North Dakota Department of Transportation
INVITATION TO BID **NDDOT Contract # 50140071**

Bid Number: 630-49-13-050	Bid Opening Date & Time: 12/31/2013 02:00 PM
Items: Paint, Omaha Orange	Buyer: Sue Eberle
Bid Mailing Address: 608 East Boulevard Avenue	Telephone Number: 701-328-4465
City, State, Zip: Bismarck, ND 58505-0700	Email: seberle@nd.gov
Contract Period: 02/01/2014 TO 01/31/2015	Date Prepared: 12/12/2013

BID RESPONSE

Please submit your bid response on the attached forms in conformance with the instructions and specifications in the NDAC 04-12-01 – 04-12-16. One copy of your bid response must be returned to the North Dakota Department of Transportation (NDOT) prior to the time and date specified for the bid opening. Bid responses received after the time and day specified for the bid opening will be rejected. Mark envelope with word "BID" and the opening time and date. **If your bid response is accepted by NDDOT, then your bid response will constitute a binding contract.**

CONTRACT

This contract is made and entered into by and between NDDOT for the state of North Dakota (hereinafter state) and

Vendor Name	Vendor Address
United Industrial Coatings	308 1st Ave N

(hereinafter vendor). In consideration of and for the acceptance by the state of the offer made by the vendor pursuant to the bid response, the vendor agrees and promises to sell, furnish, and deliver to the state, at the time, places, and prices specified in the bid response, all goods, merchandise, supplies, commodities, equipment, or other items contained in the bid response and for which the vendor has been awarded this contract by the state. The vendor shall fully perform this contract in accordance with the terms and conditions contained in the bid response including all specifications, rules, or regulations mentioned therein, and shall comply with all applicable provisions of the NDAC 04-12-01 – 04-12-16 promulgated by the State Purchasing Division; such manual being made a part of this contract by reference. The Risk Management Appendix and Civil Rights Appendix, both attached, are hereby incorporated into and made a part of this agreement.

The following must be completed by the vendor; failure to do so may result in the rejection of the vendors bid proposal.

Vendor Name		
United Industrial Coatings		
Mailing Address: 308 1st Ave N, Fargo, ND 58107		
Telephone Number: 701-237-3120	Fax Number: 1-240-201-6585	E-mail Address: RHawthorne@unitedautotec.com

RYAN HAWTHORNE (General Manager)
Name & Title (Type or Print)

Signature

12-20-13
Date

STEVE LARSON PRES

To be signed by **Owner; Partner; Corp. Pres., Vice Pres., or other authorized Corp. Officer** or bid may be rejected. (if signed by other authorized Corp. Officer, please attach copy of Power of Attorney or other documentation showing authority to sign.)

FOR ND DEPARTMENT OF TRANSPORTATION USE ONLY Accepted by the state according to provisions of award.

Authorized Signature: for Grant Levi — Darcy R. Rosendahl		Date: 16 JAN 2014
Recommended for approval	Date 1/14/2014	Approximate contract amount: $ Unknown

NDDOT North Dakota Department of Transportation

APPROVED as to execution this 15 day of JANUARY 2014
ATTORNEY GENERAL
By _____
SPECIAL ASST. ATTORNEY GENERAL

CLA 7480 (Div. 50)

MAILING INSTRUCTIONS

Mail only one completed and signed request for bid document per envelope, unless instructed otherwise. Request for bid documents not signed or received after the date and time specified in the request for bid will be rejected.

BID IS: ☐ SEALED ☒ NOT SEALED

Address the envelope containing your response in the following manner:

BID NUMBER - **630-49-13-050**
BID OPENING DATE/TIME - **DECEMBER 31, 2013, 2:00 P.M.**
N. D. DEPT. OF TRANSPORTATION
PROCUREMENT, RM 222
608 E BOULEVARD AVE
BISMARCK ND 58505-0700

BIDDERS INSTRUCTIONS

1. **Acceptance/Rejection/Waiver.** The state of North Dakota reserves the right to accept or reject any or all bids and to waive minor irregularities or technicalities, provided such waiver does not substantially change the offer or provide a competitive advantage to any vendor, in the judgment of the state.

