

87341

**CONTRACT DOCUMENTS**

**CITY OF LINCOLN  
NEBRASKA**

**ANNUAL SUPPLY  
OF  
ASPHALTIC JOINT SEALANT, BID NO 14-153**

**Maxwell Products, Inc.  
650 S. Delong St.  
SLC, UT 84104  
801.972.2090**

**CITY OF LINCOLN  
CONTRACT AGREEMENT**

THIS CONTRACT, made and entered into by and between Maxwell Products, Inc., 650 So. Delong St., SLC, UT 84104, hereinafter called "Contractor", and the City of Lincoln, Nebraska, a municipal corporation, hereinafter called "City".

WHEREAS, the City has caused to be prepared, in accordance with law, Specifications, Plans, and other Contract Documents for the Work herein described, and has approved and adopted said documents and has caused to be published an advertisement for and in connection with said Work, to-wit:

For providing Annual Supply of Asphaltic Joint Sealant, Bid No. 14-153 and,

WHEREAS, the Contractor, in response to such advertisement, has submitted to the City, in the manner and at the time specified, a sealed Proposal/Supplier Response in accordance with the terms of said advertisement; and,

WHEREAS, the City, in the manner prescribed by law has publicly opened, read aloud, examined, and canvassed the Proposals/Supplier Responses submitted in response to such advertisement, and as a result of such canvass has determined and declared the Contractor to be the lowest responsible bidder for the said Work for the sum or sums named in the Contractor's Proposal/Supplier Responses, a copy thereof being attached to and made a part of this Contract;

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor and the mutual covenants herein contained, the Contractor and the City has agreed and hereby agree as follows:

1. The Contractor agrees to (a) furnish all tools, equipment, supplies, superintendence, transportation, and other accessories, services, and facilities; (b) furnish all materials, supplies, and equipment specified to be incorporated into and form a permanent part of the complete work; (c) provide and perform all necessary labor in a substantial and workmanlike manner and in accordance with the provisions of the Contract Documents; and (d) execute and complete all Work included in and covered by the City's award of this Contract to the Contractor, such award being based on the acceptance by the City of the Contractor's Proposal, or part thereof, as follows:

**Agreement to alternate line one (1) @ .51 / lb. with polyskin packaging of Contractor's Proposal.**

2. The City agrees to pay to the Contractor for the performance of the Work embraced in this Contract, the Contractor agrees to accept as full compensation therefore, the following sums and prices for all Work covered by and included in the Contract award and designated above, payment thereof to be made in the manner provided by the City:

**The City will pay for products/service, according to the Line Item pricing as listed in Contractors Proposal/Supplier Response, a copy thereof being attached to and made a part of this Contract. The City shall order on an as needed basis for the duration of the contract. The total cost of products or services for City departments shall not exceed \$61,200.00 during the contract term without approval.**

3. Equal Employment Opportunity. In connection with the carrying out of this project, the contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, disability, age or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

4. E-Verify. In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section.
5. Termination. This Contract may be terminated by the following:
  - 5.1) Termination for Convenience. Either party may terminate this Contract upon thirty (30) days written notice to the other party for any reason without penalty.
  - 5.2) Termination for Cause. The City may terminate the Contract for cause if the Contractor:
    - 5.2.1) Refuses or fails to supply the proper labor, materials and equipment necessary to provide services and/or commodities.
    - 5.2.2) Disregards Federal, State or local laws, ordinances, regulations, resolutions or orders.
    - 5.2.3) Otherwise commits a substantial breach or default of any provision of the Contract Document. In the event of a substantial breach or default the City will provide the Contractor written notice of said breach or default and allow the Contractor ten (10) days from the date of the written notice to cure such breach or default. If said breach or default is not cured within ten (10) days from the date of notice, then the contract shall terminate.
6. Independent Contractor. It is the express intent of the parties that this contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of the Contractor. The Contractor and the City shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.
7. Contract Term. This Contract shall be effective upon execution by all parties. The term of the Contract shall be a one (1) year term with the option to renew for three (3) additional one (1) year terms.
8. The Contract Documents comprise the Contract, and consist of the following:
  1. Contract Agreement
  2. Accepted Proposal/Supplier Response
  3. Special Provisions
  4. Instructions to Bidders
  5. Notice to Bidders
  6. Sales Tax Exemption Form 13

These Contract Agreements, together with the other Contract Documents herein above mentioned, form this Contract, and they are as fully a part of the Contract as if hereto attached or herein repeated.

