PRICE AGREEMENT No. B31290
Between the Oregon Department of Transportation ("ODOT")
and
Albina Asphalt ("Contractor")
Resulting from Invitation to Bid No. 25533

Emulsions and Recycling Agents

The State of Oregon, Department of Transportation, hereby awards a Price Agreement to the above Contractor under the following terms and conditions:

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SECTION 1 - DEFINITIONS

1.1 ***"Agency"*** means the Oregon Department of Transportation ("ODOT").

1.2 ***"Bid"*** means the Bidder's written offer submitted in response to an ITB, including all necessary attachments.

1.3 ***"Contract"*** means the entire agreement between the Contractor and ODOT consisting of the Price Agreement and an accepted Purchase Order.

1.4 ***"Contractor"*** means the person or organization with whom ODOT enters into a Price Agreement to provide the Goods through issuance of Purchase Orders.

1.5 ***"Goods"*** means the asphalt and tack coat products Contractor agrees to provide to ODOT according to the terms and at the unit pricing stated in this Price Agreement. ***"Product"*** may be used interchangeably with ***"Goods"*** throughout the Price Agreement.

1.6 ***"Freight On Board" or "F.O.B."*** means Contractor retains title and ownership of Goods until delivered to the project site and accepted by ODOT.

1.7 ***"Invitation to Bid" or "ITB"*** means the entire solicitation document, including all parts, sections, exhibits, attachments, and Addenda.

1.8 ***"ODOT"*** means the Oregon Department of Transportation.

1.9 ***"Price Agreement"*** means the agreement between the Contractor and ODOT under which the Contractor agrees to hold prices, terms, and conditions firm for a specified period of time for the benefit of ODOT.

1.10 ***"Product"*** means the asphalt and tack coat products Contractor agrees to provide to ODOT according to the terms and at the unit pricing stated in this Price Agreement. ***"Product"*** may be used interchangeably with ***"Goods"*** throughout the Price Agreement.

1.11 ***"Purchase Order"*** means the purchase document submitted to Contractor for the purchase of Goods, which incorporates the terms and conditions of the Price Agreement.

1.12 *"State"* means the State of Oregon.

1.13 *"UCC"* means the *Uniform Commercial Code, ORS chapters 71, 72, and 72A*, as applicable and as amended from time to time.

1.14 *"Winter Price"* means the price for Goods purchased under this Price Agreement from October 1 through March 14.

SECTION 2 - STANDARD TERMS AND CONDITIONS

2.1 ORDER OF PRECEDENCE: The printed terms and conditions set out in this **SECTION 2** are the Standard Terms and Conditions for State of Oregon contracts. ODOT has provided Special Terms and Conditions in **SECTION 3**, which specifically apply only to Contract(s) entered into under this Price Agreement. Whenever possible, all terms and conditions are to be harmonized. In the event of a conflict between the Price Agreement provisions, the Special Terms and Conditions take precedence, unless the Price Agreement provision in question is required by law. In the event of any other conflict, (i) the Special Terms and Conditions, (ii) these Standard Terms and Conditions, and (iii) the Purchase Order will be interpreted in the foregoing order of precedence.

2.2 TERM OF PRICE AGREEMENT: The term of this Price Agreement is five years from full execution of this Price Agreement.

2.3 RESERVED

2.4 RESERVED

2.5 RESERVED

2.6 GOODS AND SERVICES TO BE FURNISHED: During the term of the Price Agreement, Contractor agrees to deliver all Goods and provide all services ordered by ODOT in accordance with the terms and conditions of the Price Agreement.

2.7 MOST FAVORABLE PRICES AND TERMS: Contractor represents that all prices, terms and benefits offered by Contractor are equal to or better than the equivalent prices, terms and benefits being offered by Contractor to any other state or local government unit or commercial customer.

2.7.1 Should Contractor, during the term of the Contract, enter into any contract, agreement or arrangement that provides lower prices, more favorable terms or greater benefits to any other such government unit or commercial customer, the Contract shall thereupon be deemed amended to provide the same price or prices, terms and benefits to ODOT. This provision applies to comparable Goods and services, and to purchase volumes by ODOT that are not less than the purchase volumes of the government unit or commercial customer that has received the lower prices, greater benefits or more favorable terms.

2.7.2 Donations of Goods or services to charitable, nonprofit or government entities, if the donations are recognized as such and are deductible under the federal Internal Revenue Code, shall not be considered contracts, agreements, sales or arrangements with other government units or commercial customers that call for the application of this paragraph.

2.8 DELIVERY DESTINATION: When a Purchase Order includes delivery, Goods shall be delivered by Contractor F.O.B. Destination to the address or location specified in the Purchase Order, together with all warranty documentation, inspection reports, and certifications, where applicable.