2. **Affirmative Action.** The contractor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of individuals with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin, or disability.

3. **Assistance to Bidders with a Disability.** Bidders with a disability that need an accommodation must contact the Procurement Officer prior to the deadline for receipt of bids so that reasonable accommodations can be made.

4. **Alterations and/or Corrections.** The person signing the bid response must initial any or all manual alterations and/or corrections to the bid response. Those bid responses with alterations and/or corrections that are not initialed may be rejected.

5. **Award.** Award will be made to a responsive, responsible bidder with the lowest price considering conformity with specifications, terms of delivery, quality, and serviceability. NDDOT reserves the right to consider bids varying in minor respects from any specific requirements herein, but judged to meet the intent of this request.

Contracts are not awarded at the bid opening. Bid responses will be firm for 30 days, unless stated otherwise.

6. **Awards, Splitting of.** The state reserves the right to make awards by item, groups of items, or on the total low bid for all the items specified as indicated in the detailed specifications. Bidders interested only in the total low bid for all items are to state 'all or nothing' on their bid response.

7. **Bidder Checklist:** HAVE YOU REMEMBERED TO:
   - Bid F.O.B. Destination (Ship To: Address) Freight Prepaid.
   - Mark envelope as indicated.
   - Review Standard Terms and Conditions contained in this solicitation.
   - Sign your bid on the cover sheet.
   - Initial all bid/pricing changes you made.
   - Bid responses must be submitted in ink or type written.
   - Review and complete all requirements contained in this solicitation to ensure compliance.

8. **Bidder's Responsibility and Late Bids.** It is the bidder's responsibility to ensure that a bid response is physically deposited with the NDDOT Procurement Office prior to the date and time specified for the opening. Late bid responses will not be opened and will be rejected and returned regardless of the degree of lateness or the reasons. It is the bidder's responsibility to comply with the State of North Dakota's laws and regulations.

9. **Bid Summary.** Bid summaries are available when the bid has been awarded. When bids are issued using the State's electronic bidding system, the bid summary will be posted and available for download from: http://www.nd.gov/spo/

Bid summaries will be mailed to those bidders who supply a self-addressed, stamped envelope with their bid response. A copy of the bid summary may also be obtained by visiting the NDDOT Procurement Office during normal working hours.

10. **Bid Bond.** Waived in this instance: however, bidder(s) failing to enter into a contract with this office, upon notification of award, may be subject to removal from the bidder's list.

11. **Clarifications, Bid Changes and Questions Deadline.** The Procurement Officer is the point of contact. Any irregularities, lack of clarity, requested bid changes and all questions regarding this bid and the procurement process must be addressed to the Procurement Officer referenced on the first page of this document **not later than end of business December 18, 2013.** (Contact information is indicated on cover page). If a bid amendment is required, it will generally be issued after this date.

The bidder is cautioned that the requirement of this solicitation can be altered only by written amendments and that verbal communications from whatever source are of no effect.

12. **Definitions.**

- Bidder - any person or firm submitting a competitive bid in response to a solicitation.
- Bid summary - a summary of all bid responses received by the NDDOT Procurement Office.
- Bid response - the executed document submitted by a bidder in response to a solicitation.
- Contract - a deliberate written agreement between two or more competent persons to perform specific act or acts.
- Contractor - any person or firm having a contract with a governmental body.
- Solicitation - the process of notifying prospective bidders that the state wishes to receive bids for furnishing goods or services.

13. **Deviation from Specifications Supplied by NDDOT.** Unless otherwise indicated by the bidder, it will be assumed that specifications will be met in all respects. Any deviation from the minimum specifications indicated herein must be clearly pointed out PRIOR TO THE DEADLINE FOR RECEIPT OF QUESTIONS; otherwise, it will be considered that the items offered are in strict compliance with these specifications, and the bidder will be held responsible.

