

**MEMORANDUM
COUNTY OF PLACER
DEPARTMENT OF ADMINISTRATIVE SERVICES
PROCUREMENT SERVICES DIVISION**

TO: Honorable Board of Supervisors

FROM: David Seward, Purchasing Manager 

DATE: April 3, 2007

SUBJECT: Approve a Blanket Purchase Order through a Competitively Bid Cooperative Purchasing Agreement with the State of California with Ennis Paint, Inc. for Water Borne Traffic Line Paint in the Maximum Amount of \$100,000.00

ACTION REQUESTED

Approve the use of State of California Contract No. 1-07-80-03 for the purchase of water borne traffic line paint from Ennis Paint, Inc. of Ennis, TX, in the maximum amount of \$100,000.00, and authorize the Purchasing Manager to sign the resulting blanket purchase order.

BACKGROUND

The Department of Public Works, Road Maintenance Division, requires an annual agreement for the purchase of water borne traffic line paint. Typically, the department purchases water borne traffic line paint through the State of California's competitively bid annual contract, which offers the pricing benefit derived from large volume buying. Section 1.3(e)(3) of the Purchasing Policy Manual authorizes the use of another government agency's contract that has been awarded as the result of a competitive bid. Procurement Services has concluded that it is unlikely that a bid solicitation at this time would result in prices below the County's total cost of piggybacking on the State contract. A copy of the State contract is submitted as Attachment A.

Upon your Board's approval, the resulting blanket purchase order will be effective for the period April 3, 2007 through March 31, 2008.

FISCAL IMPACT

The blanket purchase order resulting from this recommendation will total \$100,000.00. Public Works has budgeted sufficiently for these road maintenance expenditures in their FY 2006-07 budget.

Attachment A: State of California Contract for Water Borne Traffic Line Paint

cc: Kevin Taber, DPW Road Maintenance
Cynthia Taylor, DPW Administration

STATE OF CALIFORNIA

DEPARTMENT OF GENERAL SERVICES - PROCUREMENT DIVISION

Contract (Not Mandatory): 1-07-80-03	
PAINT, WATER BORNE TRAFFIC LINE	
EFFECTIVE DATES:	2/27/2007 Through 2/26/2009
SUPERSEDES CONTRACT NO. :	1-05-80-03
AREA:	STATEWIDE
DISTRIBUTION:	
BUYER NAME:	BRUCE FONG
BUYER PHONE:	916-375-4468

VENDOR ID:	673820
NAME:	ENNIS PAINT, INC
ADDRESS:	1509 S KAUFMAN ST ENNIS, TX 75119
CONTACT:	ANNETTE METCALF 972-878-8661
FAX:	972-875-9038
TERMS OF PAYMENT:	NET 45 DAYS
FOB:	Destination
MINIMUM ORDER:	AS SPECIFIED

E-MAIL: annette@ennispaint.com

SELLER'S PERMIT: C97 534784

SCOPE:

This contract covers the estimated two-year requirements of the State of California and participating local agencies for Water Borne Traffic Line Paint, per State Specification PTWB-31 dated September 2006. In addition, this contract contains an option to extend the contract for an additional one (1) year.

A local agency is any city, county, city and county, district, or other local governmental body or corporation empowered to expend public funds (Public Contract Code 10298).

NOTE:

This contract is NOT MANDATORY for use by all agencies. The State cannot guarantee that all the quantities specified in the solicitation will be purchased.

The State will not be obligated to purchase contractor's excess inventory of any line item if actual purchases vary from the anticipated purchasing pattern.

ORDERING PROCEDURE:

State agencies will submit orders on a Purchasing Authority Purchase Order (STD 69) directly to the contractor. Orders shall indicate contract number, agency billing code, Purchasing Authority Purchase Order Number, Leveraged Procurement Number, commodity number, description, unit price and extension on each order. Local agencies may submit a local agency purchase order directly to the contractor. A State issued bill code is required on all local agency purchase orders. For assistance with obtaining an agency

bill code, please e-mail Marilyn.Ebert@dgs.ca.gov and Wilson.Lee@dgs.ca.gov with the agency name and address along with a billing person contact and telephone number.

Orders will be submitted by US Mail or facsimile.

DGS ADMINISTRATIVE FEE:

The Department of General Services (DGS) will bill each State and local agency directly an administrative fee for the use of this contract. The administrative fee should not be included in the total order, nor remitted before an invoice is received from DGS. This fee is waived for purchase orders to California certified small businesses. See DGS price book at www.dgs.ca.gov/publications (click on DGS price book) for current fees.