2.9 PAYMENT; OVERDUE ACCOUNT CHARGES: Payment shall be due and owing no later than 30 days from date of acceptance or expiration of inspection period, whichever occurs first. Contractor may only assess overdue account charges, in accordance with the provisions of ORS 293.461 (3), up to a maximum rate of two-thirds of one percent per month (8% per annum).

2.10 PAYMENT ADDRESS: Payment will be sent to Contractor at the address specified in the invoice.

2.11 PURCHASE ORDERS: Contractor shall not accept any Purchase Order that does not comply with the following requirements:

2.11.1 ODOT shall use the Purchase Order form approved by ODOT's Financial Services Division which will be substantially in the form of the Sample Purchase Order provided in Exhibit B of this Price Agreement. Purchase Orders shall incorporate the Price Agreement by reference, and identify the Price Agreement number, and delivery destination, if any.

No language in a Purchase Order submitted shall vary, amend, modify, or add terms or conditions to the Price Agreement. Operative provisions in Purchase Orders shall be limited to only the following: designation of ODOT and its authorized representative; identification of Goods and order quantities, delivery schedules in accordance with the terms of the Price Agreement; and delivery destination and invoicing address.

2.12 UNAUTHORIZED SALES:

2.12.1 Only the specified Goods for which Contractor has been awarded a Price Agreement are to be purchased under the Price Agreement unless an amendment has been executed by all parties.

2.13 RESERVED

2.14 INDEMNIFICATION: Contractor shall defend, save, hold harmless, and indemnify the State, ODOT, and its officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to the Price Agreement and Contracts, including but not limited to (1) the activities of Contractor or its officers, employees, subcontractors, or agents, (2) the Goods sold, and (3) the Services provided.

2.14.1 Provided, however, the Oregon Attorney General must give written authorization to any legal counsel purporting to act in the name of, or represent the interests of the State and/or its officers, employees and agents prior to such action or representation. Further, the State, acting by and through its Department of Justice, may assume its own defense, including that of its officers, employees and agents, at any time when in the State's sole discretion it determines that (i) proposed counsel is prohibited from the particular representation contemplated; (ii) counsel is not adequately defending the interests of the State and/or its officers, employees and agents; (iii) important governmental interests are at stake; or (iv) the best interests of the State are served thereby. Contractor's obligation to pay for all costs and expenses shall include those incurred by the State in assuming its own defense and that of officers, employees, and agents under (i) and (ii) above.

2.15 EVENTS OF DEFAULT:

2.15.1 CONTRACTOR: Contractor shall be in default under the Contract if:

2.15.1.a Contractor breaches any Contract covenant, warranty, certification, or obligation;

2.15.1.b Contractor institutes an action for relief in bankruptcy or has instituted against it an action for insolvency; makes a general assignment for the benefit of creditors; or ceases doing business on a regular basis of the type identified in Contractor's obligations under the Price Agreement and Contracts entered into thereunder; or

2.15.1.c Contractor attempts to assign rights in, or delegate duties under, the Price Agreement or any Contract entered into.

2.15.2 STATE: The State shall be in default under the Contract if ODOT breaches any Contract covenant, warranty, certification, or obligation.

2.16 TERMINATION:

2.16.1 MUTUAL CONSENT: The Price Agreement may be terminated at any time by mutual written consent of the parties.

2.16.2 ODOT: ODOT may, at its sole discretion, terminate the Price Agreement, in whole or in part, upon 30 days written notice, or at such later date as ODOT may establish in such notice, upon the occurrence of any of the following events:

2.16.2.a ODOT fails to receive funding, or appropriation, limitations or other expenditure authority at levels sufficient, in the exercise of its reasonable administrative discretion, to pay for the Goods to be purchased and/or the services to be provided under the Price Agreement; or

2.16.2.b Federal or state laws, regulations, or guidelines are modified or interpreted in such a way that either the purchase of the Goods and/or services under the Price Agreement is prohibited, or ODOT is prohibited from paying for such Goods and/or services from the planned funding source; or

2.16.2.c Contractor breaches any material provision of the Price Agreement. Pursuant to this Section, upon receipt of written notice of termination, Contractor shall stop performance under the Price Agreement as directed by ODOT.

2.16.3 CONTRACTOR: Contractor may terminate the Price Agreement, in whole or in part, upon 30 days written notice, or at such later date as Contractor may establish in such notice, upon ODOT's default of a material provision of the Price Agreement.

2.17 REMEDIES: In addition to the remedies afforded elsewhere herein, ODOT shall be entitled to recover for any and all damages suffered as the result of Contractor's breach of Contract, including but not limited to direct, indirect, incidental and consequential damages, as provided in ORS 72.7110 to 72.7170. ODOT shall also be entitled to any equitable remedies to which it may show itself entitled.