14. **Electronic & Facsimile Bids.** Bid responses are not to be email attached or faxed to the NDDOT unless this transmittal method has been authorized by the Procurement Officer or bid document. (Contact the Procurement officer regarding additional requirements and exceptions.) Bid responses electronically submitted or faxed may be rejected as non-responsive.

15. **Freight/F.O.B. Destination.** Freight and transportation charges are to be included in the price of the products, unless otherwise specified in the solicitation. (F.O.B. - Free On Board).

16. **Indemnification.** The attached Risk Management will be incorporated into the contract. The successful Bidder may be required to furnish proof of insurance, as detailed in the Risk Management Appendix.

17. **Multiple Bid(s).** Bidders may submit more than one bid response(s) for the item(s) specified in the solicitation. Each bid submitted must comply in all aspects with the bid requirements and these instructions.

18. **Negotiation.** NDDOT reserves the right to negotiate with the successful bidder to ensure the best possible consideration is afforded to all concerned.

19. **Open Records.** After award, bid documents will be subject to the North Dakota open records law. Records are closed or confidential only if specifically stated in law. If a request for public information is received, the procurement officer will determine whether the information is an exception to the North Dakota open records law, and the information will be processed appropriately. Those interested in reviewing the bid file, are to make arrangements, with the NDDOT Procurement Office. The NDDOT Procurement Office hours are 8:00 a.m. - 12:00 p.m. and 1:00 p.m. - 5:00 p.m. Monday through Friday.

20. **Packaging.** All shipments are to be packaged according to accepted commercial practices to avoid damage in shipment.

21. **Performance Bond.** Successful bidders will not be required to furnish a performance bond; however, failure to perform satisfactorily will result in the immediate termination of the contract(s) and bidders may be subject to removal from the bidder's list.

22. **Preparation of Bid.** Bids will be accepted on NDDOT forms only. If the document is located on the State Procurement Office website, then bidder is to download the document and type or write their responses as indicated by the bid document. Alteration of the bid document may be cause for bid rejection. Bidders are cautioned to examine specifications and all instructions. Failure to do so will be at the bidder's risk.

23. **Pricing.** Unit prices are to be stated in United States currency and based on the unit of measurement specified in the solicitation, F.O.B. Destination, to the NDDOT delivery locations specified herein.

In the event of mathematical differences between the unit price and extended total, the unit price will prevail.

24. **Protest of Award.** An interested party may protest the award within seven days after receiving notice in accordance with N.D.C.C. 54-44.4-12 and N.D.A.C. 4-12-14.

25. **Receipt of Bids.** All sealed bids received by the NDDOT Procurement Office will be opened and read in Room 222, 608 East Boulevard Avenue, Bismarck, North Dakota, at the time specified in the solicitation.

26. **Rejection.** Bid responses may be rejected if:

- The bid response is not legible.
- The bid response is not submitted on the form supplied.
- The bid response is not completed as requested.
- The bid response is completed and/or signed in pencil.
- The bid response is faxed to the procurement office.
- The bid response is not signed by an authorized company representative.
- The bid response is not responsive to the specifications or other requirements of the solicitation.
- Changes to the bid response are not initialed.
- The bid response is received after the time and date specified.
- The bidder has not met Vendor Registration requirements or is suspended or debarred.
- The bid document has been altered by the bidder.
- The bidder is determined to be not responsible (N.D.A.C. 4-12-11-04).
- The price is not fair and reasonable
- Or a combination of above.

27. **Signature.** The bid must be signed manually in ink. The name and title of the person signing the bid response must be typed or printed above the signature. The bid must be signed by **Owner, Partner, Corp. Pres., Vice Pres., or other authorized Corp. Officer** or the bid may be rejected. If signed by other authorized Corp. Officer or representative, please attach a letter signed by the Owner, Partner, Corp. Pres., or Vice Pres. indicating the individual has authority to enter into a contract on behalf of the company (or a Power of Attorney).