For billing, for both state and local agencies, send a copy of your purchase order to:

DGS-Procurement Division
Attn: Data Entry Unit
PO Box 989052
West Sacramento, CA 95798-9052

MINIMUM ORDER:

Minimum order shall be one pallet of four (4) fifty-five (55) gallon drums or five (5) bulk containers.

Less than minimum orders will be processed as FOB origin (Contractor's nearest location) and the delivery charge will be prepaid and added to the invoice. To determine the paint price for less than minimum orders, please use the following formula:

Paint Price (Gallon) + Container Price + Delivery Charge = Total Price

Note: See price sheets (less than minimum order section) for prices on paint and containers. Delivery charge shall be established by the agency and supplier or the agency and designated transportation company. State agencies will have to contact Department of General Services, Procurement Division, Transportation Management.

SAMPLING AND TESTING:

Refer to Attachment A, Miscellaneous Requirement, Section 1.0 (Quality Assurance Provisions).

Note: All other State and Local agencies shall make arrangements with the contractor to sample paint, if necessary.

DELIVERY:

Delivery shall be FOB Destination and completed in full within 30 calendar days after receipt of order. If ordering less than minimum order (see minimum order requirements above), the delivery shall be FOB origin (contractor's nearest location).

Delivery may be requested by the following three methods:

1. The orders issued within the first 30 calendar days of the contract effective date, the delivery shall be completed in full within 60 calendar days. All other orders shall be completed within 30 calendar days.
2. Delivery according to a predetermined schedule.
3. Random partial shipments from an order by using a "REQUEST FOR DELIVERY."

NOTE: The time required by the Department of Transportation (DOT) Laboratory to certify a lot will be deducted from the 30 calendar day delivery requirement.

SUPPLIER IS REQUESTED TO MAKE DELIVERIES IN LOS ANGELES COUNTY, ORANGE COUNTY, SAN BERNARDINO METROPOLITAN AREA, AND SAN DIEGO METROPOLITAN AREA DURING OFF-PEAK HOURS. OFF-PEAK HOURS ARE 10:00 AM TO 4:00 PM.

The delivery charge will be established by the agency and supplier or the agency and designated carrier.

MSDS:

SUPPLIER SHALL SEND A COMPLETED COPY OF THE MATERIAL SAFETY DATA SHEET (MSDS) TO THE PROCUREMENT DIVISION AND TO EACH STATE OR LOCAL AGENCY TO WHICH DELIVERY IS MADE.

PRICES:

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All prices quoted for material costs shall be fixed as the maximum costs for the contract period and no price increase shall be permitted.

Price Declines

1. The supplier shall immediately notify the State of all manufacturer's price declines and the State shall receive full benefit of such declines, effective on the date of the manufacturer's general public announcement.
2. If the price escalates after a decline, the maximum the contractor would be allowed to increase would be the original price quoted.
3. If the supplier fails to notify the State within five working days of the manufacturer's publicly announced price decline, the State may deem the contractor non-responsible, which can affect this contract and future bidding opportunities.

SUPPLIER'S LOCATION(S):

List below the location or locations to which orders shall be sent.

NAME OF COMPANY: Ennis Paint, Inc
STREET ADDRESS: 1509 S Kaufman Street
CITY, STATE, & ZIP: Ennis, TX 75119
NAME OF CONTACT: Annette Metcalf
TELEPHONE NO.: 972-878-8661, ext 321
FAX NO.: 972-875-9038

MANUFACTURER'S LOCATION:

NAME OF COMPANY: Ennis Paint, Inc.
STREET ADDRESS: 203 2nd Street
CITY, STATE, & ZIP: Bakersfield, CA 93304
PHONE/FAX NO.: 661-328-0503 FAX 661-328-0504
POINT OF CONTACT: Richard Gonzales/Annette Metcalf

PACKAGING:

All containers shall comply with the governing shipping classification and the appropriate Dangerous Articles Tariff.

