

Attachment A

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COUNTY OF MONTEREY STANDARD AGREEMENT

This **Agreement** is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and:

TK Elevator Corporation

(hereinafter "CONTRACTOR").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

1.0 GENERAL DESCRIPTION:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The goods and/or services are generally described as follows:

Provide: Elevator maintenance and repair services for County facilities under Sourcewell Contract #080420.

2.0 PAYMENT PROVISIONS:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of: \$ 300,000.00

3.0 TERM OF AGREEMENT:

3.01 The term of this Agreement is from January 1, 2022 to August 28, 2024, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and **CONTRACTOR may not commence work before County signs this Agreement.**

3.02 The County reserves the right to cancel this Agreement, or any extension of this Agreement, without cause, with a thirty day (30) written notice, or with cause immediately.

4.0 SCOPE OF SERVICES AND ADDITIONAL PROVISIONS:

The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

Exhibit A Scope of Services/Payment Provisions

Exhibit B Other: Insurance Modifications

Exhibit C: Sourcewell Contract #080420-TKE

Exhibit D: Sourcewell Request for Proposals (RFP) #080420

5.0 PERFORMANCE STANDARDS:

- 5.01 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.
- 5.02 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- 5.03 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

6.0 PAYMENT CONDITIONS:

- 6.01 Prices shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provided in this paragraph. The County does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement.
- 6.02 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety days (90) prior to the expiration of the Agreement. Rate changes are not binding unless mutually agreed upon in writing by the County and the CONTRACTOR.
- 6.03 Invoice amounts shall be billed directly to the ordering department.
- 6.04 CONTRACTOR shall submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. The County shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this Agreement and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

7.0 TERMINATION:

- 7.01 During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

- 7.02 The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.
- 7.03 The County's payments to CONTRACTOR under this Agreement are funded by local, state and federal governments. If funds from local, state and federal sources are not obtained and continued at a level sufficient to allow for the County's purchase of the indicated quantity of services, then the County may give written notice of this fact to CONTRACTOR, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as the County may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this Agreement.

8.0 INDEMNIFICATION:

CONTRACTOR shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the CONTRACTOR's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.

9.0 INSURANCE REQUIREMENTS:

- 9.01 **Evidence of Coverage:** Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and the County has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

- 9.02 **Qualifying Insurers:** All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

9.03 **Insurance Coverage Requirements:** Without limiting CONTRACTOR’s duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial General Liability Insurance: including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Requestor must check the appropriate Automobile Insurance Threshold:

Requestor must check the appropriate box.

Agreement Under \$100,000 Business Automobile Liability Insurance: covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

Agreement Over \$100,000 Business Automobile Liability Insurance: covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit or Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: any proposed modifications to these auto insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Workers’ Compensation Insurance: if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer’s Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

(Note: any proposed modifications to these workers’ compensation insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Professional Liability Insurance: if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a “claims-made” basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage (“tail coverage”) with the same liability limits. Any such tail

coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

(Note: any proposed modifications to these insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

9.04 Other Requirements:

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any; performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, **and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance.** The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect. CONTRACTOR shall always during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of

this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

10.0 RECORDS AND CONFIDENTIALITY:

- 10.1 **Confidentiality:** CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.
- 10.2 **County Records:** When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.
- 10.3 **Maintenance of Records:** CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three-year period, then CONTRACTOR shall retain said records until such action is resolved.
- 10.4 **Access to and Audit of Records:** The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.
- 10.5 **Royalties and Inventions:** County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.

11.0 NON-DISCRIMINATION:

- 11.1 During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), sexual orientation, or any other characteristic set forth in California Government code § 12940(a), either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and

treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

12.0 COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANTS:

If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

13.0 COMPLIANCE WITH APPLICABLE LAWS:

13.1 CONTRACTOR shall keep itself informed of and in compliance with all federal, state, and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this AGREEMENT as well as any privacy laws including, if applicable, HIPAA. CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices require by law in the performance of the Services.

13.2 CONTRACTOR shall report immediately to County's Contracts/Purchasing Officer, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project of the performance of the Services.

13.3 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations, and guidelines that are in force at the time such documentation is prepared.

14.0 INDEPENDENT CONTRACTOR:

In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is always acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.

15.0 NOTICES:

Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR’S contract administrators at the addresses listed below:

FOR COUNTY:	FOR CONTRACTOR:
<p>Dalia M. Mariscal-Martinez Management Analysts</p> <hr/> <p style="text-align: center;">Name and Title</p> <hr/> <p>1441 Schilling Place, South 2nd Floor Salinas, California 93901-4527</p> <hr/> <p style="text-align: center;">Address</p> <hr/> <p>(831) 755-8966</p> <hr/> <p style="text-align: center;">Phone:</p>	<p>Celia Cecena Account Manager - San Jose Branch</p> <hr/> <p style="text-align: center;">Name and Title</p> <hr/> <p>2140 Zanker Road San Jose, California 95131</p> <hr/> <p style="text-align: center;">Address</p> <hr/> <p>(408) 660-1507</p> <hr/> <p style="text-align: center;">Phone:</p>

16.0 MISCELLANEOUS PROVISIONS.

- 16.01 **Conflict of Interest:** CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the services required to be rendered under this Agreement.
- 16.02 **Amendment:** This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 16.03 **Waiver:** Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 16.04 **Contractor:** The term “CONTRACTOR” as used in this Agreement includes CONTRACTOR’s officers, agents, and employees acting on CONTRACTOR’s behalf in the performance of this Agreement.
- 16.05 **Disputes:** CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 16.06 **Assignment and Subcontracting:** The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.