28. **Supplemental Terms and Conditions.** Bids including supplemental terms and conditions will be accepted, but supplemental conditions that conflict with any conditions contained in this ITB or that diminish the State's rights will be considered null and void. The State is not responsible for identifying conflicting supplemental terms and conditions before issuing a contract award.

After award of contract:

a) If a conflict arises between a supplemental term or condition included in the bid and a term or condition of the ITB, the term or condition of the ITB will prevail, and,

b) If the State's rights would be diminished as a result of application of a supplemental term or condition included in the bid, the supplemental term or condition will be considered null and void.

Changes, modifications, additions, or alterations to the bid document could be cause for rejection of the submitted bid at the sole discretion of the NDDOT. Contact the Procurement Officer in writing prior to the deadline for clarifications.

29. **Taxes.** The State does not pay sales tax or federal excise tax. The state sales tax exemption number is E-2001. The federal tax-free transaction number is 45-0309764.

30. **Vendor Registration.** Bids will be accepted from bidders who are not currently Approved Bidders for the State of North Dakota; however, the successful bidder may be required to become approved prior to award, in accordance with N.D.C.C. 54-44.4-09. To become an Approved Bidder, you must: 1) register with the North Dakota Secretary of State (fees apply), and 2) submit a completed Bidder List Application to the ND State Procurement Office. Registration instructions and forms are available on-line at: www.nd.gov/spo/vendor. Contact the ND State Procurement Office at 701-328-2683 or infospo@nd.gov for assistance.

31. **Withdrawal or changes to a bid response prior to the bid opening date and time.** A bidder may withdraw or make a change to his bid response prior to the bid opening date and time. The request to make a change or withdraw must be in writing by a representative of the firm. The request to withdraw or change must be signed by the bidder or his designated representatives.

32. **Withdrawals after the bid opening date and time.** Withdrawals after the bid opening will be allowed only upon written approval from the NDDOT Procurement Office. Vendors continually withdrawing bids after the bid opening may be removed from the Vendor Database.

GENERAL CONTRACT TERMS AND CONDITIONS

1. **Applicable Law and Venue.** Any dispute arising out of this agreement will be resolved under the laws of the State of North Dakota.

2. **Binding Contract.** The acceptance of a bid response in writing by the purchasing agency constitutes a contract between the bidder and the State. Written acceptance from the purchasing agency will be in the form of a purchase order, notification of award, or contract. Any oral agreement or arrangement by a bidder with a State employee or purchasing agency will have no force or effect unless reduced to writing.

3. **Compliance with Laws, Nondiscrimination and Affirmative Action.** The contractor must, in performance of work under this contract, fully comply with all applicable federal, state or local laws, rules, regulations and policies, including those relating to nondiscrimination, affirmative action, accessibility and civil rights including Title VI of the Civil Rights Act of 1964. The contractor agrees to file all required reports on time, to make required payroll deductions, and to pay all taxes and premiums owed on time, including sales and use taxes and unemployment compensation and workers' compensation premiums. The contractor shall have and keep current at all times during the term of this contract all licenses and permits required by law.

4. **Contract Amendments, Waivers.** After a binding contract has been entered into, no changes (i.e. additions, substitutions, subcontracting or a price adjustment) may be made, unless prior approval has been obtained from the purchasing agency and Procurement Officer.

The terms of this contract shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties .Such waiver, consent, modification, or change, if made shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.

5. **Contract Term and Renewal Option.** The NDDOT will enter into a contract with an effective date **beginning February 1, 2014, and ending January 31, 2015**, inclusive. This contract may be renewed upon satisfactory completion of the initial contract term. The NDDOT reserves the right to execute up to two options to renew this contract for a period of twelve (12) months each, not to exceed thirty-six (36) months total. Renewals will be documented by amendment.

