104**

GAP MASTIC

Application Instructions



Marathon

SPECIFICATIONS

Mastic Mixers are only part of the equipment Marathon produces for road maintenance. Contact us for the name of your closest distributor, or for information on our complete line, visit our website at: www.marathonequipmentinc.com



*MAY BE SHOWN WITH OPTIONAL EQUIPMENT

MM350DT

MASTIC

MIXER

Designed to mix mastic repair and bridge joint materials. Heavy duty construction allows mixing of heavy material mixed with aggregate. Diesel and propane models available in 120, 250 and 350 gallon capacities.

FEATURES & BENEFITS

Body

- Minimum 10 gauge material construction.
- Heavy gauge steel construction for material and oil vats.
- Elongated material and oil vat providing a large heating surface area.
- Low loading height for operator safety.
- Dual, reverse load, anti-splash doors provide ease of material distribution in material vat.
- Thick insulation retains heat to minimize heat loss.
- Large volume of heat transfer oil to improve heat retention.
- Material and oil thermometers.
- 6" diameter rear discharge port with guillotine dispensing gate.
- 10lb fire extinguisher.
- Epoxy primer prior to top coat finish.

Heating System

- Dual diesel burners with remote mounted, solid state controls, with diagnostic capabilities.
- Standard automatic temperature control for both material and oil bath.
- Dual digital thermostats – for oil and material ensure precise control and show actual temperatures.
- Burner flame out protection.
- Unique ceramic lined heating chamber, with **Inconel** heat deflection.
- Dual 1500W electric heaters.
- Auxiliary 200,000 BTU hand held torch mounted at rear, complete with propane bottle holder.
- Propane fired tool heater.

Trailer

- 6" channel steel construction.
- All stress points gusseted with ¼" steel plate.
- Heavy duty slipper spring construction with tandem drop axles to reduce center of gravity for safer towing.
- 3" adjustable pintle hook.
- LED lights.
- Heavy duty top wind jack.
- Electric breakaway switch with battery.
- Dual electric brakes.

Options

- Heated square shoveling platform.
- 12" steel flat squeegee.
- 18" steel "U" squeegee.
- Hydraulic surge brakes.
- Burner indicator light.
- Amber strobe light.
- 2" or 3" sealant pouring spout.
- Customer's choice of standard paint colour.
- Heated chute
- Hydraulic discharge gate.
- Spare tire & rim.

MODELS

MM350DT

Shipping Weight 7,146lbs (3241kg)

Dimensions

Overall Length 222" (564cm)
 Overall Width 80" (203cm)
 Overall Height 70" (178cm)
 Loading Height 57" (145cm)
 Delivery Chute Height 23" (58.4cm)

Capacities

Material Vat 350 gal (1323 L)
 Heat Transfer Oil 58 gal (219 L)
 Diesel Fuel Tank 28 gal (105L)
 Hydraulic Oil Tank 14 gal (53L)

Engine 23hp liquid cooled, electric Start, Kohler diesel

Burner Two 340,000 BTU Diesel burners

Suspension Tandem
 Axle(s) 14,000bs (6349kg)
 Capacity

Tires – size (4) 235/80/R16

***specifications subject to change without notice**

Agitation

- Six blade, bi-directional, variable speed agitator provides excellent material mixing, keeping aggregate in suspension.
- Agitator blades are gusseted for strength.
- Progressively pitched blades allow the operator to control discharge speed at the gate.
- High torque agitator provides fast mixing of material.
- Agitator stops rotating when either of the loading doors are opened.



**shown with optional equipment*

Distributed By:



4390 Corporate Drive
 Burlington, Ontario, Canada L7L 5R3
 Tel: 905-335-0000 Fax: 905-335-9990
 www.marathonequipmentinc.com



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/29/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Arthur J. Gallagher Risk Management Services, Inc. 6967 South River Gate Drive, #200 Salt Lake City UT 84047	CONTACT NAME: PHONE (A/C, No, Ext): 801-924-1400		FAX (A/C, No): 801-924-1441
	E-MAIL ADDRESS: reception@presidio-group.com		
INSURER(S) AFFORDING COVERAGE			NAIC #
INSURER A : Crum & Forster Insurance Co			1944
INSURER B : Ohio Casualty Insurance Co.			24074
INSURER C : Workers Compensation Fund			10033
INSURER D : Advantage Workers Compension			40517
INSURER E : Great American Insurance Co			16691
INSURER F : Ohio Security Insurance Co.			24082

INSURED MAXWPRO-01
 Maxwell Products, Inc.
 Maxwell Equipment Company
 650 S Delong Street
 Salt Lake City UT 84104

COVERAGES

CERTIFICATE NUMBER: 362287345

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y	Y	EPK118486	8/1/2017	8/1/2018	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$50,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 Pollution \$2,000,000
F	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	BA8683295	8/1/2017	8/1/2018	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 0			ESO57157982	8/1/2017	8/1/2018	EACH OCCURRENCE \$1,000,000 AGGREGATE \$1,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	N/A	1366543	8/1/2017	8/1/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
D	Workers Compensation			3378159	8/1/2017	8/1/2018	Limit 1,000,000
E	Equipment Floater			IMP3924955	8/1/2017	8/1/2018	Leased/Rented Limit 50,000 Scheduled Equip. 643,300

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Subject to policy verification, terms, and conditions.

Excess liability applies only on automobile liability coverage.

Lancaster County is included as an additional insured per written contract, per attached forms. Blanket waiver of subrogation applies per written contract, per attached forms. 30 day notice of cancellation has been requested, excluding 10 day notice for non payment.

CERTIFICATE HOLDER**CANCELLATION**

Lancaster County
 555 South 10th Street
 Lincoln NE 68508

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Policy# BA8683295

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**BUSINESS AUTO COVERAGE ENHANCEMENT ENDORSEMENT**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

With respect to coverage afforded by this endorsement, the provisions of the policy apply unless modified by the endorsement.

COVERAGE INDEX

<u>SUBJECT</u>	<u>PROVISION NUMBER</u>
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SUPPLEMENTARY PAYMENTS	4
TOWING AND LABOR	7
UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS	17
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SECTION II – LIABILITY COVERAGE is amended as follows:**1. BROAD FORM INSURED**SECTION II – LIABILITY COVERAGE, paragraph **A.1.** –WHO IS AN INSURED is amended to include the following as an insured:

- d. Any legally incorporated entity of which you own more than 50 percent of the voting stock during the policy period. However, "insured" does not include any organization that:
- (1) Is a partnership or joint venture; or
 - (2) Is an insured under any other automobile policy; or
 - (3) Has exhausted its Limit of Insurance under any other automobile policy.

Paragraph d. (2) of this provision does not apply to a policy written to apply specifically in excess of this policy.

- e. Any organization you newly acquire or form, other than a partnership or joint venture, of which you own more than 50 percent of the voting stock. This automatic coverage is afforded only for 180 days from the date of acquisition or formation. However, coverage under this provision does not apply:

- (1) If there is similar insurance or a self-insured retention plan available to that organization;

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- (2) If the Limits of Insurance of any other insurance policy have been exhausted; or
- (3) To "bodily injury" or "property damage" that occurred before you acquired or formed the organization.