- 16.07 **Successors and Assigns:** This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 16.08 **Headings:** The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 16.09 **Time is of the Essence:** Time is of the essence in each and all of the provisions of this Agreement.
- 16.10 **Governing Law:** This Agreement shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.
- 16.11 **Non-exclusive Agreement:** This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 16.12 **Construction of Agreement:** The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 16.13 **Counterparts:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 16.14 **Authority:** Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 16.15 **Integration:** This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 16.16 **Interpretation of Conflicting Provisions:** In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.
- 17.0 **CONSENT TO USE OF ELECTRONIC SIGNATURES.**
- 17.1 The parties to this Agreement consent to the use of electronic signatures via DocuSign to execute this Agreement. The parties understand and agree that the legality of electronic signatures is governed by state and federal law, 15 U.S.C. Section 7001 et seq.; California Government Code Section 16.5; and, California Civil Code Section 1633.1 et seq. Pursuant to said state and federal law as may be amended from time to time, the parties to this Agreement hereby authenticate and execute this Agreement, and any and all Exhibits to this

Agreement, with their respective electronic signatures, including any and all scanned signatures in portable document format (PDF).

17.2 Counterparts.

The parties to this Agreement understand and agree that this Agreement can be executed in two (2) or more counterparts and transmitted electronically via facsimile transmission or by delivery of a scanned counterpart in portable document format (PDF) via email transmittal.

17.3 Form: Delivery by E-Mail or Facsimile.

Executed counterparts of this Agreement may be delivered by facsimile transmission or by delivery of a scanned counterpart in portable document format (PDF) by e-mail transmittal, in either case with delivery confirmed. On such confirmed delivery, the signatures in the facsimile or PDF data file shall be deemed to have the same force and effect as if the manually signed counterpart or counterparts had been delivered to the other party in person.

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18.0 SIGNATURE PAGE.

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

COUNTY OF MONTEREY

CONTRACTOR

By: _____
Contracts/Purchasing Officer
Date: _____
By: _____
Department Head (if applicable)
Date: _____

TK Elevator Corporation

DocuSigned by: Contractor/Business Name *
Ryan Bunn
By: _____
(Signature of Chair, President, or Vice-President)
Ryan Bunn Regional President
Date: 12/27/2021 Name and Title

Approved as to Form
Office of the County Counsel
Leslie J. Girard, County Counsel

DocuSigned by:
Mary Grace Perry, Deputy County Counsel
By: _____
County Counsel
Date: 1/4/2022 | 3:45 PM PST

DocuSigned by:
Mayra Blanco
By: _____
(Signature of Secretary, Asst. Secretary, CFO, Treasurer, or
Asst. Treasurer)
Mayra Blanco Assistant Secretary
Date: 12/28/2021 Name and Title

Approved as to Fiscal Provisions

DocuSigned by:
Gary Giboney
By: _____
Auditor/Controller
Date: 1/4/2022 | 4:14 PM PST

Approved as to Liability Provisions
Office of the County Counsel-Risk Manager
Leslie J. Girard, County Counsel-Risk Manager

DocuSigned by:
Danielle Mancuso
By: _____
Risk Management
Date: 1/4/2022 | 3:42 PM PST

County Board of Supervisors' Agreement No. _____ approved on _____

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

1 Approval by County Counsel is required

2 Approval by Auditor-Controller is required

3 Approval by Risk Management is necessary only if changes are made in paragraphs 8 or 9

TK Elevator Corporation
Elevator Maintenance/Repair

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

**To Agreement by and between
County of Monterey, hereinafter referred to as “County”
and
TK Elevator Corporation, hereinafter referred to as “CONTRACTOR”**

A. SCOPE OF SERVICES

A.1 CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth in the coverage descriptions below:

A.1.1 CONTRACTOR shall provide elevator maintenance and repair services at various facilities within the County. Elevators to be serviced are defined herein under Section B.1, or as requested in writing by the County. The County may request in writing that services for additional elevators not identified under Section B.1 be provided under this Agreement.

A.2 BRONZE LEVEL COVERAGE

A.2.1 SCOPE OF SERVICE: CONTRACTOR shall perform the following services:

- Examine County elevator equipment for optimum operation.
- Examine, clean and lubricate elevator controller, machine, motor and interlocks;
- Lubricate guide rails;
- Make minor adjustments during regular examinations; and
- Document all work performed on maintenance tasks and record logs provided with each controller.