2.18 NOTICES: All notices required under the Contract shall be in writing and addressed to the party's authorized representative. For ODOT, the authorized representative shall be identified in the Purchase Order Form. Contractor's authorized representative shall be the individual specified in the Bid. Mailed notices shall be deemed given five (5) days after post marked, when deposited, properly addressed and prepaid, into the U.S. postal service. Faxed notices shall be deemed given upon electronic confirmation of successful transmission to the designated fax number.

2.19 ACCESS TO RECORDS: Contractor shall maintain all fiscal records relating to the Contract in accordance with generally-accepted accounting principles, and shall maintain all other records relevant to Contractor's performance of the Contract (collectively, "Records"). ODOT and its duly authorized representatives shall have access to Records for purposes of examination and copying. Contractor shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law following expiration or termination of the Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to the Contract, whichever date is later.

2.20 SEVERABILITY: If any provision of the Contract is declared by a court of competent jurisdiction to be illegal, 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.

2.21 SURVIVAL: Termination of the Contract shall not extinguish or prejudice ODOT's right to enforce the warranty, indemnification, access to records, governing law, venue, consent to jurisdiction, and remedies provisions.

2.22 ASSIGNMENT/SUBCONTRACT/SUCCESSORS: Contractor shall not assign, sell, transfer, or subcontract rights or delegate responsibilities under the Contract, in whole or in part, without the prior written approval of ODOT. Further, no such written approval shall relieve Contractor of any obligations under the Contract, and any delegate shall be considered the agent of Contractor. The provisions of the Contract shall be binding upon and shall inure to the benefit of the parties to the Contract and their respective successors and permitted assigns.

2.23 GOVERNING LAW: The Contract shall be governed by and construed in accordance with the internal laws of the State of Oregon without regard to principles of conflicts of law. With regard to Goods, the UCC shall govern this transaction, as modified, if so, by the terms of the Contract.

2.24 VENUE; CONSENT TO JURISDICTION:

2.24.1 STATE CONTRACT VENUE; CONSENT TO JURISDICTION: Any claim, action, suit or proceeding (collectively, "Claim") between ODOT and Contractor that arises from or relates to the Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Nothing herein shall be construed as a waiver of the State's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or jurisdiction based thereon.

2.25 MERGER CLAUSE; AMENDMENT; WAIVER: The Contract constitutes the entire agreement between the parties on the subject matter thereof. There are no understandings, agreements, or representations, oral or written, not specified therein regarding the Contract. No waiver, consent, modification or change of terms of the Contract (collectively, "Amendment") shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Amendments shall be effective only in the specific instance and for the specific purpose given. The failure of ODOT to enforce any provision of the Contract shall not constitute a waiver by ODOT of that or any other provision.

2.26 RESERVED

2.27 REPRESENTATIONS AND WARRANTIES:

2.27.1 AUTHORITY; BINDING OBLIGATION: Contractor represents and warrants that Contractor has the power and authority to enter into and perform the Price Agreement and Contract(s) entered into thereunder and that such Agreement and Contract(s), when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms.

2.27.2 WARRANTY ON MATERIALS, DESIGN, MANUFACTURE: Contractor warrants that all Goods shall be new, unused, current production models, where applicable, and shall be free from defects in materials, design and

manufacture. Where specifications have been made a part of the ITB, Contractor further warrants that all Goods shall be in compliance with and meet or exceed all specifications.

2.27.3 WARRANTY ON SERVICE STANDARDS: Contractor warrants that all services, where provided, shall be performed in accordance with the best commercial practice, and that only materials and workmanship of first quality will be used in the performance of the Contract.

2.27.4 WARRANTY OF SAFETY AND HEALTH REQUIREMENTS: Contractor warrants that the Goods comply with all applicable federal and State health and safety standards, including but not limited to, Occupational Safety and Health Administration (OSHA) and Oregon Occupational Safety and Health Administration (OROSHA).

2.27.5 MANUFACTURER WARRANTIES: Contractor shall have all manufacturer warranties covering the Goods and component parts, where applicable, transferred to ODOT at time of delivery at no charge.

2.27.6 WARRANTY OF TITLE: Contractor warrants that all Goods are free and clear of any liens or encumbrances, and that Contractor has full legal title to the Goods, and that no other person has any right, title or interest in the Goods which shall be superior to or infringe upon the rights granted to ODOT hereunder.

2.27.7 WARRANTIES CUMULATIVE: The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided in the Contract. All warranties provided in the Contract shall be cumulative, and shall be interpreted expansively so as to afford ODOT the broadest warranty protection available.

2.28 RESERVED

2.29 FOREIGN CONTRACTOR: If the amount of a Contract with ODOT exceeds $10,000 and if Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue all information required by that Department relative to the Contract. ODOT shall be entitled to withhold final payment under the Contract until Contractor has met this requirement.

