



COOPERATIVE PURCHASE AGREEMENT

Cooperative Name: Western States Contracting Alliance (WSCA), now NASPO Value Point

Contractor: Fastenal

Master Price Agreement Number: 7-11-51-01

State of California Participation
Addendum Effective Date: July 29, 2011 - February 28, 2017 , as renewed

The City of Stockton, a California municipal corporation on behalf of itself and its associated entities ("City"), and the above named Contractor ("Contractor"), do hereby agree that City shall be granted the pricing, terms, and conditions of a State of California political subdivision granted to any such subdivisions under the Master Price Agreement and State of California Participation Addendum, as such may be amended from time to time.

Contractor shall grant such pricing, terms, and conditions to City for all procurements of goods and services, whether taking place on a City purchase order, purchasing card (credit card), or other purchasing modality, whether via telephone, via the Contractor website, or via direct purchase at a Contractor retail location.

City and Contractor do hereby enter into this Agreement. Any person signing this Agreement on behalf of City or Contractor does represent and warrants that he or she has full authority to do so.

CITY OF STOCKTON

City Manager

CONTRACTOR

By: _____
Signature

Print name

ATTEST:

Title: _____

City Clerk

[If Contractor is a corporation, signatures must comply with Corporations Code §313]

APPROVED AS TO FORM:

City Attorney

By: _____
Signature

Print name

Title: _____

WSCA Facilities MRO



**Multi-State Contracts for Facilities Maintenance
Repair & Operation (MRO), Lighting Products,
Industrial Supplies and Tools**

State of Nevada Contract Number 1862

Facilities MRO Sourcing Team

Gail Burchett, Nevada – Lead State Procurement Facilitator

Ted Fosket, Alaska

Michael Johnson, Nevada

Andy Mobley, South Dakota

Bill Bolliger, Oregon

Larry Thacker, Utah

Lee Costley, Arkansas

Tony De Luca, Connecticut

Keli Hardcastle, Nevada – Procurement Facilitator

Douglas Richins, WSCA

Procurement Process

- ❖ Compliant with the State of Nevada Statutes
- ❖ Met with prospective vendors before release of RFP to discuss draft
- ❖ Release Date – August 10, 2010
- ❖ Pre-Proposal Conference – September 8, 2010
- ❖ Proposal opening date – October 20, 2010

Procurement Process cont.

Suppliers allowed to respond for all states but must be for one entire state and for one entire category

- Total Proposals Received – 37
 - 1 received late
 - 10 did not meet mandatory requirements
 - 26 evaluated

Evaluation Process

Mandatory Requirements

Desirable Features 500 possible points

Pricing 500 possible points

Grand total 1,000 total points

Awardees

ALL STATES – All Categories

- W. W. Grainger, Inc. 907.79
- Fastenal Company 840.26
- MSC Industrial Supply 801.02

INDIVIDUAL STATES – Specific Categories

- Codale Electric (ID,NV,UT,WY)
- Conserve A Watt (CO,UT)
- Industrial Supply (AZ,ID,NV,UT)
- North Coast Electric (AK,AZ,ID,OR,WA)

Two Different Types of Multiple Awards.

1. Multiple Award All States: All Categories

**Fastenal Company
W. W. Grainger, Inc.
MSC Industrial Supply**

2. Multiple Award for Individual States:

Codale Electric

Lamp Category Only

Idaho – Nevada – Utah - Wyoming

Conserve A Watt

Lamp Category Only

Colorado – Utah

Industrial Supply Company

**Paint, Batteries, Cleaning, Hand tools, power tools, Garden tools
and supplies, Fasteners, Security and Welding only**

Arizona – Idaho - Nevada – Utah

North Coast Electric


Lamp and Batteries Categories Only

Alaska – Arizona – Idaho – Oregon - Washington

Mandatory Contract Requirements

- Ordering Capability
- FOB Destination
- Internet Ordering
- E Commerce Description
- Storage of Electronic Data
- Catalogs both on-line, soft copy and hard copy
- P-Card Acceptance and Level III Reporting
- Force Substitution Policy
- Customer Service Representatives
- Training programs

Scored Desirable Features of the Contract

- 
- Return Policy
 - Distribution Points and Product Availability
 - Contract Management
 - E Commerce and Web Capabilities
 - Delivery Implementation and Communication
 - Shipping Policy
 - Implementation of Contract
 - Reporting Capabilities
 - Sustainability Practices
 - Disaster Recovery both Information and Assistance to States During an emergency
 - ESB/MBE/WBE, DVOB and CRP / QRF
 - Retail Store Purchases/Will Call
 - Contract Growth Incentives

Market Basket

Based on over 1,400 items in 18 categories
from all states contract usage in 2009

Western States Contracting Alliance

Specific Pricing for each Market Basket Item

Categories

- Heating, Ventilation, Air Conditioning/Refrigeration (HVAC)
- Air Filters
- Lamps, Ballasts and Fixtures
- Cleaning
- Material Handling Repairs
- Security
- Motors and Accessories
- Electrical Repairs and Equipment
- Fasteners
- Batteries and Flashlights
- Outdoor Garden Supplies and Equipment
- Paint and Accessories
- Plumbing
- Pneumatic Tools
- Power Tools and Accessories
- Safety
- Hand Tools
- Welding and Soldering

The background features a light blue map of the Western United States, including Alaska and Hawaii. Overlaid on the map is the WSCA logo, which consists of the letters 'WSCA' in a large, bold, white font, with 'Western States Contracting Alliance' written in a smaller, white font below it.

Category Discount off list for non-market basket items comparisons Per Contractor

Percentage Off list

- Fastenal - 23% for all categories except fasteners (55%)
- MSC - 12% for all categories
- Grainger - 15% - 45% depending on the category
- Codale – % off list on an “per order” basis
- Conserve – A –Watt % off list on an “per order” basis
- Industrial Supply Co - 39% for all offered categories
- North Coast – 10% for all offered categories

Contract Highlights

Per Contractor



FASTENAL

Key Elements of this contract are:

- **Excellent Market Basket Pricing all Categories**
- **Online Catalog, Ordering and Reporting Capabilities**
- **Customized WSCA catalog**
- **Representatives located throughout each State**
- **Excellent Disaster Recovery/Emergency Assistance Plan**
- **Training at no charge available**
- **Strong in MBE/WBE etc.**
- **Over 2300 Store locations through out U.S.**
- **Offer Incentive Program of 2% discount after over all sales reach \$50,000,000**
- **Special pricing for large volume single orders**

FASTENAL



- Freight Policy:

No freight charges on catalog item orders (Alaska, Hawaii may have up charge)

- Shipping:

Deliveries of in-stock items 24-48 hours after receipt of order

Many store locations within each State – Local stores will stock most used items at their location

FASTENAL

Representative Information



Name: **Donnalee Papenfuss, WSCA**
Contract Administrator

Telephone: **(507) 453-8339**

Fax: **(507) 494-7669**

E-mail: **dpapenfu@fastenal.com**

MSC

Key Elements of this contract are:

- **Excellent Market Basket Pricing all Categories**
- **Online Catalog, Ordering and Reporting Capabilities**
- **Can print invoices immediately from website**
- **Representatives located throughout each State**
- **90 Branches and 4 Central Warehouse Centers within U.S.**
- **Excellent Disaster Recovery/Emergency assistance plan including immediate deployment of trailer with essential items**
- **Training at no charge available**
- **Strong in MBE/WBE etc.**
- **Special pricing for large volume single orders**

MSC

- **Freight Policy:**

No freight charges on catalog item orders (Alaska, Hawaii may have up charge)

- **Shipping:**

Deliveries of in-stock items 24 hours after receipt of order if order is received by 8:00 p.m.

MSC

Representative Information



Name: David Ottenstein, State Government
Team Manager

Telephone: (904) 519-6002

Fax: (904) 519-6003

E-mail: ottenstd@mscdirect.com

GRAINGER

Key Elements of this contract are:

- Previous WSCA contract holder for 9 years
- Excellent Market Basket Pricing all Categories
- Online Catalog, Ordering and Reporting Capabilities
- Customized WSCA catalog
- Real time inventory available on website
- Representatives located throughout each State
- Excellent Disaster Recovery/Emergency assistance plan
- Training at no charge available
- Strong in MBE/WBE etc.
- Incentive Plan – better discounts as volume increases
- Special pricing for large volume single orders

GRAINGER

- **Special Incentive Plan Per State:**

- **Single Award Administrative Fee/Rebate:**

- Participating State issues Grainger a single, exclusive, sole award will receive additional 2% Single Award Administrative Fee
 - Single Award , Grainger will also provide the State with a Specific Market Basket of 100 critical items for that State that will be aggressively priced (“Customized Market Basket”)
 - Participating State will be eligible for such Single Award Administrative Fee and the Customized Market Basket for so long as Grainger is the sole provider of MRO products to the State.

GRAINGER

- Freight Policy:

No freight charges including Alaska and Hawaii

- Shipping:

Deliveries 24 -48 hours after receipt of order

Sourced items may require longer delivery

Many store locations within each State

Many Distribution Centers through out U.S.

GRAINGER

Representative Information

**Name: Doug D'Alessio, Senior Government
Sales Manager**

Telephone: (916) 503-0229

Fax: (916) 471-0515

E-mail: Doug.M.D'Alessio@grainger.com

CODALE ELECTRIC

Idaho, Nevada, Utah and Wyoming

Key Elements of this contract are:

Awarded offering for Lamps and Ballast Category Only

- **Excellent Market Basket Pricing for Category**
- **Representation in the named States**
- **Excellent customer service (based on past history with Utah)**
- **Website user friendly**
- **Training at no charge available**
- **Strong in sustainability practices**
- **Special pricing for large volume single orders**

CODALE ELECTRIC

- Freight Policy:
No freight charges

- Shipping:
Deliveries of in-stock items 24 -48 hours after receipt of order if order

CODALE ELECTRIC

Representative Information



Name: Larry Collard, Lighting Specialist
Telephone: (801) 975-7300
Fax: (801) 977-8833
E-mail: larryc@codale.com

CONSERVE-A-WATT

Colorado and Utah

Key Elements of this contract are:

Awarded offering for Lamps and Ballast Category Only

- **Excellent Market Basket Pricing for Category**
- **Representation in the named States -**
- **Implementation within 30 days for named States**
- **Training at no charge available**
- **Strong in sustainability practices**
- **Special pricing for large volume single orders**

CONSERVE-A-WATT

- **Freight Policy:**
No freight charges
- **Shipping:**
**Deliveries of in-stock items 24 -48
hours after receipt of order**

CONSERVE-A-WATT

Key WSCA Contact person:

Name: Sarah Hanus, Administrator
Telephone: (303) 629-0066 or (800) 666-5483
Fax: (303) 893-3315
E-mail: sarah@cawlighting.com

INDUSTRIAL SUPPLY

Arizona, Nevada, Utah

Key Elements of this contract are:

- **Awarded multiple categories based on excellent market basket pricing.**
- **Paint, Batteries, Cleaning, Hand Tools, Power Tools, Garden Tools and Supplies, Fasteners, Security and Welding**
- **Representative available in the named States**
- **Quick Implementation plan for named States**

INDUSTRIAL SUPPLY

- **Freight Policy:**
No freight charges
- **Shipping:**
Deliveries of in-stock items 48 hours after receipt of order if order

Training:
Training at no charge available

INDUSTRIAL SUPPLY

Name Chris Bateman, Vice President
Telephone: (801) 484-8644
Fax: (801) 487-0469
E-mail: cbateman@indsupply.com



NORTH COAST ELECTRIC

Alaska, Arizona, Idaho, Oregon and Washington

Key Elements of this contract are:

- **Awarded offering for Lamps and Ballast and Batteries Categories Only**
- **Excellent Market Basket Pricing for named categories**
- **Representation in the named States**
- **Discrepancy report reviewed daily**
- **Disaster Recovery Plan for State Emergencies**
- **Training at no charge available**

NORTH COAST ELECTRIC

- 
- **Freight Policy:**
No freight charges within named States
 - **Shipping:**
Deliveries of in-stock items 48 hours after receipt of order if order

NORTH COAST ELECTRIC



Name: Karry D. Yoerger,
Business Automation Manager

Telephone: (503) 630-2770

Fax: (503) 630-2779

E-mail: kyoerger@ncelec.com

Who Can Use

- All Participating WSCA States
- All Participating NASPO States
- Any Political Sub-Division with permission from Participating State and the Chief Procurement Official

WSCA Contact Manager Info.

Gail Burchett, Purchasing Officer II

State of Nevada

(775) 684-0172

gburchet@purchasing.state.nv.us

Keli Hardcastle, Purchasing Technician II

State of Nevada

(775) 684-0187

khardcastle@purchasing.state.nv.us

Next Steps

- Each Participating State needs to execute Participating Addendum(s) as desired with selected contractors
- Participating Addendum Process

Where's the Information

- Nevada State Purchasing Website
<http://purchasing.state.nv.us/>
- WSCA Website:
www.aboutwsca.org or www.wsca.info

Through the Participating Addendums, States May

- 
- Select Contractors
 - Include their own State Administrative Fee
 - Include (unique) required Terms and Conditions
 - Identify options for Political Subdivisions

Eligibility Process

- In all cases **STATE CHIEF PROCUREMENT OFFICIAL** will have the final say on who can and cannot participate within a state
- The WNCDDT will contact State Chief Procurement Officials directly to start process (so expect emails from wncoopdt@gmail.com)
- All 50 states and DC have executed the NASPO Cooperative MOA, so are eligible to use any WSCA or NASPO cooperative contract, at their choice



Who Can Participate?

- **Participation at several different levels** (can be confusing so we will ask lots of questions, please be patient)
 1. **State signs a Participating Addenda for entire state and its cooperative purchasing venture**
 - Every legally eligible entity in the state can use
 2. **State signs a Participating Addenda ONLY for non state entities**
 - Every legally eligible entity that is not a STATE agency can use
 3. **State does not sign a Participating Addenda**
 - Every political subdivision PA within that state must be approved by the state chief procurement official
 - Sometimes individually
 - Sometimes by entity

Participation Process

- In case you determine that you will not enter into a state-level participating addendum, the WNCDDT would like to understand how you want to proceed if other governmental or potentially eligible entities might want to participate
 - Especially for non-profit entities (501(c)(3))
- The WNCDDT will process questions from potentially eligible entities for you, unless you specifically tell us to do something else
- The following process will be used when other states or entities wish to participate

How do we get people signed up?

- 1 – email request from entity (can be through contract providers) as long as these details are included: contact individual's name, full name of entity, phone number, email address, physical address
- 2 – WNCDT will email state director and request authorization for participation
- 3 – WNCDT will email back both contract providers and entity with authorization to proceed to complete the participating addendum
- 4 – Entity completes the contract provider's draft participating addendum (from the WNCDT), negotiates signs it and forwards it to contract providers point of contact [this can be done by scanning signed documents if that is permitted by the entity]
- 5 – Contract providers point of contact signs participating addendum and forwards to WNCDT at wncoopdt@gmail.com
- 6 – WNCDT will annotate on the participating addendum state authorization, create a PDF file of the participating addendum and the state authorization
- 7 – WNCDT will forward copies of the PDF file to entity, contract providers point of contact and the entity

WSCA/NASPO Cooperative Development Team (Kate and Paul) will complete steps 6 and 7 in one working day

Then What?