All orders shall call for paint to be palletized; pallets shall be furnished by the contractor. Pallets shall be size 6, type 2, new or reconditioned, and of a quality and construction for the weight and purpose intended, suitable for use with forklift trucks, and in accordance with State of California Specification 3990-01A-01 dated January 2001. Pallets become State property. All containers to be securely banded on the pallets to eliminate possibility of dumping. Pallet quantities shall be 4-55's gal. per pallet. Palletization as stated here and in Specification PTWE-01, Section 5.1 shall not apply to bulk containers. Fifty-five (55) gallon drums shall be equipped with a 2-1/4" diameter bung in the removable head to facilitate pumping the contents without removing the head.

Bulk containers shall comply with the governing shipping classification and the appropriate Dangerous Articles Tariff.

Exterior packaging is to show the contents and the order number. All packaging is to conform to the applicable freight classifications, Surface Transportation Board and/or postal regulations, and is to be of a quality to assure final delivery without damage to the contents.

DEMURRAGE:

90 days after delivery in bulk container, if the container is not returned, a demurrage of \$15.00 per container per day may be charged. Demurrage may not exceed \$15.00 per bulk container per day.

No demurrage for a specific tote shall apply after the date the supplier has been notified by telefax that the tote is available for pick up. Ten (10) days before the ninety (90) day start of the demurrage charge the contractor must notify the Caltrans location where the tote was delivered to before the demurrage charge can be applied.

THERE SHALL BE NO DEPOSIT FOR BULK CONTAINERS OR DRUMS.

Damage sustained to the container while in State possession will be compensated for by the State.

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Supplier to state the container replacement value here \$2000.00. If the supplier has not picked up the empty container within thirty days of notice to do so, the State may ship the container to the supplier, freight collect. No demurrage shall apply after the supplier has been notified to pick up the empties.

AN INVENTORY, LISTING EACH TOTE BY TOTE ID NUMBER, STATING DELIVERY DATE AND RETURN DATE WILL BE MAINTAINED BY THE SUPPLIER FOR EACH D.O.T. DELIVERY LOCATION.

For Totes with Liners:

If the before-filling weight of the empty tote with liner exceeds the stamped tare weight (tare weight to include liner weight) of the tote by more than 150 pounds, the tote shall be immediately removed from use for purposes of this contract until said tote liner has been cleaned or until a new tote liner has been installed. Compensation for any tote liners used during the course of this contract shall be considered to be included in the price per gallon bid for paint.

For Totes used without Liners:

If the before-filling weight of the empty tote exceeds the stamped tare weight by more than 100 pounds, the tote shall be immediately removed from use for purpose of this contract until said tote has been cleaned to bare metal. Cost of cleaning totes and disposing of any residues resulting from such cleaning shall be included in the price per gallon bid for paint and no additional compensation will be paid to the supplier for cleaning totes.

In case of conflict between specification text and tote drawing, the drawing shall be the governing specifications.

TOTE USAGE:

In addition to the use of totes for transfer and storage of paint supplied by the supplier, the supplier is hereby notified that Caltrans will be using up to fifteen (15) totes as on-board paint containers on Caltrans stripers. Said totes shall not remain on a stripers in excess of two weeks. Compensation for the use of up to fifteen (15) totes as on-board paint containers shall be considered to be included in the bid price per gallon for paint and no other compensation will be provided. All other contract conditions shall apply, including any demurrage charges and responsibility for tote damage caused by Caltrans.

DEMOUNTABLE WEIGHT TAGS:

Weight tags, decals, or otherwise removable labels shall be affixed to each tote prior to shipping. Each tag, decal, or labels shall include tote number, date of weighing, weight before filling, weight after filling, conversion of net weight to gallons, manufacturer's lot number, State P.O. Number, and the name of person authorized to perform weighing of the totes. The required data for each tote shall be written legibly using permanent ink. Weight tags, decals, or labels shall be weather resistant or enclosed in a weather resistant envelope-type cover. Data written directly on the tote, and which is not easily removable from the tote, is not acceptable.

TOTE RECORDS:

Each tote shall have a separate and distinct tote number. The supplier shall maintain and present on demand a separate and complete record of the activity of each tote (including information described in DEMOUNTABLE WEIGHT TAGS above, and including use, if any, by non-Caltrans agencies or private contractors). Failure to maintain and surrender such records on demand may result in suspension of the contract and disqualification from bidding on future contracts.

BASIS OF PAYMENT:

Totes shall be weighed immediately before and after each filling. For billing purposes, the contractor shall use the difference between, before, and after weights for each tote to convert net weight to gallons. Conversion shall be made to the nearest whole gallon of paint delivered. That portion of a gallon over the nearest whole gallon of delivered paint will not be considered a pay quantity. Actual weight per gallon must comply with allowable variations from qualifying sample (see Specification PTWB-01, Section 3.3.6, Density).