2. EMPLOYEES AS INSUREDSSECTION II – LIABILITY COVERAGE, paragraph **A.1.** –WHO IS AN INSURED is amended to include the following as an insured:

- f. Any "employee" of yours while using a covered "auto" you do not own, hire or borrow but only for acts within the scope of their employment by you. Insurance provided by this endorsement is excess over any other insurance available to any "employee".
- g. An "employee" of yours while operating an "auto" hired or borrowed under a written contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business and within the scope of their employment. Insurance provided by this endorsement is excess over any other insurance available to the "employee".

3. ADDITIONAL INSURED BY CONTRACT, AGREEMENT OR PERMITSECTION II – LIABILITY COVERAGE, paragraph **A.1.** –WHO IS AN INSURED is amended to include the following as an insured:

- h. Any person or organization with respect to the operation, maintenance or use of a covered "auto", provided that you and such person or organization have agreed in a written contract, agreement, or permit issued to you by governmental or public authority, to add such person, or organization, or governmental or public authority to this policy as an "insured".

However, such person or organization is an "insured":

- (1) Only with respect to the operation, maintenance or use of a covered "auto";
- (2) Only for "bodily injury" or "property damage" caused by an "accident" which takes place after you executed the written contract or agreement, or the permit has been issued to you; and
- (3) Only for the duration of that contract, agreement or permit

4. SUPPLEMENTARY PAYMENTS

SECTION II – LIABILITY COVERAGE, Coverage Extensions, 2.a. Supplementary Payments, paragraphs (2) and (4) are replaced by the following:

- (2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the insured at our request, including actual loss of earnings up to \$500 a day because of time off from work.

5. AMENDED FELLOW EMPLOYEE EXCLUSION

In those jurisdictions where, by law, fellow employees are not entitled to the protection afforded to the employer by the workers compensation exclusivity rule, or similar protection, the following provision is added:

SECTION II – LIABILITY, exclusion B.5. FELLOW EMPLOYEE does not apply if the "bodily injury" results from the use of a covered "auto" you own or hire.

SECTION III – PHYSICAL DAMAGE COVERAGE is amended as follows:

6. HIRED AUTO PHYSICAL DAMAGE

Paragraph A.4. Coverage Extensions of SECTION III – PHYSICAL DAMAGE COVERAGE, is amended by adding the following:

If hired "autos" are covered "autos" for Liability Coverage, and if Comprehensive, Specified Causes of Loss or Collision coverage are provided under the Business Auto Coverage Form for any "auto" you own, then the Physical Damage coverages provided are extended to "autos":

- a. You hire, rent or borrow; or

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- b. Your "employee" hires or rents under a written contract or agreement in that "employee's" name, but only if the damage occurs while the vehicle is being used in the conduct of your business,

subject to the following limit and deductible:

- A. The most we will pay for "loss" in any one "accident" or "loss" is the smallest of:

- (1) \$50,000; or
- (2) The actual cash value of the damaged or stolen property as of the time of the "loss"; or
- (3) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality, minus a deductible.

- B. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage.

- C. Subject to the limit, deductible and excess provisions described in this provision, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

- D. Subject to a maximum of \$750 per "accident", we will also cover the actual loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss.

- E. This coverage extension does not apply to:

- (1) Any "auto" that is hired, rented or borrowed with a driver; or
- (2) Any "auto" that is hired, rented or borrowed from your "employee".

For the purposes of this provision, SECTION V – DEFINITIONS is amended by adding the following:

"Total loss" means a "loss" in which the cost of repairs plus the salvage value exceeds the actual cash value.

7. TOWING AND LABOR

SECTION III – PHYSICAL DAMAGE COVERAGE, paragraph A.2. Towing, is amended by the addition of the following:

We will pay towing and labor costs incurred, up to the limits shown below, each time a covered "auto" classified and rated as a private passenger type, "light truck" or "medium truck" is disabled:

- a. For private passenger type vehicles, we will pay up to \$50 per disablement.
- b. For "light trucks", we will pay up to \$50 per disablement. "Light trucks" are trucks that have a gross vehicle weight (GVW) of 10,000 pounds or less.
- c. For "medium trucks", we will pay up to \$150 per disablement. "Medium trucks" are trucks that have a gross vehicle weight (GVW) of 10,001 – 20,000 pounds.

However, the labor must be performed at the place of disablement.

8. PHYSICAL DAMAGE- ADDITIONAL TRANSPORTATION EXPENSE COVERAGE

Paragraph **A.4.a.**, Coverage Extension of SECTION III – PHYSICAL DAMAGE COVERAGE, is amended to provide a limit of \$50 per day and a maximum limit of \$1,500

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9. RENTAL REIMBURSEMENT

SECTION III – PHYSICAL DAMAGE COVERAGE, **A. COVERAGE**, is amended by adding the following:

- a. We will pay up to \$75 per day for rental reimbursement expenses incurred by you for the rental of an "auto" because of "accident" or "loss", to an "auto" for which we also pay a "loss" under Comprehensive, Specified Causes of Loss or Collision Coverages. We will pay only for those expenses incurred after the first 24 hours following the "accident" or "loss" to the covered "auto."
- b. Rental Reimbursement will be based on the rental of a comparable vehicle, which in many cases may be substantially less than \$75 per day, and will only be allowed for the period of time it should take to repair or replace the vehicle with reasonable speed and similar quality, up to a maximum of 30 days.
- c. We will also pay up to \$500 for reasonable and necessary expenses incurred by you to remove and replace your tools and equipment from the covered "auto".
- d. This coverage does not apply unless you have a business necessity that other "autos" available for your use and operation cannot fill.
- e. If "loss" results from the total theft of a covered "auto" of the private passenger type, we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided under Paragraph 4. Coverage Extension.
- f. No deductible applies to this coverage.

For the purposes of this endorsement provision, materials and equipment do not include "personal effects" as defined in provision 11.

10. EXTRA EXPENSE - BROADENED COVERAGE

Under SECTION III – PHYSICAL DAMAGE COVERAGE, **A. COVERAGE**, we will pay for the expense of returning a stolen covered "auto" to you. The maximum amount we will pay is \$1,000.

11. PERSONAL EFFECTS COVERAGE

A. SECTION III – PHYSICAL DAMAGE COVERAGE, A. COVERAGE, is amended by adding the following:

If you have purchased Comprehensive Coverage on this policy for an "auto" you own and that "auto" is stolen, we will pay, without application of a deductible, up to \$600 for "personal effects" stolen with the "auto."

The insurance provided under this provision is excess over any other collectible insurance.

B. SECTION V – DEFINITIONS is amended by adding the following:

For the purposes of this provision, "personal effects" mean tangible property that is worn or carried by an insured." "Personal effects" does not include tools, equipment, jewelry, money or securities.