- Participating addenda will be posted on NASPO and WSCA websites
 - This is done to provide easy, direct access for your agencies, political subdivisions and other entities eligible to participate under your authority
- Contract Providers can create and maintain state specific landing pages from their main contract landing page

Thank You

- Please let the WNCDT know if we can be of any assistance:
 - Kathryn Offerdahl, WSCA/NASPO Cooperative Development Analyst
(koferdahl@armms.com)
 - Paul Stembler, WSCA/NASPO Cooperative Development Coordinator
(pstembler@amrms.com)
 - We use wncoopdt@gmail.com to keep traffic about these contracts concentrated in one location





FASTENAL

ALL STATES

ALL CATEGORIES

**STATEWIDE MASTER SERVICE AGREEMENT FOR SERVICES OF INDEPENDENT
CONTRACTOR**

**A Contract between the Western States Contracting Alliance
Acting by and through the State of Nevada
Department of Administration, Purchasing Division
515 E Musser Street, Room 300
Carson City Nevada 89701**

**Contact: Gail Burchett, Purchasing Officer
Telephone: (775) 684- 0172 • Facsimile: (775) 684-0188**

And

**Fastenal Company
2001 Theurer Blvd.
Winona, Minnesota 55987**

**Contact: John Soderberg, Vice President Government Sales
Telephone: (507) 313-7313 • Facsimile: (507) 494-7669**

Pursuant to Nevada Revised Statute (NRS) 277.100, NRS 277.110, NRS 333.162(1) (d), and NRS 333.480 the Chief of the Purchasing Division of Nevada is authorized to enter into cooperative group-contracting consortium.

The Western States Contracting Alliance is a cooperative group-contracting consortium for state government departments, institutions, agencies and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for the states of Alaska, Arizona, California, Colorado, Hawai'i, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington and Wyoming.

In consideration of the above premises, the parties mutually agree as follows:

1. REQUIRED APPROVAL. This contract shall not become effective until and unless approved by the Western States Contracting Alliance Board of Directors.
2. DEFINITIONS. "WSCA" means the Western States Contracting Alliance. "State" and/or "Lead State" means the State of Nevada and its state agencies, officers, employees and immune contractors as defined in NRS 41.0307. "Participating State(s)" means state(s) that have signed (and not revoked) an Intent to Contract at the time of the award of this contract, or who have executed a Participating Addendum. "Buyer" means any WSCA agency or political subdivision participating under this contract. "Contractor" and/or Contracting Agency" means a person or entity that performs services and/or provides goods for WSCA under the terms and conditions set forth in this contract. "Solicitation" means RFP # 1862 incorporated herein as Attachment BB. "Fiscal Year" is defined as the period beginning July 1 and ending June 30 of the following year.
3. CONTRACT TERM. This contract shall be effective from March 1, 2011 subject to WSCA Board of Directors' approval to February 28, 2014, unless sooner terminated by either party as specified in paragraph (21).

4. CANCELLATION OF CONTRACT; NOTICE. Unless otherwise stated in the special terms and conditions, any contract entered into as a result of the Solicitation may be canceled by either party upon written notice sixty (60) days prior to the effective date of the cancellation. Further, any Participating State may cancel its participation upon thirty (30) days written notice, unless otherwise limited or stated in the special terms and conditions of the Solicitation. Cancellation may be in whole or in part. Any cancellation under this provision shall not effect the rights and obligations attending orders outstanding at the time of cancellation, including any right of any Participating State to indemnification by the Contractor, rights of payment for goods/services delivered and accepted, and rights attending any warranty or default in performance in association with any order. Cancellation of the contract due to Contractor default may be immediate.

5. INCORPORATED DOCUMENTS. The parties agree that the scope of work shall be specifically described; this contract incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT AA: CONTRACTOR'S CLARIFICATION/ NEGOTIATION RESPONSE
 ATTACHMENT BB: STATE OF NEVADA SOLICITATION # 1862 and all AMENDMENTS.
 ATTACHMENT CC: CONTRACTOR'S ORIGINAL RESPONSE

A Contractor's attachment shall not contradict or supersede any WSCA specifications, terms or conditions without written evidence of mutual assent to such change appearing in this contract.

7. ASSENT. The parties agree that the terms and conditions listed on incorporated attachments of this contract are also specifically a part of this contract and are limited only by their respective order of precedence and any limitations specified.

8. BID SPECIFICATIONS. Contractor certifies that any deviation from the specifications in the scope of work, incorporated herein as part of Attachment BB, have been clearly indicated by Contractor in its response, incorporated herein as Attachment CC; otherwise, it will be considered that the bid is in strict compliance. Any BRAND NAMES or manufacturers' numbers are stated in the specifications are intended to establish a standard only and are not restrictive unless the Solicitation states "no substitute," and unless so stated, bids have been considered on other makes, models or brands having comparable quality, style, workmanship and performance characteristics. Alternate bids offering lower quality or inferior performance have not been considered.

9. ACCEPTANCE OR REJECTION OF BIDS, AND AWARD. WSCA has the right to accept or reject any or all bids or parts of bids, and to waive informalities therein. This contract is based the lowest responsive and responsible bid and meets the specifications of the Solicitation and terms and conditions thereof. Unless stated otherwise in the Solicitation, WSCA has the right to award items separately or by grouping items in a total lot.

10. BID SAMPLES. Any required samples have been specifically requested in the Solicitation. Samples, when required, have been furnished free of charge. Except for those samples destroyed or mutilated in testing, samples will be returned at a bidder's request, transportation collect.

11. CONSIDERATION. The parties agree that Contractor will provide the services specified in paragraph (5) at a cost as listed in the Pricing Section of Contractors Proposal known as Attachment CC Unless

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with the Solicitation must be good and firm for a period of ninety (90) days from the date of bid opening.

Contracted prices represent ceiling prices for the supplies and services offered. The Contractor shall report to the Lead State any price reduction or discount, or other more favorable terms offered to any Purchasing Entity and the Contractor agrees to negotiate in good faith to re-establish ceiling prices or other more favorable terms and conditions applicable to future orders. Bid prices must remain firm for the full term of the contract. In the case of error in the extension of prices in the bid, the unit prices will govern. WSCA does not guarantee to purchase any amount under this contract. Estimated quantities in the Solicitation are for bidding purposes only and are not to be construed as a guarantee to purchase any amount. Unless otherwise stated in the special terms and conditions offers made in accordance with the Solicitation must be good and firm for a period of ninety (90) days from the date of bid opening. Bid prices must remain firm for the full term of the contract. In the case of error in the extension of prices in the bid, the unit prices will govern. If Contractor has quoted a cash discount based upon early payment; discounts offered for less than thirty (30) days have not been considered in making the award. The date from which discount time is calculated shall be the date a correct invoice is received or receipt of shipment, whichever is later; except that if testing is performed, the date shall be the date of acceptance of the merchandise. WSCA is not liable for any costs incurred by the bidder in proposal preparation.

12. PAYMENT. Payment for completion of a contract is normally made within thirty (30) days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After forty-five (45) days the Contractor may assess overdue account charges up to a maximum rate of one (1) percent per month on the outstanding balance. Payments will be remitted by mail. Payments may be made via a Participating State's "Purchasing Card."

13. TAXES. Prices shall be exclusive of state sales and federal excise taxes. Where a Participating State is not exempt from sales taxes on sales within its state, the Contractor shall add the sales taxes on the billing invoice as a separate entry. Contractor will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. The Lead State's real property and personal property taxes are the responsibility of Contractor in accordance with NRS 361.157 and NRS 361.159. Contractor agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this contract. Nevada may set-off against consideration due any delinquent government obligation in accordance with NRS 353C.190.

14. FINANCIAL OBLIGATIONS OF PARTICIPATING STATES. Financial obligations of Participating States are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating States incur no financial obligations on behalf of political subdivisions. Unless otherwise specified in the Solicitation, the resulting award(s) will be permissive.

15. ORDER NUMBERS. Contract order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.

16. REPORTS. The Contractor shall submit quarterly reports to the WSCA Contract Administrator showing the quantities and dollar volume of purchases by each Participating State.

17. DELIVERY. The prices bid shall be the delivered price to any WSCA state agency or political subdivision. All deliveries shall be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage shall remain with the Contractor until final inspection and acceptance, when responsibility shall pass to the Buyer except as to latent defects, fraud and Contractor's warranty obligations. The minimum shipment amount will be found in the

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special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an order to be shipped without transportation charges that is back-ordered shall be shipped without charge.

18. HAZARDOUS CHEMICAL INFORMATION. The Contractor will provide one set of the appropriate material safety data sheet(s) and container label(s) upon delivery of a hazardous material to any Buyer. All safety data sheets and labels will be in accordance with each Participating State's requirements.

19. INSPECTIONS. Goods furnished under this contract shall be subject to inspection and test by the Buyer at times and places determined by the Buyer. If the Buyer finds goods furnished to be incomplete or in non-compliance with bid specifications, the Buyer may reject the goods and require Contractor to either correct them without charge or deliver them at a reduced price which is equitable under the circumstances. If Contractor is unable or refuses to correct such goods within a time deemed reasonable by the Buyer, the Buyer may cancel the order in whole or in part. Nothing in this paragraph shall adversely affect the Buyer's rights including the rights and remedies associated with revocation of acceptance under the Uniform Commercial Code.

20. INSPECTION & AUDIT.

a. Books and Records. The Contractor will maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. Contractor agrees to keep and maintain under generally accepted accounting principles (GAAP) full, true and complete records, contracts, books, and documents as are necessary to fully disclose to WSCA, the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.

b. Inspection & Audit. Contractor agrees that the relevant books, records (written, electronic, computer related or otherwise), including, without limitation, relevant accounting procedures and practices of Contractor or its subcontractors, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Contractor where such records may be found, with or without notice by WSCA; the United States Government; the State Auditor or its contracted examiners, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives. All subcontracts shall reflect requirements of this paragraph.

c. Period of Retention. All books, records, reports, and statements relevant to this contract must be retained a minimum four (4) years after the contract terminates or until all audits initiated within the four (4) years have been completed, whichever is later, and for five (5) years if any federal funds are used in the contract. The retention period runs from the date of payment for the relevant goods or services by the State, or from the date of termination of the Contract, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

21. CONTRACT TERMINATION. Any of the following events shall constitute cause for WSCA to declare Contractor in default of the contract: (1) nonperformance of contractual requirements; and/or (2) a material breach of any term or condition of this contract. WSCA shall issue a written notice of default providing a period in which Contractor shall have an opportunity to cure. Time allowed for cure shall not diminish or eliminate Contractor's liability for liquidated or other damages. If the default remains, after Contractor has been provided the opportunity to cure, WSCA may do one or more of the following: (1) exercise any remedy provided by law; (2) terminate this contract and any related contracts or portions thereof; (3) impose liquidated damages; and/or (4) suspend Contractor from receiving future bid solicitations.

Winding Up Affairs upon Termination. In the event of termination of this contract for any reason, the parties agree that the provisions of this paragraph survive termination:

- i. The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
- ii. Contractor shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by WSCA;
- iii. Contractor shall execute any documents and take any actions necessary to effectuate an assignment of this contract if so requested by WSCA;
- iv. Contractor shall preserve, protect and promptly deliver into WSCA's possession all proprietary information in accordance with paragraph (31).

22. REMEDIES. Except as otherwise provided for by law or this contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall include without limitation \$125 per hour for attorneys employed by the Lead State. Nevada may set off consideration against any unpaid obligation of Contractor to any State agency in accordance with NRS 353C.190.

23. LIMITED LIABILITY. Nevada will not waive and intends to assert available NRS chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise specified in the incorporated attachments. Damages for any breach by the Lead State shall never exceed the amount of funds appropriated for payment under this contract, but not yet paid to Contractor, for the fiscal year budget in existence at the time of the breach. Damages for any Contractor breach shall not exceed 150% of the contract maximum "not to exceed" value. Contractor's tort liability shall not be limited.

24. FORCE MAJEURE. Neither party to this contract shall be deemed to be in violation of this contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the contract after the intervening cause ceases. WSCA may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.

25. **INDEMNIFICATION.** To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend, not excluding the State's right to participate, Nevada from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of Contractor, its officers, employees and agents. The Contractor shall release, protect, indemnify and hold WSCA and the respective states and their officers, agencies, employees, harmless from and against any damage, cost or liability, including reasonable attorney's fees for any or all injuries to persons, property or claims for money damages arising from acts or omissions of the contractor, his employees or subcontractors or volunteers.

26. **INSURANCE SCHEDULE.** Unless expressly waived in writing by the Lead State or Participating States, Contractor, as an independent contractor and not an employee of the Lead State or Participating States, must carry policies of insurance in amounts specified in this Insurance Schedule and/or any Insurance Schedule agreed by Contractor and a Participating State via a participating addendum, and pay all taxes and fees incident hereunto. The Lead State and Participating States shall have no liability except as specifically provided in the contract. The Contractor shall not commence work before:

- 1) Contractor has provided the required evidence of insurance to the Lead State.

The Lead State's approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent this contract. Any failure of the Lead State to timely approve shall not constitute a waiver of the condition.

Insurance Coverage: The Contractor shall, at the Contractor's sole expense, procure, maintain and keep in force for the duration of the contract the following insurance conforming to the minimum requirements specified below. Unless specifically stated herein or otherwise agreed to by the Lead State, the required insurance shall be in effect prior to the commencement of work by the Contractor and shall continue in force as appropriate until the latter of:

1. Final acceptance by the Lead State of the completion of this contract; or
2. Such time as the insurance is no longer required by the Lead State under the terms of this contract.

Any insurance or self-insurance available to the State shall be excess of and non-contributing with any insurance required from Contractor. Contractor's insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by the Lead State, Contractor shall provide the Lead State with renewal or replacement evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the contract, an insurer or surety shall fail to comply with the requirements of this contract, as soon as Contractor has knowledge of any such failure, Contractor shall immediately notify the State and immediately replace such insurance or bond with an insurer meeting the requirements.

Workers' Compensation and Employer's Liability Insurance

- 1) Contractor shall provide proof of worker's compensation insurance.
- 2) Employer's Liability insurance with a minimum limits of \$500,000 each employee per accident for bodily injury by accident or disease.

Commercial General Liability Insurance

- 1) Minimum Limits required:

\$2,000,000.00 General Aggregate

\$1,000,000.00 Products & Completed Operations Aggregate

\$0.00 Personal and Advertising Injury

\$1,000,000.00 Each Occurrence

- 2) Coverage shall be on an occurrence basis and shall be at least as broad as ISO 1996 form CG 00 01 (or a substitute form providing equivalent coverage); and shall cover liability arising from premises, operations, independent contractors, completed operations, personal injury, products, civil lawsuits, Title VII actions and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

Business Automobile Liability Insurance

- 1) Minimum Limit required: \$500,000.00 Each Occurrence for bodily injury and property damage.
- 2) Coverage shall be for "any auto" (including owned, non-owned and hired vehicles).
The policy shall be written on ISO form CA 00 01 or a substitute providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

Professional Liability Insurance – This section shall be addressed in each State's Participating Addendum.