2.30 MATERIAL SAFETY DATA SHEET: Contractor shall provide ODOT with a Material Safety Data Sheet as defined by the Occupational Safety and Health Administration (OSHA) for any Goods provided under the Contract which may release or otherwise result in exposure to a hazardous chemical under normal conditions of use. In addition, Contractor must label, tag or mark such Goods.

2.31 RECYCLED PRODUCTS: Contractor shall use recycled and recyclable products to the maximum extent economically feasible in the performance of all Contracts with ODOT. Contractor shall specify the minimum percentage of recycled product incorporated into the Goods provided under the Contract.

2.32 TIME IS OF THE ESSENCE: Contractor agrees that time is of the essence for Contractor's performance obligations under the Contract.

2.33 FORCE MAJEURE: Neither ODOT nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, war, or any other cause which is beyond the party's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under the Contract. ODOT may terminate the Contract upon written notice after reasonably determining that such delay or default will likely prevent successful performance of the Contract.

2.34 INSURANCE: Contractor shall obtain prior to performing under the Price Agreement, and maintain during the term of the Price Agreement, the insurance required under Section 4.

With regard to workers' compensation insurance, all employers, including Contractor, that employ subject workers who work under the Contract in the State of Oregon shall comply with ORS 656.017 and provide the required workers' compensation coverage, unless such employers are exempt under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements.

SECTION 3 –SPECIAL TERMS AND CONDITIONS

3.1 DELIVERY OF GOODS BY CONTRACTOR: In the event the purchaser requires a Contractor to deliver the Goods, the purchaser will use the Contractors' hauling price after obtaining a one-way per ton/mile price from Contractor:

2.4.2.a At the time of need, ODOT will obtain Contractors' short ton (see example below) per mile charge, spreader, demurrage and layover rates and then give notice to Contractor with the lowest net price (price of Goods plus their established short ton mileage cost to provide the Good(s) with all details (e.g. type and amount of Goods, location, etc.).

EXAMPLE:

Contractor's Mileage Short Ton Scale Rate Chart for Delivery
(Per Ton Mile, One Way)

Miles Not Over	Price Per Ton Per Mile
0-10	$7.50
11-15	$8.50
16-20	$9.60

Spreader rates:	$25.00/hr (subject to a 3 hour minimum)
Demurrage rates:	$120.00/hr after two free hours
Layover rates:	$130.00/night

NOTE: Contractor bases their per ton mile rate on a short ton minimum (i.e - 25, 28 etc.). If an end user orders less than a short ton of product, supplier shall charge the rate for their short ton minimum.

3.2 HAZARDOUS CHEMICALS COMMUNICATION: Products which contain hazardous chemicals, as defined by Oregon Administrative Rules Chapter 437, must be labeled, tagged, or marked with the following information:

3.2.1 Identity of the hazardous chemical(s);

3.2.2 Appropriate hazard warning; and name and address of the chemical manufacturer, importer or other responsible party.

Upon request, Contractor shall provide a Material Safety Data Sheet, as required by OAR 437-002-0360 (35), 29 CFR 1910.1200, for any item included in this Contract which contains hazardous chemicals. This information shall be provided to ODOT within two days of request (if faxable within 12-24 hours).

Contractor should address questions about the administrative rules referenced in this section to the Department of Consumer and Business Services, Oregon Occupational Health & Safety Administration Section, Labor and Industries Building, Salem, Oregon 97310, (800) 922-2689, FAX: (503) 947-7463.

3.3 PLANT CAPACITY - The Contractor's paving plant shall be capable of supplying material needed that allow ODOT crews to operate at full capacity on workdays. Average capacity needed by ODOT crews is estimated at **250** tons per day, however specific requirements will vary per project site.

In the event that more than one Contractor is awarded a Price Agreement for a given area and their asphalt plant capacities vary, (e.g. 90 Ton per hour vs. 60 Ton per hour), ODOT reserves the right to purchase material from a higher cost plant, if by doing so the overall project costs will be less due to truck loading "wait time" (*see 3.4*) while asphalt is being mixed and loaded into trucks, or other delays caused by Contractor.

3.4 WAIT TIME: While vehicles are being loaded, etc., wait time affects the total cost and schedule to complete a given project (i.e. costs of trucks waiting to be loaded have an effect on equipment not being used to its capacity, workers, flaggers, etc. at the project site).

Example: Project with dump trucks (5 each) with drivers (est. at $40.00/hr each = $200.00/hr total), Grader (est. $60.00/hr), roller (est. $35.00/hr), Flaggers (2 each) (est. at $25.00/hr/ each = $50.00/hr total) and one laborer (est. $25.00/hr.) would equate to $370.00 per hour or $6.17 per minute. As projects vary, the estimated effect of plant capacity will be considered for each project when there is more than one contract supporting a given work site.

3.3.1 Upon arrival of ODOT trucks, Contractor, unless plant is non-operational, shall allow no more than five (5) minutes delay in loading of the ODOT trucks.