12. ACCIDENTAL AIRBAG DEPLOYMENT

SECTION III – PHYSICAL DAMAGE COVERAGE, **B. EXCLUSIONS** is amended by adding the following:

If you have purchased Comprehensive or Collision Coverage under this policy, the exclusion for "loss" relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

Any insurance we provide shall be excess over any other collectible insurance or reimbursement by manufacturer's warranty. However, we agree to pay any deductible applicable to the other coverage or warranty.

13. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT COVERAGE

SECTION III – PHYSICAL DAMAGE COVERAGE, **B. EXCLUSIONS**, exception paragraph **a.** to exclusions **4.c.** and **4.d.** is deleted and replaced with the following:

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Exclusion **4.c.** and **4.d.** do not apply to:

- a. Electronic equipment that receives or transmits audio, visual or data signals, whether or not designed solely for the reproduction of sound, if the equipment is permanently installed in the covered "auto" at the time of the "loss" and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto" and physical damage coverages are provided for the covered "auto"; or

If the "loss" occurs solely to audio, visual or data electronic equipment or accessories used with this equipment, then our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by a \$100 deductible.

14. LOAN / LEASE GAP COVERAGE

A. Paragraph C., LIMIT OF INSURANCE of SECTION III – PHYSICAL DAMAGE COVERAGE is amended by adding the following:

The most we will pay for a "total loss" to a covered "auto" owned by or leased to you in any one "accident" is the greater of the:

1. Balance due under the terms of the loan or lease to which the damaged covered "auto" is subject at the time of the "loss" less the amount of:
 - a. Overdue payments and financial penalties associated with those payments as of the date of the "loss",
 - b. Financial penalties imposed under a lease due to high mileage, excessive use or abnormal wear and tear,
 - c. Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease,
 - d. Transfer or rollover balances from previous loans or leases,
 - e. Final payment due under a "Balloon Loan",
 - f. The dollar amount of any unrepaired damage which occurred prior to the "total loss" of a covered "auto",
 - g. Security deposits not refunded by a lessor,

- h. All refunds payable or paid to you as a result of the early termination of a lease agreement or as a result of the early termination of any warranty or extended service agreement on a covered "auto",
 - i. Any amount representing taxes,
 - j. Loan or lease termination fees; or
2. The actual cash value of the damage or stolen property as of the time of the "loss".

An adjustment for depreciation and physical condition will be made in determining the actual cash value at the time of the "loss". This adjustment is not applicable in Texas.

B. ADDITIONAL CONDITIONS

This coverage applies only to the original loan for which the covered "auto" that incurred the loss serves as collateral, or lease written on the covered "auto" that incurred the loss.

C. SECTION V – DEFINITIONS is changed by adding the following:

As used in this endorsement provision, the following definitions apply:

"Total loss" means a "loss" in which the cost of repairs plus the salvage value exceeds the actual cash value.

A "balloon loan" is one with periodic payments that are insufficient to repay the balance over the term of the loan, thereby requiring a large final payment.

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15. GLASS REPAIR - WAIVER OF DEDUCTIBLE

Paragraph **D. Deductible** of SECTION III – PHYSICAL DAMAGE COVERAGE is amended by the addition of the following:

No deductible applies to glass damage if the glass is repaired rather than replaced.

16. PARKED AUTO COLLISION COVERAGE (WAIVER OF DEDUCTIBLE)

Paragraph **D. Deductible** of SECTION III – PHYSICAL DAMAGE COVERAGE is amended by the addition of the following:

The deductible does not apply to "loss" caused by collision to such covered "auto" of the private passenger type or light weight truck with a gross vehicle weight of 10,000 lbs. or less as defined by the manufacturer as maximum loaded weight the "auto" is designed to carry while it is:

- a. In the charge of an "insured";
- b. Legally parked; and
- c. Unoccupied.

The "loss" must be reported to the police authorities within 24 hours of known damage.

The total amount of the damage to the covered "auto" must exceed the deductible shown in the Declarations.

This provision does not apply to any "loss" if the covered "auto" is in the charge of any person or organization engaged in the automobile business.

SECTION IV – BUSINESS AUTO CONDITIONS is amended as follows:

17. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

SECTION IV- BUSINESS AUTO CONDITIONS, Paragraph **B.2.** is amended by adding the following:

If you unintentionally fail to disclose any hazards, exposures or material facts existing as of the inception date or renewal date of the Business Auto Coverage Form, the coverage afforded by this policy will not be prejudiced.

However, you must report the undisclosed hazard of exposure as soon as practicable after its discovery, and we have the right to collect additional premium for any such hazard or exposure.

18. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT, OR LOSS

SECTION IV – BUSINESS AUTO CONDITIONS, paragraph **A.2.a.** is replaced in its entirety by the following:

- a. In the event of "accident", claim, "suit" or "loss", you must promptly notify us when it is known to:
 - 1. You, if you are an individual;
 - 2. A partner, if you are a partnership;
 - 3. Member, if you are a limited liability company;
 - 4. An executive officer or the "employee" designated by the Named Insured to give such notice, if you are a corporation.

To the extent possible, notice to us should include:

- (1) How, when and where the "accident" or "loss" took place;
- (2) The "insureds" name and address; and
- (3) The names and addresses of any injured persons and witnesses.

19. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

SECTION IV – BUSINESS AUTO CONDITIONS, paragraph **A.5.**, Transfer of Rights of Recovery Against Others to Us, is amended by the addition of the following:

If the person or organization has waived those rights before an "accident" or "loss", our rights are waived also.

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20. HIRED AUTO COVERAGE TERRITORY

SECTION IV – BUSINESS AUTO CONDITIONS, paragraph **B.7.**, Policy Period, Coverage Territory, is amended by the addition of the following:

- f. For "autos" hired 30 days or less, the coverage territory is anywhere in the world, provided that the insured's responsibility to pay for damages is determined in a "suit", on the merits, in the United States, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

This extension of coverage does not apply to an "auto" hired, leased, rented or borrowed with a driver.

SECTION V – DEFINITIONS is amended as follows:

21. BODILY INJURY REDEFINED

Under SECTION V – DEFINITIONS, definition C. is replaced by the following:

"Bodily injury" means physical injury, sickness or disease sustained by a person, including mental anguish, mental injury, shock, fright or death resulting from any of these at any time.

COMMON POLICY CONDITIONS

22. EXTENDED CANCELLATION CONDITION

COMMON POLICY CONDITIONS, paragraph A.– CANCELLATION condition applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation. This provision does not apply in those states which require more than 60 days prior notice of cancellation.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Additional Person(s) or Organization(s):	Location And Description Of Completed Operations
Where Required by Written Contract	Where Required by Written Contract

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

- A. Section III – Who Is An Insured within the Common Provisions is amended to include as an insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for “bodily injury” or “property damage” caused, in whole or in part, by “your work” at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the “products-completed operations hazard”.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**AMENDED WAIVER OF TRANSFER OF RIGHTS
OF RECOVERY AGAINST OTHERS TO US**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
CONTRACTORS POLLUTION LIABILITY COVERAGE PART
ERRORS AND OMISSIONS LIABILITY COVERAGE PART
THIRD PARTY POLLUTION LIABILITY COVERAGE PART
ONSITE CLEANUP COVERAGE PART

SCHEDULE

Name of Person(s) or Organization(s)
Where Required By Written Contract.