- 1) Minimum Limit required: \$_____ Each Claim
- 2) Retroactive date: Prior to commencement of the performance of the contract
- 3) Discovery period: Three (3) years after termination date of contract.
- 4) A certified copy of this policy may be required.

Umbrella or Excess Liability Insurance

- 1) May be used to achieve the above minimum liability limits.
- 2) Shall be endorsed to state it is "As Broad as Primary Policy"

General Requirements:

- b. Waiver of Subrogation: Each liability insurance policy shall provide for a waiver of subrogation as to additional insureds.
- c. Cross-Liability: All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.
- d. Deductibles and Self-Insured Retentions: Insurance maintained by Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by the Lead State or Participating States. Such approval shall not relieve Contractor from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed five thousand dollars (\$5,000.00) per occurrence, unless otherwise approved.
- e. Policy Cancellation: Except for ten (10) days notice for non-payment of premium, each insurance policy shall be endorsed to state that; without thirty (30) days prior written notice to the Lead State, the policy shall not be canceled, non-renewed or coverage and /or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mailed to the address identified on page 1 of the contract.
- f. Approved Insurer: Each insurance policy shall be:
 - 1) Issued by insurance companies authorized to do business in the Lead State and Participating States or eligible surplus lines insurers acceptable to the Lead State and Participating States and having agents upon whom service of process may be made, and

- 2) Currently rated by A.M. Best as "A- VII" or better.

Evidence of Insurance:

Prior to the start of any Work, Contractor must provide the following documents to the Lead State:

- 1) Certificate of Insurance: The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to the State to evidence the insurance policies and coverages required of Contractor.
- 2) Schedule of Underlying Insurance Policies: If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the Underlyer Schedule from the Umbrella or Excess insurance policy may be required.

Review and Approval: Documents specified above must be submitted for review and approval by the Lead State prior to the commencement of work by Contractor. Neither approval by the Lead State nor failure to disapprove the insurance furnished by Contractor shall relieve Contractor of Contractor's full responsibility to provide the insurance required by this contract. Compliance with the insurance requirements of this contract shall not limit the liability of Contractor or its sub-contractors, employees or agents to the Lead State or others, and shall be in addition to and not in lieu of any other remedy available to the Lead State or Participating States under this contract or otherwise. The Lead State reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

Mail all required insurance documents to the Lead State identified on page one of the contract.

27. COMPLIANCE WITH LEGAL OBLIGATIONS. Any and all supplies, services and equipment bid and furnished shall comply fully with all applicable Federal and State laws and regulations. Contractor shall procure and maintain for the duration of this contract any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this contract. The Lead State may set-off against consideration due any delinquent government obligation in accordance with NRS 353C.190.

28. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

29. SEVERABILITY. If any provision of this contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular provision held to be invalid.

30. ASSIGNMENT/DELEGATION. To the extent that any assignment of any right under this contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by State, such offending portion of the assignment shall be void, and shall be a breach of this contract. Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the WSCA Contract Administrator.

31. OWNERSHIP OF PROPRIETARY INFORMATION. Any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under the contract), or any other documents or drawings, prepared or in the course of preparation by Contractor (or its subcontractors) in performance of its obligations under this contract shall be the exclusive property of WSCA and all such materials shall be delivered into WSCA possession by Contractor upon completion, termination, or cancellation of this contract. Contractor shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of Contractor's obligations under this contract without the prior written consent of WSCA. Notwithstanding the foregoing, WSCA shall have no proprietary interest in any materials licensed for use that are subject to patent, trademark or copyright protection.
32. PATENTS, COPYRIGHTS, ETC. The Contractor shall release, indemnify and hold WSCA, the State, and Participating States and their officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this contract.
33. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents received from Contractor may be open to public inspection and copying. The State will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests. Contractor may label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 333.333, provided that Contractor thereby agrees to indemnify and defend the State for honoring such a designation. The failure to so label any document that is released by the State shall constitute a complete waiver of any and all claims for damages caused by any release of the records.
34. CONFIDENTIALITY. Contractor shall keep confidential all information, in whatever form, produced, prepared, observed or received by Contractor to the extent that such information is confidential by law or otherwise required by this contract.
35. NONDISCRIMINATION. Contractor agrees to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Contractor further agrees to furnish information and reports to requesting Participating Entities, upon request, for the purpose of determining compliance with these statutes. Contractor agrees to comply with each individual Participating State's certification requirements, if any, as stated in the special terms and conditions. This contract may be canceled if the Contractor fails to comply with the provisions of these laws and regulations. Contractor must include this provision in every subcontract relating to purchases by the States to insure that subcontractors and vendors are bound by this provision.

36. FEDERAL FUNDING. In the event federal funds are used for payment of all or part of this contract:

a. Contractor certifies, by signing this contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

b. Contractor and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.

c. Contractor and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)

37. LOBBYING. The parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

a. Any federal, state, county or local agency, legislature, commission, counsel or board;

b. Any federal, state, county or local legislator, commission member, counsel member, board member, or other elected official; or

c. Any officer or employee of any federal, state, county or local agency; legislature, commission, counsel or board.

38. NON-COLLUSION. Contractor certifies that this contract and the underlying bid, have been arrived at independently and have been without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the invitation to bid, designed to limit independent bidding or competition.

39. WARRANTIES.

a. Uniform Commercial Code. The Contractor acknowledges that the Uniform Commercial Code applies to this contract. In general, the contractor warrants that: (a) the product will do what the salesperson said it would do, (b) the product will live up to all specific claims that the manufacturer makes in their advertisements, (c) the product will be suitable for the ordinary purposes for which such product is used, (d) the product will be suitable for any special purposes that the Buyer has relied on the Contractor's skill or judgment to consider.

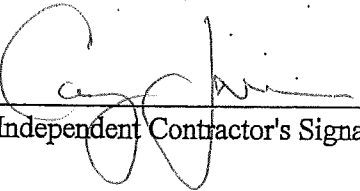
b. General Warranty. Contractor warrants that all services, deliverables, and/or work product under this contract shall be completed in a workmanlike manner consistent with standards in the trade, profession, or industry; shall conform to or exceed the specifications set forth in the incorporated attachments; and shall be fit for ordinary use, of good quality, with no material defects.

c. System Compliance. Contractor warrants that any information system application(s) shall not experience abnormally ending and/or invalid and/or incorrect results from the application(s) in the operating and testing of the business of the State. This warranty includes, without limitation, century

recognition, calculations that accommodate same century and multicentury formulas and data values and date data interface values that reflect the century.

40. CONFLICT OF INTEREST. Contractor certifies that it has not offered or given any gift or compensation prohibited by the state laws of any WSCA participants to any officer or employee of WSCA or participating states to secure favorable treatment with respect to being awarded this contract.
41. INDEPENDENT CONTRACTOR. Contractor shall be an independent contractor, and as such shall have no authorization, express or implied to bind WSCA or the respective states to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for WSCA or the states, except as expressly set forth herein.
42. POLITICAL SUBDIVISION PARTICIPATION. Participation under this contract by political subdivisions (i.e., colleges, school districts, counties, cities, etc.,) of the WSCA Participating States shall be voluntarily determined by the political subdivision. The Contractor agrees to supply the political subdivisions based upon the same terms, conditions and prices.
43. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this contract on behalf of each party has full power and authority to enter into this contract. Contractor acknowledges that as required by statute or regulation this contract is effective only after approval by the WSCA Board of Directors and only for the period of time specified in the contract. Any services performed by Contractor before this contract is effective or after it ceases to be effective are performed at the sole risk of Contractor. The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency.
44. GOVERNING LAW; JURISDICTION. This contract and the rights and obligations of the parties hereto shall be governed and construed in accordance with the laws of the state of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. The parties consent to the exclusive jurisdiction of the First Judicial District Court, Carson City, Nevada for enforcement of this contract. The construction and effect of any Participating Addendum or order against the contract(s) shall be governed by and construed in accordance with the laws of the Participating State. Venue for any claim, dispute or action concerning an order placed against the contract(s) or the effect of a Participating Addendum or shall be in the Purchasing State.
45. SIGNATURES IN COUNTERPART. Contract may be signed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one in the same instrument.
46. ENTIRE CONTRACT AND MODIFICATION. This contract and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this contract specifically displays a mutual intent to amend a particular part of this contract, general conflicts in language between any such attachment and this contract shall be construed consistent with the terms of this contract. The terms of this contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the WSCA Contract Administrator.

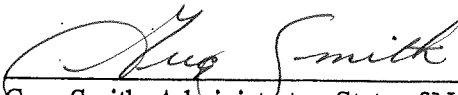
IN WITNESS WHEREOF, the parties hereto have caused this contract to be signed and intend to be legally bound thereby.


Independent Contractor's Signature

2-21-2011 Exec. Vice President
Date Independent's Contractor's Title

Signature

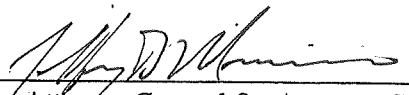
Date Title


Greg Smith, Administrator, State of Nevada

APPROVED BY WSCA BOARD OF DIRECTORS

On 2-24-11
(Date)

Approved as to form by:


Deputy Attorney General for Attorney General

On 25 Feb 11
(Date)

ATTACHMENT AA

CONTRACTORS CLARIFICATION
NEGOTIATED RESPONSE



2001 Theurer Boulevard
Winona, MN 55987
www.fastenal.com

February 17, 2011

Ms. Gail Burchett
State of Nevada
Department of Administration
Purchasing Division
515 E. Musser Street, Ste. 300
Carson City, NV 89701

**Re: Letter of Clarification
Request for Proposal No. 1862**

Dear Ms. Burchett:

Fastenal Company ("Fastenal") sincerely appreciates the opportunity to respond to the Western States Contracting Alliance's ("WSCA") request for proposal for facilities maintenance, lighting products, industrial supplies and tools. Fastenal has examined the needs of WSCA and its individual members very closely and we are ecstatic about the opportunity to share our proposal with you.

Naturally, there are a few terms within the request for proposal that Fastenal would like to clarify. We have itemized them for your convenience below and would appreciate your consideration of each as a condition of our acceptance of a bid award.

RESPONSE TO REQUEST FOR PROPOSAL

Section 3.2 F.O.B. Destination (Page 9 of RFP)

- (1) Please amend this section to read as follows:

"Prices for all In-Stock Products associated with this contract are to be FOB Destination anywhere within the Participating States or geographic area offered. Alaska and Hawaii may require an additional shipping charge for Products not In-Stock at the local store or not In-Stock at the Primary Distribution Center of the Participating State. Any expedited or emergency deliveries requested by the Authorized Purchaser outside the Guaranteed Delivery Times for In-Stock Products may require additional shipping charges."



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Section 4.4. DELIVERY (*page 12 of RFP*)

- (1) Please amend this section to read as follows:

Delivery time for In-stock Products should not exceed 24-48 hours for all points within the Participating States. "In-Stock Products" are defined as any Product listed in the WSCA custom online catalog and available throughout Proposer's then current inventory

Non-stocked Products must be delivered within 10 working days. Non-Stock Products are defined as any Products that are temporarily out of stock throughout the Proposer's then current inventory, but are available and will be delivered within 10 days from the date of order.

Section 4.4.3 MSDS (*Page 13 of RFP*)

- (1) Please amend this section to read as follows:

"Proposer shall make MSDS sheets continuously available for all Products on its website or upon request at any store location."

Section 4.5 Shipping (*Page 13 of RFP*)

- (1) We would like to modify and clarify this Section by adding the underlined phrases as follows:

Contractor will receive a reasonable period of time, but not more than six months from the effective date of this contract, to develop a system to include the above information on the outside of the package or packages delivered under this contract.

Regarding the identification on a packing slip of any Backordered items, Number of Parcels and F.O.B. Destination information, Contractor will receive a reasonable period of time, but not more than six months from the effective date of this contract, to develop a system to include the information underlined above on the packaging slips delivered under this contract.



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Section 7.1 PRICING (Page 18 of the RFP)

- (1) In section 7.1.1, because the categories as stated in Attachment I and the product mix reflected in the market basket may not accurately describe the categories as identified within Fastenal's Big Blue volume 10 catalog and the WSCA custom online catalog, the following clarification is provided: Contractor will receive a reasonable period of time, but not more than six months from the effective date of this contract, to develop product categories that match the categories established under the contract.

In the interim, the Proposers WSCA custom online catalog will identify market basket items with the product categories that have been established under this contract. The product category identifier will be listed as a separate unique component of the respective item on the WSCA custom online catalog and can be accessed by a Participating User for comparison purposes and/or restricting category offerings.

The following discount structure is provided within exhibit #2 to identify the discounts for categories within Fastenal's Big Blue volume 10 catalog and the WSCA custom online catalog.

Section 11.9 TERMS, CONDITIONS AND EXCEPTIONS (Page 26 of RFP)

- (1) Proposer may provide a wide variety of goods and materials that are beyond our WSCA custom online catalog offering. These non-WSCA custom online catalog items may be purchased from Proposer as Sourced Products and these purchases will be subject to "Fastenal Sourced Product Terms and Conditions" as contained in EXHIBIT #3.

**MODIFICATIONS TO THE
MASTER SERVICE AGREEMENT**

Section 16 DELIVERY (Page 38 of RFP)

- (1) Please modify this Section by removing the strike though phrases and adding the underlined phrases as follows:

The prices proposed shall be the delivered price to any Participating State, agency or political subdivision. All deliveries of In-Stock and Non-Stock products shall be F.O.B. destination with all transportation and handling charges paid by the Contractor, excluding Sourced Products. Delivery times will be based on the Delivery Time for In-Stock and Non-Stock Items set forth in



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Section 4.4 the Contractor's Solicitation Proposal. Responsibility and liability for loss or damage shall remain with the Contractor until final inspection and acceptance, when responsibility shall pass to the Buyer except as to latent defects, fraud and Contractor's warranty obligations. Any portion of an order to be shipped without transportation charges that is back-ordered shall be shipped without charge.

Section 17 HAZARDOUS CHEMICAL INFORMATION. (page 38 of RFP)

- (1) Please replace the language in Section 17 with the following language:

"Contractor shall make material safety data sheets continuously available for all Products on its website or upon request at any store location."

Section 35. WARRANTIES. (page 41-42 of RFP)

- (1) Please replace the current section in its entirety with the following Warranty:

"Contractor warrants that all products shall be free from any defects in material or workmanship and in conformity with Buyer's written specifications for a period of one year after delivery. Buyer shall inspect Products within a reasonable time (not to exceed 10 days) after receipt, and shall promptly notify Contractor of any claimed defect or nonconformity. Neither acceptance nor payment for products shall waive the right of inspection or the right to return defective or nonconforming products where the nature, quantity or packaging of Products makes immediate inspection impracticable. Upon Contractor's receipt of written notice from the Buyer and as an exclusive remedy, Contractor shall promptly correct or replace, at Contractor's option, any defective or non-conforming products and the direct and necessary cost of such correction or replacement shall be borne by Contractor. Correction shall be made or replacement products shall be delivered by Contractor within the on-time period applicable to the original purchase order, unless prevented by conditions not subject to Contractor's control. This warranty will not be applicable in the event of the improper selection, misapplication or misuse of the product by Buyer and any liability from such events is disclaimed by Contractor. Fastenal makes no warranties to those defined as consumers in the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act.