The NDDOT reserves the right to renegotiate price and terms provided that such negotiated price and terms fall within the original scope of work for this bid. Negotiations may be conducted annually or at such times that additional and unexpected services falling within the scope of the contract may occur. Such changes will be documented by amendment to the contract.

6. **Contract Termination.**

a. **Termination without Cause.** This contract may be terminated by mutual consent of both parties, or by either party upon 30 days' written notice.

b. **Termination for Lack of Funding or Authority.** The State may terminate this contract effective upon delivery of written notice to the contractor, or on any later date stated in the notice, under any of the following conditions:

i. If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term. The contract may be modified by agreement of the parties in writing to accommodate a reduction in funds.

ii. If federal or state regulations or guidelines are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.

iii. If any license or certificate required by law or regulation to be held by the contractor to provide the services required by the contract is for any reason denied, revoked or not renewed.

Any such termination of this contract under (i), (ii), or (iii), above, shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

c. **Termination for Cause.** The State by written notice of default to the contractor may terminate the whole or any part of this contract:

i. If the contractor fails to provide services required by this contract within the time specified herein or any extension thereof; or

ii. If the contractor fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms and after receipt of written notice from the State, fails to correct such failures within ten days or such longer period as NDDOT may authorize.

iii. The rights and remedies of the State provided in the above clause related to defaults by the contractor are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.

d. **Termination, Deliveries.** If the contract is terminated for any reason, the contractor is responsible for delivery of all commodities and services ordered prior to the termination, unless those orders had been canceled by the Purchasing Agency or Entity.

7. **Contract Price Adjustment:** The Contract Unit Prices shall be firm for the twelve (12) months of the contract period. On an annual basis, all unit prices may be subject to price adjustment (increase / decrease). The request for a price adjustment shall be submitted to the Procurement Office at least forty five (45) days before the scheduled contract expiration date and must include justification for the proposed change. The Procurement Officer will respond as follows:

1) The request may be granted,
2) The contract may be cancelled and solicitation may be re-advertised, or
3) The contract may be continued without change.

If a price increase is approved by the NDDOT, the date the increase will be effective along with the new unit prices will be included in an amendment document. Approval of any price increase renews the twelve month firm price period.

The State shall also be advised of and receive the benefit of any price decrease. The same notification and review process will apply to a decrease in cost.

8. **Materials and Workmanship.** All material and workmanship shall be subject to inspection and testing at the discretion of the purchasing agency.

9. **Inspection and Investigations.** The State reserves the right to conduct inspections and investigations related to the bidder and offered commodities or services to make determinations regarding compliance with the bid requirements and responsibility of the bidder.

10. **Billing and Payment Procedures:** Invoices are to be submitted as indicated on the purchase orders unless otherwise instructed. Failure to submit correct invoices to the appropriate NDDOT office may delay contractor payment.

Payment will normally be made within thirty days after delivery and acceptance of commodities or services under this contract and receipt of a correct invoice. All invoice and payment inquiries must be directed to the purchasing agency.

11. **Subcontracts, Assignment**: The contractor shall not subcontract, assign or transfer the contractor's interests or duties under this contract without express written consent of the purchasing agency.

12. **Successors in Interest**: The provisions of this agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

13. **Receiving:** Deliveries must arrive at the designated destination(s) during normal business hours unless other shipping/receiving instructions are issued by NDDOT personnel. The contractor shall contact the NDDOT to schedule delivery dates and times at least 24 hours in advance of delivery.

All NDDOT offices will be closed in recognition of State holidays. Any day declared a holiday by the President or Governor will also be recognized by office closure.

14. **Service Representative.** The contractor must provide a dedicated customer service representative to provide support for this contract. The contractor shall notify the Procurement Officer in the event the representative is changed.