3.3.2 Contractor agrees to commence production and supply and/or delivery product upon reasonable advance notice, (*typically 48 hours*), from the Engineer or their designee. Bulk of materials are anticipated to be required between the months of May and October.

3.5. RESERVED

3.6 VEHICLE CLEARANCE - Contractor agrees to accommodate ODOT trucks with a minimum vertical clearance of 12 feet. Contractor operators at plants with a vertical clearance of less than 12 feet shall provide assistance to assure safety while backing under the plant and retention of their appropriate turn to load.

3.7. PRICE ADJUSTMENTS FOR OIL ESCALATION/DE-ESCALATION: An escalation/de-escalation clause will be in effect during the term of the Price Agreement. If applicable, price adjustments will be made to the Price Agreement prices as described below.

(a) **Monthly Asphalt Cement Material Price (MACMP)** - The Monthly Asphalt Cement Material Price (MACMP) will be established by the Agency each month. For information regarding the calculation of the MACMP, and for the actual MACMP, go to the Agency website at:

http://www.oregon.gov/ODOT/HWY/ESTIMATING/Pages/asphalt_fuel.aspx

(b) **Base Asphalt Cement Material Price (Base)** - The Base price for the Price Agreement is the MACMP published on the ODOT website for **April 2013**.

(c) **Monthly Asphalt Cement Adjustment Factor** - The Monthly Asphalt Cement Adjustment Factor will be determined each month as follows: (see Examples below)

- If the MACMP is within ± 10% of the Base, there will be no adjustment.
- If the MACMP is more than 110% of the Base, then:

  Adjustment Factor (AF) = (MACMP) - (1.10 x Base)

- If the MACMP is less than 90% of the Base, then:

  Adjustment Factor = (MACMP) - (0.90 x Base)

  ****NOTE: Contractor shall use the MACMP for the month prior to Purchase Order request to determine the Adjustment Factor.

(d) **Escalation/De-escalation Price Adjustment** – The escalation/de-escalation invoice price will be determined by multiplying the Monthly Asphalt Cement Adjustment Factor by the number of tons purchased.

SECTION 4 - INSURANCE REQUIREMENTS

4.1 COMMERCIAL GENERAL LIABILITY: Contractor shall obtain, at Contractor's expense, and keep in effect during the term of the Price Agreement, commercial general liability insurance covering bodily injury and property damage. This insurance shall include personal injury coverage, contractual liability coverage for the indemnity provided under the Contract, and products/completed operations liability coverage. Combined single limit per occurrence shall not be less than **$1,000,000**. Each annual aggregate limit shall not be less than **$1,000,000** when applicable.

4.2 WORKERS' COMPENSATION: The Contractor, its subcontractors, if any, and all employers providing work, labor or materials under the Price Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Oregon workers' compensation coverage that satisfies Oregon law for all their subject workers.

4.3 AUTOMOBILE LIABILITY: Contractor shall obtain, at Contractor's expense, and keep in effect during the term of the Price Agreement, automobile liability insurance covering owned, non-owned and/or hired vehicles, as applicable. This coverage may be written in combination with the commercial general liability insurance. Combined single limit per occurrence shall not be less than **$1,000,000.**

4.4 "TAIL COVERAGE": If any of the required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the expiration or termination of the Price Agreement for a duration of 24 months or the maximum time period the Contractor's insurer will provide such if less than 24 months. Contractor will be responsible for furnishing certification of "tail" coverage as described or continuous "claims made" liability coverage for 24 months following the expiration or termination of the Price Agreement. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of the Price Agreement. This will be a condition of final acceptance of work or services and related warranty(ies), if any.

4.5 DURATION: All insurance will be required to be kept in effect to the end of the warranty period.

4.6 ADDITIONAL INSURED: The liability insurance coverages, except professional liability if included, required for performance of the Contract shall include ODOT and its officers and employees as additional insureds, but only with respect to the Contractor's activities to be performed under the Price Agreement.

4.7 NOTICE OF CANCELLATION OR CHANGE: There shall be no cancellation, material change, potential exhaustion of aggregate limits or intent not to renew insurance coverage(s) without 30 days' written notice from the Contractor or its insurer(s) to ODOT. Any failure to comply with the reporting provisions of this insurance, except for the potential exhaustion of aggregate limits, shall not affect the coverage(s) provided thereunder.

4.8 CERTIFICATE(S) OF INSURANCE: As evidence of the insurance coverages required by the Price Agreement, the Contractor shall furnish Certificate(s) of Insurance to ODOT prior to Contractor's delivery of Goods or performance of services under the Contract. The Certificate(s) will specify all of the parties who are Additional Insureds (or Loss Payees). Insurance coverages required under the Price Agreement shall be obtained from acceptable insurance companies or entities. The Contractor shall be financially responsible for all deductibles, self-insured retentions, and/or self-insurance included hereunder.