THE FOREGOING WARRANTIES ARE IN PLACE OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED AND SELLER EXPRESSLY DISCLAIMS ANY OTHER WARRANTIES, INCLUDING



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WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

EVERY CLAIM UNDER THIS LIMITED WARRANTY SHALL BE DEEMED WAIVED UNLESS WRITTEN NOTICE IS GIVEN TO SELLER WITHIN SIXTY (60) DAYS AFTER THE DEFECT TO WHICH EACH CLAIM RELATES IS DISCOVERED, OR SHOULD HAVE BEEN DISCOVERED.

LIMITATION OF LIABILITY. ANY LIABILITY FOR CONSEQUENTIAL AND INCIDENTAL DAMAGES IS EXPRESSLY DISCLAIMED. CONTRACTOR'S LIABILITY IN ALL EVENTS IS LIMITED TO, AND SHALL NOT EXCEED THE PURCHASE PRICE PAID."

Attachmentt BB - INSURANCE SCHEDULE

- (1) Please delete the Professional Liability Insurance Section located on page 1 of 3;
- (2) Under the General Requirements located on page 2 of 3 please amend the last sentence of subsection d, titled "Deductibles and Self-Insured Retentions" as follows:

"Any deductible or self-insured retention shall not exceed one million dollars (\$1,000,000.00) per occurrence, unless otherwise approved."

If these clarifications are not acceptable or are deemed non-responsive, please contact me at (507) 313-7011 so that we may discuss alternative language or approaches to addressing these items.

Sincerely,

A handwritten signature in black ink, appearing to read "Cory Jansen", is written over the typed name and title.

Cory Jansen
Executive Vice President

EXHIBIT # 3**Fastenal Sourced Product Terms and Conditions****Non-Standard Products**

Fastenal will make available to Customer products that are not available through the Fastenal's current WSCA Catalog. These products are generally defined as a product that has not been assigned in Fastenal's current WSCA Catalog or any products that are designed by or for a customer via a print for the Customer's specific use and Seller is required by the Customer to maintain larger quantities of the product than would normally be stocked by Fastenal. The parties will exercise good faith efforts to identify the goods that will be designated as Sourced Products.

Pricing

The pricing applicable to any Sourced Products ordered and delivered to the Customer will be based on current market conditions, competitive factors, volume commitments, lead times for delivery and related requirements imposed by the Customer. Fastenal will exercise reasonable commercial efforts to help achieve optimal pricing for the Customer based upon these customer and market factors. In certain cases, Customer may be able to receive static negotiated pricing for Sourced Products, provided the Customer commits to ordering and purchasing certain volumes over a designated period of time.

Freight

Freight is FOB shipping point, prepaid and billed to the Customer, to locations within the Continental United States. Any shipments outside the Continental United States will be the responsibility of the Customer. Emergency deliveries and shipments of hazardous materials may incur additional charges or premium fees and special costs that will be the responsibility of the Customer and shall be paid by the Customer.

Warranty and Disclaimer

SELLER'S LIMITED WARRANTY DOES NOT APPLY TO SOURCED PRODUCTS PURCHASED BY CUSTOMER. WARRANTIES PROVIDED BY THE MANUFACTURER OF THE SOURCED PRODUCTS, IF ANY, WILL BE PASSED THROUGH TO THE CUSTOMER, TO THE EXTENT PROVIDED UNDER APPLICABLE LAW. SELLER'S STANDARD LIMITED WARRANTY DISCLAIMER AND LIMITATION OF LIABILITY PROVISION WILL APPLY TO SOURCED PRODUCTS. Seller will reasonably assist the Customer with obtaining or verifying warranty information from the manufacturer concerning the Sourced Product and confirming application or extension of such warranties; however, Seller will not be responsible or obligated to enforce or honor any warranties extended by the manufacturer of the Sourced Products.

Returns and Cancellation of Order

Sourced Products ordered and delivered to the Customer are non-returnable and non-refundable, excluding non-conforming items. Sourced Products that have been ordered by the Customer and are non-cancelable by the manufacturer, Customer must accept and pay for the delivered quantities, excluding non-conforming items. If Customer requests to cancel a Sourced Product order prior to shipment or delivery, Seller will exercise reasonable commercial efforts to discontinue the production of the items by the manufacturer. However, Customer will be responsible for any restocking fee or costs imposed by the manufacturer related to the cancellation of the Sourced Product. In the event the Customer requests Seller to stock and maintain an inventory of certain quantities of Sourced Product for Customer, Customer agrees to purchase all remaining Sourced Products maintained by Seller in its inventory at the time the contract is terminated or within thirty (30) days after Customer discontinues use of the Sourced Product.

**CALIFORNIA PARTICIPATING ADDENDUM
WESTERN STATES CONTRACTING ALLIANCE (WSCA)
FACILITIES MAINTENANCE, LIGHTING PRODUCTS, INDUSTRIAL SUPPLIES AND TOOLS
FASTENAL COMPANY
MASTER PRICE AGREEMENT
7-11-51-01**

1. Scope:

This Participating Addendum covers the purchase of Facilities Maintenance, Lighting Products, Industrial Supplies and Tools for all State Agencies and will include all California political subdivisions/local governments. A subdivision/local government is defined as any city, county, city and county, district, or other local governmental body or corporation, including the California State Universities (CSU) and University of California (UC) systems, K-12 schools and community colleges empowered to expend public funds. Each political subdivision/local government should make its own determination whether the WSCA program is consistent with its procurement policies and regulations.

State Agencies are prohibited from using this contract in accordance with Management Memo 05-11, except for those categories not offered under the Statewide Mandatory Contract (formerly Strategically Sourced Contract) for Maintenance and Operating Supplies (MRO).

THE SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING ARRA FUNDS APPLY TO THE ORDERING AGENCY. IF OR WHEN FASTENAL COMPANY, AS A VENDOR, IS NOTIFIED BY ORDERING AGENCY THAT A SPECIFIC PURCHASE OR PURCHASES ARE BEING MADE WITH ARRA FUNDS, FASTENAL COMPANY AGREES TO COMPLY WITH THE DATA ELEMENT AND REPORTING REQUIREMENTS THAT ARE LEGALLY REQUIRED OF PROVIDERS OF GOODS AND RELATED SERVICES. FASTENAL COMPANY, AS IT RELATES TO PURCHASES UNDER THIS CONTRACT IS NOT A SUBCONTRACTOR OR SUBGRANTEE, BUT SIMPLY A PROVIDER OF GOODS AND RELATED SERVICES

2. TECHNICAL SPECIFICATIONS

Technical specifications, which apply to both State and local government, include recently implemented State Regulations. In addition, the specifications include product requirements when purchased by state agencies. Suppliers shall comply with all laws, regulations and technical specifications provided herein.

- a. Only thermostat products where the manufacturer is in compliance with The Mercury Thermostat Collection Act of 2008 shall be offered for sale in the State of California. Mercury-added thermostats and thermostats offered by a non-compliant manufacturer are prohibited for sale within the State of California. [California Health and Safety Code Sections 25214.8.10-25214.8.20 (HSC §25214.8.10- §25214.8.20)]
- b. Consumer products containing volatile organic compounds (VOC) shall be compliant with the laws and regulations for reducing the emissions of consumer products. Contractor is required to report sales in accordance with this regulation. [Title 17 California Code of Regulations Sections 94507-94517. (17CCR§ 94507-94517)] See Regulations for Reducing Emissions in Consumer Products for further information. VOC containing products shall identify the percent VOC by weight in the catalog product description and where available, the Global Warming Potential (GWP) for multipurpose solvents and paint thinners.
- c. Indoor air cleaning devices not in compliance with the regulation for Limiting Ozone Emissions from Indoor Air Cleaning Devices] are prohibited for sale in the State of California. Prohibited products shall be identified as "Does not meet California Requirements, Cannot be shipped to California." Exempted products shall state the reason the exemption applies i.e. "Solely for industrial use. Potential health hazard: emits ozone." [17CCR§94800- §94810]. Further manufacturer and distributor information can be found at: <http://www.arb.ca.gov/research/indoor/aircleaners/manufacturers.htm>.
- d. Aerosol Adhesives for consumer, industrial and commercial uses shall comply with the aerosol adhesive standards as specified in HSC§41712(h)(2). Only adhesives and sealants that are

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South Coast Air Quality Management District (SCAQMD), Rule #1168 and Bay Area Air Quality Management District (BAAQMD), Rule #51 compliant shall be sold to state agencies. Aerosol Adhesives SCAQMD and BAAQMD compliant shall be identified and the VOC (weight per volume/grams per liter) provided within the catalog product description.

- e. The State of California regulates exhaust emissions of off-road powered equipment. Engines and equipment offered for sale in the State of California shall be California Air Resource Board (CARB) certified and reference the CARB Executive Order (EO) number. (13CCR Chapter 9 Article 1). Examples include: lawnmowers, chainsaws, line trimmers, backpack blowers, edger, brushcutter, generators, pumps, compressors, tractors, forklifts, leaf blowers, vacuums, snow blowers, floor polishing equipment, concrete polishers, pressure washer, tiller, etc. See California Air Resources Board Off-Road Certification Database for a list of compliant products. Off-road power equipment must be identified as "CARB Certified" and include within the catalog product description its EO number.
- f. High-Global Warming Potential (High-GWP) refrigerants for Stationary Sources are restricted for sale in the State of California. Compliance with these regulations requires the supplier to track and sell High-GWP refrigerants only to authorized purchasers. (17CCR Subarticle 5.1, §95380-§95398.) See California Air Resources Board Refrigerant Management Program – for Regulated Refrigerants. Refrigerants must include their GWP_{100yr} value within the catalog product description.
- g. Appliance products not in compliance with California 2010 Appliance Efficiency Standards are prohibited for sale within the State of California (20CCR §1601-§1608.). Only large appliances that are EnergyStar® qualified shall be sold to state agencies. Large appliances must meet most recent EnergyStar® standards. Examples of appliances covered under the California 2010 Appliance Efficiency Standards Include: Central Air Conditioners (CAC), Refrigeration Products, Cooking and Washing Products, Transformer Products, Electronics, Water Heater Products, Fans and Dehumidifiers, Heat Pumps, Heating Products, Lighting Products, Motor Products, Non-Central AC and HP Products and Plumbing Products. See The California Energy Commission Appliance Efficiency Database for list of compliant products.
- h. Plastic Trash Bags (thickness of 0.7 mil or greater) when sold in California shall contain at least 10 percent by weight PCR material. Manufacturers and suppliers of plastic trash bags must be compliant with California Plastic Trash Bag laws (PRC§ 42290 et seq and 14CCR Article 5.) See CalRecycle Recycle Content Plastic Trash Bag Program for a list of compliant manufacturers and suppliers. All plastic trash bags offered for sale must identify in the catalog product description the thickness (mil) and manufacturer.
- i. Packages, packaging components, and packaged retail-ready products offered to the State of California shall be in full compliance with all requirements of California Toxics in Packaging Prevention Act (TPPA), HSC §25214.11- §25214.26.
- j. At the request of the purchaser, contractor shall provide the minimum percentage by weight, if not the exact percentage, of recycle content in each of the products and associated shipping/packaging materials sold. The recycle content shall include both post consumer recycle content (PCRC) and Pre-Consumer (Post-Industrial) recycle content percentages. All products sold to State Agencies shall include the recycle content, both RC and PCRC for each item purchased. Products compliant with State Agency Buy Recycle Campaign (SABRC) PCRC minimums shall be identified in the catalog product description as "SABRC Compliant". SABRC eligibility is dependent on products meeting the minimum PCRC per product category as defined in PCC§12209. See CalRecycle SABRC Program requirements for suppliers.

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- k. Environmental benefit claims concerning products or services must be consistent with the Federal Trade Commission's Guidelines for the Use of Environmental Marketing Terms. Product environmental claims are to include the industry standard the product meets and certifier. A copy of the certification must be supplied upon request if it is not publically available for verification. Products claiming environmental benefits must include the industry standard it meets within the catalog product description.
- l. All custodial equipment sold to state agencies shall operate at a sound level less than 70dBA. Vacuum cleaners and deep cleaning extraction equipment shall be Carpet & Rug Institute (CRI) certified. Custodial equipment not meeting these requirements is prohibited for sale to state agencies.
- m. Janitorial Paper Products (bathroom tissue, paper towels, paper napkins, facial tissue and general-purpose industrial wipes) offered on the State of California MRO mandatory contracts are prohibited for sale under the WSPA contract. All other paper products sold to state agencies shall meet the minimum PCRC and/or minimum RC percentages by weight listed in the Janitorial Paper Product Recycle Content Table. Janitorial paper products must identify and include in the catalog product description the percent PCRC and percent RC.

Janitorial Paper Product Recycle Content Table

Commodity	PCRC % Fiber (min)	RC % Fiber (min)	Total RC % (min) by weight
Bathroom Tissue	20	20	40
Paper Towels	40	40	80
Paper Napkins	30	30	60
Facial Tissue	10	10	20
General-purpose Industrial Wipes	40	40	80

- n. Chemical cleaners (soaps, cleaners, disinfectants, fresheners, sanitizers and polishes) offered on the State of California MRO contracts are prohibited for sale. All chemical cleaners sold to state agencies shall not contain any terpenes and glycol ethers, phosphorus content not to exceed 0.5% total phosphorus by weight and when labeled as "Concentrated" the contraction shall not be less than 99 percent (%) or the pH not less than 2 or greater than 11. Toxicity levels must be: for LD₅₀ shall be greater than 5,000 mg/kg or the LC₅₀ greater than or equal to 20mg/L at one hour. Volatile Organic Content (VOC) limits may not exceed the maximum VOC limits listed in the VOC table. "VOC Content" means the total weight of VOC in a product expressed as a percentage of the product weight (exclusive of the container or packaging). Chemical cleaners must identify and include in the catalog product description the percent VOC, percent total phosphorus, terpene and glycol ether free, percent concentration, pH and LD₅₀ (mg/kg) or LC₅₀ (mg/L).

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VOC TABLE

Cleaner Type	VOC % by weight (maximum permissible)
Dual Purpose Air Fresheners/Disinfectant Aerosols	60
Bathroom and Tile Cleaners: Non-aerosol	1
Carpet and Upholstery Cleaner: (dilutables)	0.1
Disinfectant Aerosols	70
Non-aerosol	1
Floor Polishes or Waxes: Resilient Flooring Materials	1
Non-resilient Flooring Materials	1
General Purpose Cleaners Aerosols	8
Non-aerosol	4
General Purpose Degreasers	10
Glass Cleaners Aerosols	12
Non-aerosol	4
Heavy-duty Hand Cleaners or Soap	8
Laundry Prewash Aerosols/solids	22
all other forms	5
Metal Polish/Cleanser	30
Sanitizer Aerosols	70
Non-aerosol	1
Wood Cleaner: Aerosols	17
Non-aerosol	4

3. Terms and Conditions:

For changes under this Participating Addendum by any Eligible Entity listed in Section 1, Scope, the following Changes apply:

- a. The California General Provisions (CAGP) (**GSPD-401Non IT Commodities based on June 8, 2010 standard**) for Western States Contracting Alliance (WSCA) Facilities Maintenance, Lighting Products, Industrial Supplies and Tools as attached become a part of this Participating Addendum.
- b. State Departments' use of this master price agreement is prohibited when there is a mandatory statewide contract for similar products. The current mandatory statewide contracts with products that conflict with this WSCA agreement are listed in the table below. The two exceptions to this prohibition are when 1) the quantity being ordered is less than the minimum order quantity required in the mandatory statewide contract individual user instructions, or 2) when a department obtains a DGS/PD exemption approval. The State departments are responsible for verifying product availability.