NAME: Ryan T Hawthorne
(Name of person servicing this contract)

BUSINESS NAME: United Industrial Coatings

MAILING ADDRESS: 308 1st Ave N

CITY & STATE: Fargo ZIP CODE: 58107

PHONE NUMBER: 701-232-3120 TOLL FREE: 1-800-342-8542

FAX NUMBER: 240-201-6585 E-MAIL: RHawthorne@unitedautotech.com

SPECIAL TERMS AND CONDITIONS

1. **Contract Volume:** The quantities to be purchased as indicated herein are best estimates. Estimates are not to be considered as either a minimum or maximum, but rather an estimate based upon past and anticipated usage. NDDOT reserves the right to vary actual purchases from those indicated based on actual need. The successful bidder(s) will be required to fulfill purchase order requirements.

2. **Estimated Volume:** The volume of this contract is estimated at **26 Cases** per year. (15 cases of 1-gallon cans and 11 cases of 12-oz. cans.) Estimates are not to be considered as either a minimum or maximum, but rather an estimate based upon past and anticipated usage. The successful bidder(s) will be required to furnish actual purchase order requirements.

3. **Minimum Order Quantity:** Minimum order quantity shall be **1 case.**

4. **Record of Sales:** The successful bidder must maintain records of sales under the contract and furnish volume of sales information to Procurement upon request.

5. **Material Safety Data Sheet:** The successful bidder agrees to submit current Material Safety Data Sheets for all hazardous material identified to be furnished under this contract. Data shall be submitted whether or not the successful bidder is the actual manufacturer of these items. Failure to submit Material Safety Data Sheet may result in the successful bidder being considered non-responsive and result in termination of this contract.

6. **Specifications: Bidders shall submit detailed manufacturer's specifications along with this response**, and upon acceptance of the bid, these shall become part of the bidder's specifications. Unless otherwise indicated by the bidder it will be assumed that specifications will be met in all respects.

BID RESPONSE

ITEM NO.	QTY.	UNIT	DETAILED SPECIFICATIONS	PRICE/CASE
1	Alkyd Orange Enamel, formulated to match Omaha Orange Truck body finishes. Spray Paint, 12-Oz. Can, Ditzler Dar 60156 or approved equal.			
	BRAND PPG / Alk-200 PRODUCT NO. VICAIVAEROSOL Number of12-Oz. cans per case 16 $5.18 each			$ 82.88 per case
2	Alkyd Orange Enamel, formulated to match Omaha Orange Truck body finishes in a brushable resin. 1-Gallon can, Ditzler Dar 60156 or approved equal.			
	BRAND PPG / Alk-110 PRODUCT NO. Alk-11001B Number of 1-Gallon cans per case 1			$ 49.79 per gallon

ANY ALTERATIONS OR CORRECTIONS MADE TO THE UNIT OR TOTAL PRICE MUST BE INITIALED BY THE BIDDER. FAILURE TO DO SO MAY BE CAUSE FOR BID REJECTION.

BIDDER United Industrial Coatings

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
STOREKEEPER LIST

9/1/2011

61 - BISMARCK:
NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
BETTY DeGREEF
218 S AIRPORT ROAD
BISMARCK ND 58504
(701)328-6941 (701)328-6948 FAX

62 - VALLEY CITY:
NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
RENEE HAZELTON
1524 8TH AVENUE SW
VALLEY CITY ND 58072
(701)845-8803 (701)845-8804 FAX

63 - DEVILS LAKE:
NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
LISA VETSCH
316 6TH ST SE
DEVILS LAKE ND 58301
(701)665-5119 (701)328-0329 FAX

64 - MINOT:
NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
LINDA KILLMER
1305 HIGHWAY 2 BYPASS EAST
MINOT ND 58701-7922
(701)857-6928 (701)857-6944 FAX

65 - DICKINSON:
NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
SHARON PRIVATSKY
1700 3RD AVE W STE 101
DICKINSON ND 58601-3009
(701)227-6525 (701)227-6505 FAX