INVOICING REQUIREMENTS:

The contractor is to render invoices as instructed on individual orders. Invoices shall include the order number, the contract number, the commodity code number, quantity, the unit price and the extension. State sales and/or use tax is to be added to each invoice. The sales tax rate applied should be based on the rate of the area product is to be delivered to.

USAGE REPORTS:

Contractor shall submit a Quarterly Detailed Usage Report along with a copy of ALL purchase orders pertaining to this contract, to the contract manager. Quarterly reports are required within two weeks after the end of March, June, September and December of each calendar year.

Contractors must report the sales activity for all resellers listed in their contract.

Any report that does not follow the required format, or that excludes required information will be deemed incomplete and returned to the contractor.

The quarterly report must include the following information:

- A. Calendar quarter number and year
- B. Contract number
- C. Contractor
- D. Contractor contact information
- E. Agency name
- F. Purchasing Authority Purchase Order number
- G. Purchasing Authority Purchase Order date
- H. Agency billing code
- I. Commodity number
- J. Quantity
- K. Contract price
- L. Extension total
- M. Agency contact
- N. Agency address
- O. Agency phone

The total dollars for the quarter should be the sum of the total dollars per purchase order for all purchase orders. It is NOT the sum of monies invoiced or payment received.

Tax must NOT be included on the quarterly report, even if included on the purchase order.

The purchase order total value should only be reported once in the quarter identified by the purchase order date regardless of when the services were performed, products delivered, purchase orders invoiced, or payments received.

Within ten (10) working days of contract award, the contractor must submit a preliminary copy of their Monthly Detailed Usage Report, which shall contain all the elements that have been specified above. The State will review and determine acceptability of the report.

Send the Contract Usage Report with purchase orders to the following address:

Department of General Services
Procurement Division
Attn: Bruce Fong
P.O. Box 989054
West Sacramento, CA 95798-9054

NOTE:

Contractor shall comply with each of the reporting requirements as specified. If the contractor fails to meet delivery terms as specified for any one of the required reports, a discount will be added to the contract price. A discount of 1% will be added to all future orders for 30 days or until the delinquent report(s) are delivered, whichever is greater. At the end of the 30 days or at the time of delivery of the reports, the pricing will revert to the original contract price.

Reporting compliance penalty will commence three (3) months after contract award.

LATE DELIVERY CHARGES:

Late Delivery Charges will be assessed if:

1. Complete orders are not delivered within 30 days after receipt of the order by the vendor.
2. Partial orders are not delivered within time schedule shown on the predetermined delivery schedule.
3. Random partial shipments are not delivered within 30 days after the receipt of a "REQUEST FOR DELIVERY" by the vendor.

In the event that delivery is not made as required, per any valid order, it is agreed by the parties to the contract, unless the delay is authorized in writing by the State, that damages will be sustained. Further, it is agreed, that it is impracticable and extremely difficult to ascertain and determine the actual damage which the State will sustain in the event of and by reason of such delay. It is therefore, agreed by all parties to the contract that the contractor will pay liquidated damages of 250.00 per

calendar days per order to the State until such time the product on the order is delivered, or until the date after which the delivery will not be accepted, as specified in writing by the State, whichever occurs first. In no case, shall the total damages assessed against the contractor exceed 50 percent of the total value of the order in question. In the event the damages are not paid outright by the contractor, the State reserves the right to deduct the total liquidated damages from any monies due, or that may become due, to the contractor. The General Provisions, Article 26, "Rights and Remedies of State for Default", shall remain in effect as specified in Article 26.

EXTRAORDINARY EXTENSION OPTION:

In the event of an extraordinary circumstance the State may extend the contract for up to an additional year beyond the stated term and any noted extensions. Extensions during this period may occur in increments until the establishment of a new contract (not to exceed one year). Exercise of this option may occur in the event that a replacement contract cannot be established due to the protest of an intent to award, or loss of key procurement staff, or extraordinary circumstance that would otherwise cause an unanticipated disruption in the contracting process.

If necessary, prices may be increased during an extraordinary extension option period, to the extent that the price determined to be "fair and reasonable." Requests for price increase(s) shall include substantiated information to support the proposed increase (e.g., manufacturer's price list, significant changes in published market indicators for the industry, certified raw material cost data, and any other substantiating information as requested by the State). In no event will price increases be accepted with retroactive effective dates.

