



PORT OF PORTLAND

MASTER AGREEMENT – NATIONAL COOPERATIVE CONTRACT

Ambulance, Emergency Vehicles, Fire Apparatus and Specialty Vehicles, Equipment and Accessories and Related Equipment, Supplies and Services

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|----------|---|----------------------------|
| Parties: | Port of Portland P.O. Box 3529 Portland, Oregon 97208 | ("Port") |
| | Farber Specialty Vehicles 7052 Americana Parkway Reynoldsburg, OH 43068 | ("Supplier" or "Provider") |

AGREEMENT

1 NATURE OF CONTRACT

1.1 The Port has partnered with OMNIA Partners, Public Sector ("OMNIA Partners") to make this National Cooperative Contract (the "Master Agreement" or "Contract") available to participating public agencies nationally, including without limitation certain state and local government agencies, primary, secondary and higher education entities, and nonprofit entities (collectively, "Participating Public Agencies") for the public benefit, through OMNIA Partners' cooperative purchasing program.

1.2 The Port issued Request for Proposals No. 2022-9961 (the "RFP"), inviting offers from qualified firms to provide ambulance, emergency vehicles, fire apparatus and specialty vehicles, equipment and accessories, and related equipment, supplies, and services under this Master Agreement.

1.3 This Master Agreement is for Supplier's supply of the items described on the attached **Schedule 4.1, Pricing** (collectively the "Products and Services") to the Port, on an as-required basis upon the Port's order. The Port does not guarantee the purchase of any specific quantity of Products and Services under this Master Agreement and reserves the right to order similar Products and services from other suppliers if it is in the Port's best interests to do so.

1.4 Attachment A, Supplier's RFP response, incorporated by reference, including the *Requirements for National Cooperative Contract To Be Administered by OMNIA Partners*, as completed and submitted by Supplier, is part of this Master Agreement.

2 TERM

2.1 The term of this Master Agreement commences on the date that this Master Agreement is fully executed by both parties, whichever is later, and shall expire five years from such date, unless sooner terminated under the provisions of this Master Agreement. The Port has two options, exercisable sequentially and unilaterally by the Port in its sole discretion, to extend the term of this Master Agreement for one year at a time; as such the anticipated total term of this Contract is seven years. The Port may exercise such an option by giving Supplier written notice no later than fourteen calendar days prior to the then-current expiration date. Expiration of the Master Agreement term does not excuse Supplier's obligations which commenced prior to such expiration.

2.2 Supplier may enter into local agreements with Participating Public Agencies accessing the Master Agreement through OMNIA Partners, so long as the effective date of such agreements precede the Master Agreement's expiration date. The full term (any combination of initial and renewal periods) of any such local agreements may not exceed seven years.

3 SUPPLIER'S OBLIGATIONS

Supplier's obligations under this Master Agreement include, but are not limited to, the following:

3.1 To sell, furnish, and deliver the Products and Services anywhere the Port may designate within the greater Portland, Oregon metropolitan area, FOB destination, in accordance with applicable specifications and other requirements in the Scope of Services attached as **Schedule 3.1**, upon Supplier's receipt of an authorized order from the Port;

3.2 To submit reports of all sales activity under this Master Agreement, including descriptions, quantities supplied, and prices charged, in an MS Excel spreadsheet format to the Port's Contract Administrator upon request;

3.3 To provide the Port's Contract Administrator a minimum of two contact names for Supplier, including 24 hour-accessible phone numbers (office, home, or cellular), with full authority to make all necessary shipping arrangements for Products and Services. The Port will identify the Port's representatives which are authorized to place orders against this Master Agreement; and

3.4 To comply with all federal, state, and local laws, regulations, and ordinances applicable to this Master Agreement or to Supplier's obligations under this Master Agreement, as they may be adopted or amended from time to time.

4 COMPENSATION

4.1 Basis of Compensation

The Port will pay for Products and Services on a price-per-unit basis, as set forth on the attached **Schedule 4.1**. Supplier acknowledges that such prices include all delivery costs, tariffs, import charges, duties, and all local, State or Federal taxes required to deliver the Products and Services in accordance with this Master Agreement. Similar items purchased but not listed on **Schedule 4.1** shall be supplied at a minimum 6% discount from Supplier's published list(s) price for Products, and a 6% discount for Services. Such discount structure must remain constant throughout the term of this Contract.