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Mandatory Statewide Contract		Product Description
1-10-62-31	California Lamp Contract	Lamps/Lighting
1S-06-51-02	Maintenance/Repair/Operations	Industrial Supplies, Tools & HVAC
1S-06-79-55	Maintenance/Repair/Operations	Janitorial & Electrical Supplies
1S-06-84-01	Maintenance/Repair/Operations	Safety Supplies
1S-06-85-34	Maintenance/Repair/Operations	Toilet Tissue

The State Contracts Index Listing provides a centralized contract list of most leveraged procurement agreements (Statewides, Masters, WSCA) and can be accessed at:
<http://www.documents.dgs.ca.gov/pd/contracts/contractindexlisting.htm>
Department users and WSCA contractors shall not encourage either parties to split orders to circumvent the use of a mandatory statewide contract.

- c. The California General Provisions (CAGP) shall prevail if there is a conflict between the terms and conditions of the contractor's WSCA State of Nevada, Master Price Agreement, packaging, invoices, catalogs, brochures and technical data sheets.
- d. State of Nevada, Master Price Agreement number 1862 is changed for California to Contract Number 7-11-51-01.
- e. Delivery:
FOB Destination and included in the purchase order, or as otherwise stipulated in the contract.
- f. DGS Termination of Contract:

The State may terminate this contract at any time upon 30 days prior written notice to the contractor. Upon termination or other expiration of this contract, each party will assist the other party in orderly termination of the contract and the transfer of all assets, tangible and intangible, as may facilitate the orderly, nondisrupted business continuation of each party. This provision shall not relieve the contractor of the obligation to perform under any purchase order or other similar ordering document executed prior to the termination becoming effective.

- g. Monthly Usage Reports & Administrative Fee:

Contractor must submit a monthly usage report to the California Contract Administrator for all California purchases in the format outlined in the Monthly Usage Report Template. The Monthly Usage Report Template is not to be changed or modified in any way without the prior consent of the California Contract Administrator. Report must be submitted in attached DGS report template.

The Contractor shall submit a check, in addition to the report, payable to the State of California, Contract Administrator for the calculated administrative fee for an amount equal to one percent (0.01) of the sales for the monthly period. This fee shall be included as an adjustment to contractors WSCA pricing and not invoiced or charged to the purchasing entity.

Payment of the administrative fee by Contractor is due regardless of status of payments on orders from users to Contractor. Although reports are due on a monthly basis, administrative fees shall be submitted on a quarterly basis.

A **monthly** usage report is due even when there is no activity. Any report that does not follow the required format or that excludes information will be deemed incomplete. Failure to submit reports and fees on a timely basis shall constitute grounds for suspension of this

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agreement. Report(s) and delivery will be in accordance with the following **monthly** schedule.

Jan--Due Feb 15	May--Due Jun 15	Sept--Due Oct 15
Feb--Due Mar 15	Jun--Due Jul 15	Oct--Due Nov 15
Mar--Due Apr 15	Jul--Due Aug 15	Nov--Due Dec 15
Apr--Due May 15	Aug--Due Sept 15	Dec--Due Jan 15

Quarterly Schedule for administrative fee check payment

Jan - Mar	Apr - Jun	July - Sept	Oct - Dec
Check Due April 30	Check Due July 31	Check Due Oct 31	Check Due Jan 31

The administrative fee check and report should be submitted to the following address:

Cynthia Okoroike
Department of General Services
Procurement Division
Multiple Award Program - WSCA
707 Third Street, 2nd Floor, MS # 202, West Sacramento, CA 95605-2811

- h. The primary state government contact for this Participating Addendum is as follows:

Department of General Services, Procurement Division
Multiple Award Program - WSCA
707 Third Street, 2nd Floor, MS # 202
West Sacramento, CA 95605

Contact: Cynthia Okoroike
E-mail: cynthia.okoroike@dgs.ca.gov
Phone: (916) 375-4389
Fax: (916) 375-4663

- i. The primary Fastenal Company CUSTOMER contact for this Participating Addendum is as follows:

FASTENAL COMPANY

Address: 2001 Theurer Blvd
Winona, MN 55987

Contact: John Soderberg

E-Mail: jsoderbe@fastenal.com

Phone: 507/313-7313

Fax: 507/494-7669

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j. Price Agreement Number:

The Master Price Agreement number for the Participating State is 7-11-51-01. The Master Price Agreement Number MUST be shown on all Purchase Orders issued against this Master Price Agreement.

This Addendum and the Price Agreement together with its exhibits and/or amendments, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Addendum and the Price Agreement, together with its exhibits and/or amendments, shall not be added to or incorporated into this Addendum or the Price Agreement and its exhibits and/or amendments, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Addendum and the Price Agreement and its exhibits and/or amendments shall prevail and govern in the case of any such inconsistent or additional terms.

k. Effective Dates:

This Participating Addendum shall be effective upon approval by the Department of General Services and will continue until the End Date of the Master Price Agreement. Lead State amendments to extend the term date are automatically incorporated into this Participating Addendum unless terminated early in accordance with the terms and conditions of the Master Price Agreement or this Participating Addendum.

l. Servicing Subcontractors:

The Contractor, at this time, will be using subcontractors to provide products under this contract.

SMALL BUSINESS/DVBE-REQUIREMENT

Each Contractor must provide DGS with their subcontracting plan committing to 25% Small Business and 3% DVBE subcontracting under this contract.

SMALL BUSINESS/DVBE - TRACKING

State agencies are able to claim subcontracting dollars towards their small business or DVBE goals whenever the Contractor subcontracts a commercially useful function to a certified small business or DVBE. The Contractor will provide the ordering agency with the name of the small business or DVBE used and the dollar amount the ordering agency can apply towards its small business or DVBE goal. State departments are required to identify sub-contractors on individual purchase documents executed against this master price agreement.

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SMALL BUSINESS/DVBE - SUBCONTRACTING

1. The amount an ordering agency can claim towards achieving its small business or DVBE goals is the dollar amount of the subcontract award made by the Contractor to each small business or DVBE.
2. The Contractor will provide an ordering agency with the following information at the time the order is quoted:
 - a. The Contractor will state that, as the prime Contractor, it shall be responsible for the overall execution of the fulfillment of the order.
 - b. The Contractor will indicate to the ordering agency how the order meets the small business or DVBE goal, as follows:
 - List the name of each company that is certified by the Office of Small Business and DVBE Services to which that it intends to subcontract a commercially useful function; and
 - Include the small business or DVBE certification number of each company listed, and attach a copy of each certification; and
 - Indicate the dollar amount of each subcontract with a small business or DVBE that may be claimed by the ordering agency towards the small business or DVBE goal; and
 - Indicate what commercially useful function the small business or DVBE subcontractor will be providing towards fulfillment of the order.

By Signing below FASTENAL COMPANY agrees to offer the same Facility Maintenance, Lighting Products, Industrial Supplies and Tools as on the State of Nevada contract #1862 at prices equal to or lower than the prices on that contract. .

IN WITNESS WHEREOF, the parties have executed this Participating Addendum as of the date of execution by both parties below.

State of California:

By: 

Name: Jim Butler

Title: Deputy Director

Date: 7/29/2011

FASTENAL COMPANY

By: 

Name: Lee Hein

Title: Executive Vice President

Date: 6-9-2011

Contractor:																
Reporting Month:																
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14	Column 15	Column 16	Column 17
Ordering Agency Name	Purchase Order Number	Purchase Order Date	UNSPSC Code (Version 11)	Manufacturer Part Number (GEM #)	Manufacturer (GEM)	SKU # / Item #	Item Description	Unit of Measure	Quantity in Unit of Measure	Quantity	List Price/MSRP	Contract Unit Price	Contract Discount	Extended Contract Price Paid	Core/NonCore (Off-Spec Product Indicator)	Segment ID /Product Category/rou p ID

GENERAL PROVISIONS

1. **DEFINITIONS:** The following terms shall be given the meaning shown, unless context requires otherwise or a unique meaning is otherwise specified.
 - a) **"Business entity"** means any individual, business, partnership, joint venture, corporation, S-corporation, limited liability corporation, limited liability partnership, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute.
 - b) **"Buyer"** means the State's authorized contracting official.
 - c) **"Contract"** means this Contract or agreement (including any purchase order), by whatever name known or in whatever format used.
 - d) **"Contractor"** means the Business Entity with whom the State enters into this Contract. Contractor shall be synonymous with "supplier", "vendor" or other similar term.
 - e) **"Goods"** (commodities) means all types of tangible personal property, including but not limited to materials, supplies, and equipment (including computer equipment and telecommunications).
 - f) **"State"** means the government of the State of California, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the State of California.
2. **CONTRACT FORMATION:**
 - a) If this Contract results from a sealed bid offered in response to a solicitation conducted pursuant to Chapters 2 (commencing with Section 10290), 3 (commencing with Section 12100), and 3.6 (commencing with Section 12125) of Part 2 of Division 2 of the Public Contract Code (PCC), then Contractor's bid is a firm offer to the State which is accepted by the issuance of this Contract and no further action is required by either party.
 - b) If this Contract results from a solicitation other than described in paragraph a), above, Contractor's quotation or proposal is deemed a firm offer and this Contract document is the State's acceptance of that offer.
 - c) If this Contract resulted from a joint bid, it shall be deemed one indivisible Contract. Each such joint Contractor will be jointly and severally liable for the performance of the entire Contract. The State assumes no responsibility or obligation for the division of orders or purchases among joint Contractor's.
3. **COMPLETE INTEGRATION:** This Contract, including any documents incorporated herein by express reference, is intended to be a complete integration and there are no prior or contemporaneous different or additional agreements pertaining to the subject matter of the Contract.
4. **SEVERABILITY:** The Contractor and the State agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of the presumed non-applicability of such provision.
5. **INDEPENDENT CONTRACTOR:** Contractor and the agents and employees of Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the State.
6. **APPLICABLE LAW:** This Contract shall be governed by and shall be interpreted in accordance with the laws of the State of California; venue of any action brought with regard to this Contract shall be in Sacramento County, Sacramento, California. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Contract.
7. **COMPLIANCE WITH STATUTES AND REGULATIONS:**
 - a) Contractor warrants and certifies that in the performance of this Contract, it will comply with all applicable statutes, rules, regulations and orders of the United States and the State of California and agrees to indemnify the State against any loss, cost, damage or liability by reason of Contractor's violation of this provision.
 - b) If this Contract is in excess of \$554,000, it is subject to the requirements of the World Trade Organization (WTO) Government Procurement Agreement (GPA).
8. **CONTRACTOR'S POWER AND AUTHORITY:** The Contractor warrants that it has full power and authority to grant the rights herein granted and will hold the State harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, Contractor avers that it will not enter into any arrangement with any third party which might abridge any rights of the State under this Contract.
 - a) The State will notify Contractor of any such claim in writing and tender the defense thereof within a reasonable time; and
 - b) Contractor will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future State operations or liability, or when involvement of the State is otherwise mandated by law, the State may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability); (ii) the State will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and (iii) the State will reasonably cooperate in the defense and in any related settlement negotiations.
9. **ASSIGNMENT:** This Contract shall not be assignable by the Contractor in whole or in part without the written consent of the State. For the purpose of this paragraph, State will not unreasonably prohibit Contractor from freely assigning its right to payment, provided that Contractor remains responsible for its obligations hereunder.
10. **WAIVER OF RIGHTS:** Any action or inaction by the State or the failure of the State on any occasion, to enforce any right or provision of the Contract, shall not be construed to be a waiver by the State of its rights hereunder and shall not prevent the State from enforcing such provision or right on any future occasion. The rights and remedies of the State herein are cumulative and are in addition to any other rights or remedies that the State may have at law or in equity.
11. **ORDER OF PRECEDENCE:** In the event of any inconsistency between the articles, attachments, specifications or provisions which constitute this Contract, the following order of precedence shall apply:
 - a) these General Provisions – Non-IT Commodities;
 - b) Contract form, i.e., Purchase Order STD 65, etc., and any amendments thereto;
 - c) Statement of Work, including any specifications incorporated by reference herein;
 - d) special terms and conditions; and
 - e) all other attachments incorporated in the Contract by reference.

GENERAL PROVISIONS**12. PACKING AND SHIPMENT:**

- a) All Goods are to be packed in suitable containers for protection in shipment and storage, and in accordance with applicable specifications. Each container of a multiple container shipment shall be identified to:
 - i) show the number of the container and the total number of containers in the shipment; and
 - ii) the number of the container in which the packing sheet has been enclosed.
- b) All shipments by Contractor or its subcontractors must include packing sheets identifying: the State's Contract number; item number; quantity and unit of measure; part number and description of the Goods shipped; and appropriate evidence of inspection, if required. Goods for different Contracts shall be listed on separate packing sheets.
- c) Shipments must be made as specified in this Contract, as it may be amended, or otherwise directed in writing by the State's Transportation Management Unit within the Department of General Services, Procurement Division.

13. TRANSPORTATION COSTS AND OTHER FEES OR EXPENSES: No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by the State unless expressly included and itemized in the Contract.

- a) Contractor must strictly follow Contract requirements regarding Free on Board (F.O.B.), freight terms and routing instructions. The State may permit use of an alternate carrier at no additional cost to the State with advance written authorization of the Buyer.
- b) If "prepay and add" is selected, supporting freight bills are required when over \$50, unless an exact freight charge is approved by the Transportation Management Unit within the Department of General Services Procurement Division and a waiver is granted.
- c) On "F.O.B. Shipping Point" transactions, should any shipments under the Contract be received by the State in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the equipment and/or material, Contractor, on request of the State, shall at Contractor's own expense assist the State in establishing carrier liability by supplying evidence that the equipment and/or material was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions.

14. TIME IS OF THE ESSENCE:

Time is of the essence in this Contract.

- 15. DELIVERY:** Contractor shall strictly adhere to the delivery and completion schedules specified in this Contract. Time, if stated as a number of days, shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If Contractor delivers in excess of the quantities specified herein, the State shall not be required to make any payment for the excess Goods, and may return them to Contractor at Contractor's expense or utilize any other rights available to the State at law or in equity.

- 16. SUBSTITUTIONS:** Substitution of Goods may not be tendered without advance written consent of the Buyer. Contractor shall not use any specification in lieu of those contained in the Contract without written consent of the Buyer.