66 - GRAND FORKS:
NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
GEORGE PALO
1951 NORTH WASHINGTON
PO BOX 13077
GRAND FORKS ND 58208-3077
(701)787-6521 (701)787-6515 FAX

67 - WILLISTON:
NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
SUSAN PERCOSKI
605 DAKOTA PARKWAY WEST
PO BOX 698
WILLISTON ND 58802-0698
(701)774-2721 (701)774-2704 FAX

68 - FARGO:
NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
JOHN LEE
503 - 38TH STREET SOUTH
FARGO ND 58103-1198
(701)239-8910 (701)239-8915 FAX

BIDDER United Industrial Coatings

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
CIVIL RIGHTS APPENDIX

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor), agrees as follows:

1. Compliance with Regulations: The Contractor shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**, in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate, either directly or indirectly, in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation, made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, disability/handicap, or income status.**

4. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the North Dakota Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the North Dakota Department of Transportation, or the Federal Highway Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the North Dakota Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:

   a. withholding of payments to the Contractor under the contract until the Contractor complies, and/or
   b. cancellation, termination, or suspension of the contract, in whole or in part.

6. Incorporation of Provisions: The Contractor shall include the provisions of paragraphs 1 through 6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

The Contractor shall take such action with respect to any subcontract or procurement as the North Dakota Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation by a subcontractor or supplier as a result of such direction, the Contractor may request the North Dakota Department of Transportation to enter into such litigation to protect the interests of the State; and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

**The Act governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O. 12898.

Risk Management Appendix

Supply Contracts with Private Individuals, Companies, Corporations, Etc.:

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Contractor, or Contractor's delivery agent, shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota, the following insurance coverages:

1) **Commercial general liability** and **automobile liability** insurance.
2) **Workers compensation** insurance.

Contractor shall produce certificates of insurance or copies of insurance policies upon request by the State.

When a portion of a Contract is sublet, the Contractor shall obtain insurance protection (as outlined above) to provide liability coverage to protect the Contractor and the State as a result of work undertaken by the Subcontractor. In addition, the Contractor shall ensure that any and all parties performing work under the Contract are covered by public liability insurance as outlined above. All Subcontractors performing work under the Contract are required to maintain the same scope of insurance required of the Contractor. The Contractor shall be held responsible for ensuring compliance with those requirements by all Subcontractors.

RM Consulted 2007
Revised 6-07

NDDOT
North Dakota
Department of Transportation

NDDOT Contract No. 50140071A

North Dakota Department of Transportation

AMENDMENT TO CONTRACT NO. 50140071

Project No.

THIS AMENDMENT to the above-referenced contract is entered into by and between the State of North Dakota, acting through its Director of Transportation, hereinafter known as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and United Industrial Coatings, hereinafter known as the Contractor, whose address is 308 First Avenue North, Fargo, ND 58103.

WHEREAS, the parties entered into a contract on December 31, 2013; and

WHEREAS, the contract was competitively bid and awarded to the Contractor who had performed satisfactorily under the terms of the contract; and

WHEREAS, the Contractor has expressed a willingness to extend the term of the above-referenced contract for an additional twelve (12) month period; and

WHEREAS, the Contractor has requested a price increase; and

NOW THEREFORE, the Contractor and NDDOT agree that the term of the contract is extended through January 31, 2016, and that the terms of the contract shall be amended to incorporated the attached email from Emily Kemper, Customer Service Manager, United Industrial Coatings, dated January 8, 2015.

NDDOT
North Dakota
Department of Transportation

All other terms and conditions of the above-referenced contract are incorporated herein by reference and remain in full force and effect.

EXECUTED the date last below signed.

WITNESS:

Chuck Heath
NAME (TYPE OR PRINT)

Chuck Heath
SIGNATURE

To be signed by **Owner; Partner; Corp. Pres., Vice Pres., or other authorized Corp. Officer.** (If signed by other authorized Corp. Officer, please attach copy of Power of Attorney or other documentation showing authority to sign.)