4.2 Annual Rate Adjustments

Provider may request a rate adjustment, which the Port will consider in its sole discretion, no more frequently than once annually for the ensuing one-year period beginning on the effective date of the Contract or on an anniversary of the effective date of the Contract ("Contract Year") to reflect actual increases in Provider's cost to perform under this Contract. Provider must submit a written request with backup documentation establishing the actual increases in cost. Any such request shall be submitted to the Port no less than thirty (30) calendar days prior to the end of the Contract Year, and adjustments shall be effective as of the beginning of the following Contract Year. In no event shall the rate adjustment be more than the percentage change during the preceding Contract Year in the Consumer Price Index for All Urban Consumers (CPI-U), US City Average, not seasonally adjusted, all items, published by the U.S. Department of Labor.

5 INVOICING; PAYMENT

5.1.1 Supplier shall invoice the Port no more than frequently than once monthly, and each monthly invoice must be received at the Port no later than twenty (20) calendar days following the last day of the preceding calendar month. Supplier shall submit invoices with all backup documentation to Accounts Payable, Port of Portland, P.O. Box 3529, Portland, Oregon 97208 or via email to portinvoices@portofportland.com. Provisions on Supplier's invoices that purport to modify or supplement the provisions of this Master Agreement are void.

5.1.2 The Port will pay Supplier all undisputed amounts within thirty (30) days after the Port's receipt of Supplier's properly-completed invoice, or any shorter period required by law. The Port is not obligated to pay an invoice until all required supporting materials are submitted. Upon the Port's request Supplier will correct and re-issue invoices submitted to the Port that do not comply with this Master Agreement's invoicing requirements. If corrections are required, the Port will transmit payment to Supplier within forty-five (45) days after the Port's receipt of Supplier's corrected invoice, or any shorter period required by law.

6 NO MINIMUM AMOUNT OF WORK GUARANTEED

This Master Agreement is executed for work-as-required and there is no guarantee as to the total compensation to be realized by the Supplier under this Master Agreement.

7 SUPPLIER IS INDEPENDENT CONTRACTOR

Supplier is an independent contractor for all purposes and shall be entitled to no compensation other than the compensation expressly provided by this Master Agreement. Neither Supplier nor any partner, director, officer, manager, member, employee, subcontractor, or agents of Supplier will be deemed to be an employee of the Port. The Port will not withhold any taxes from any payments made to Supplier, and Supplier will be solely responsible for paying all applicable taxes arising out of or resulting from the performance of services, including but not limited to income, social security, worker's compensation, and employment insurance taxes. Supplier represents, warrants, and covenants to the Port that, in the provision of services, Supplier is customarily engaged in, and will continue to customarily engage in, an independently-established business as described in ORS 670.600(3).

8 DUTY TO INFORM

Supplier shall give prompt written notice to the Port if, at any time during the performance of this Master Agreement, Supplier becomes aware of actual or potential problems, faults, or defects in the Products and Services, any non-conformance with the Master Agreement, or with any federal, state, or local law, rule, or regulation, or has any objection to any decision or order made by the Port. Any delay or failure on the part of the Port to provide a written response to Supplier shall constitute neither agreement with nor acquiescence in Supplier's statement or claim and shall not constitute a waiver of any of the Port's rights.

9 REPRESENTATIONS AND WARRANTIES

9.1 Representations and Warranties

9.1.1 All express and implied warranties that are applicable to goods under ORS Chapter 72 apply to those of Products and Services delivered under this Master Agreement which meet the definition of goods for purposes of ORS Chapter 72. Supplier represents and further warrants to the Port that:

- a) the Products and Services will conform to the specifications set forth in this Master Agreement and be free from material defects;
- b) the Products and Services will comply with all applicable federal health and safety standards; and
- c) Supplier has good title to the Products and Services, and that Supplier conveys the Products and Services to the Port free from any restriction or condition, and free from any encumbrance, including but not limited to any security interest or lien. Supplier will defend title to the Products and Services against the rightful claim of any person.