A.2.2 LIMITED PREVENTATIVE MAINTENANCE PLAN: CONTRACTOR shall furnish the necessary lubricants and cleaning materials excluding replacement of hydraulic fluid at no additional charge. Repair and/or replacement parts and labor are not included in this coverage and will be billed separately.

A.2.3 SERVICE REQUESTS DURING NORMAL WORKING DAYS AND HOURS: CONTRACTOR shall respond to County’s service requests during normal business working days and hours, which are defined as Monday through Friday, 8:00am to 4:30pm (except scheduled holidays as listed in Section A.6, “Holidays”), and County agrees to pay the costs and any necessary replacement parts and all labor costs including travel time, travel expenses, and time spent on the job. Such costs will be invoiced at CONTRACTOR’S standard billing rates under Sourewell Agreement #080420-TKE.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

A.2.4 AFTER HOURS SERVICE REQUESTS: CONTRACTOR shall respond to County's after-hours service requests and County agrees to pay the costs for any necessary replacement parts and all labor costs including travel time, travel expenses, and time spent on the job. Such costs will be invoiced at CONTRACTOR'S "Overtime" billing rates. After-hours service requests are defined as any request requiring dispatch of a service technician(s) that if fulfilled before or after normal business working days and hours.

A.3 GOLD LEVEL COVERAGE

A.3.1 PREVENTATIVE MAINTENANCE PROGRAM: CONTRACTOR shall service County's equipment described in this Agreement on a regularly scheduled basis. Service visits shall be performed during normal business working days and hours, which are defined as Monday through Friday, 8:00am to 4:30pm (except scheduled holidays). All work performed before or after normal business working days shall be considered "Overtime".

A.3.2 SCOPE OF SERVICE: CONTRACTOR shall examine County elevator equipment for optimum operation. CONTRACTOR'S examination, lubrication and adjustment shall cover the following components of County's elevator system:

- Control and landing position systems;
- Signal fixtures;
- Machines, drives, motors, governors, sheaves and wire ropes;
- Power units, pumps, valves and jacks;
- Car and hoistway door operating devices and door protection equipment;
- Loadweighers, car frames and platforms, and counterweights;
- Safety mechanisms;
- Lubricate equipment for smooth and efficient performance;
- Adjust elevator parts and components to maximize performance and safe operation; and
- Document all work performed on maintenance tasks and record logs provided with each controller.

A.3.3 FULL COVERAGE PARTS REPAIR AND REPLACEMENT: CONTRACTOR shall provide full coverage parts repair and/or replacement for all components worn due to normal wear, unless specifically excluded in the "Items Not Covered" provision herein. CONTRACTOR maintains a comprehensive parts inventory to support field operations. All replacement parts used in County equipment will be new or refurbished to meet the quality standard of CONTRACTOR. Most specialized parts are available within twenty-four (24) hours, seven days a week. CONTRACTOR shall relamp all signals as required (during regularly scheduled visits).

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

A.4 ITEMS NOT COVERED

A.4.1 CONTRACTOR shall not cover the cosmetic, construction or ancillary components of the elevator system, including the finishing, repairing or replacement of the cab enclosure, ceiling frames, panels and/or fixtures, hoist doorway panels, door frames, sills, car flooring, floor covering, lighting fixtures, ceiling bulbs/tubes, mail line power switches, breakers, feeders to controller, hydraulic elevator jack outer casing, buried piping, alignment of elevator guard rails, smoke and fire sensors, fire service reports, communication devices, security systems not installed by CONTRACTOR, batteries for emergency lighting and lowering, air conditioners, heaters and ventilation fans.

A.4.2 CONTRACTOR shall not include repair due to vandalism in any maintenance package, and such repairs shall be billed to County at an additional cost.

A.5 OTHER CONDITIONS

With the passage of time, equipment technology and designs will change. If any part or component of County's equipment covered under this Agreement cannot, in CONTRACTOR's sole opinion, be safely repaired and is no longer stocked and readily available from either the original equipment manufacturer or an aftermarket source, that part or component shall be considered obsolete. County shall be responsible for all charges associated with replacing that obsolete part or component as well as all charges required to ensure that the remainder of the equipment is functionally compatible with that replacement part or component.

A.6 HOLIDAYS

The following Union observed holidays apply to this Agreement:

- New Year's Day
- Memorial Day
- Independence Day
- Veterans Day
- Thanksgiving and Day After
- Christmas Day

A.6.1 When a holiday falls on a Saturday, it shall be observed on Friday. When a holiday falls on a Sunday, it shall be observed on Monday.

A.7 ADDITIONAL SERVICES AND LOCATION

Upon County's written notice to CONTRACTOR, County may add or remove elevator units and services as needed to this Agreement in order to maintain the safe operation of County facilities. At such time, the parties shall agree to pricing for any additional elevator units and or services.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

B. PAYMENT PROVISIONS

B.1 COMPENSATION/PAYMENT

County shall pay an amount not to exceed \$300,000 for the performance of all things, necessary for or incidental to the performance of work as set forth in the Scope of Services. CONTRACTOR's compensation for services rendered shall be based on the following rates or in accordance with the following terms:

CONTRACTOR shall comply with provisions of the Labor Code (sections 1720, et seq.) governing public works, including payment of prevailing wages, payroll records and employment of apprentices. Copies of the determination of the general prevailing rate of per diem wages are available at:

<http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>.

