

1 paper products and janitorial cleaning supplies of substantially the same type and
2 kind purchased under the Western States Contracting Alliance Master Service
3 Agreement for an amount not to exceed Seven Hundred Twenty Thousand Dollars
4 (\$720,000), annually, including tax and fees. To the extent that the WSCA
5 Contract and this Agreement are inconsistent, the following priority shall govern:
6 (1) this Agreement and (2) the WSCA Contract.

7 C. Payment for the custodial paper products and janitorial
8 cleaning supplies purchased from Contractor by the City shall be made by the City
9 on delivery to and acceptance of the custodial paper products and janitorial
10 cleaning supplies by the City and submittal of an invoice to the City. Payment is
11 due thirty (30) days after the date of the invoice.

12 D. All warranties shall accrue to the City of Long Beach.

13 E. The parties may, by mutual agreement, amend this
14 Agreement for two (2) additional one (1) year periods, with the approval of the
15 City's City Council.

16 2. Neither this Agreement nor any money that becomes due to
17 Contractor under this Agreement may be assigned by Contractor without the prior written
18 consent of the City Manager or his designee.

19 3. Any notice given under this Agreement shall be in writing and
20 personally delivered or deposited in the U.S. Postal Service, return receipt, and shall be
21 delivered or mailed to Contractor at the relevant address first stated above, and to the
22 City at 333 West Ocean Boulevard, Long Beach, California 90802 Attn: City Manager.
23 Notice shall be deemed given three days after deposit in the mail.

24 4. The terms appearing on the WSCA Contract are incorporated in this
25 Agreement.

26 5. Contractor shall cooperate with the City in all matters relating to self-
27 accrual of use tax. Contractor shall contact the City Treasurer for additional information
28 regarding self-accrual.

EXHIBIT "A"

For Purchasing Use Only:
RFP/CONTRACT # 1862

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).

Effective 04/07

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

Effective 04/07

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

Effective 04/07

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

Effective 04/07

\$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 very 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.

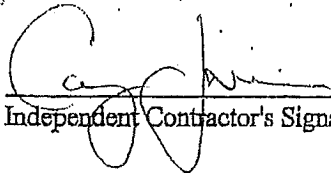
43. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this contract on behalf of each party has full power and authority to enter into this contract. Contractor acknowledges that as required by statute or regulation this contract is effective only after approval by 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.

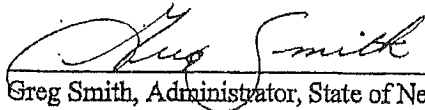


Independent Contractor's Signature

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

Signature

Date Title



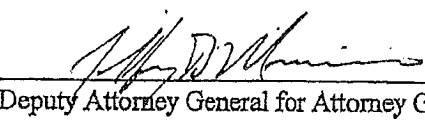
Greg Smith, Administrator, State of Nevada

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."



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

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.



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

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 through 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



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

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 nonconforming 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



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

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."

Attachment 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,

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

**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**

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 PCRC 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.

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

- 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).

**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**

VOC TABLE

Cleaner Type	VOC % by weight (maximum permissible)
Dual Purpose Air Fresheners/Disinfectant Aerosols	80
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 all other forms	22 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-401 Non 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.

**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**

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

**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**

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

**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**

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.

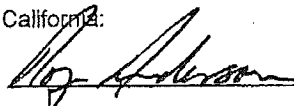
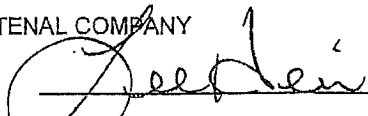
CALIFORNIA PARTICIPATING ADDENDUM
WESTERN STATES CONTRACTING ALLIANCE (WSCA)
FACILITIES MAINTENANCE, LIGHTING PRODUCTS, INDUSTRIAL SUPPLIES AND TOOLS
FASTENAL COMPANY
MASTER PRICE AGREEMENT
7-11-51-01

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:	FASTENAL COMPANY
By: <u></u>	By: <u></u>
Name: <u>Jim Butler</u>	Name: <u>Lee Hein</u>
Title: <u>Deputy Director</u>	Title: <u>Executive Vice President</u>
Date: <u>7/29/2011</u>	Date: <u>6-9-2011</u>

GENERAL SERVICES
LEGAL SERVICES

Kyatt
7/25/11

Percentage off list per category

Company Name FASTENAL COMPANY

Please provide the percentage off of list pricing for any of the categories you want to propose in the table below. The proposed discount percentage must not exceed 4 digits to the right of the decimal point (i.e. 10.3729% is acceptable while 10.37292% is not).

Category	Discount
1. HVAC	<u>23%</u>
2. Air Filters	<u>23%</u>
3. Lamps, Ballasts, Fixtures	<u>23%</u>
4. Cleaning	<u>23%</u>
5. Material Handling Repairs	<u>23%</u>
6. Security	<u>23%</u>
7. Motors and Accessories	<u>23%</u>
8. Electrical Repairs and Equipment	<u>23%</u>
9. Fasteners	<u>55%</u>
10. Batteries and Flashlights	<u>23%</u>
11. Outdoor Garden Supplies and Equipment	<u>23%</u>
12. Paint and Accessories	<u>23%</u>
13. Plumbing	<u>23%</u>
14. Pneumatic Tools	<u>23%</u>
15. Power Tools and Accessories	<u>23%</u>
16. Safety	<u>23%</u>
17. Hand Tools	<u>23%</u>
18. Welding and Soldering	<u>23%</u>

In addition to the above stated category discounts, Fastenal has proposed these discounts within the categories as described within Fastenal's Big Blue volume 10 catalog and WSCA online catalog - see attachment B and letter of clarification.

Note: This Price Schedule must be submitted together with Attachment H (Market Basket Pricing Schedule) to the State as a separate, sealed package and clearly marked: "Pricing Proposal in Response to RFP No. 1862" per the Submittal Instructions in Section 9.