SECTION VI – COMMON CONDITIONS, item 17. Transfer Of Rights of Recovery Against Others To Us within the Common Provisions is amended by the addition of the following:

Solely as respects the person(s) or organization(s) indicated in the Schedule shown above, we waive any right of recovery we may have against the person(s) or organization(s) indicated in the Schedule shown above because of payments we make for “damages” arising out of your ongoing operations or “your work” performed under a written contract with that person(s) or organization(s) and included in the “products-completed operations hazard”.

However, this waiver shall not apply to “damages” resulting from the sole negligence of the person(s) or organization(s) indicated in the Schedule shown above.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

UTAH WAIVER OF SUBROGATION ENDORSEMENT

This endorsement applies only to the insurance provided by the policy because Utah is shown in Item 3.A. of the Information Page.

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule. Our waiver of rights does not release your employees' rights against third parties and does not release our authority as trustee of claims against third parties.

Schedule

1. **Waiver Type** Blanket

Contractor Name

Contract #

Address

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

Endorsement Effective 08/01/2017

Policy No. 1366543

Endorsement No.

Insured MAXWELL PRODUCTS INC

Premium

650 DELONG STREET

SALT LAKE CITY, UT 84104

Insurance Company Workers Compensation Fund

Countersigned by _____

**SPECIAL PROVISIONS
FOR
TERM CONTRACTS**

**PURCHASING DEPARTMENT
CITY OF LINCOLN/LANCASTER COUNTY, NEBRASKA**

1. ESTIMATED QUANTITIES

- 1.1 The quantities set forth in the line items and specification document are approximate and represent the estimated requirements for the contract period.
- 1.2 Items listed may or may not be an inclusive requirements for this category.
- 1.3 Category items not listed, but distributed by bidder are to be referred to as kindred items. Kindred items shall receive the same percentage of discount or pricing structure as items listed in the specification document.
- 1.4 The unit prices and the extended total prices shall be used as a basis for the evaluation of bids. The actual quantity of materials necessary may be more or less than the estimates listed in the specification document, but the City/County shall be neither obligated nor limited to any specified amount. If possible, the Owners will restrict increases/decreases to 20% of the estimated quantities listed in the specification document.

2. CONTRACT PERIOD

- 2.1 The material shall be delivered as ordered during the contract period, beginning from the date of contract execution and ending as indicated in the specifications or in the Attribute Section of the bid.
- 2.2 Bidder must indicate in the Bid, if extension renewals are an option.
- 2.3 By mutual consent of both parties it is understood and agreed that the contract may be renewed at the same prices and/or under the same conditions governing the original contract.

3. BID PRICES

- 3.1 Bidders must state in the Attribute Section if the bid prices will remain firm for the full contract period; or if the bid prices will be subject to escalation/de-escalation.
- 3.2 Escalation/De-escalation Clause: In the event that prevailing market conditions warrant an adjustment in bid prices contained in the contract, the following escalation/de-escalation clause shall be the only clause applicable or acceptable:
 1. Contractor shall give written notice to the Purchasing Agent of any proposed changes from contract prices not less than thirty (30) calendar days prior to the effective date of said price changes.
 2. Such notice must be accompanied by a certified copy of the supplier's advisory or notification to the contractor of price changes.
 3. No price escalation will be authorized in excess of the amount of the increase referred to on the supplier's notice.
 4. Purchasing shall issue a contract Addendum with revised pricing upon receipt and approval. The Addendum will be executed by both parties for the remaining term of the contract.
 5. The approved price change shall be honored for all orders received by the contractor after the effective date of such price change.
 6. Approved price changes are not applicable to orders already issued and in process at time of price change.

7. Purchasing reserves the right to audit and/or examine any pertinent books, documents, papers, records or invoices relating directly to the contract transaction in question after reasonable notice and during normal business hours.
8. The Purchasing Agent retains the right to determine whether or not such proposed price changes are in the best interests of the City/County.
9. If in the opinion of the Purchasing Agent any proposed increase is found unacceptable, the Purchasing Agent reserves the right to cancel the contract upon thirty (30) calendar days written notice.
10. Contractors must tie any price change clause to an industry-wide or otherwise nationally recognized index, or some other form of verifiable document. Contractor will put the Purchasing Agent on the mailing lists for such publication so that the Purchasing Agent can monitor said changes. Such membership will be no cost to the Owners.

4. CONTRACT ADMINISTRATION

- 4.1 The Purchasing Division will issue a Contract to all successful bidders. Such contract will incorporate the specifications and all other forms used during the bid process.
- 4.2 Orders for materials will be made as needed by the various Agencies following execution by all parties.
- 4.3 Contractor may be asked to assist the Purchasing Agent with the development of a list of repetitively purchased commodities, to periodically update such list, and to assist in the development of a list of suitable substitutions.
- 4.4 Contractor shall provide technical advice upon request, and assist in the evaluation of new products.
- 4.5 Contractor shall monitor orders to ensure the highest possible fill rate and minimize back-orders.

5. QUARTERLY REPORT

- 5.1 Upon request, the contractor shall provide to the Purchasing Agent a quarterly report, showing all purchases made under the terms and conditions of the contract.
- 5.2 Such quarterly report shall itemize the following information:
 1. Each ordering department.
 2. Items and quantities purchased by department.
 3. Total dollar amount of purchases by department.

In furtherance of Neb. Rev. Stat. §84-712 et seq., all proposals or responses received may be subject to a public records request. Responses to public records requests may include the entire proposal or response. Bidders must request that proprietary information be excluded from the posting. The bidder must identify the proprietary information, mark the proprietary information according to state law, and submit the proprietary information in a separate container or envelope marked conspicuously in black ink with the words "PROPRIETARY INFORMATION". The bidder must submit a detailed written showing that the release of the proprietary information would give a business advantage to named business competitor(s) and explain how the named business competitor(s) will gain an actual business advantage by disclosure of information. The mere assertion that information is proprietary or that a speculative business advantage might be gained is not sufficient. (See Attorney General Opinion No. 92068, April 27, 1992) THE BIDDER MAY NOT ASSERT THAT THE ENTIRE PROPOSAL IS PROPRIETARY. COST PROPOSALS WILL NOT BE CONSIDERED PROPRIETARY AND ARE A PUBLIC RECORD IN THE STATE OF NEBRASKA. The City and/or County will then determine, in its discretion, if the interests served by nondisclosure outweighs any public purpose served by disclosure. (See Neb. Rev. Stat. § 84-712.05(3)) The Bidder will be notified of the agency's decision. Absent a City and/or County determination that information is proprietary, the City and/or County will consider all information a public record subject to release regardless of any assertion that the information is proprietary. If the agency determines it is required to release proprietary information, the bidder will be informed. It will be the bidder's responsibility to defend the bidder's asserted interest in nondisclosure. To facilitate such public postings, with the exception of proprietary information, the City of Lincoln and/or Lancaster County reserves a royalty-free, nonexclusive, and irrevocable right to copy, reproduce, publish, post to a website, or otherwise use any contract, proposal, or response to this RFP for any purpose, and to authorize others to use the documents. Any individual or entity awarded a contract, or who submits a proposal or response to this bid/RFP, specifically waives any copyright or other protection the contract, proposal, or response to the bid/RFP may have; and, acknowledges that they have the ability and authority to enter into such waiver. This reservation and waiver is a prerequisite for submitting a proposal or response to this RFP, and award of a contract. Failure to agree to the reservation and waiver will result in the proposal or response to the bid/RFP being found nonresponsive and rejected. Any entity awarded a contract or submitting a proposal or response to the bid/RFP agrees not to sue, file a claim, or make a demand of any kind, and will indemnify and hold harmless the City and/or County and its employees, volunteers, agents, and its elected and appointed officials from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses, sustained or asserted against the City and/or County, arising out of, resulting from, or attributable to the releasing of the contract or the proposals and responses to the RFP, awards, and other documents in accordance with the state public records laws.