County and CONTRACTOR agree that CONTRACTOR shall be reimbursed for travel expenses during this Agreement. CONTRACTOR shall receive compensation for travel expenses as per the "County Travel Policy". A copy of the policy is available online at: <https://www.co.monterey.ca.us/home/showdocument?id=69364>. To receive reimbursement, CONTRACTOR must provide a detailed breakdown of authorized expenses, identifying what was expended and when.

CONTRACTOR warrants that the cost charged for services under the terms of this Agreement are not in excess of those charged to any other client for the same services performed by the same individuals.

B.2 CONTRACTOR'S BILLING PROCEDURES

Payment shall be based upon satisfactory acceptance of each deliverable, payment after completion of each major part of the Agreement, payment at conclusion of the Agreement, etc.

Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Paragraph 6.0, "Payment Conditions", of the Agreement. All invoices shall reference the Multi-Year Agreement (MYA) number, services and associated Delivery Order number, and an original hardcopy shall be sent to the following address or via email to RMA-Finance-AP@co.monterey.ca.us.

County of Monterey
Department of Public Works, Facilities, & Parks (PWFP) – Finance Division
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement shall be directed to the PWFP Finance Division at (831) 755-4800 or by emailing to: PWFP-Finance-AP@co.monterey.ca.us.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS

County may, in its sole discretion, terminate the Agreement or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS**Table B.1-1 - MONTHLY MAINTENANCE****Includes State Annual Testing and State Compliance Work identified on Table B.1-2**

Legal ID#	Department	Location	Coverage Description	Base Monthly Rate (Billed Quarterly)	Total Cost (1/1/22 – 12/31/22)	Total Cost (1/1/23 – 12/31/23)	Total Cost (1/1/23 – 12/31/23)	Total Cost (1/1/24 – 8/28/24)
151735	Social Services Department	1281 Broadway Avenue, Seaside	Bronze Level Coverage Oil and Grease Only	\$65.00	\$811	\$844	\$877	\$912
55848	Monterey County Probation	1422 Natividad Road, Salinas	Gold Level Coverage Full Maintenance	\$240.00	\$2,995	\$3,115	\$3,240	\$3,369
70369	Monterey County Probation	20 E. Alisal Street, Salinas	Gold Level Coverage Full Maintenance	\$240.00	\$2,995	\$3,115	\$3,240	\$3,369
135924	Monterey County Government Center	168 W. Alisal Street, Salinas (Employee)	Gold Level Coverage Full Maintenance	\$240.00	\$2,995	\$3,115	\$3,240	\$3,369
135917	Monterey County Government Center	168 W. Alisal Street, Salinas (#1 – Public Entrance)	Gold Level Coverage Full Maintenance	\$240.00	\$2,995	\$3,115	\$3,240	\$3,369
135916	Monterey County Government Center	168 W. Alisal Street, Salinas (#2 – Public Entrance)	Gold Level Coverage Full Maintenance	\$240.00	\$2,995	\$3,115	\$3,240	\$3,369
83826	Monterey County Sheriff's Department	1414 Natividad Road, Salinas	Gold Level Coverage Full Maintenance	\$240.00	\$2,995	\$3,115	\$3,240	\$3,369
151691	Monterey County Health Department	1270 Natividad Road, Salinas	Gold Level Coverage Full Maintenance	\$240.00	\$2,995	\$3,115	\$3,240	\$3,369
102917	Monterey County Schilling Annex	1441 Schilling Place, Salinas (PWF)	Gold Level Coverage Full Maintenance	\$260.00	\$3,245	\$3,375	\$3,510	\$3,650
92240	Monterey County Schilling Annex	1441 Schilling Place, Salinas (Elections)	Gold Level Coverage Full Maintenance	\$260.00	\$3,245	\$3,375	\$3,510	\$3,650
179606	East West Building	142 W. Alisal Street, Salinas	Gold Level Coverage Full Maintenance	\$240.00	\$2,995	\$3,115	\$3,240	\$3,369
129247	Laguna Seca	1021 Monterey-Salinas Highway	Gold Level Coverage Full Maintenance	\$260.00	\$3,245	\$3,375	\$3,510	\$3,650
138345	Laguna Seca	1021 Monterey-Salinas Highway (Red Bull Center)	Gold Level Coverage Full Maintenance	\$260.00	\$3,245	\$3,375	\$3,510	\$3,650
TOTAL:					\$37,751	\$39,264	\$40,837	\$42,464

Note: Escalation at four percent (4%) annually.