9.1.2 The warranties specified in this Section 9 are in addition to, and not in lieu of, any other warranties provided in this Master Agreement. All warranties are cumulative and shall be interpreted broadly to give the Port the greatest warranty protection available.

9.2 Manufacturer Warranties

At no charge to the Port, Supplier shall transfer or cause the transfer of all manufacturers' warranties for Products and Services and component parts, if any, to the Port for the Port's benefit when Supplier delivers Products and Services to the Port. If a conflict or inconsistency exists between a manufacturer's warranty and Supplier's warranty, the warranty that provides the greatest benefit and protection to the Port shall prevail.

10 INDEMNIFICATION

Supplier shall indemnify, defend, reimburse, and hold harmless the Port and the Port's commissioners, officers, employees, and agents for, from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature whatsoever, including without limitation reasonable attorney fees, accountant fees, paralegal fees, expert witness fees, escrow fees, fines, environmental costs, and penalties resulting from, arising out of, or in any way connected with the acts or omissions of Supplier or Supplier's partners, directors, officers, employees, subcontractors, invitees, or agents under this Master Agreement.

11 DAMAGE TO PORT PROPERTY

Supplier shall fully compensate the Port for harm to the Port's real or personal property caused by the acts or omissions, negligent or not, of Supplier or Supplier's partners, directors, officers, employees, subcontractors, invitees, or agents under this Master Agreement.

12 INSURANCE

12.1 Liability Insurance

Supplier shall maintain occurrence-form commercial general liability and automobile liability insurance for the protection of Supplier, the Port, its commissioners, employees, and agents. Coverage shall include personal injury, bodily injury, including death, and broad form property damage, including loss of use of property, occurring during or in any way related to Supplier's operations, in an amount not less than \$1,000,000 combined single limit per occurrence. Such insurance shall reference the Master Agreement number and shall name the Port, its Commissioners, employees, and agents as additional insureds.

12.2 Workers' Compensation Coverage; Employers' Liability Coverage

Supplier shall maintain workers compensation and employers' liability coverage for all Supplier's employees who are subject to Oregon's Workers' Compensation statute (and/or Supplier's domicile state, if different), either as a carrier-insured employer or as a self-insured employer as provided by ORS 656.407. If Supplier's domicile state is a monopolistic state, employers stop gap liability insurance may be substituted for employers' liability coverage

12.3 Certificates

12.3.1 Certificates Required

Prior to full execution of this Master Agreement, Supplier shall furnish the Port with:

- a) certificates referencing this Master Agreement (by number, if known), coverage dates, amount, and type of insurance required by this Master Agreement; and
- b) a copy of the endorsement or policy provision providing additional insured status under the commercial general liability and automobile liability policies.

12.3.2 Certificate Management; Notice Requirement

When the period of Supplier's performance under this Master Agreement exceeds the coverage period stated on a certificate, prior to the certificate expiration date Supplier or its insurer must furnish updated certificates demonstrating continuous coverage. Supplier or its insurer must give the Port not less than thirty (30) days' written notice before cancellation, non-renewal, or material change of any policy (except ten (10) days for non-payment of premium).

13 BREACH OF CONTRACT

13.1 Generally

Supplier acknowledges that its breach of its obligation to deliver promised quantities of Products and Services within the time periods set forth in this Master Agreement may result in curtailment or cessation of critical Port operations, and that such curtailment or cessation may cause substantial harm to the Port including without limitation incidental and consequential damages

13.2 Cure; Remedies

Supplier must cure any breach of this Master Agreement within the shortest reasonable time after Supplier first has actual notice of the breach or the Port notifies Supplier of the breach, whichever is earlier. If Supplier fails to cure a breach in accordance with this subsection, the Port may exercise one or more of the following remedies:

13.2.1 Substitute Products and Services

The Port may terminate that part of this Master Agreement affected by the breach upon written notice to Supplier, may obtain substitute Products and services in a reasonable manner, and may recover from Supplier the amount by which the price for those substitute Products and Services exceeds the price for the terminated Products and Services.