INSTRUCTIONS TO BIDDERS

LANCASTER COUNTY, NEBRASKA

PURCHASING DIVISION

E-Bid

1. **BIDDING PROCEDURE**

- 1.1 Sealed bid, (formal and informal), subject to Instructions and General Conditions and any special conditions set forth herein, will be received in the office of the Purchasing Division, 440 So. 8th St., Lincoln, NE 68508, until the bid closing date and time indicated for furnishing Lancaster County, hereinafter referred to as "County", the materials, supplies, equipment or services shown in the electronic bid request.
- 1.2 Bidders shall use the electronic bid system for submitting bids and must complete all required fields. If you do not care to bid, please respond to the bid request and note your reason.
- 1.3 Identify the item you will furnish by brand or manufacturer's name and catalog numbers. Also furnish specifications and descriptive literature if not bidding the specific manufacturer or model as listed in the specifications.
- 1.4 Any person submitting a bid for a firm, corporation, or other organization must show evidence of his authority so to bind such firm, corporation, or organization.
- 1.5 Bids received after the time and date established for receiving bids will be rejected.
- 1.6 The Bidders and public are invited, but not required, to attend the formal opening of bids. At the opening, prices will be displayed electronically and/or read aloud to the public. The pricing is also available for immediate viewing on-line. No decisions related to an award of a contract or purchase order will be made at the opening.

2. **BID SECURITY**

- 2.1 Bid security, as a guarantee of good faith, in the form of a certified check, cashier's check, or Bidder's bond, may be required to be submitted with this bid document, as indicated on the bid.
 - 2.1.1 Bid security, if required, shall be in the amount specified on the bid. The bid security must be scanned and attached to the "Response Attachments" section of your response or it can be faxed to the Purchasing office at 402-441-6513. The original bid security should then be sent or delivered to the office of the Purchasing Division, 440 S. 8th St., Ste. 200, Lincoln, NE 68508 within three (3) days of bid closing.
 - 2.1.2 If bid security is not received in the Purchasing Division as stated above, the vendor may be determined to be non-responsive.
- 2.2 If alternate bids are submitted, only one bid security will be required, provided the bid security is based on the amount of the highest gross bid.
- 2.3 Such bid security will be returned to the unsuccessful Bidders when the award of bid is made.
- 2.4 Bid security will be returned to the successful Bidder(s) as follows:
 - 2.4.1 For single order bids with specified quantities: upon the delivery of all equipment or merchandise, and upon final acceptance by the County.
 - 2.4.2 For all other contracts: upon approval by the County of the executed contract and bonds.
- 2.5 County shall have the right to retain the bid security of Bidders to whom an award is being considered until either:
 - 2.5.1 A contract has been executed and bonds have been furnished.
 - 2.5.2 The specified time has elapsed so that the bids may be withdrawn.
 - 2.5.3 All bids have been rejected.
- 2.6 Bid security will be forfeited to the County as full liquidated damages, but not as a penalty, for any of the following reasons, as pertains to this bidding document:
 - 2.6.1 If the Bidder fails or refuses to enter into a contract on forms provided by the County, and/or if the Bidder fails to provide sufficient bonds or insurance within the time period as established in this bidding document.

3. **BIDDER'S REPRESENTATION**

- 3.1 Each Bidder by electronic signature and submitting a bid, represents that the Bidder has read and understands the bidding documents, the bid attributes, the bid attachments, and the bid has been submitted in accordance therewith.
- 3.2 Each Bidder for services further represents that the Bidder has examined and is familiar with the local conditions under which the work is to be done and has correlated the observations with the requirements of the bid documents.

4. **INDEPENDENT PRICE DETERMINATION**

- 4.1 By submitting this bid, the Bidder certifies that the prices in this bid have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor; unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder prior to bid opening directly or indirectly to any other Bidder or to any competitor; no attempt has been made, or will be made, by the Bidder to induce any person or firm to submit, or not to submit, a bid for the purpose of restricting competition.

5. CLARIFICATION OF SPECIFICATION DOCUMENTS

- 5.1 Bidders shall promptly notify the Purchasing Agent or designee of any ambiguity, inconsistency or error which they may discover upon examination of the bidding documents.
- 5.2 Bidders desiring clarification or interpretation of the bidding documents for formal bids shall make a written request which must reach the Purchasing Agent or designee at least five (5) calendar days prior to the date and time for receipt of formal bids.
- 5.3 Changes made to the bidding documents will be issued electronically. All vendors registered for that bid will be notified of the addendum. Subsequent Bidders will only receive the bid with the addendum included.
- 5.4 Oral interpretations or changes to the bidding documents made in any manner other than written form, will not be binding on the County; and Bidders shall not rely upon such interpretations or changes.

6. ADDENDA

- 6.1 Addenda are instruments issued by the County prior to the date for receipt of bids which modify or interpret the bidding document by addition, deletion, clarification or correction.
- 6.2 Addenda notification will be made available to all registered vendors immediately via e-mail for inspection on-line.
- 6.3 No formal bid addendums will be issued later than forty-eight (48) hours prior to the date and time for receipt of formal bids, except an addendum withdrawing the invitation to bid, or an addendum which includes postponement of the bid.

7. ANTI-LOBBYING PROVISION

- 7.1 During the period between the advertised date and the contract award, Bidders, including their agents and representatives, shall not directly discuss or promote their bid with any member of the County Board or County staff except in the course of County-sponsored inquiries, briefings, interviews, or presentations, unless requested by the County.