EXHIBIT A - SCOPE OF SERVICES/PAYMENT PROVISIONS**Table B.1-2 - TESTING**

Legal ID#	Department	Location	Annual Testing	Load Testing (Every 5 years)
151735	Social Services Department	1281 Broadway Avenue, Seaside	Included	Included
55848	Monterey County Probation	1422 Natividad Road, Salinas	Included	Included
70369	Monterey County Probation	20 E. Alisal Street, Salinas	Included	Included
135924	Monterey County Government Center	168 W. Alisal Street, Salinas (Employee)	Included	Included
135917	Monterey County Government Center	168 W. Alisal Street, Salinas (#1 – Public Entrance)	Included	Included
135916	Monterey County Government Center	168 W. Alisal Street, Salinas (#2 – Public Entrance)	Included	Included
83826	Monterey County Sheriff's Department	1414 Natividad Road, Salinas	Included	Included
151691	Monterey County Health Department	1270 Natividad Road, Salinas	Included	Included
102917	Monterey County Schilling Annex	1441 Schilling Place, Salinas (PWFP)	Included	Included
92240	Monterey County Schilling Annex	1441 Schilling Place, Salinas (Elections)	Included	Included
179606	East West Building	142 W. Alisal Street, Salinas	Included	Included
129247	Laguna Seca	1021 Monterey-Salinas Highway (Paddock Garage)	Included	Included
138345	Laguna Seca	1021 Monterey-Salinas Highway (Red Bull Center)	Included	Included

Table B.1-3 - OTHER RATES

Includes 20% Discount from CONTRACTOR's National Rates (San Jose Branch)

Mechanic Billing Rate (Standard)	\$482.86
Mechanic Billing Rate (Overtime)	\$820.87
Mechanic Billing Rate (Double Overtime)	\$965.73
Helper Billing Rate (Standard)	\$386.29
Helper Billing Rate (Double Overtime)	\$772.58
Team Billing Rate (Standard)	\$869.16
Team Billing Rate (Double Overtime)	\$1,738.31

EXHIBIT B - INSURANCE AND INDEMNIFICATION MODIFICATION

Section 8.0 Indemnification is replaced with the following:

8.1 CONTRACTOR shall indemnify, defend, and hold harmless County, its officers, agents, and employees, from and against any and all third-party claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) to the extent occurring or resulting from the negligence or willful misconduct of CONTRACTOR, its employees, subcontractors or agents in the performance of this AGREEMENT.

8.2 County shall indemnify, defend, and hold harmless CONTRACTOR, its officers, agents and employees, from and against any all third-party claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) to the extent occurring or resulting from the negligence or willful misconduct of County, including its employees, other contractors, or agents, in connection with this Agreement.

8.3 In no event shall either party be responsible for claims, liabilities or losses resulting from the other party's sole or gross negligence or willful misconduct. Each party's duty of indemnification shall be in proportion to its allocated share of joint negligence.

8.4 In no event shall either party to this Agreement be liable for any indirect, special, liquidated, incidental, exemplary or consequential damages, or for loss of use, loss of income, loss of opportunity, or other similar remote damages.

Section 9.01 Evidence of Coverage is replaced with the following:

Prior to commencement of this Agreement, CONTRACTOR shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. Copies of CONTRACTOR's insurance policies shall be furnished only in the event of a claim and pursuant to proper discovery request.

The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and the County has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the CONTRACTOR.

Section 9.03 Professional Liability Insurance is removed as it is not applicable to this Agreement scope of services.

Section 9.04 Other Requirements Paragraph 1 is revised as follows:

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three (3) years during the active Agreement term or one (1) year after the termination of this Agreement, whichever is first, following the date CONTRACTOR completes its performance of services under this Agreement.



Solicitation Number: RFP #080420

CONTRACT

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and thyssenkrupp Elevator, 3100 Interstate North Circle Suite 500, Atlanta, GA 30339 (Vendor).

Sourcewell is a State of Minnesota local government agency and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada.

Vendor desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and the entities that access Sourcewell’s cooperative purchasing contracts (Participating Entities).

1. TERM OF CONTRACT

- A. EFFECTIVE DATE. This Contract is effective upon the date of the final signature below.
- B. EXPIRATION DATE AND EXTENSION. This Contract expires August 28, 2024, unless it is cancelled sooner pursuant to Article 24. This Contract may be extended up to one additional one-year period upon request of Sourcewell and with written agreement by Vendor.
- C. SURVIVAL OF TERMS. Articles 11 through 16 survive the expiration or cancellation of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

- A. EQUIPMENT, PRODUCTS, OR SERVICES. Vendor will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above. Vendor’s Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

All Equipment and Products provided under this Contract must be new/current model. Vendor may offer close-out or refurbished Equipment or Products if they are clearly indicated in

Vendor's product and pricing list. Unless agreed to by the Participating Entities in advance, Equipment or Products must be delivered as operational to the Participating Entity's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. **WARRANTY.** Vendor warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Vendor warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Vendor's dealers and distributors must agree to assist the Participating Entity in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that is effective past the expiration of the Vendor's warranty will be passed on to the Participating Entity.