13.2.2 Suspension of Orders

Pending a decision to terminate all or part of this Master Agreement under this Section, the Port may unilaterally order Supplier to suspend all or part of the ordered Products and Services. If the Port terminates all or part of this Master Agreement after such a suspension, Supplier shall be entitled to compensation only for Products and Services accepted by the Port and delivered as required by this Master Agreement prior to the date of termination but not for any Products and Services delivered after the Port-ordered suspension date. If the Port suspends certain orders and later requires Supplier to resume the delivery of those Products and Services, Supplier shall be entitled to reasonable damages incurred, if any, as a result of the suspension.

13.2.3 Default

If the breach is material, the Port may declare Supplier in default, and the Port may pursue any remedy available for a default.

13.3 Recovery of Amounts Due for Breach

To recover any amounts Supplier owes to the Port due to Supplier's material or non-material breach of this Master Agreement, the Port may withhold such amounts from any Port payments to Supplier, including but not limited to payments made under this Master Agreement or under any other agreement between the parties. Supplier's default under this Master Agreement will be, at the Port's option, a default under any other agreement between the parties.

13.4 Contractual Remedies Not Exclusive

The Port shall have all remedies available to the Port under this Master Agreement, at law, and in equity, including reasonable attorneys' fees and costs incurred in any action to enforce the Port's rights under this Master Agreement. All available remedies are cumulative and may be exercised singularly or concurrently.

14 TERMINATION FOR CONVENIENCE

The Port may terminate all or part of this Master Agreement at any time for its own convenience by written notice to Supplier. Upon termination under this Section, Supplier shall be entitled to compensation for all Products and Services delivered to and accepted by the Port prior to Supplier's actual notice of the termination or the receipt of the written notice of termination, whichever is earlier, plus Supplier's reasonable costs actually incurred in closing out the Master Agreement. Supplier shall not be entitled to compensation for any Products and Services ordered

but not yet delivered and accepted by Port prior to Supplier's actual notice of the termination or receipt of written notice of termination.

15 AIRPORT SECURITY AND BADGING REQUIREMENTS

15.1 Compliance Mandatory

At all times during the delivery or performance of Products and Services at the Portland International Airport ("PDX"), Supplier will comply with all applicable rules and regulations governing airport security (collectively, "Airport Security Rules and Regulations"), including but not limited to the security badging, access control, and keys/locks requirements set forth in the PDX Rules (available at <https://www.portofportland.com> or from the Port Project Manager upon request), and all applicable regulations promulgated by the Transportation Security Administration ("TSA") and the Federal Aviation Administration ("FAA"). Supplier will further ensure that its partners, directors, officers, managers, members, employees, subcontractors, invitees, agents, and suppliers comply with all Airport Security Rules and Regulations when providing Services at PDX. Supplier will obtain and thoroughly review the PDX Rules and other Airport Security Rules and Regulations before commencing Services.

15.2 Supplier Security and Badging Responsibilities

Supplier warrants and will ensure that any person providing Services that receives a security badge meets all applicable requirements for having a security badge. Supplier will ensure that any security badges, access control devices, or keys provided by the Port are returned promptly to the PDX Security Badging Office when badgeholders leave Supplier's employment or no longer provide Services at PDX, and will obtain a receipt for the return of such items. Supplier will submit a copy of the receipt to the Port Project Manager. All unreturned badge or access device fees due in accordance with the PDX Rules may be deducted from any payment due under this Master Agreement.

15.3 Security Violations

A violation of the Airport Security Rules and Regulations will be considered an act or omission for purposes of the indemnification provisions in Section 10, and is a per se material breach of this Master Agreement.

16 SECURITY REQUIREMENTS AT OTHER PORT LOCATIONS

16.1 Compliance Mandatory

At all times during the performance of Services, Supplier will comply with all applicable security requirements for the premises, including but not limited to the Port's Marine Terminal Security Guidelines and any other security rules maintained by the Port, its tenant in possession of the premises, or other governing authorities. Supplier will further ensure that its partners, directors, officers, managers, members, employees, subcontractors, invitees, agents, and suppliers comply with such security requirements. Supplier must obtain and review copies of applicable security requirements from the Port before commencing Services. Supplier will ensure that any security badges, access control devices, or keys provided by the Port are returned promptly to the Port Security Badging Office when badgeholders leave Supplier's employment or no longer provide Services and will obtain a receipt for the return of such items. Supplier will submit a copy of the receipt to the Port Project Manager. Any unreturned badge or access device fees due in accordance with applicable Port rules may be deducted from any payment due under this Master Agreement.