The Contractor and the City hereby agree that all the terms and conditions of this Contract shall be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Contractor and the City do hereby execute this contract.

EXECUTION BY THE CITY OF LINCOLN, NEBRASKA

ATTEST:

*Teresa J. Meier*  
City Clerk



CITY OF LINCOLN, NEBRASKA

*[Signature]*  
Mayor

Approved by Executive No. 87341

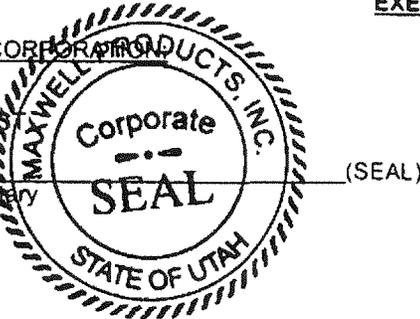
dated 7-23-14

EXECUTION BY CONTRACTOR

IF A CORPORATION

ATTEST:

Secretary



*Maxwell Products, Inc.*  
Name of Corporation

*650 S Delong Street, Salt Lake, Utah 84101*  
(Address)

By: *[Signature]*  
Duly Authorized Official

*Bid Administrator*  
Legal Title of Official

IF OTHER TYPE OF ORGANIZATION:

Name of Organization

Type of Organization

(Address)

By: \_\_\_\_\_  
Member

By: \_\_\_\_\_  
Member

IF AN INDIVIDUAL:

Name

Address

Signature

City

## City of Lincoln/Lancaster County (Lincoln Purchasing) Supplier Response

Bid Information		Contact Information		Ship to Information
Bid Creator	Sharon R. Mulder Asst Purchasing Agent	Address	Purchasing 440 S. 8th St. Lincoln, NE 68508	Address
Email	smulder@lincoln.ne.gov	Contact	Sharon R. Mulder Asst Purchasing Agent	Contact
Phone	(402) 441-7428			
Fax	(402) 441-6513			
Bid Number	14-153	Department		Department
Title	Annual Supply of Asphaltic Joint Sealant	Building	Suite 200	Building
Bid Type	Bid	Floor/Room		Floor/Room
Issue Date	05/29/2014	Telephone	(402) 441-7428	Telephone
Close Date	6/12/2014 12:00:00 PM CT	Fax	(402) 441-6513	Fax
Need by Date		Email	smulder@lincoln.ne.gov	Email

### Supplier Information

Company Maxwell Products, Inc.  
Address 650 S. Delong St.  
SLC, UT 84104  
Contact Dave McIntosh  
Department  
Building  
Floor/Room  
Telephone 1 (801) 9722090  
Fax 1 (801) 972-5536  
Email dave.m@maxwellproducts.com  
Submitted 6/11/2014 10:24:24 PM CT  
Total \$57,600.00