SECTION 5 – PRICING PROPOSAL

ODOT makes no representation or guarantee whatsoever as to the amount or type of purchases to be made under this Price Agreement. All listed quantities are estimated quantities for the initial term of the Price Agreement. These estimates are intended to serve only as a general guide to Bidders and a method for Bid evaluation, and are not be construed as a representation or guarantee of the quantity of Goods that will actually be purchased by ODOT under any awarded Price Agreement.

BIDDER NOTE: Bidder may bid on any or all items listed in Column 2 (in-plant price) from any or all plant locations. If Bidder provides a price in Column 2 for any Bid item, Bidder may, but is not required to, provide a price in Column 3 (winter price).

	Column 1 Estimated Usage	Column 2 In-Plant Price Per Ton	Column 3 Winter Price Per Ton at Plant	Column 4 If Plant Location is "Other", List City Where Plant is Located
A. Performance Grade (PG) Binder				
PG 64-22	90 Tons			
Portland		$0	$0	
Boise		$575	$0	
Klamath Falls		$600	$0	
Madras		$575	$0	
Salem		$575	$575	
White City		$600	$0	
Other		$575	$575	Vancouver, WA
B. Conventional Chip Seal Emulsions				
CRS-2	420 Tons			
Portland		$485	$485	
Boise		$485	$0	
Klamath Falls		$485	$0	
Madras		$485	$0	
Salem		$485	$485	
White City		$485	$0	
Other		$485	$485	Vancouver, WA
HFRS-2	420 Tons			
Portland		$510	$510	
Boise		$490	$0	
Klamath Falls		$510	$0	
Madras		$490	$0	
Salem		$510	$510	
White City		$510	$0	
Other		$510	$510	Vancouver, WA

CRS-1	420 Tons			
Portland		$450	$450	
Boise		$450	$0	
Klamath Falls		$475	$0	
Madras		$450	$0	
Salem		$450	$450	
White City		$475	$0	
Other		$450	$450	Vancouver, WA

C. Emulsified Asphalt for Conventional Cold Mix

CMS-2	600 Tons			
Portland		$0	$0	
Boise		$0	$0	
Klamath Falls		$0	$0	
Madras		$0	$0	
Salem		$0	$0	
White City		$0	$0	
Other		$0	$0	
CMS-2S	620 Tons			
Portland		$0	$0	
Boise		$0	$0	
Klamath Falls		$0	$0	
Madras		$0	$0	
Salem		$0	$0	
White City		$0	$0	
Other		$0	$0	
HFMS-2	625 Tons			
Portland		$525	$525	
Boise		$505	$0	
Klamath Falls		$525	$0	
Madras		$505	$0	
Salem		$525	$525	
White City		$525	$0	
Other		$525	$0	Vancouver, WA

D. Recycling Agents

CMS-2RA	20 Tons			
Portland		$600	$600	
Boise		$600	$600	
Klamath Falls		$625	$0	
Madras		$625	$0	
Salem		$600	$600	
White City		$625	$0	
Other		$600	$600	Vancouver, WA

HFMS-RA	20 Tons			
Portland		$600	$600	
Boise		$600	$0	
Klamath Falls		$625	$0	
Madras		$600	$0	
Salem		$600	$600	
White City		$625	$0	
Other		$600	$600	Vancouver, WA

CRS-2P	300 Tons		
Portland		$510	$510
Boise		$510	$0
Klamath Falls		$535	$0
Madras		$510	$0
Salem		$510	$510
White City		$535	$0
Other		$0	$0

HFRS-P1	300 Tons			
Portland		$550	$550	
Boise		$530	$0	
Klamath Falls		$550	$0	
Madras		$530	$0	
Salem		$550	$550	
White City		$550	$0	
Other		$550	$550	Vancouver, WA

HFRS-P1 (50% Diluted) Fog Seal	**200 Tons**			
Portland		$325	$325	
Boise		$300	$0	
Klamath Falls		$325	$0	
Madras		$300	$0	
Salem		$325	$325	
White City		$325	$0	
Other		$325	$325	Vancouver, WA

HFRS-P2	250 Tons			
Portland		$555	$555	
Boise		$530	$0	
Klamath Falls		$550	$0	
Madras		$530	$0	
Salem		$555	$555	
White City		$555	$0	
Other		$555	$555	Vancouver, WA

RS-LTP	275 Tons			
Portland		$555	$555	
Boise		$530	$0	
Klamath Falls		$555	$0	
Madras		$530	$0	
Salem		$555	$555	
White City		$555	$0	
Other		$555	$555	Vancouver, WA