16.2 Marine Terminal Requirements

As more fully described in the Port's Marine Terminal Security Guidelines, all personnel requiring unescorted access to secure areas of Port Marine Terminals 2, 4, 5, and 6 must possess a Transportation Worker Identification Credential ("TWIC") issued by the TSA. Enrollment is available online at <https://www.tsa.gov/for-industry/twic>.

16.3 Security Violations

A violation of applicable security requirements will be considered an act or omission for purposes of the indemnification provisions in Section 10, and is a per se material breach of this Master Agreement.

17 STATUTORILY-REQUIRED PROVISIONS

17.1 Payment for Labor or Material

As a condition of this Master Agreement, Supplier shall make payment promptly, as due, to all persons supplying to Supplier labor or material for the performance of the Services. [Required by ORS 279B.220(1)]

17.2 Pay Equity

Supplier shall comply with the prohibition set forth in ORS 652.220. Such compliance is a material element of the Master Agreement and a failure to comply is a breach that entitles the Port to terminate the Master Agreement for cause. [Required by ORS 279B.235(1)(b)]

17.3 Employee Discussions of Rate of Pay or Benefits

Supplier shall not prohibit any of Supplier's employees from discussing the employee's rate of wage, salary, benefits or other compensation with another employee or another person and shall not retaliate against an employee who discusses the employee's rate of wage, salary, benefits, or other compensation with another employee or another person. [Required by ORS 279B.235(1)(c)]

17.4 Hours of Labor

Persons employed under this Master Agreement shall receive at least time and a half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279B.020 (1)(b)(B) to (G) and for all time worked in excess of 10 hours in any one day or in excess of 40 hours in any one week, whichever is greater. [Required by ORS 279B.235(5)]

17.5 Contributions to the Industrial Accident Fund

As a condition of this Master Agreement, Supplier shall pay all contributions or amounts due the Industrial Accident Fund from Supplier or Supplier's subcontractor incurred in the performance of this Master Agreement. [Required by ORS 279B.220(2)]

17.6 Income Tax Withholding

As a condition of this Master Agreement, Supplier shall pay to the Oregon Department of Revenue all sums withheld from employees under ORS 316.167. [Required by ORS 279B.220(4)]

17.7 Workers' Compensation

As a condition of this Master Agreement, all subject employers performing Services under this Master Agreement are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126. [Required by ORS 279B.230(2)]

17.8 Medical Care for Employees

As a condition of this Master Agreement, Supplier shall promptly, as due, make payment to any person, co partnership, association or corporation, furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of Supplier, of all sums that Supplier agrees to pay for such services and all moneys and sums that Supplier collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for such services. [Required by ORS 279B.230(1)]

17.9 Liens and Claims Prohibited

As a condition of this Master Agreement Supplier shall not permit any lien or claim to be filed or prosecuted against the Port, the state, any county, any school district, any municipality, any municipal corporation, or any subdivision thereof, on account of any labor or material furnished pursuant to this Master Agreement. [Required by ORS 279B.220(3)]

17.10 Compliance with Tax Laws

Supplier represents and warrants that Supplier has complied with the tax laws of the State of Oregon or a political subdivision of the State of Oregon, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318. Supplier covenants that Supplier will continue to comply with the tax laws of the State of Oregon or a political subdivision of the State of Oregon during the term of this Master Agreement. Supplier's failure to comply with the tax laws of the State of Oregon or a political subdivision of the State of Oregon before Supplier executed this Master Agreement or during the term of this Master Agreement will be a default for which the Port may terminate the Master Agreement and seek damages and other relief available under the terms of this Master Agreement and under applicable law. [Required by ORS 279B.045]

18 MISCELLANEOUS PROVISIONS

18.1 Time of Essence

Time is of the essence with respect to all dates and time periods in this Master Agreement.