C. **DEALERS, DISTRIBUTORS, AND/OR RESELLERS.** Upon Contract execution, Vendor will make available to Sourcewell a means to validate or authenticate Vendor's authorized dealers, distributors, and/or resellers relative to the Equipment, Products, and Services related to this Contract. This list may be updated from time-to-time and is incorporated into this Contract by reference. It is the Vendor's responsibility to ensure Sourcewell receives the most current version of this list.

3. PRICING

All Equipment, Products, or Services under this Contract will be priced as stated in Vendor's Proposal.

When providing pricing quotes to Participating Entities, all pricing quoted must reflect a Participating Entity's total cost of acquisition. This means that the quoted cost is for delivered Equipment, Products, and Services that are operational for their intended purpose, and includes all costs to the Participating Entity's requested delivery location.

Regardless of the payment method chosen by the Participating Entity, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Participating Entity at the time of purchase.

A. **SHIPPING AND SHIPPING COSTS.** All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Vendor must permit the Equipment and Products to be returned within a reasonable time at no cost to Sourcewell or its Participating Entities. Participating Entities reserve the right to inspect the Equipment and Products at a reasonable time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery.

Vendor must arrange for and pay for the return shipment on Equipment and Products that arrive in a defective or inoperable condition.

Sourcewell may declare the Vendor in breach of this Contract if the Vendor intentionally delivers substandard or inferior Equipment or Products. In the event of the delivery of nonconforming Equipment and Products, the Participating Entity will notify the Vendor as soon as possible and the Vendor will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Participating Entity.

B. SALES TAX. Each Participating Entity is responsible for supplying the Vendor with valid tax-exemption certification(s). When ordering, a Participating Entity must indicate if it is a tax-exempt entity.

C. HOT LIST PRICING. At any time during this Contract, Vendor may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Vendor determines it will offer Hot List Pricing, it must be submitted electronically to Sourcewell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcewell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Participating Entities.

4. PRODUCT AND PRICING CHANGE REQUESTS

Vendor may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcewell Price and Product Change Request Form to the assigned Sourcewell Contract Administrator. This form is available from the assigned Sourcewell Contract Administrator. At a minimum, the request must:

- Identify the applicable Sourcewell contract number;
- Clearly specify the requested change;
- Provide sufficient detail to justify the requested change;
- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change); and
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Request Form will become an amendment to this Contract and be incorporated by reference.

5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS

A. PARTICIPATION. Sourcewell's cooperative contracts are available and open to public and nonprofit entities across the United States and Canada; such as federal, state/province, municipal, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Participating Entities that can legally access the Equipment, Products, or Services under this Contract. A Participating Entity's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Vendor understands that a Participating Entity's use of this Contract is at the Participating Entity's sole convenience and Participating Entities reserve the right to obtain like Equipment, Products, or Services from any other source.

Vendor is responsible for familiarizing its sales and service forces with Sourcewell contract use eligibility requirements and documentation and will encourage potential members to join Sourcewell. Sourcewell reserves the right to add and remove Participating Entities to its roster during the term of this Contract.

B. PUBLIC FACILITIES. Vendor's employees may be required to perform work at government-owned facilities, including schools. Vendor's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Participating Entity policies and procedures, and all applicable laws.

6. PARTICIPATING ENTITY USE AND PURCHASING

A. ORDERS AND PAYMENT. To access the contracted Equipment, Products, or Services under this Contract, a Participating Entity must clearly indicate to Vendor that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Vendor. Typically, a Participating Entity will issue an order directly to Vendor. If a Participating Entity issues a purchase order, it may use its own forms, but the purchase order should clearly note the applicable Sourcewell contract number. All Participating Entity orders under this Contract must be issued prior to expiration of this Contract; however, Vendor performance, Participating Entity payment, and any applicable warranty periods or other Vendor or Participating Entity obligations may extend beyond the term of this Contract.

Vendor's acceptable forms of payment are included in Attachment A. Participating Entities will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Participating Entity.

B. **ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM.** Additional terms and conditions to a purchase order may be negotiated between a Participating Entity and Vendor, such as job or industry-specific requirements, legal requirements (e.g., affirmative action or immigration status requirements), or specific local policy requirements. Some Participating Entities may require the use of a Participating Addendum; the terms of which will be worked out directly between the Participating Entity and the Vendor. Any negotiated additional terms and conditions must never be less favorable to the Participating Entity than what is contained in this Contract.

C. **PERFORMANCE BOND.** If requested by a Participating Entity, Vendor will provide a performance bond that meets the requirements set forth in the Participating Entity's order.

D. **SPECIALIZED SERVICE REQUIREMENTS.** In the event that the Participating Entity requires service or specialized performance requirements (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements) not addressed in this Contract, the Participating Entity and the Vendor may enter into a separate, standalone agreement, apart from this Contract. Sourcwell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

E. **TERMINATION OF ORDERS.** Participating Entities may terminate an order, in whole or in part, immediately upon notice to Vendor in the event of any of the following events:

1. The Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the goods to be purchased;
2. Federal, state, or provincial laws or regulations prohibit the purchase or change the Participating Entity's requirements; or
3. Vendor commits any material breach of this Contract or the additional terms agreed to between the Vendor and a Participating Entity.