E. Special Cold Patch Materials (Liquid Only)

HFMS-2S	10 Tons			
Portland		$580	$580	
Boise		$580	$580	
Klamath Falls		$600	$0	
Madras		$580	$0	
Salem		$580	$580	
White City		$600	$0	
Other		$580	$580	Vancouver, WA
HFMS-2SP	400 Tons			
Portland		$580	$580	
Boise		$580	$580	
Klamath Falls		$600	$0	
Madras		$580	$0	
Salem		$580	$580	
White City		$600	$0	
Other		$580	$580	Vancouver, WA

F. Surface Treatment Asphalt

AC-15P	200 Tons			
Portland		$0	$0	
Boise		$695	$0	
Klamath Falls		$695	$0	
Madras		$675	$0	
Salem		$675	$675	
White City		$695	$0	
Other		$695	$675	Vancouver, WA
AC15-5TR	150 Tons			
Portland		$0	$0	
Boise		$0	$0	
Klamath Falls		$0	$0	
Madras		$0	$0	
Salem		$0	$0	
White City		$0	$0	
Other		$0	$0	

G. Tack Coat

CSS-1 or CSS-1H	300 Tons			
Portland		$475	$475	
Boise		$475	$0	
Klamath Falls		$500	$0	
Madras		$475	$0	
Salem		$475	$475	
White City		$500	$0	
Other		$475	$475	Vancouver, WA

SECTION 6 - CERTIFICATION OF COMPLIANCE WITH NON-DISCRIMINATION LAWS

By my signature on this Price Agreement I hereby attest or affirm under penalty of perjury that I am authorized to act on behalf of Contractor in this matter, and to the best of my knowledge the Contractor has not discriminated against minority, women or emerging small business enterprises in obtaining any required subcontract and that the Contractor is not in violation of any non-discrimination laws.

SECTION 7 - CERTIFICATION OF COMPLIANCE WITH OREGON TAX LAWS

By my signature on this Price Agreement, I, hereby attest or affirm under penalty of perjury: That I am authorized to act on behalf of the Contractor in this matter, that I have authority and knowledge regarding the payment of taxes, and that Contractor is, to the best of my knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and ORS 403.200 to 403.250, ORS Chapters 118, 314, 316, 317, 318, 321, and 323 and the elderly rental assistance program under ORS 310.630 to 310.706, and any local taxes administered by the Department of Revenue under ORS 305.620.

SECTION 8 - RECYCLED PRODUCTS CERTIFICATION

Contractor shall use recyclable products to the maximum extent economically feasible in the performance of the contract work set forth in this document.

ORS 279A.010(1)(ii) states: "'Recycled product' means all materials, goods and supplies, not less than 50 percent of the total weight of which consists of secondary and post-consumer waste with not less than 10 percent of total weight consisting of post-consumer waste. 'Recycled product' also includes any product that could have been disposed of as a solid waste, having completed its life cycle as a consumer item, but otherwise is refurbished for reuse without substantial alteration of the product's form".

ORS 279A.010(1)(u) states: "'Post-consumer waste' means a finished material which would normally be disposed of as solid waste, having completed its life cycle as a consumer item. 'Post-consumer waste' does not include manufacturing waste".

ORS 279A.010(1)(jj) states: "'Secondary waste materials' means fragments of products of finished products of a manufacturing process which has converted a virgin resource into a commodity of real economic value, and includes post-consumer waste, but does not include excess virgin resources of the manufacturing process. For paper, 'secondary waste materials' does not include fibrous waste generated during the manufacturing process such as fibers recovered from waste water or trimmings of paper machine rolls, mill broke, wood slabs, chips, sawdust, or other wood residue from a manufacturing process."

ORS 279A.010(1)(hh) states: "'Recycled PETE means post-consumer polyethylene terephthalate material."

By my signature on this Price Agreement, I hereby certify that the products, if any, offered in this Price Agreement contain the following minimum percentages:

a) Ø % recycled product as defined in ORS 279A.010(1)(ii)

b) 0 % post-consumer waste as defined in ORS 279A.010(1)(u)
c) 0 % secondary waste materials as defined in ORS 279A.010(1)(jj)
d) 0 % PETE as defined in ORS 279A.010(1)(hh)

SECTION 9 – TECHNICAL SPECIFICATIONS

9.1 SILENCE OF SPECIFICATIONS: The apparent silence of the ITB specifications as to any detail, or the apparent omission of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only materials and workmanship of first quality are to be used.

9.2 DELIVERY: Contractor, upon 48 hour notice either by fax or phone (with written notice to follow), shall provide Goods. Contractor shall work directly with ODOT on a case by case basis as to availability of Goods for each project.

9.2.1 ODOT PICK-UP: Goods will be supplied F.O.B. to ODOT trucks, at the Contractor's plant(s) listed in the Pricing Section of the ITB.

9.2.2 CONTRACTOR HAUL: When ODOT requires Contractor to haul Goods to a project site, ODOT will be charged the Per Ton In Plant price plus the One-Way Contractor Per Mile Per Ton Mile Haul price submitted during the bidding phase.