18.2 Contingencies

Neither party will be responsible for failure to perform the party's obligations under this Master Agreement due to contingencies beyond the party's reasonable control, including but not limited to earthquakes, floods, tornadoes, and other acts of nature, fires, epidemics, wars, riots, revolutions, acts of civil or military authorities, sabotage, or nuclear incidents. If any obligation of a party will be delayed by a contingency, the party will promptly notify the other party. Each party will use commercially reasonable efforts to remove the contingency as soon as practicable.

18.3 No Assignment

Supplier may not assign any interest or delegate any obligation under this Master Agreement without the Port's prior written consent. Any assignment or transfer attempted in violation of this Section 18.3 shall be void.

18.4 Law of Oregon; Venue

ORS 15.320 provides that Oregon law applies to this Master Agreement. The parties also agree that Oregon law applies to this Master Agreement, even if ORS 15.320 is determined to be inapplicable or invalid, without reference to any conflict of laws provision that would call for the application of the law of any other jurisdiction. Any suit, action, or other proceeding arising out of or related to this Master Agreement shall only be brought in a state or federal court located in Multnomah County, Oregon, which court's jurisdiction shall be exclusive. To the fullest extent permitted by applicable law, Supplier shall be deemed to have irrevocably waived any objections to personal jurisdiction, venue, and objections based on forum non convenienc, and further agrees to appear and submit to the jurisdiction of such courts in connection with any suit, action or other proceeding arising out of or related to this Master Agreement.

18.5 Successors and Assigns

This Master Agreement shall bind the parties and their permitted assignees.

18.6 Supplier Identification

Supplier shall furnish to the Port Supplier's employer identification number, as designated by the Internal Revenue Service.

18.7 No Waiver of Legal Rights

A waiver by a party of any breach by the other shall not be deemed to be a waiver of any subsequent breach.

18.8 Modification

This Master Agreement may only be modified only by a writing signed by both parties. No oral modification shall be effective.

18.9 Attorney Fees

The prevailing party on a claim shall be entitled to reasonable attorney fees with respect to such claim at trial and on appeal in an action brought with respect to this Master Agreement.

18.10 Permissive Cooperative Procurement Allowed

Other public contracting agencies may establish contracts or price agreements under the terms, conditions, and prices of this Master Agreement. Supplier agrees to extend the terms, conditions, and prices of this Master Agreement to any purchasing contracting agency, as that term is defined at ORS 279A.200 (1)(h). Contracts or price agreements between Supplier and purchasing contracting agencies are entirely independent of and have no effect upon this Master Agreement.

18.11 Counterparts, Execution, Electronic Signatures

This Master Agreement may be executed in counterparts. This Master Agreement may be executed using original signatures, facsimile signatures, or only with the Port's prior approval, Electronic Signatures as defined in the Electronic Signatures in Global and National Commerce Act, that can be authenticated. Under ORS 84.014, Supplier's consent is not required for this Master Agreement to be executed using Electronic Signatures. Even if ORS 84.014 is determined to be inapplicable or invalid, Supplier grants such consent.

18.12 Integration

This Master Agreement contains the entire agreement between the parties regarding the subject matter of this Master Agreement and supersedes all prior written or oral discussions or agreements regarding the subject matter of this Master Agreement.

18.13 Attachments

Any exhibits, schedules, and other attachments referenced in this Master Agreement are part of this Master Agreement.

18.14 Authority of Signers

The individuals signing below warrant that they have full authority to execute this Master Agreement on behalf of the party for which they sign.

[Signature page follows]

Supplier:

Farber Specialty Vehicles

By:

DocuSigned by:
Steve Goodyear
AD13955152B34ED...

Print name: Steve Goodyear

As its: Vice President of Sales

Date signed: 7/26/2024

Phone: 18003313188

Email: sgodyear@farberspecialty.com

Port:

Port of Portland

By:

DocuSigned by:
Mayra Arreola
8D007FAFD914475...

Print name: Mayra Arreola

As its: Chief Shared Prosperity Officer

Date signed: 7/26/2024

DocuSigned by:
Approved as to legal sufficiency for the Port:

Eric A. Smith

45A2E0F9EF004C8
Counsel for the Port of Portland

SCHEDULE 4.1

ATTACHMENT A

Attachment A can be accessed from the OMNIA Partners microsite for this contract. <https://www.omniapartners.com/solutions/contract-offerings>