F. **GOVERNING LAW AND VENUE.** The governing law and venue for any action related to a Participating Entity's order will be determined by the Participating Entity making the purchase.

7. CUSTOMER SERVICE

A. **PRIMARY ACCOUNT REPRESENTATIVE.** Vendor will assign an Account Representative to Sourcwell for this Contract and must provide prompt notice to Sourcwell if that person is changed. The Account Representative will be responsible for:

- Maintenance and management of this Contract;
- Timely response to all Sourcwell and Participating Entity inquiries; and
- Business reviews to Sourcwell and Participating Entities, if applicable.

B. BUSINESS REVIEWS. Vendor must perform a minimum of one business review with Sourcewell per contract year. The business review will cover sales to Participating Entities, pricing and contract terms, administrative fees, supply issues, customer issues, and any other necessary information.

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

A. CONTRACT SALES ACTIVITY REPORT. Each calendar quarter, Vendor must provide a contract sales activity report (Report) to the Sourcewell Contract Administrator assigned to this Contract. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Vendor must submit a report indicating no sales were made).

The Report must contain the following fields:

- Customer Name (e.g., City of Staples Highway Department);
- Customer Physical Street Address;
- Customer City;
- Customer State/Province;
- Customer Zip Code;
- Customer Contact Name;
- Customer Contact Email Address;
- Customer Contact Telephone Number;
- Sourcewell Assigned Entity/Participating Entity Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcewell Administrative Fee Applied; and
- Date Purchase was invoiced/sale was recognized as revenue by Vendor.

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcewell, the Vendor will pay an administrative fee to Sourcewell on all Equipment, Products, and Services provided to Participating Entities. The Administrative Fee must be included in, and not added to, the pricing. Vendor may not charge Participating Entities more than the contracted price to offset the Administrative Fee.

The Vendor will submit a check payable to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased by Participating Entities under this Contract during each calendar quarter. Payments should note the Sourcewell-assigned contract number in the memo and must be mailed to the address above "Attn: Accounts Receivable." Payments must be received no later than 45 calendar days after the end of each calendar quarter.

Vendor agrees to cooperate with Sourcewell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Vendor is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Vendor in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than 30 days from the cancellation date.

9. AUTHORIZED REPRESENTATIVE

Sourcewell's Authorized Representative is its Chief Procurement Officer.

Vendor's Authorized Representative is the person named in the Vendor's Proposal. If Vendor's Authorized Representative changes at any time during this Contract, Vendor must promptly notify Sourcewell in writing.

10. ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

A. **ASSIGNMENT.** Neither the Vendor nor Sourcewell may assign or transfer any rights or obligations under this Contract without the prior consent of the parties and a fully executed assignment agreement. Such consent will not be unreasonably withheld.

B. **AMENDMENTS.** Any amendment to this Contract must be in writing and will not be effective until it has been fully executed by the parties.

C. **WAIVER.** If either party fails to enforce any provision of this Contract, that failure does not waive the provision or the right to enforce it.

D. **CONTRACT COMPLETE.** This Contract contains all negotiations and agreements between Sourcewell and Vendor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.

E. **RELATIONSHIP OF THE PARTIES.** The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.

11. LIABILITY

Vendor must indemnify, save, and hold Sourcewell and its Participating Entities, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees, arising out of the performance of this Contract by the Vendor or its agents or employees; this

indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications. No party shall be liable for consequential damages under this Contract.

12. AUDITS

Sourcewell reserves the right to review the books, records, documents, and accounting procedures and practices of the Vendor relevant to this Contract for a minimum of 6 years from the end of this Contract. This clause extends to Participating Entities as it relates to business conducted by that Participating Entity under this Contract.

13. GOVERNMENT DATA PRACTICES

Vendor and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell under this Contract and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Vendor under this Contract.

If the Vendor receives a request to release the data referred to in this article, the Vendor must immediately notify Sourcewell and Sourcewell will assist with how the Vendor should respond to the request.

14. INDEMNIFICATION

As applicable, Vendor agrees to indemnify and hold harmless Sourcewell and its Participating Entities against any and all suits, claims, judgments, and costs instituted or recovered against Sourcewell or Participating Entities by any person on account of the use of any Equipment or Products by Sourcewell or its Participating Entities supplied by Vendor in violation of applicable patent or copyright laws.

15. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT

A. INTELLECTUAL PROPERTY

1. *Grant of License.* During the term of this Contract:
 - a. Sourcewell grants to Vendor a royalty-free, worldwide, non-exclusive right and license to use the Trademark(s) provided to Vendor by Sourcewell in advertising and promotional materials for the purpose of marketing Sourcewell's relationship with Vendor.
 - b. Vendor grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Vendor's Trademarks in advertising and promotional materials for the purpose of marketing Vendor's relationship with Sourcewell.