17. INSPECTION, ACCEPTANCE AND REJECTION:

- a) Contractor and its subcontractors will provide and maintain a quality assurance system acceptable to the State covering Goods and services under this Contract and will tender to

the State only those Goods that have been inspected and found to conform to this Contract's requirements. Contractor will keep records evidencing inspections and their result, and will make these records available to the State during Contract performance and for three years after final payment. Contractor shall permit the State to review procedures, practices, processes and related documents to determine the acceptability of Contractor's quality assurance system or other business practices related to performance of the Contract.

- b) All Goods may be subject to inspection and test by the State or its authorized representatives.
- c) Contractor and its subcontractors shall provide all reasonable facilities for the safety and convenience of inspectors at no additional cost to the State. Contractor shall furnish to inspectors all information and data as may be reasonably required to perform their inspection.
- d) All Goods to be delivered hereunder may be subject to final inspection, test and acceptance by the State at destination, notwithstanding any payment or inspection at source.
- e) The State shall give written notice of rejection of Goods delivered or services performed hereunder within a reasonable time after receipt of such Goods or performance of such services. Such notice of rejection will state the respects in which the Goods do not substantially conform to their specifications. If the State does not provide such notice of rejection within thirty (30) days, unless otherwise specified in the Statement of Work, of delivery, such Goods and services will be deemed to have been accepted. Acceptance by the State will be final and irreversible, except as it relates to latent defects, fraud, and gross mistakes amounting to fraud. Acceptance shall not be construed to waive any warranty rights that the State might have at law or by express reservation in this Contract with respect to any nonconformity.

18. SAMPLES:

- a) Samples of items may be required by the State for inspection and specification testing and must be furnished free of expense to the State. The samples furnished must be identical in all respects to the products bid and/or specified in the Contract.
- b) Samples, if not destroyed by tests, may, upon request made at the time the sample is furnished, be returned at Contractor's expense.

19. WARRANTY: Unless otherwise specified, the warranties contained in this Contract begin after acceptance has occurred.

- a) Contractor warrants that Goods and services furnished hereunder will conform to the requirements of this Contract (including all descriptions, specifications and drawings made a part hereof), and such Goods will be merchantable, fit for their intended purposes, free from all defects in materials and workmanship and to the extent not manufactured pursuant to detailed designs furnished by the State, free from defects in design. The State's approval of designs or specifications furnished by Contractor shall not relieve the Contractor of its obligations under this warranty.
- b) All warranties, including special warranties specified elsewhere herein, shall inure to the State, its successors, assigns, customer agencies and users of the Goods or services.

- 20. SAFETY AND ACCIDENT PREVENTION:** In performing work under this Contract on State premises, Contractor shall conform to any specific safety requirements contained in the Contract or as required by law or regulation. Contractor shall take any additional precautions as the State may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Contract in accordance with the default provisions hereof.

GENERAL PROVISIONS

- 21. INSURANCE:** When performing work on property in the care, custody or control of the State, Contractor shall maintain all commercial general liability insurance, workers' compensation insurance and any other insurance the State deems appropriate under the Contract. Contractor shall furnish an insurance certificate evidencing required insurance coverage acceptable to the State. Upon request by the Buyer, the Contractor may be required to have the State shown as an "additional insured" on selected policies.
- 22. TERMINATION FOR NON-APPROPRIATION OF FUNDS:**
- a) If the term of this Contract extends into fiscal years subsequent to that in which it is approved, such continuation of the Contract is contingent on the appropriation of funds for such purpose by the Legislature. If funds to effect such continued payment are not appropriated, Contractor agrees to take back any affected Goods furnished under this Contract, terminate any services supplied to the State, under this Contract, and relieve the State of any further obligation therefor.
 - b) STATE AGREES THAT IF PARAGRAPH (a) ABOVE IS INVOKED, GOODS SHALL BE RETURNED TO THE CONTRACTOR IN SUBSTANTIALLY THE SAME CONDITION IN WHICH DELIVERED TO THE STATE, SUBJECT TO NORMAL WEAR AND TEAR. STATE FURTHER AGREES TO PAY FOR PACKING, CRATING, TRANSPORTATION TO CONTRACTOR'S NEAREST FACILITY AND FOR REIMBURSEMENT TO THE CONTRACTOR FOR EXPENSES INCURRED FOR THEIR ASSISTANCE IN SUCH PACKING AND CRATING.
- 23. TERMINATION FOR THE CONVENIENCE OF THE STATE:**
- a) The State may terminate performance of work under this Contract for its convenience in whole or, from time to time, in part, if the Department of General Services, Deputy Director, Procurement Division, or designee, determines that a termination is in the State's interest. The Department of General Services, Deputy Director, Procurement Division, or designee, shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date thereof. The parties agree that, as to the terminated portion of the Contract, the Contract shall be deemed to remain in effect until such time as the termination settlement, if any, is concluded and the Contract shall not be void.
 - b) After receipt of a Notice of Termination, and except as directed by the State, the Contractor shall immediately proceed with the following obligations, as applicable, regardless of any delay in determining or adjusting any amounts due under this clause. The Contractor shall:
 - i) Stop work as specified in the Notice of Termination.
 - ii) Place no further subcontracts for materials, services, or facilities, except as necessary to complete the continued portion of the Contract.
 - iii) Terminate all subcontracts to the extent they relate to the work terminated.
 - iv) Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification of which will be final for purposes of this clause.
- 24. TERMINATION FOR DEFAULT:**
- a) The State may, subject to the Force Majeure paragraph contained herein, by written notice of default to the Contractor, terminate this Contract in whole or in part if the Contractor fails to:
 - i) Deliver the Goods or to perform the services within the time specified in the Contract or any amendment thereto;
 - ii) Make progress, so as to endanger performance of this Contract (but see subparagraph (b) below); or
 - iii) Perform any of the other provisions of this Contract (but see subparagraph (b), below).
 - b) The State's right to terminate this Contract under subparagraphs (a)(ii) and (a)(iii) above, may be exercised if the Contractor does not cure such failure within the time frame stated in the cure notice issued by the Buyer.
 - c) If the State terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the Buyer considers appropriate, Goods or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those Goods or services. However, the Contractor shall continue the work not terminated.
 - d) If the Contract is terminated for default, the State may require the Contractor to transfer title and deliver to the State, as directed by the Buyer, any:
 - i) Completed Goods, and
 - ii) Partially completed Goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and Contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this Contract. Upon direction of the Buyer, the Contractor shall also protect and preserve property in its possession in which the State has an interest.
 - e) The State shall pay Contract price for completed Goods delivered and accepted. The Contractor and Buyer shall agree on the amount of payment for manufacturing materials delivered and accepted for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the Buyer determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.
 - f) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the State.
 - g) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this Contract.
- 25. FORCE MAJEURE:**
- Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include, but are not limited to:
- a) Acts of God or of the public enemy, and
 - b) Acts of the federal or state government in either its sovereign or contractual capacity.
- If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform.
- 26. RIGHTS AND REMEDIES OF STATE FOR DEFAULT:**
- a) In the event any Goods furnished or services provided by the Contractor in the performance of the Contract should fail to conform to the requirements herein, or to the sample submitted by the Contractor, the State may reject the same, and it shall become the duty of the Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to the State, and immediately replace all such rejected items with others conforming to the Contract.

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- b) In addition to any other rights and remedies the State may have, the State may require Contractor, at Contractor's expense, to ship Goods via air freight or expedited routing to avoid or minimize actual or potential delay if the delay is the fault of the Contractor.
 - c) In the event of the termination of the Contract, either in whole or in part, by reason of default or breach by the Contractor, any loss or damage sustained by the State in procuring any items which the Contractor agreed to supply shall be borne and paid for by the Contractor.
 - d) The State reserves the right to offset the reasonable cost of all damages caused to the State against any outstanding invoices or amounts owed to Contractor or to make a claim against the Contractor therefore.
- 27. CONTRACTOR'S LIABILITY FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY:**
- a) The Contractor shall be liable for damages arising out of injury to the person and/or damage to the property of the State, employees of the State, persons designated by the State for training, or any other person(s) other than agents or employees of the Contractor, designated by the State for any purpose, prior to, during, or subsequent to delivery, installation, acceptance, and use of the Goods either at the Contractor's site or at the State's place of business, provided that the injury or damage was caused by the fault or negligence of the Contractor.
 - b) Contractor shall not be liable for damages arising out of or caused by an alteration or an attachment not made or installed by the Contractor, or for damage to alterations or attachments that may result from the normal operation and maintenance of the Goods provided by the Contractor during the Contract.
- 28. INDEMNIFICATION:** Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all Contractors, subcontractors, suppliers, laborers and any other person, firm, or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this Contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation which may be injured or damaged by Contractor in the performance of this Contract.
- 29. INVOICES:** Unless otherwise specified, invoices shall be sent to the address set forth herein. Invoices shall be submitted in triplicate and shall include the Contract number; release order number (if applicable); item number; unit price, extended item price and invoice total amount. State sales tax and/or use tax shall be itemized separately and added to each invoice as applicable.
- 30. REQUIRED PAYMENT DATE:** Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927 et. seq. Unless expressly exempted by statute, the Act requires state agencies to pay properly submitted, undisputed invoices not more than 45 days after (i) the date of acceptance of Goods or performance of services; or (ii) receipt of an undisputed invoice, whichever is later.
- 31. TAXES:** Unless otherwise required by law, the State of California is exempt from Federal excise taxes. The State will only pay for any State or local sales or use taxes on the services rendered or Goods supplied to the State pursuant to this Contract.
- 32. NEWLY MANUFACTURED GOODS:** All Goods furnished under this Contract shall be newly manufactured Goods; used or reconditioned Goods are prohibited, unless otherwise specified.
- 33. CONTRACT MODIFICATION:** No amendment or variation of the terms of this Contract shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Contract is binding on any of the parties.
- 34. CONFIDENTIALITY OF DATA:** All financial, statistical, personal, technical and other data and information relating to the State's operation which are designated confidential by the State and made available to the Contractor in order to carry out this Contract, or which become available to the Contractor in carrying out this Contract, shall be protected by the Contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to the Contractor. If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this paragraph. The Contractor shall not be required under the provisions of this paragraph to keep confidential any data or information which is or becomes publicly available, is already rightfully in the Contractor's possession, is independently developed by the outside the scope of this Contract, or is rightfully obtained from third parties.
- 35. NEWS RELEASES:** Unless otherwise exempted, news releases pertaining to this Contract shall not be made without prior written approval of the Department of General Services.
- 36. PATENT, COPYRIGHT and TRADE SECRET INDEMNITY:**
- a) Contractor shall hold the State of California, its officers, agents and employees, harmless from liability of any nature or kind, including costs and expenses, for infringement or use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in connection with the Contract.
 - b) Contractor may be required to furnish a bond to the State against any and all loss, damage, costs, expenses, claims and liability for patent, copyright and trade secret infringement.
 - c) Contractor, at its own expense, shall defend any action brought against the State to the extent that such action is based upon a claim that the Goods or software supplied by the Contractor or the operation of such Goods pursuant to a current version of Contractor supplied operating software infringes a United States patent or copyright or violates a trade secret. The Contractor shall pay those costs and damages finally awarded against the State in any such action. Such defense and payment shall be conditioned on the following:
 - i) That the Contractor shall be notified within a reasonable time in writing by the State of any notice of such claim; and,
 - ii) That the Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise, provided, however, that when principles of government or public law are involved, the State shall have the option to participate in such action at its own expense.
 - d) Should the Goods or software, or the operation thereof, become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement of a United States patent or copyright or a trade secret, the State shall permit the Contractor at its option and expense either to procure for the State the right to continue using the Goods or software, or to replace or modify the same so that they become non-infringing. If none of these options can reasonably be taken, or if the use of such Goods or software by the State shall be prevented by injunction, the Contractor agrees to

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take back such Goods or software and make every reasonable effort to assist the State in procuring substitute Goods or software. If, in the sole opinion of the State, the return of such infringing Goods or software makes the retention of other Goods or software acquired from the Contractor under this Contract impractical, the State shall then have the option of terminating such Contracts, or applicable portions thereof, without penalty or termination charge. The Contractor agrees to take back such Goods or software and refund any sums the State has paid Contractor less any reasonable amount for use or damage.

- e) The Contractor shall have no liability to the State under any provision of this clause with respect to any claim of patent, copyright or trade secret infringement which is based upon:
 - i) The combination or utilization of Goods furnished hereunder with equipment or devices not made or furnished by the Contractor; or,
 - ii) The operation of equipment furnished by the Contractor under the control of any operating software other than, or in addition to, the current version of Contractor-supplied operating software; or
 - iii) The modification by the State of the equipment furnished hereunder or of the software; or
 - iv) The combination or utilization of software furnished hereunder with non-contractor supplied software.
 - f) Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Contract for the acquisition, operation or maintenance of computer software in violation of copyright laws.
 - g) The foregoing states the entire liability of the Contractor to the State with respect to infringement of patents, copyrights or trade secrets.
- 37. EXAMINATION AND AUDIT:** Contractor agrees that the State, or its designated representative shall have the right to review and copy any records and supporting documentation pertaining to performance of this Contract. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Contract.
- 38. DISPUTES:**
- a) The parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, Contractor shall submit to the Department Director or designee a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to or involving this Contract, unless the State, on its own initiative, has already rendered such a final decision. Contractor's written demand shall be fully supported by factual information, and if such demand involves a cost adjustment to the Contract, Contractor shall include with the demand a written statement signed by an authorized person indicating that the demand is made in good faith, that the supporting data are accurate and complete and that the amount requested accurately reflects the Contract adjustment for which Contractor believes the State is liable. If the Contractor is not satisfied with the decision of the Department Director or designee, the Contractor may appeal the decision to the Department of General Services, Deputy Director, Procurement Division. In the event that this Contract is for information technology Goods and/or services, the decision may be appealed to an Executive Committee of State and Contractor personnel.
 - b) Pending the final resolution of any dispute arising under, related to or involving this Contract, Contractor agrees to

diligently proceed with the performance of this Contract, including the delivery of Goods or providing of services in accordance with the State's instructions. Contractor's failure to diligently proceed in accordance with the State's instructions shall be considered a material breach of this Contract.

- c) Any final decision of the State shall be expressly identified as such, shall be in writing, and shall be signed by the Department Director or designee or Deputy Director, Procurement Division if an appeal was made. If the State fails to render a final decision within 90 days after receipt of Contractor's demand, it shall be deemed a final decision adverse to Contractor's contentions. The State's final decision shall be conclusive and binding regarding the dispute unless Contractor commences an action in a court of competent jurisdiction to contest such decision within 90 days following the date of the final decision or one (1) year following the accrual of the cause of action, whichever is later.

39. STOP WORK:

- a) The State may, at any time, by written Stop Work Order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this Contract for a period up to 90 days after the Stop Work Order is delivered to the Contractor, and for any further period to which the parties may agree. The Stop Work Order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the Stop Work Order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the Stop Work Order during the period of work stoppage. Within a period of 90 days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the State shall either:
 - i) Cancel the Stop Work Order; or
 - ii) Terminate the work covered by the Stop Work Order as provided for in the termination for default or the termination for convenience clause of this Contract.
- b) If a Stop Work Order issued under this clause is canceled or the period of the Stop Work Order or any extension thereof expires, the Contractor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if:
 - i) The Stop Work Order results in an increase in the time required for, or in the Contractor's cost properly allocable to the performance of any part of this Contract; and
 - ii) The Contractor asserts its right to an equitable adjustment within 30 days after the end of the period of work stoppage; provided, that if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Contract.
- c) If a Stop Work Order is not canceled and the work covered by the Stop Work Order is terminated in accordance with the provision entitled Termination for the Convenience of the State, the State shall allow reasonable costs resulting from the Stop Work Order in arriving at the termination settlement.
- d) The State shall not be liable to the Contractor for loss of profits because of a Stop Work Order issued under this clause.

