NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
CONTRACT FOR PROCUREMENT

REQUEST FOR PROPOSAL TITLE: SAFETY JACKETS

REQUEST FOR PROPOSAL NO.: N/A

This agreement is entered into between the state of North Dakota, acting by and through its Director of Transportation, hereinafter referred to as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota, and Rough Rider Industries (RRI), hereinafter referred to as the Contractor, whose address is P.O. Box 5521, Bismarck, North Dakota 58506-5521.

In consideration of the mutual covenants herein set forth, NDDOT and the Contractor agree as follows:

1. That in consideration of the payments to be made by NDDOT, the Contractor agrees to provide the services and/or goods in accordance and in conformity with this contract, the Contractor's proposal, dated December 5, 2014, NDDOT's request for proposal issued on December 11, 2014, and any purchase orders issued as a result of this contract. The Contractor's proposal, NDDOT's request for proposal, and any purchase orders are incorporated by reference herein. If discrepancies exist between the Contractor's proposal, and NDDOT's request for proposal, or this contract, NDDOT's request for proposal, and this contract shall govern.

2. NDDOT agrees to pay the Contractor for the work, when completed and accepted in accordance with this contract.

   Payments are to be made upon presentation of an invoice by the Contractor, and by the terms of this contract.

3. The work shall be done pursuant to this contract, to the laws of the state of North Dakota, and to the satisfaction of NDDOT, in accordance with the rules and regulations made pursuant to state and federal law.

4. The Contractor, in employing and maintaining labor, shall do so in conformity with state and federal law and this contract.

5. Payments by NDDOT beyond the current state biennium shall be contingent on sufficient funds being appropriated by the Federal Government or State Legislature for the Department. In the event of insufficient appropriations in future bienniums, NDDOT may give a minimum of 30 days notice to terminate this agreement/contract and have no further obligation to the Contractor.

6. All work products and copyrights of the contract which result from this contract are the exclusive property of NDDOT.

7. Notwithstanding any rules regarding the choice of law or venue, it is agreed by the parties that this contract shall be governed by and construed in accordance with applicable Federal Law and the laws of the state of North Dakota, at the time this contract was executed. All disputes arising from this agreement shall be brought in the South Central District Court of the state of North Dakota.

8. This agreement constitutes the entire agreement between 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. The Contractor, by the signature below of its authorized representative, hereby acknowledges that the Contractor has read this agreement, understands it, and agrees to be bound by its terms and conditions.

9. The terms of this agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by the parties.

10. The Contractor shall not assign any portion of the work under this agreement, execute any contract, or obligate itself in any manner with a third party with respect to its rights and responsibilities to this agreement without written consent of NDDOT. Any agreement with a subcontractor does not create a contractual relationship between the NDDOT and the subcontractor.

11. The Contractor shall not assign nor transfer the contractor's interests or duties under this agreement without the express written consent of the state.

12. The Contractor agrees to comply with all applicable laws and rules, including, but not limited to, those relating to nondiscrimination, accessibility, and civil rights.

13. The Appendices A and E of the Title VI Assurances, attached, are hereby incorporated into and made a part of this agreement.

14. Termination

    a. This contract may be terminated by mutual consent of both parties, or by either party upon 30 days' notice, in writing and delivered by certified mail or in person.

    b. In addition, NDDOT may terminate this contract effective upon delivery of written notice to the Contractor, or at such later date as may be established by NDDOT, under any of the following conditions:

        i. If NDDOT funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the indicated quantity of services. 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. NDDOT, by written notice to the Contractor, may terminate the whole or any part of this agreement.

        i. If the Contractor fails to provide services called for 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 NDDOT, fails to correct such failures within ten days or such longer period as NDDOT may authorize.

15. The Risk Management Appendix, attached, is hereby incorporated into and made a part of this agreement.

16. This agreement becomes effective when all parties have signed and it shall terminate on 06/30/2015.

EXECUTED the date last below signed.

WITNESS:

Jeff Zirk
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:

Rick Gardner
NAME (TYPE OR PRINT)

SIGNATURE

Director
TITLE

12/12/14
DATE

WITNESS:

Sandra Goebel
NAME (TYPE OR PRINT)

SIGNATURE

NORTH DAKOTA
DEPARTMENT OF TRANSPORTATION

Grant Levi
DIRECTOR (TYPE OR PRINT)

for the

Darcy R. Rosendahl, Dep. Dir.
SIGNATURE

19 DEC 2014
DATE

APPROVED as to substance by:

Brad Darr
DIVISION DIRECTOR (TYPE OR PRINT)

SIGNATURE

12-16-14
DATE

CLA 1043 (Div. 50)
L.D. Approved 2-17-05; 3-11

APPROVED as to execution this 17 day of December 2014
ATTORNEY GENERAL
By
SPECIAL ASST. ATTORNEY GENERAL

NDDOT
North Dakota Department of Transportation

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
SAFETY JACKET CONTRACT NO. 50142053
WITH ROUGH RIDER INDUSTRIES

December 11, 2014

In addition to NDDOT CLA 1043, the following conditions apply to the safety jacket contract between the North Dakota Department of Transportation (NDDOT) and Rough Rider Industries (RRI):

Contract Term and Renewal Option. The NDDOT will enter into a contract with an effective date beginning when all parties have signed and ending June 30, 2015. This contract may be renewed on an annual basis upon satisfactory completion of the prior contract term.

The NDDOT reserves the right to renegotiate price and terms on an annual basis provided that such negotiated price and terms fall within the original scope of work for this bid.

The district office storekeeper (reference attached list) will be the point of contact and will enter a purchase order for district safety jacket orders. The purchase order will contain the following information:

- Quantity of jackets
- Size of each jacket
- Ship to Address (see attached list)
- Price of jacket
- Cost of freight, FOB Origin
    - Freight price to be determined by RRI based upon shipping location
    - No cost for deliveries to Bismarck locations

RRI owns the rights to the design and manufacturing process of the safety jackets. Any changes to the currently approved design must be approved by the NDDOT prior to production.

The price per jacket will be $68.00 for Small (S), Medium (M), Large (L), Extra-Large (XL), Double Extra-Large (2-XL). There will be an additional fee of $10.00 per jacket for sizes larger than 2-XL and for Tall sizes.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
STOREKEEPER LIST

12/8/2014

61 - BISMARCK:
NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
BARRY BUELOW
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
JON LEE
503 - 38TH STREET SOUTH
FARGO ND 58103-1198
(701)239-8910 (701)239-8915 FAX

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX A OF THE TITLE VI ASSURANCES

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 (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. Non-discrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

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 will be notified by the Contractor of the Contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

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

5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

   a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
   b. cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX E OF THE TITLE VI ASSURANCES

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.),* (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.),* as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.),* (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.P.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

Risk Management Appendix

Service Agreements with State Agencies Covered by the Risk Management Fund:

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.

Each party shall secure and keep in force during the term of this agreement, from an insurance company, government self-insurance pool or government self-retention fund authorized to do business in North Dakota, **commercial general liability** and **automobile liability** with minimum limits of liability of **$250,000 per person** and **$1,000,000 per occurrence**.

RM Consulted 1997
Revised 5-03

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Department of Transportation