8. BRAND NAMES

- 8.1 Wherever in the specifications or bid that brand names, manufacturer, trade name, or catalog numbers are specified, it is for the purpose of establishing a grade or quality of material only; and the term "or equal" is deemed to follow.
- 8.2 It is the Bidder's responsibility to identify any alternate items offered in the bid, and prove to the satisfaction of the County that said item is equal to, or better than, the product specified.
- 8.3 Bids for alternate items shall be stated in the appropriate space on the E-Bid form. Bidders MUST attach to its bid documents in the Vendor Attachment Section of the E-Bid, a statement identifying the manufacturer and brand name of each proposed alternate, plus a complete description of the alternate items including illustrations, performance test data and any other information necessary for an evaluation.
- 8.4 The Bidder must indicate any variances and explain by item number from the bidding document no matter how slight.
- 8.5 If variations are not stated in the bid, it will be assumed that the item being bid fully complies with the County's bidding documents.

9. DEMONSTRATIONS/SAMPLES

- 9.1 Bidders shall demonstrate the exact item(s) proposed within seven (7) calendar days from receipt of such request from the County.
- 9.2 Such demonstration can be at the County delivery location or a surrounding community.
- 9.3 If items are small and mailable, and the Bidder is proposing an alternate product, the Bidder shall supply a sample of the exact item. Samples will be returned at Bidder's expense after receipt by the County of acceptable goods. The Bidder must indicate how samples are to be returned.

10. DELIVERY (Non-Construction)

- 10.1 Each Bidder shall state on the bid the date upon which it can make delivery of all equipment or merchandise. Time required for delivery is hereby made an essential element of the bid.
- 10.2 The County reserves the right to cancel orders, or any part thereof, without obligation, if delivery is not made within the time(s) specified on the bid.
- 10.3 All bids shall be based upon **inside** delivery of the equipment or merchandise F.O.B. to the County at the location specified by the County, with all transportation charges paid.
- 10.4 At the time of delivery, a designated Lancaster County employee will sign the invoice/packing slip. The signature will only indicate that the order has been received and the items actually delivered agree with the delivery invoice. This signature does not indicate all items meet specifications, were received in good condition and/or that there is not possible hidden damage or shortages.

11. WARRANTIES, GUARANTEES AND MAINTENANCE

- 11.1 Copies of the following documents, if requested, shall accompany the bid proposal for all items being bid:
 - 11.1.1 Manufacturer's warranties and/or guarantees.
 - 11.1.2 Bidder's maintenance policies and associated costs.
- 11.2 As a minimum requirement of the County, the Bidder will guarantee in writing that any defective components discovered within a one (1) year period after the date of acceptance shall be replaced at no expense to the County. Replacement parts of defective components shall be shipped at no cost to the County. Shipping costs for defective parts required to be returned to the Bidder shall be paid by the Bidder.

12. ACCEPTANCE OF MATERIAL

- 12.1 All components used in the manufacture or construction of materials, supplies and equipment, and all finished materials, shall be new, the latest make/model, of the best quality, and the highest grade workmanship.
- 12.2 Material delivered under this bid shall remain the property of the Bidder until:
 - 12.2.1 A physical inspection and actual usage of the material is made and found to be acceptable to the County; and
 - 12.2.2 Material is determined to be in full compliance with the bidding documents and accepted bid.
- 12.3 In the event the delivered material is found to be defective or does not conform to the bidding documents and accepted bid, the County reserves the right to cancel the order upon written notice to the Bidder and return materials to the Bidder at Bidder's expense.
- 12.4 Awarded Bidder shall be required to furnish title to the material, free and clear of all liens and encumbrances, issued in the name of the Lancaster County, Nebraska, as required by the bidding documents or purchase orders.
- 12.5 Awarded Bidder's advertising decals, stickers or other signs shall not be affixed to equipment. Vehicle mud flaps shall be installed blank side out with no advertisements. Manufacturer's standard production forgings, stampings, nameplates and logos are acceptable.

13. BID EVALUATION AND AWARD

- 13.1 The electronic signature shall be considered an offer on the part of the Bidder. Such offer shall be deemed accepted upon issuance by the County of purchase orders, contract award notifications, or other contract documents appropriate to the work.
- 13.2 No bid shall be modified or withdrawn for a period of ninety (90) calendar days after the time and date established for receiving bids, and each Bidder so agrees in submitting the bid.
- 13.3 In case of a discrepancy between the unit prices and their extensions, the unit prices shall govern.
- 13.4 The bid will be awarded to the lowest responsive, responsible Bidder whose bid will be most advantageous to the County, and as the County deems will best serve the requirements and interests of the County.
- 13.5 The County reserves the right to accept or reject any or all bids; to request rebids; to award bids item-by-item, with or without alternates, by groups, or "lump sum"; to waive irregularities and technicalities in bids; such as shall best serve the requirements and interests of the County.
- 13.6 In order to determine if the Bidder has the experience, qualification, resources and necessary attributes to provide the quality workmanship, materials and management required by the plans and specifications, the Bidder may be required to complete and submit additional information as deemed necessary by the County. Failure to provide the information requested to make this determination may be grounds for a declaration of non-responsive with respect to the Bidder.
- 13.7 The County reserves the right to reject irregular bids that contain unauthorized additions, conditions, alternate bids, or irregularities that make the bid incomplete, indefinite or ambiguous.
- 13.8 Any governmental agency may piggyback on any contract entered into from this bid.

14. INDEMNIFICATION

- 14.1 The Bidder shall indemnify and hold harmless, to the fullest extent allowed by law, the County, its agents, officers, employees and representatives from and against all claims, demands, suits, actions, payments, liability, judgements and expenses (including court-ordered attorney's fees), arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, civil rights liability, or injury to or destruction of tangible property, including the loss of use resulting therefrom, and that are caused in whole or in part by the Bidder, its employees, agents, any subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable. This section will not require the Bidder to indemnify or hold harmless the County for any losses, claims, damages and expenses arising out of or resulting from the sole negligence of the County, its agents, employees, or representatives.
- 14.2 In any and all claims against the County or any of its members, officers or employees by an employee of the Bidder, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 14.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the Bidder or any subcontractor under worker's compensation acts, disability benefit acts or other employee benefit acts.

15. TERMS OF PAYMENT

- 15.1 Unless stated otherwise, the County will begin processing payment within thirty (30) calendar days after all labor has been performed and all equipment or other merchandise has been delivered, and all such labor and equipment and other materials have met all contract specifications.

16. LAWS

- 16.1 The laws of the State of Nebraska shall govern the rights, obligations, and remedies of the parties under this bid and any contract reached as a result of this process.
- 16.2 Bidder agrees to abide by all applicable local, state and federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.
- 16.3 The Bidder agrees to hold the County harmless from any claims resulting from the Bidder's unlawful disclosure or use of private or confidential information.

17. EQUIPMENT TAX ASSESSMENT

- 17.1 Any bid for public improvement shall comply with Nebraska Revised Statutes 77-1323 and 77-1324. Indicating; every person, partnership, limited liability company, association or corporation furnishing labor or material in the repair, alteration, improvement, erection, or construction of any public improvement shall sign a certified statement which will accompany the contract. The certified statement shall state, stating that all equipment to be used on the project, except that acquired since the assessment date, has been assessed for taxation for the current year, giving the county where assessed.