CONTRACTOR:

UNITED INDUSTRIAL COATINGS
COMPANY NAME

STEVE LARSON
OFFICER'S NAME (TYPE OR PRINT)

SIGNATURE

PRESIDENT
TITLE

1/12/15
DATE

WITNESS:

Sondra Goebel
NAME (TYPE OR PRINT)

Sandra Goebel for the
SIGNATURE

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

Grant Levi
DIRECTOR (TYPE OR PRINT)

Darcy R. Rosendahl, Dep. Dir.
SIGNATURE

29JAN2015
DATE

APPROVED as to substance by:

Shannon L. Sauer
DIVISION DIRECTOR (TYPE OR PRINT)

Shannon L Sauer
SIGNATURE

1-23-2015
DATE

CLA 52494 (Div. 06)
L.D. Approved 5-19-00; 5-03

APPROVED as to execution this 28th day of January, 2015
ATTORNEY GENERAL
By
SPECIAL ASST. ATTORNEY GENERAL

NDDOT
North Dakota Department of Transportation

1/8/2015

• • •

Emily Kemper
United Industrial Coatings
308 1st Ave N., Fargo, ND 58102

Sue Eberle
N D DOT

Attn: Sue Eberle

United Industrial Coatings has implemented a price increase on our aerosol cans of Omaha Orange 60156 paint, raising the price from $5.18 per can to $5.50 per can from January 31, 2015 onward. This is due to the raised cost of our paint toners and the increased cost of labor. We have not raised the price of the cans the past two years despite our increased cost of their production.

We appreciate your continued business and look forward to our further cooperation in the future.

Thank you,

Emily Kemper
Customer Service Manager
United Industrial Coatings

NDDOT Contract No. 50140071B

North Dakota Department of Transportation

AMENDMENT TO CONTRACT NO. 50140071

Project No.

THIS AMENDMENT to the above-referenced contract is entered into by and between the State of North Dakota, acting through its Director of Transportation, hereinafter known as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and United Industrial Coatings, hereinafter known as the Contractor, whose address is 308 First Avenue North, Fargo, ND 58103.

WHEREAS, the parties entered into a contract on December 31, 2013; and

WHEREAS, the contract was competitively bid and awarded to the Contractor through December 31, 2014; and

WHEREAS, the Contractor has performed satisfactorily under the terms of the contract and has been extended one time through December 31, 2015; and

WHEREAS, the Contractor has expressed a willingness to extend the term of the above-referenced contract for an additional twelve (12) month period; and

NOW THEREFORE, the Contractor and NDDOT agree that the term of the contract is extended through December 31, 2016.

All other terms and conditions of the above-referenced contract are incorporated herein by reference and remain in full force and effect.

EXECUTED the date last below signed.

WITNESS:

Allison Pavlika
NAME (TYPE OR PRINT)

SIGNATURE

To be signed by **Owner; Partner; Corp. Pres., Vice Pres.**, or **other authorized Corp. Officer.** (If signed by other authorized Corp. Officer, please attach copy of Power of Attorney or other documentation showing authority to sign.)

CONTRACTOR:

United Industrial Coatings
COMPANY NAME

Steve Larson
OFFICER'S NAME (TYPE OR PRINT)

SIGNATURE

Pres.
TITLE

1/26/2016
DATE

WITNESS:

Sondra Goebel
NAME (TYPE OR PRINT)

Sondra Goebel
SIGNATURE

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

Grant Levi
DIRECTOR (TYPE OR PRINT)

SIGNATURE

1/29/16
DATE

APPROVED as to substance by:

Brad Dorr
DIVISION DIRECTOR (TYPE OR PRINT)

SIGNATURE

1-29-16
DATE

CLA 52494 (Div. 06)
L.D. Approved 5-19-00; 5-03

APPROVED as to execution this 29 day of January 20 16
ATTORNEY GENERAL
By
SPECIAL ASST. ATTORNEY GENERAL

NDDOT
North Dakota Department of Transportation