Signature

### Supplier Notes

### Bid Notes

### Bid Activities

### Bid Messages

Please review the following and respond where necessary

#	Name	Note	Response
1	Instructions to Bidders	I acknowledge reading and understanding the Instructions to Bidders.	Yes
2	Sample Contract	I acknowledge reading and understanding the sample contract.	Yes
3	Specifications	I acknowledge reading and understanding the specifications.	Yes
4	Bid Documents	I acknowledge and accept that it is my responsibility as a Bidder to promptly notify the Purchasing Department Staff prior to the close of the bid of any ambiguity, inconsistency or error which I may discover upon examination of the bid documents including, but not limited to the Specifications	Yes
5	Delivery	State number of delivery days ARO. FOB to the City/County at the location specified with all transportation charges paid.	14
6	Contact	Name of person submitting this bid:	Dave McIntosh dave.m@maxwellproducts.com 720 323.7777
7	Renewal is an Option	Contract Extension Renewal is an option	Yes
8	Special Provision Term Contract Provisions	I acknowledge reading and understanding the Special Provision Term Contract Provisions.	Yes
9	Tax Exempt Certification Forms	Materials being purchased in this bid are tax exempt and unit prices are reflected as such. A Purchasing Agent Appointment form and a Exempt Sales Certificate form shall be issued with contract documents. (Note State Tax Law does not provide for sales tax exemption for proprietary functions for government, thereby excluding the purchases of pipes to be installed in water lines and purchase of water meters )	Yes
10	Bid award	I acknowledge and understand that the City, County and/or Public Building Commission reserves the right to award bids item-by-item, with or without alternates/options, by groups, or "lump sum" such as shall best serve the requirements and interests of the City, County and/or Public Building Commission  If your pricing is based on an all-or-nothing basis, please indicate so in the Supplier Notes section of your E-Bid response	Yes
11	Quantities	I acknowledge that the quantities listed for each line item are an estimated yearly amount. The City does not guarantee any dollar amount or order quantities for the term of the contract.	Y
12	Tax Exempt Certification Forms	Materials being purchased in this bid are tax exempt and unit prices are reflected as such. A Purchasing Agent Appointment form and a Exempt Sales Certificate form shall be issued with contract documents (Note: State Tax Law does not provide for sales tax exemption for proprietary functions for government, thereby excluding the purchases of pipes to be installed in water lines and purchase of water meters )	Yes
13	Electronic Signature	Please check here for your electronic signature.	Yes

**Line Items**

#	Qty	UOM	Description	Response
1	120,000	Lbs	Rubberized asphalt joint sealant packaged in a meltable polyethylene bags contained in cardboard boxes or poly foam containers. Product shall be delivered on pallets and covered with clear plastic and banded weighing approximately 2000 pounds. Sealant shall meet the requirements in ASTM D 3405.	\$0.48

Manufacturer: Drey 102 or Crafc 34221 or proven equivalent

Item Notes: BID COST PER POUND Price shall include delivery to either location: City of Lincoln, Street Maintenance 3200 Baldwin Avenue Lincoln, NE 68504 Lancaster County Engineering 444 Cherrycreek Road, Building B Lincoln, NE 68528 Purchasing shall have the right to request a sample of any item that is not Drey 102 or Crafc 34221.

Supplier Notes: This bid is for Elastoflex 61 the material that the city has used this past year.

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	Packaging & Pricing	Do you offer packaging in both cardboard boxes and poly foam containers? Yes or No Is pricing the same for both types of packaging? Yes or No; if no, please provide pricing for both.	yes.no

Alt 1	120,000	Lbs	Alt Spec: This is for EF 61 in polyskin packaging.	0.51
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Alt Manufacturer: Maxwell products, Inc. Alt Manufacturer #: 1

Item Notes: BID COST PER POUND Price shall include delivery to either location: City of Lincoln, Street Maintenance 3200 Baldwin Avenue Lincoln, NE 68504 Lancaster County Engineering 444 Cherrycreek Road, Building B Lincoln, NE 68528 Purchasing shall have the right to request a sample of any item that is not Drey 102 or Crafc 34221.

Supplier Notes:

Item Attributes: Please review the following and respond where necessary

#	Name	Note	Response
1	Packaging & Pricing	Do you offer packaging in both cardboard boxes and poly foam containers? Yes or No Is pricing the same for both types of packaging? Yes or No; if no, please provide pricing for both.	yes.no

Response Total: \$57,600.00