NOTE:

Failure to adhere to the following terms and conditions of the bid may be cause to terminate this contract.

The State expects immediate response from the contractor in the event of a paint failure causing a down condition of the striping or spray equipment.

For Example -

CRITICAL SITUATION: In the event that the delivered paint affects the operating ability of the equipment, such as causing plugged paint lines, pumps, paint guns, etc., the vendor shall contact the Department of Transportation within two hours of notification and remedy the situation within thirty six hours of notification.

PROBLEM SITUATION: In the event that the performance or quality of the delivered paint is questioned, such as slow dry time, poor bead retention, poor adhesion, etc., the vendor shall contact the Department of Transportation within two hours of notification and remedy the situation within seventy two hours of notification.

If the State requires a Service Representative to participate in a problem solving situation (either on site or by telephone) outlined in either of the above described situations, the vendor's representative shall be fully qualified, both mechanically and technically, to solve the problem. A "Salesman" or "Regional Manager" or other unqualified representative does not fulfill the intention of this section.

ITEM NO.	COMMODITY NO. VENDOR PART NO.	VENDOR NO.	UNIT	DESCRIPTION	UNIT PRICE
NORTHERN CALIFORNIA					
1	8010-900-3652-7	673820	GL	PAINT TRAFFIC LINE WATER BORNE RAPID DRY WHITE 55 GALLON Paint Unit Price: \$ 11.38 per gallon (For less than minimum orders)	9.1800
2	8010-900-3653-9	673820	GL	PAINT TRAFFIC LINE WATER BORNE RAPID DRY YELLOW 55 GALLON Paint Unit Price: \$ 10.89 per gallon (For less than minimum orders)	8.6900
3	8010-900-3649-7	673820	GL	PAINT TRAFFIC LINE WATER BORNE RAPID DRY BLACK 55 GALLON Paint Unit Price: \$ 10.41 per gallon (For less than minimum orders)	8.2100
4	8010-900-3654-0	673820	GL	PAINT TRAFFIC LINE WATER BORNE RAPID DRY WHITE BULK CONTAINER	8.9200

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5	8010-900-3655-2	673820	GL	PAINT TRAFFIC LINE WATER BORNE RAPID DRY YELLOW BULK CONTAINER	8.4300
6	8010-900-0004-5	673820	GL	PAINT TRAFFIC LINE WATER BORNE RAPID DRY BLACK BULK CONTAINER	7.9500

CONTAINER UNIT PRICES FOR LESS THAN MINIMUM ORDERS

Five (5) Gallon Container: \$ 58.90 (EACH)

55-Gallon Container: \$ 625.90 (EACH)

SOUTHERN CALIFORNIA

7	8010-900-3652-7	673820	GL	PAINT TRAFFIC LINE WATER BORNE RAPID DRY WHITE 55 GALLON	9.1600
Paint Unit Price: \$ 11.38 per gallon (For less than minimum orders)					
8	8010-900-3653-9	673820	GL	PAINT TRAFFIC LINE WATER BORNE RAPID DRY YELLOW 55 GALLON	8.6900
Paint Unit Price: \$ 10.89 per gallon (For less than minimum orders)					
9	8010-900-3649-7	673820	GL	PAINT TRAFFIC LINE WATER BORNE RAPID DRY BLACK 55 GALLON	8.2100
Paint Unit Price: \$ 10.41 per gallon (For less than minimum orders)					
10	8010-900-3654-0	673820	GL	PAINT TRAFFIC LINE WATER BORNE RAPID DRY WHITE BULK CONTAINER	8.9200
11	8010-900-3655-2	673820	GL	PAINT TRAFFIC LINE WATER BORNE RAPID DRY YELLOW BULK CONTAINER	8.4300
12	8010-900-0004-5	673820	GL	PAINT TRAFFIC LINE WATER BORNE RAPID DRY BLACK BULK CONTAINER	7.9500

CONTAINER UNIT PRICES FOR LESS THAN MINIMUM ORDERS:

Five (5) Gallon Container: \$ 58.90 (EACH)

55-Gallon Container: \$ 625.90 (EACH)

FOR DATA ENTRY USE ONLY

13	8010 909-0001-5	673820	VA	PTBSA-DGS/PROCUREMENT USE ONLY	VARIABLE
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