18. AFFIRMATIVE ACTION

- 18.1 Each Bidder agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age, or marital status.
- 18.2 The successful Bidder will be required to comply with the provisions of the County's Affirmative Action Policy.
- 18.3 The Equal Opportunity Officer will determine compliance or non-compliance with the County's Affirmative Action Policy upon a complete and substantial review of successful Bidder's equal opportunity policies, procedures and practices.
- 18.4 The County provides equal opportunity for all Bidders and encourages minority businesses, women's businesses and locally owned business enterprises to participate in our bidding process.

19. INSURANCE

- 19.1 All Bidders shall take special notice of the insurance provisions required for all County contracts (see *Insurance Clause for All County Contracts*).

20. EXECUTION OF CONTRACT

- 20.1 Depending on the type of service provided, one of the following methods will be employed. The method applicable to this contract will be checked below:
 - a. **PURCHASE ORDER**, unless otherwise noted.
 - 1. This contract shall consist of a Lancaster County Purchase Order.
 - 2. A copy of the Bidder's bid response (or referenced bid number) attached and that the same, in all particulars, becomes the contract between the parties hereto: that both parties thereby accept and agree to the terms and conditions of said bid documents.
 - b. **CONTRACT**, unless otherwise noted.
 - 1. County will furnish of the Contract to the successful Bidder who shall prepare attachments as required. Insurance as evidenced by a Certificate of Insurance (as required), surety bonds properly executed (as required), and Contract signed and dated.
 - 2. The prepared documents shall be returned to the Purchasing Office within 10 days (unless otherwise noted).
 - 3. The County will sign and date the Contract and submit the Contract to the County Board of Commissioners for approval and signature.
 - 4. Upon approval and signature, the County will return one copy to the successful Bidder.

21. TAXES AND TAX EXEMPTION CERTIFICATE

- 21.1 The County is generally exempt from any taxes imposed by the State or Federal Government. A Tax Exemption Certificate will be provided as applicable.

22. E-VERIFY

- 22.1 In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to www.uscis.gov/everify.

INSURANCE CLAUSE FOR ALL CITY OF LINCOLN, LANCASTER COUNTY AND PUBLIC BUILDING COMMISSION CONTRACTS

Insurance coverage on this Contract will be required for the entities selected below

City of Lincoln Lancaster County Public Building Commission

Vendors must provide coverage & documents related to the items with a check mark in Sections 1 – 1.9.

This includes proof of coverage and waivers as required below.

All Vendors must comply with Sections 2-8.

**THE REQUIREMENTS HEREIN APPLY TO CONTRACTS TO BE ISSUED BY THE CITY OF LINCOLN,
LANCASTER COUNTY, AND THE LINCOLN-LANCASTER COUNTY PUBLIC BUILDING COMMISSION.
FOR PURPOSES OF CERTIFICATES, ENDORSEMENTS AND OTHER PROOF REQUIRED HEREIN, ONLY
INCLUDE THE ENTITY ISSUING THE CONTRACT.**

**FAILURE OF THE APPROPRIATE ENTITY (CITY, COUNTY, OR PUBLIC BUILDING COMMISSION) TO
OBJECT TO THE FORM OF THE CERTIFICATE OR ENDORSEMENT OR TO DEMAND SUCH PROOF AS
IS REQUIRED HEREIN SHALL NOT CONSTITUTE A WAIVER OF ANY OF THE INSURANCE
REQUIREMENTS SET FORTH BELOW.**

Insurance; Coverage Information

The Contractor shall, prior to beginning work, provide proof of insurance coverage in a form satisfactory to the City/County/PBC, which shall not withhold approval unreasonably. The coverages and minimum levels required by this Contract are set forth below and shall be in effect for all times that work is being done pursuant to this Contract. No work on the Project or pursuant to this Contract shall begin until all insurance obligations herein are met to the satisfaction of the City/County/PBC, which shall not unreasonably withhold approval. Self-insurance shall not be permitted unless consent is given by the City/County/PBC prior to execution of the Contract and may require submission of financial information for analysis. Deductible levels shall be provided in writing from the Contractor's insurer and will be no more than \$25,000 per occurrence or as may be approved by the City or County as appropriate. Said insurance shall be written on an **OCCURRENCE** basis, and shall be **PRIMARY, with any insurance coverage maintained by the City/County/PBC being secondary or excess.**

Certificates

The Contractor shall provide certificates of insurance and such other proof, such as endorsements, as may be acceptable to the City or County (as appropriate) evidencing compliance with these requirements. The Contractor shall provide a Certificate of Insurance demonstrating the coverage required herein and the necessary endorsements or other proof and waivers described herein and below before being permitted to begin the work or project pursuant to this Contract.

1. Commercial General Liability

The Contractor shall provide proof of Commercial General Liability Insurance with a minimum limit of not less than \$1,000,000 each occurrence and \$2,000,000 aggregate. These minimum limits can be met by primary and umbrella liability policies. Coverage shall include: Premises-Operations, Products/ Completed Operations, Contractual, Broad Form Property Damage, and Personal Injury. Such coverage shall be endorsed for the general aggregate to be on a **PER PROJECT** basis, and the Contractor shall provide an additional insured endorsement acceptable to the City/County/PBC. The required insurance must include coverage for all projects and operations of Contractor or similar language that meets the approval of the City/County/PBC, which approval shall not be unreasonably withheld.

1.1 Additional Insured (Requires an Endorsement Form)

All Contractors shall provide an Additional Insured Endorsement form or other proof showing the City/County/PBC as additional insured for commercial general liability, auto liability and such other coverages as may be required by the City/County/PBC. The form or other proof shall be as is acceptable to the City/County Attorney.

1.2 Automobile Liability

The Contractor shall provide proof of Automobile Liability coverage, which shall include: Owned, Hired and Non-Owned. Bodily Injury and Property Damage Combined Single Limit shall be at least \$1,000,000 Per Accident.

1.3 Garage Keepers / Garage Liability

The Contractor shall provide garage insurance, if required. Coverage shall include Garage Liability and Garage Keepers on a Direct Primary Basis, including Auto Physical Damage, with limits of not less than \$1,000,000 each accident Bodily Injury and Property Damage combined liability and Actual Cash Value auto physical damage. Coverage symbol(s) 30 and 21 shall be provided, where applicable.

1.4 Workers' Compensation; Employers' Liability

The Contractor shall provide proof of workers' compensation insurance of not less than minimum statutory requirements under the laws of the State of Nebraska and any other applicable State. Employers' Liability coverage with limits of not less than \$500,000 each accident or injury shall be included. The Contractor shall provide the City/County/PBC with an endorsement for waiver of subrogation or other proof of such waiver as may be acceptable to the City or County. The Contractor shall also be responsible for ensuring that all subcontractors have workers' compensation insurance for their employees before and during the time any work is done pursuant to this Contract.