9.2.3. CERTIFIED WEIGHT: Contractor agrees to have certified weight scales to determine the weight of each load. Certified weight slip shall be furnished to ODOT's driver for each load.

9.2.4 NON-CONFORMANCE WITH SPECIFICATIONS: ODOT reserves, through its engineer or designee ("Engineer") for the project, the right to refuse delivery of material that does not meet gradation specifications, material that is not properly mixed, or for other reasons is unsatisfactory.

Any material considered unacceptable by the Engineer will be returned to Contractor's plant, and ODOT shall not be charged for the load or hauling costs. Failure of Contractor to provide Goods as outlined in these specifications could result in ODOT acquiring and hauling materials from another vendor and may result in cancellation of Contractor's Price Agreement, in addition to other remedies available to ODOT.

SECTION 10 - SIGNATURES

CONTRACTOR, BY EXECUTION OF THIS PRICE AGREEMENT, HEREBY ACKNOWLEDGES THAT CONTRACTOR HAS READ THIS PRICE AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

Price Agreement No.: B31290

Term of Price Agreement: April 1, 2018

Contractor (Company) name: Albina Asphalt

Contractor representative name: Dave Zillman Phone: 360-816-8546 Email: dave.zillman@albina.com

Contractor Address: 801 Main Street, Vancouver, WA 98660

By signature on this Contract for Contractor, the undersigned hereby certifies under penalty of perjury that the undersigned is authorized to act on behalf of Contractor and that Contractor is, to the best of the undersigned's knowledge, not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 and 403.200 to 403.250 and ORS chapters 118, 314, 316, 317, 318, 321 and 323 and the elderly rental assistance program under ORS 310.630 to 310.706 and local taxes administered by the Department of Revenue under ORS 305.620.

D Zillman	Sales Mgr.	4/10/13
Contractor representative Signature	Title	Date
Cecelia L. Gilbert	Regional Buyer	4-15-13
Issued by (ODOT)	Title	Date
Wynnette Gentemann	Procurement Manager	4/15/13
Authorized Signature (ODOT)	Title	Date

EXHIBIT A – RESERVED

EXHIBIT B

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Oregon Department of Transportation

PURCHASE ORDER

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SHIP TO.

PO NUMBER

NAME	AGENCY CONTACT PERSON NAME	PO ISSUE DATE	DELIVERY DATE REQUIRED
STREET ADDRESS	PHONE	TERMINUM	CONFIRMATION NUMBER
CITY, STATE, ZIP	FAX	PRICE AGREEMENT NUMBER	BACK ORDER NUMBER
BILL TO: ☐ Same as ship-to	BILLING ADDRESS IF DIFFERENT FROM SHIP-TO ADDRESS	PAYMENT TERMS: Net 30 days	FOB: Destination
VENDOR NUMBER – SUFFIX	VENDOR/CONTRACTOR CONTACT PERSON NAME		
VENDOR/CONTRACTOR NAME	PHONE		
ADDRESS	FAX		
CITY, STATE, ZIP	E-MAIL		

INSTRUCTIONS TO CONTRACTOR/VENDOR

Show this PO number on invoice and all items pertaining to this order.

Prepay all freight charges unless stated otherwise. If freight is billed as a separate item, the receipted freight bill must accompany the invoice. State is not subject to federal excise tax.

DESCRIPTION AND/OR CATALOG NUMBER	AGENCY EXPENDITURE CODING: CHARGE UNIT	EX BUDGET	ACT	OBJ DETAIL	QUANTITY: ORDERED	UNIT	RECEIVED	UNIT PRICE	ITEM TOTAL	SFO
									$ 0.00	
									$ 0.00	
									$ 0.00	
									$ 0.00	
									$ 0.00	
									$ 0.00	
									$ 0.00	
								TOTAL	$ 0.00	

SPECIAL TERMS AND CONDITIONS/INSURANCE REQUIREMENTS

There are no other understandings, agreements or representations oral or written related to the Goods/Services. Select Paragraph A or B below, as applicable

A. ☐ This Purchase Order and the standard terms and conditions attached to this Purchase Order, any special terms and conditions included with this Purchase Order and any other items incorporated by reference constitute the entire agreement between the parties about the Goods/Services.

B. ☐ This Purchase Order and the terms and conditions of the Price Agreement between Agency and Contractor and any special terms and conditions included with this PO constitute the entire agreement between the parties about the Goods/Services.

REQUESTED BY	DATE	APPROVED BY (PRINT NAME)	DATE	RECEIVED BY (PRINT NAME)	DATE
CREDIT ENTRY DATE (PO'S OVER $3,000 ONLY)		APPROVED BY SIGNATURE		RECEIVED BY SIGNATURE	

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(24-1038 (3/10) Electronic Version (Word)

VENDOR RECEIVES PO COPY. TERMS AND CONDITIONS. ODOT RETAINS COPY.