40. PRIORITY HIRING CONSIDERATIONS:

If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with PCC Section 10353.

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- 41. COVENANT AGAINST GRATUITIES:** The Contractor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the State with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the State shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the State in procuring on the open market any items which Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the State provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.
- 42. NONDISCRIMINATION CLAUSE:**
- a) During the performance of this Contract, Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
 - b) The Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract.
- 43. NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** Contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of the National Labor Relations Board. This provision is required by, and shall be construed in accordance with, PCC Section 10296.
- 44. ASSIGNMENT OF ANTITRUST ACTIONS:** Pursuant to Government Code Sections 4552, 4553, and 4554, the following provisions are incorporated herein:
- a) In submitting a bid to the State, the supplier offers and agrees that if the bid is accepted, it will assign to the State all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of Goods, material, or services by the supplier for sale to the State pursuant to the solicitation. Such assignment shall be made and become effective at the time the State tenders final payment to the supplier.
 - b) If the State receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the State any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the State as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.
 - c) Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and
 - i) the assignee has not been injured thereby, or
 - ii) the assignee declines to file a court action for the cause of action.
- 45. DRUG-FREE WORKPLACE CERTIFICATION:** The Contractor certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:
- a) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
 - b) Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - i) the dangers of drug abuse in the workplace;
 - ii) the person's or organization's policy of maintaining a drug-free workplace;
 - iii) any available counseling, rehabilitation and employee assistance programs; and,
 - iv) penalties that may be imposed upon employees for drug abuse violations.
 - c) Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed or resulting Contract:
 - i) will receive a copy of the company's drug-free policy statement; and,
 - ii) will agree to abide by the terms of the company's statement as a condition of employment on the Contract.
- 46. FOUR-DIGIT DATE COMPLIANCE:** Contractor warrants that it will provide only Four-Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date Compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.
- 47. SWEATFREE CODE OF CONDUCT:**
- a) Contractor declares under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the State pursuant to the Contract have been produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. Contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

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- b) Contractor agrees to cooperate fully in providing reasonable access to its records, documents, agents or employees, or premises if reasonably required by authorized officials of the State, the Department of Industrial Relations, or the Department of Justice to determine Contractor's compliance with the requirements under paragraph (a).
- 48. RECYCLING:** The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, Goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (PCC 12205).
- 49. CHILD SUPPORT COMPLIANCE ACT:** For any Contract in excess of \$100,000, the Contractor acknowledges in accordance with PCC Section 7110, that:
- The Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
 - The Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
- 50. AMERICANS WITH DISABILITIES ACT:** Contractor assures the State that Contractor complies with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq).
- 51. ELECTRONIC WASTE RECYCLING ACT OF 2003:** The Contractor certifies that it complies with the requirements of the Electronic Waste Recycling Act of 2003, Chapter 8.5, Part 3 of Division 30, commencing with Section 42460 of the Public Resources Code, relating to hazardous and solid waste. Contractor shall maintain documentation and provide reasonable access to its records and documents that evidence compliance.
- 52. USE TAX COLLECTION:** In accordance with PCC Section 10295.1, Contractor certifies that it complies with the requirements of Section 7101 of the Revenue and Taxation Code. Contractor further certifies that it will immediately advise State of any change in its retailer's seller's permit or certification of registration or applicable affiliate's seller's permit or certificate of registration as described in subdivision (a) of PCC Section 10295.1.
- 53. EXPATRIATE CORPORATIONS:** Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of PCC Section 10286 and 10286.1, and is eligible to Contract with the State.
- 54. DOMESTIC PARTNERS:** For Contracts over \$100,000 executed or amended after January 1, 2007, the Contractor certifies that the Contractor is in compliance with Public Contract Code Section 10295.3.
- 55. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:**
- If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
 - If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)
- 56. LOSS LEADER:** It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10302(b)).

For Purchasing Use Only:

RFP/CONTRACT # 1862 GB

AMENDMENT # 01

**A Contract between the Western States Contracting Alliance
Acting by and through the State of Nevada
Department of Administration, Purchasing Division
515 E Musser Street, Room 300
Carson City Nevada 89701
Contact: Gail Burchett, Purchasing Officer
Telephone: (775) 684- 0172 • Facsimile: (775) 684-0188**

And

**Fastenal Company
2001 Theurer Blvd.
Winona, Minnesota 55987
Contact: John Soderberg, Vice President Government Sales
Telephone: (507) 313-7313 • Facsimile: (507) 494-7669**

1. **AMENDMENTS.** For and in consideration of mutual promises and/or their valuable considerations, all provisions of the original contract resulting from Request for Proposal #1862 and dated March 1, 2011, attached hereto as Exhibit A, remain in full force and effect with the exception of the following:

A. This amendment will be for the extension of this contract for the optional three-year period. The new expiration date will be February 28, 2017.

B. Contractor shall provide WSCA-NASPO summary sales data report quarterly.

Current Contract Language:

This contract shall be effective from March 1, 2011 subject to WSCA Board of Directors' approval to February 28, 2014, unless sooner terminated by either party as specified in paragraph (21).

Amended Contract Language:

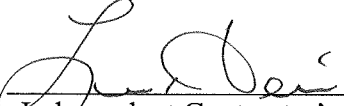
A. This contract shall be effective from March 1, 2011 subject to WSCA Board of Directors' approval to February 28, 2017, unless sooner terminated by either party as specified in paragraph (21).

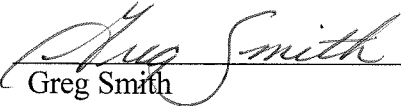
B. In addition to other reports that may be required by the contract, the Contractor shall provide the following WSCA-NASPO report. Summary Sales Data. The Contractor shall submit quarterly sales reports directly to WSCA-NASPO using the WSCA-NASPO Quarterly Sales/Administrative Fee Reporting Tool found at <http://www.naspo.org/WNCPO/Calculator.aspx>. Any/all sales made under the contract shall be reported as cumulative totals by state. Even if Contractor experiences zero sales during a

calendar quarter, a report is still required. Reports shall be due no later than 45 (forty-five) days following the end of the calendar quarter (as specified in the reporting tool).

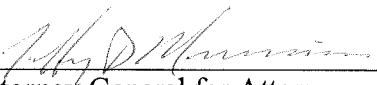
2. **INCORPORATED DOCUMENTS.** Exhibit A (Original Contract) is attached hereto, incorporated by reference herein and made a part of this amended contract.
3. **REQUIRED APPROVAL.** This amendment to the original contract shall not become effective until and unless approved by the Nevada State Board of Examiners.

IN WITNESS WHEREOF, the parties hereto have caused this amendment to the original contract to be signed and intend to be legally bound thereby.

 10-30-13 President
Independent Contractor's Signature Date Independent Contractor's Title

 11-18-13 Administrator
Greg Smith Date Purchasing Division Administration

Approved as to form by:


Deputy Attorney General for Attorney
General

On: 19 Nov 13
Date



Procurement Division
Multiple Awards Program Section
707 Third Street, 2nd Floor, MS #2-202
West Sacramento, CA 95605-2811

State of California
**COOPERATIVE AGREEMENT
USER INSTRUCTIONS**
Supplement #5

Important Note: Supplement #5 replaces and supersedes the previous User Instructions version (Supplement #4 dated 01/15/2014).

ISSUE AND EFFECTIVE DATE: 02/21/2014	
TITLE/DESCRIPTION:	WSCA-NASPO Facilities Maintenance, Lighting Products, Industrial Supplies and Tools
CONTRACT NUMBER(S):	7-11-51-01 Fastenal Company 7-11-51-02 Grainger Supplies 7-11-51-03 SID Tool Co., Inc, dba MSC Industrial Supply Company
CONTRACT TERM:	7/25/2011 through 2/28/2017
CONTRACT CATEGORY:	Non - IT Goods and Services
MAXIMUM ORDER LIMIT:	\$500,000
FOR OPTIONAL USE BY:	State Departments and Local Governmental Agencies
DGS-PD CONTRACT INFORMATION WEBSITE:	http://www.dgs.ca.gov/pd/Programs/Leveraged/wsca/WSCAFacilitiesMRO.aspx
STATE CONTRACT ADMINISTRATOR:	Lori Tomita (916) 375-4580 lori.tomita@dgs.ca.gov

Note to Ordering Agencies: Please carefully review the User Instructions in its entirety. Ordering Agencies are required to comply with the instructions provided herein and the terms outlined within the individual California Participating Addenda (Contracts) listed above. For questions, please contact the State Contract Administrator and reference the "Title/Description" and/or Contract Number(s). Changes to this document will be issued through a User Instruction Supplement.

Original Signature on File
Steven Kobayashi, Manager
Multiple Awards Program Section

SUMMARY OF CHANGES		
Supplement No.	Revision Description	Effective Date
5	<p>User Instructions Supplement #5 replaces and supersedes the previous User Instructions version (Supplement #4 dated 01/15/2014).</p> <p>Supplement #5 incorporates the following changes:</p> <ul style="list-style-type: none">• Updated section 1 to extend the contract term through 2/28/17 and remove the option to extend the contract.• Updated section 11 to extend the contract term through 2/28/17.• ATTACHMENT A – CONTRACT ORDERING INFORMATION is revised to extend the contract term through 2/28/17.	02/21/2014

For copies of previous User Instructions versions, please contact the State Contract Administrator listed in Section 5.

The rest of this page is intentionally left blank.

1. OVERVIEW

- a. The purpose of this WSCA Participating Addendum is to provide a purchasing vehicle for Facilities Maintenance, Lighting Products, Industrial Supplies and Tools for all State Agencies and local government agencies, which is any city, county, district or other governmental body empowered to spend public funds per California Public Contract Code Section 10298 and 10299.
- b. While the State of California makes this WSCA Participating Addendum available to local governmental agencies, each local agency should make its own determination of whether using this WSCA Participating Addendum is consistent with its procurement policies and regulations.
- c. The contract term is 7/25/2011 through 2/28/2017.
- d. Order placement and contract execution shall be on or before the expiration date of the WSCA.

2. CONTRACT USAGE/RULES

- a. Ordering state agencies must follow all applicable state mandated guidelines, e.g., State Administrative Manual, Management Memos, Agency Directives, California Acquisition Manual and California Codes. State agencies are prohibited from purchasing products not in compliance with the technical specifications of the WSCA Participating Addendum.
- b. Per Management Memo 05-11, products available on a mandatory statewide contract cannot be purchased by State departments under this agreement.
- c. Departments executing orders using the WSCA/NASPO program are not required to obtain three offers or document best value, but conducting price comparisons among the WSCA suppliers, if available, is encouraged. Refer to SCM Vol. 2, Chapter 6 F3.1.
- d. State and local government agency use of WSCA contracts is optional. A local government is any city, county, city and county, district or other local governmental body or corporation, including UC, CSU, K-12 schools and community colleges that is empowered to expend public funds. While the state makes this contract available, each local government agency should make its own determination whether the WSCA program is consistent with its procurement policies and regulations.
- e. Evaluating Environmental Preferable Purchasing (EPP) Purchases
 1. State agencies must verify products meet all applicable California regulatory standards as directed by Public Contract Code sections 12400 through 12404 and Governor's Executive Order S-20-04.
 2. State and local government agencies must verify all appliances, indoor air-cleaning devices, off-road power equipment, thermostats, emissions from consumer products, refrigerants, aerosol adhesives and plastic trash bags meet California regulatory standards, are certified where required and/or manufacturers and suppliers are compliant. Table 1 – Resources for California Regulatory Standards assists purchasers in identifying and verifying compliant products.

Table 1 – Resources for California Regulatory Standards

PROGRAM	PRODUCTS	RESOURCE
Appliance Efficiency	Central Air Conditioners (CAC), refrigeration products, cooking and washing products, transformer products, electronics, water heater products, fans and dehumidifiers, heat pumps, heating products, lighting products, motor products, non-central AC and HP products and plumbing products.	The California Energy Commission Appliance Efficiency Database
Aerosol Adhesives	Architectural coatings: lacquers, wood finishes, primers, colorants concrete-curing compounds, stains, primers, enamels, sealers, shellacs and wood preservatives.	SCAQMD Rule 1113 Table of Standards BAAQMD Rule 3 (8-3-301) VOC Standards
Consumer Product Emissions	Detergents; cleaning compounds; polishes; floor finishes; cosmetics; personal care products; home, lawn, and garden products; disinfectants; sanitizers; aerosol paints; and automotive specialty products and aerosol adhesives, for consumer, industrial, and commercial uses.	CARB certified Charcoal lighter Materials CARB certified Portable Fuel Containers Green House Gas in Consumer Products VOC Standards for Consumer Products
Indoor Air-Cleaning Devices	Ionizers, electrostatic precipitators, other electronic filtration devices, and other air cleaners using new technologies.	California Certified Air-Cleaning Devices
Off-Road Power Equipment	lawnmowers, chainsaws, line trimmers, backpack blowers, edger, brushcutter, generators, pumps, compressors, tractors, forklifts, leaf blowers, vacuums, snow blowers, floor polishing equipment, concrete polishers, pressure washer, tiller, etc	California Air Resources Board Off-Road Certification Database
Plastic Trash Bags	Plastic trash bags	CalRecycle Recycle-Content Trash Bag Program
Refrigerants	Refrigerants used in chillers, refrigeration systems, air-conditioning systems, refrigerant blends and insulating foams.	California Air Resources Board Refrigerant Management Program – for Regulated Refrigerants.
SABRC	Antifreeze, Glass products, lubricating oils, metal products, paint, paper, plastic products, printing and writing papers, tires, tire- derived products,	http://www.calrecycle.ca.gov/RCPM/
Thermostats	Thermostats and Switches	California Department of Toxic Substance (DTSC) Mercury Thermostat Act Compliance

- The WSCA California Participating Addendum Technical Specifications, mandatory for state agencies, are established to reduce environmental impacts and support Leadership in Energy and Environmental Design, in Existing Buildings Operation & Maintenance (LEED-EBOM) sustainable purchasing goals. Resources to assist State agencies in achieving other sustainable purchasing goals and identifying EPP products can be found in the [Department of General Services Buying Green Guide](#). When a supplier or manufacturer makes an environmental claim(s) for the product(s) it offers, it is the State agency purchaser that is responsible for verifying that the product is in compliance with the advertised claim. Purchasers may request documentation (e.g. certificate, test results, standard) for verification purposes from the supplier.

- f. Unless otherwise specified within this document, the term “ordering agencies” will refer to all State departments and/or local government agencies eligible to utilize this contract. Ordering and/or usage instructions exclusive to State departments or local government agencies shall be identified within each article.