1.5 Builder's Risk Insurance

The Contractor shall purchase and maintain builder's risk property insurance for all sites upon which construction is occurring as provided by Contract and all storage sites where equipment, materials, and supplies of any kind purchased pursuant to the Contract are being held or stored unless the Contractor receives notice that the City/County/PBC has obtained a builder's risk policy for itself. Except to the extent recoverable by Contractor from another subcontractor, deductibles shall be the responsibility of the Contractor. This coverage is required whenever the work under contract involves construction or repair of a building structure or bridge.

1.5.1 Waiver of Builder's Risk Insurance Carrier's Subrogation Rights

The Contractor and its subcontractor(s) waive all rights of action and subrogation that the insurance company providing the builder's risk policy may have against each of them and/or the City/County/PBC, Architect, and the officers, agents and employees of any of them, for all claims, damages, injuries and losses, to the extent covered by such property insurance. Such waiver of subrogation shall be effective for such persons even though such persons would otherwise have a duty of indemnification or contribution, contractual or otherwise, and even though such persons did not pay the insurance premium directly or indirectly, and whether or not such persons had an insurable interest in any property damaged. The Contractor or subcontractor shall provide proof of such waiver.

1.6 Pollution Liability

Contractors shall provide proof of pollution liability insurance arising out of all operations of the Contractors and subcontractors, due to discharge, dispersal, release, or escape of contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water with bodily injury and property damage limits of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate for:

- 1) Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death;
- 2) Property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed;
- 3) Defense including loss adjustment costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages;
- 4) Definition of pollution conditions shall include asbestos, lead, and mold so that these risks are covered if caused by Contractor/successful candidate's work or operations.
- 5) Coverage is required on an occurrence form.

1.7 Errors and Omissions; Professional Liability

Errors and Omissions or Professional Liability insurance, as may be required, covering damages arising out of negligent acts, errors, or omissions committed by Contractor in the performance of this Contract, with a liability limit of not less than \$1,000,000 each claim. Contractor shall maintain this policy for a minimum of two (2) years after completion of the work or shall arrange for a two year extended discovery (tail) provision if the policy is not renewed. The intent of this policy is to provide coverage for claims arising out of the performance of professional Services under this contract and caused by any error, omission, breach or negligent act, including infringement of intellectual property (except patent and trade secret) of the Contractor. This coverage is required whenever the Contractor or service provider is required to be certified, licensed or registered by a regulatory entity and/or where the provider's judgment in planning and design could result in economic loss to City/County/PBC.

1.8 Railroad Contractual Liability Insurance

If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or railroad crossing, the Contractor must provide proof acceptable to the City or County that any exception for such work in the Contractor's commercial general liability policy has been removed or deleted.

1.8.1 Railroad Protective Liability

If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing or otherwise required by the Special Provisions or applicable requirements of an affected railroad, the Contractor shall provide Railroad Protective Liability Insurance naming the affected railroad/s as insured with minimum limits for bodily injury and property damage of \$2,000,000 per occurrence, \$6,000,000 aggregate, or such other limits as required in the Special Provisions or by the affected railroad. The original of the policy shall be furnished to the railroad and a certified copy of the same furnished to the City/County/PBC Purchasing Department prior to any related construction or entry upon railroad premises by the Contractor or for work related to the Contract.

1.9 Cyber Insurance

The Contractor shall maintain network risk and cyber liability coverage (including coverage for unauthorized access, failure of security, breach of privacy perils, as well as notification costs and regulatory defense) in an amount of not less than \$1,000,000. Such insurance shall be maintained in force at all times during the term of the Contract and for a period of two years thereafter for services completed during the term of the Contract.

2. Cancellation Notice

All Contractors shall include an endorsement to provide for at least thirty (30) days' firm written notice in the event of cancellation during the term of the Contract and during the period of any required continuing coverages. The Contractor shall provide, prior to expiration of the policies, certificates and endorsement forms evidencing renewal insurance coverages. The parties agree that the failure of City/County/PBC to object to the form of a certificate and/or additional insured endorsement or endorsement forms provided shall not constitute a waiver of this requirement.

3. Risk of Loss

Except to the extent covered by the builder's risk insurance, the Contractor shall have the sole responsibility for the proper storage and protection of, and assumes all risk of loss of, any subcontractor's Work and tools, materials, equipment, supplies, facilities, offices and other property at or off the Project site. The Contractor shall be solely responsible for ensuring each subcontractor shall take every reasonable precaution in the protection of all structures, streets, sidewalks, materials and work of other subcontractors. Contractor shall protect its Work from damage by the elements or by other trades working in the area.

4. Umbrella or Excess Liability

The Contractor may use an Umbrella, Excess Liability, or similar coverage to supplement the primary insurance stated above in order to meet or exceed the minimum coverage levels required by this Contract.

5. Minimum Scope of Insurance

All Liability Insurance policies shall be written on an "Occurrence" basis only. All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted otherwise.

6. Indemnification

To the fullest extent permitted by law the Contractor shall indemnify, defend, and hold harmless the Owner, its elected officials, officers, employees, agents, consultants, and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible or intangible property, including the Work itself, but only to the extent caused by the negligent, wrongful, or intentional acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or

expense is caused in part by the negligence of a party indemnified hereunder. In the event the claim, damage, loss or expense is caused in part by the negligence of a party indemnified hereunder, the indemnification by the Contractor shall be prorated based on the extent of the liability of the party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce obligations of indemnity which would otherwise exist as to a party or person described in this Section. Nothing herein shall be construed to be a waiver of sovereign immunity by the Owner.

7. Reservation of Rights

The City/County/PBC reserves the right to require a higher limit of insurance or additional coverages when the City/County/PBC determines that a higher limit or additional coverage is required to protect the City/County/PBC or the interests of the public. Such changes in limits or coverages shall be eligible for a change order or amendment to the Contract.

8. Sovereign Immunity

Nothing contained in this clause or other clauses of this Contract shall be construed to waive the Sovereign Immunity of the City/County/PBC.

9. Further Contact

For further information or questions concerning coverage or acceptable forms, Contractors may contact the Purchasing Division or the department that issued the bid or the request for proposal.

For general questions regarding Insurance Requirements, please contact Risk Management for the City or County.

**Advertise 2 times
Friday, April 20, 2018
Friday, April 27, 2018**

**City of Lincoln/Lancaster County
Purchasing Division
NOTICE TO BIDDERS**

Sealed bids will be received by the Purchasing Agent of the City of Lincoln/Lancaster County, Nebraska BY ELECTRONIC BID PROCESS until: **12:00 pm, Friday, May 4, 2018** for providing the following:

**Poly Patch Applicator Rental & Mastic Pave Patch
Bid No. 18-080**

Bidders must be registered on the City/County's E-Bid site in order to respond to the above Bid. To register go to: lincoln.ne.gov (type: e-bid - in search box, then click "Supplier Registration").

Questions concerning this bid process may be directed to City/County Purchasing at (402) 441-8103 or purchasing@lincoln.ne.gov