3. AGREEMENT SUMMARY (STD 215)

This section is intentionally left blank.

4. DGS ADMINISTRATIVE FEE

The agency will not be charged the DGS Administrative fee and agencies will not be invoiced by the contractor for the use of this contract.

5. STATE CONTRACT ADMINISTRATOR

Department of General Services, Procurement Division
Multiple Award Program Section - WSCA
707 Third Street, 2nd Floor, MS #202
West Sacramento, CA 95605-2811

Contact: Lori Tomita
Phone: (916) 375-4580
Fax: (916) 375-4663
E-Mail: lori.tomita@dgs.ca.gov

6. PROBLEM RESOLUTION/CONTRACTOR PERFORMANCE

- a. Ordering agencies and/or contractors shall inform the State Contract Administrator in a timely manner of any technical or contractual difficulties encountered during contract performance in a timely manner. This includes and is not limited to informal disputes, contractor performance, outstanding deliveries, etc.
- b. To report contractor performance issues, ordering agencies must submit a completed Contract/Contractor Evaluation. If the performance by the contractor was unsatisfactory, a copy of the Contract/Contractor Evaluation form must also be sent to Office of Legal Services. The following link has instructions for this process <http://www.documents.dgs.ca.gov/osp/pdf/std004.pdf>

7. WSCA CONTRACT INFORMATION

See Attachment A for list of awarded contracts and contract Terms and Conditions.

8. DOLLAR THRESHOLDS (Local Governments are Exempt)

- WSCA Program Limitation: \$500,000.00
- a. Departments executing WSCA/NASPO orders over \$500,000.00 for non-IT goods must obtain DGS/PD approval prior to executing the purchase document. Refer to SCM Vol. 2, Chapter 6 F3.6. The following information must be documented by the department and submitted to DGS/PD:
 - Identify the need for the goods and/or services and the dollar value of the impending purchase document.
 - Explain how the department has determined that issuance of a purchase document to this particular contractor makes good business sense and how best value for the department has been achieved.

- b. Upon review and approval of the documentation submitted, DGS/PD will issue an approval letter concurring with the department's request. Upon receiving approval from DGS/PD, the department may proceed to execute the order.
- c. Exempt entities are not subject to these order limits.

9. EXECUTING THE PURCHASE ORDER

- a. The WSCA and State of California contract numbers must be shown on the purchase order.
- b. State agencies shall use a Contract/Delegation Purchase Order (Std. 65) for purchases and services.
- c. Local governments shall, in lieu of the State's Purchase Order (Std. 65), use their own purchase order document.
- d. Electronic copies of the State Standard Forms can be found at the Office of State Publishing web site: <http://www.dgs.ca.gov/osp> (select Standard Forms). The site provides information on the various forms and use with the Adobe Acrobat Reader. Beyond the Reader capabilities, Adobe Acrobat advanced features may be utilized if you have Adobe Business Tools or Adobe Acrobat 4.0 installed on your computer. Direct link to the Standard Form 65: <http://www.documents.dgs.ca.gov/osp/pdf/std065.pdf>
- e. The ordering agency defines the project scope to determine which goods and related services are needed, and checks the electronic catalog for pricing. Then the ordering state agency completes a Form 65 (Contract/Delegation Purchase Order), including all pertinent information for each individual order issued against the Agreement and sends the Form 65 to the selected Contractor.
- f. As a hard copy catalog is not available, you must print a copy of the contract terms and conditions, the Participating Addendum, and a copy of the e-quote from your order and retain this in your files. It is not necessary to provide a copy of each page to DGS. Additionally, it is not the contractor's responsibility to provide this information to you.

10. WSCA BASE CONTRACT

This WSCA contract is based on some or all of the products and/or services and prices from WSCA Facilities Maintenance, Lighting Products, Industrial Supplies and Tools Contract, Nevada 1862.

A copy of the actual WSCA Master Agreement is available on the Internet at:

http://purchasing.state.nv.us/WSCA_Industrial/WSCAMRO.htm

11. CONTRACT TERM

The contract term for the California Participating Addendum is 7/25/2011 through 2/28/2017.

12. PRICING

Agencies should contact the contractor to see if there is a large quantity discount available. Additionally, educational discounts may be available for educational entities. Please contact the contractor for additional information. See Attachment A for pricing.

13. PURCHASE ORDER DISTRIBUTION (Local Governments are Exempt)

For state agencies, copies of the STD. 65 with original signatures must be sent to the Contractor, State Controller and Department of General Services, Procurement Division.

Department of General Services
Procurement Division
Data Entry Unit-Second Floor North
P.O. Box 989052
West Sacramento, CA 95798-9052
IMS: Z-1

State Controller's Office
3301 C Street
Sacramento, CA 95814
Attn: Audit Unit

14. PAYMENTS AND INVOICES

a. Payment Terms

See WSCA Supplier Contract Information, Attachment A for Payment Terms.

Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927 et. seq. Unless expressly exempted by statute, the Act requires state agencies to pay properly submitted, undisputed invoices not more than 45 days after (i) the date of acceptance of goods or performance of services; or (ii) receipt of an undisputed invoice, whichever is later.

Local government agencies may make payments according to their statutory requirements.

b. Payee Data Record (Std. 204)

Each state accounting office must request a completed Payee Data Record (Std. 204) from the contractor in order to process payment of invoices. Agencies should forward a copy of the Std. 204 to their accounting office(s). Without the Std. 204, payment to the contractor may be unnecessarily delayed.

c. CAL-Card Use

State departments may use the CAL-Card for the payment of invoices. Use of the CAL-Card requires the execution of Purchasing Authority Purchase Order (Std. 65) as referenced in Article 8 (Purchase Execution) and must include all required documentation applicable to the purchase.

The CAL-Card is a payment mechanism, not a procurement approach and, therefore, does not relieve departments from adhering to all procurement laws, regulations, policies, procedures, and best practices, including those discussed in the State Contracting Manual (SCM) Volume 1, Volume 2 and Volume 3. This includes but is not limited to the application of all sales and use tax laws, rules and policies as applicable to the purchase.

15. DELIVERY

30 days after receipt of order, or as negotiated between agency and contractor and included in the purchase order, or as otherwise stipulated in the contract.

16. SMALL BUSINESS/DVBE - TRACKING

Per State Contracting Manual (SCM) Volume 2, Chapter 6.A2.5 SB and DVBE subcontracting participation tracking, State agencies are able to claim subcontracting dollars towards their small business or DVBE goals whenever the Contractor subcontracts a commercially useful function to a certified small business or DVBE.

1. The amount an ordering agency can claim towards achieving its small business or DVBE goals is the dollar amount of the subcontract award made by the Contractor to each small business or DVBE.
2. The Contractor will provide an ordering agency with the following information at the time the order is quoted:
 - a. The Contractor will state that, as the prime Contractor, it shall be responsible for the overall execution of the fulfillment of the order.
 - b. The Contractor will indicate to the ordering agency how the order meets the small business or DVBE goal, as follows:
 - List the name of each company that is certified by the Office of Small Business and DVBE Services to which that it intends to subcontract a commercially useful function; and
 - Include the small business or DVBE certification number of each company listed, and attach a copy of each certification; and
 - Indicate the dollar amount of each subcontract with a small business or DVBE that may be claimed by the ordering agency towards the small business or DVBE goal; and
 - Indicate what commercially useful function the small business or DVBE subcontractor will be providing towards fulfillment of the order.

17. TERMINATION

Any State or Local agency may terminate any order against this agreement upon 30 days notice provided the products or services have not already been accepted. This does not affect the termination clause of the WSCA Master Price Agreement concerning failure to perform or upon mutual consent.

18. AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) - Supplemental Terms and Conditions

- a. Ordering departments executing purchases using ARRA funding must attach the ARRA Supplemental Terms and Conditions document to their individual purchase documents. Departments are reminded that these terms and conditions supplement, but do not replace, standard State terms and conditions associated with this leveraged procurement agreement.
- b. Click here to access the [ARRA Supplemental Terms and Conditions](#)

Note: Additional information regarding ARRA is available by clicking here to access the email broadcast dated 08/10/09, titled [Supplemental Terms and Conditions for Contracts Funded by the American Recovery and Reinvestment Act](#)

ATTACHMENT A
WSCA CONTRACT ORDERING INFORMATION

Contractor Name	Fastenal Company
Contract Number	7-11-51-01
Contract Term Dates	7/25/2011 through 2/28/2017
WSCA Master Agreement	http://purchasing.state.nv.us/WSCA_Industrial/WSCAMRO.htm
CA General Provisions	http://www.dgs.ca.gov/pd/Programs/Leveraged/wsc/WSCAFacilitiesMRO.a.spx
CA Participating Addendum	http://www.dgs.ca.gov/pd/Programs/Leveraged/wsc/WSCAFacilitiesMRO.a.spx
Ordering Address for Prime Contractor	2001 Theurer Blvd. Winona, MN 5987
Contact	Zach Wise
Phone	(507) 313-7206
Fax	(507) 494-3422
Email	govcoordinators@fastenal.com
Ordering through Authorized SB/DVBE Dealers	<p>All purchase orders to authorized SB/DVBE Dealers must contain the Participating Addendum Number and be addressed as follows:</p> <p align="center">Fastenal Company c/o < Authorized SB/DVBE Dealer Name>, <Authorized SB/DVBE Dealer Address></p> <p>Payments to Authorized SB/DVBE Dealers should be issued to the address shown on the Authorized SB/DVBE Dealers invoice. Invoices must contain the Participating Addendum Number.</p> <p>Fastenal Company authorized SB/DVBE and their contact information are located at: https://www.bidsync.com/DPXViewer/AuthorizedPartners3-14-13.pdf?ac=view&contid=85221&docid=5469466</p>
Pricing (Website) Category Warranty Delivery Shipping Freight	http://www.fastenal.com/web/resources.ex?action=Contracts&stateContractDtId=34&state=CA
Contractor Ownership Information	Fastenal Company is a large business enterprise.
California Seller's Permit	<p>Fastenal Company's California Seller's Permit No. is 99394823.</p> <p>Agencies can verify that this permit is still valid at the following Website: www.boe.ca.gov.</p>
Payment Terms	Net 45 days
FEIN	41-0948415
CAL-Card Accepted	<p>Fastenal Company accepts the State of California credit card (CAL-Card).</p> <p>A Purchasing Authority Purchase Order (Std. 65) is required even when the ordering department chooses to pay the contractor via the CAL-Card.</p>

ATTACHMENT A
WSCA CONTRACT ORDERING INFORMATION

Contractor Name	W.W. Grainger, Inc.
Contract Number	7-11-51-02
Contract Term Dates	7/25/2011 through 2/28/2017
WSCA Master Agreement	http://purchasing.state.nv.us/WSCA_Industrial/WSCAMRO.htm
CA General Provisions	http://www.dgs.ca.gov/pd/Programs/Leveraged/wsc/WSCAFacilitiesMRO.a.spx
CA Participating Addendum	http://www.dgs.ca.gov/pd/Programs/Leveraged/wsc/WSCAFacilitiesMRO.a.spx
Ordering Address for Prime Contractor	3691 Industrial Blvd. West Sacramento, CA 95691
Contact	Jason Hauan
Phone	(800) 700-6955
Fax	(888) 790-1586
Email	castateteam@grainger.com
Ordering through Authorized SB/DVBE Dealers:	<p>All purchase orders to authorized SB/DVBE Dealers must contain the Participating Addendum Number and be addressed as follows:</p> <p align="center">W.W. Grainger c/o < Authorized SB/DVBE Dealer Name>, <Authorized SB/DVBE Dealer Address></p> <p>Payments to Authorized SB/DVBE Dealers should be issued to the address shown on the Authorized SB/DVBE Dealers invoice. Invoices must contain the Participating Addendum Number.</p> <p>W.W. Grainger authorized SB/DVBE and their contact information are located at: https://www.bidsync.com/DPXViewer/GraingerSmall-And-Disabled-Vetlist_5-20-13.pdf?ac=view&contid=85161&docid=5539265</p>
Pricing (Website) Category Warranty Delivery Shipping Freight	<p>In order to view the WSCA contract pricing, you must be registered and logged in online</p> <p>http://www.grainger.com/Grainger/wwg/start.shtml</p>
Contractor Ownership Information	W.W. Grainger, Inc. is a large business enterprise.
California Seller's Permit	<p>W.W. Grainger's California Seller's Permit No. is 98004877</p> <p>Agencies can verify that this permit is still valid at the following Website: www.boe.ca.gov.</p>
Payment Terms	Net 45 days
FEIN	36-1150280
CAL-Card Accepted	<p>W.W. Grainger, Inc. accepts the State of California credit card (CAL-Card).</p> <p>A Purchasing Authority Purchase Order (Std. 65) is required even when the ordering department chooses to pay the contractor via the CAL-Card.</p>

ATTACHMENT A
WSCA CONTRACT ORDERING INFORMATION

Contractor Name	SID Tool Co., Inc. DBA MSC Industrial Supply Company
Contract Number	7-11-51-03
Contract Term Dates	7/25/2011 through 2/28/2017
WSCA Master Agreement	http://purchasing.state.nv.us/WSCA_Industrial/WSCAMRO.htm
CA General Provisions	http://www.dgs.ca.gov/pd/Programs/Leveraged/wsc/WSCAFacilitiesMRO.a.spx
CA Participating Addendum	http://www.dgs.ca.gov/pd/Programs/Leveraged/wsc/WSCAFacilitiesMRO.a.spx
Ordering Address for Prime Contractor	75 Maxess Rd. Melville, NY 11747
Contact	Damon Perez
Phone	(916) 276-9397
Fax	(800) 753-7937
WSCA Team	(888) 672-9722 (for customer services question)
Email	perezd@mscdirect.com
Ordering through SB/DVBE Authorized Dealer	<p>All purchase orders to authorized SB/DVBE Dealers must contain the Participating Addendum Number and be addressed as follows:</p> <p align="center">MSC Industrial Supply Company c/o < Authorized SB/DVBE Dealer Name>, <Authorized SB/DVBE Dealer Address></p> <p>Payments to Authorized SB/DVBE Dealers should be issued to the address shown on the Authorized SB/DVBE Dealers invoice. Invoices must contain the Participating Addendum Number.</p> <p>MSC Industrial Supply Company authorized SB/DVBE and their contact information are located at: https://www.bidsync.com/DPXViewer/MSC-SmallBusiness-Authorized-Dealer.pdf?ac=view&contid=85241&docid=4988541</p>
Pricing (Website) Category Warranty Delivery Shipping Freight	http://www1.mscdirect.com/cgi/nnsrhm
Contractor Ownership Information	MSC Industrial Supply Company is a large business enterprise.
California Seller's Permit	<p>MSC Industrial Supply Company's California Seller's Permit No. is 101325893.</p> <p>Agencies can verify that this permit is still valid at the following Website: www.boe.ca.gov.</p>
Payment Terms	Net 45 days
FEIN	13-5526506
CAL-Card Accepted	<p>MSC Industrial Supply Company accepts the State of California credit card (CAL-Card).</p> <p>A Purchasing Authority Purchase Order (Std. 65) is required even when the ordering department chooses to pay the contractor via the CAL-Card.</p>