2. *Limited Right of Sublicense.* The right and license granted herein includes a limited right of each party to grant sublicenses to its and their respective distributors, marketing representatives, and agents (collectively “Permitted Sublicensees”) in advertising and promotional materials for the purpose of marketing the Parties’ relationship to Participating Entities. Any sublicense granted will be subject to the terms and conditions of this Article. Each party will be responsible for any breach of this Article by any of their respective sublicensees.

3. *Use; Quality Control.*

- a. Sourcewell must not alter Vendor’s Trademarks from the form provided by Vendor and must comply with Vendor’s removal requests as to specific uses of its trademarks or logos.
- b. Vendor must not alter Sourcewell’s Trademarks from the form provided by Sourcewell and must comply with Sourcewell’s removal requests as to specific uses of its trademarks or logos.
- c. Each party agrees to use, and to cause its Permitted Sublicensees to use, the other party’s Trademarks only in good faith and in a dignified manner consistent with such party’s use of the Trademarks. Upon written notice to the breaching party, the breaching party has 30 days of the date of the written notice to cure the breach or the license will be terminated.

4. *Termination.* Upon the termination of this Contract for any reason, each party, including Permitted Sublicensees, will have 30 days to remove all Trademarks from signage, websites, and the like bearing the other party’s name or logo (excepting Sourcewell’s pre-printed catalog of vendors which may be used until the next printing). Vendor must return all marketing and promotional materials, including signage, provided by Sourcewell, or dispose of it according to Sourcewell’s written directions.

B. **PUBLICITY.** Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Vendor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

C. **MARKETING.** Any direct advertising, marketing, or offers with Participating Entities must be approved by Sourcewell. Materials should be sent to the Sourcewell Contract Administrator assigned to this Contract.

D. **ENDORSEMENT.** The Vendor must not claim that Sourcewell endorses its Equipment, Products, or Services.

16. GOVERNING LAW, JURISDICTION, AND VENUE

Minnesota law governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state court in Todd County or federal court in Fergus Falls, Minnesota.

17. FORCE MAJEURE

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

18. SEVERABILITY

If any provision of this Contract is found to be illegal, unenforceable, or void then both Sourcwell and Vendor will be relieved of all obligations arising under such provisions. If the remainder of this Contract is capable of performance, it will not be affected by such declaration or finding and must be fully performed.

19. PERFORMANCE, DEFAULT, AND REMEDIES

A. PERFORMANCE. During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. *Notification.* The parties must promptly notify each other in writing of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcwell and the Vendor will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. *Escalation.* If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcwell or Vendor may escalate the resolution of the issue to a higher level of management. The Vendor will have 30 calendar days to cure an outstanding issue.
3. *Performance while Dispute is Pending.* Notwithstanding the existence of a dispute, the Vendor must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Vendor fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, any additional costs incurred by Sourcwell and/or its Participating Entities as a result of such failure to proceed will be borne by the Vendor.

B. DEFAULT AND REMEDIES. Either of the following constitutes cause to declare this Contract, or any Participating Entity order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

Written notice of default and a reasonable opportunity to cure must be issued by the party claiming default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

- Exercise any remedy provided by law or equity, or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

20. INSURANCE

A. REQUIREMENTS. At its own expense, Vendor must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability.*

Workers' Compensation: As required by any applicable law or regulation.

Employer's Liability Insurance: must be provided in amounts not less than listed below:

Minimum limits:

\$500,000 each accident for bodily injury by accident

\$500,000 policy limit for bodily injury by disease

\$500,000 each employee for bodily injury by disease

2. *Commercial General Liability Insurance.* Vendor will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition), or equivalent. At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.

Minimum Limits:

\$1,000,000 each occurrence Bodily Injury and Property Damage

\$1,000,000 Personal and Advertising Injury

\$2,000,000 aggregate for Products-Completed operations

\$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Vendor will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms

no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer), or equivalent.

Minimum Limits:

\$1,000,000 each accident, combined single limit

4. *Umbrella Insurance.* During the term of this Contract, Vendor will maintain umbrella coverage over Workers' Compensation, Commercial General Liability, and Commercial Automobile.

Minimum Limits:

\$2,000,000

Failure of Vendor to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, Vendor must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Contract Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf. All policies must include there will be no cancellation, suspension, non-renewal, or reduction of coverage without 30 days' prior written notice to the Vendor.

Failure to request certificates of insurance by Sourcewell, or failure of Vendor to provide certificates of insurance, in no way limits or relieves Vendor of its duties and responsibilities in this Contract.

C. ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE. Vendor agrees to list Sourcewell and its Participating Entities, including their officers, agents, and employees, as an additional insured under the Vendor's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Vendor, and products and completed operations of Vendor. The policy provision(s) or endorsement(s) must further provide that coverage is primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. WAIVER OF SUBROGATION. Vendor waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Vendor or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Vendor or its subcontractors. Where permitted by law, Vendor must require

similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. UMBRELLA/EXCESS LIABILITY. The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies).

21. COMPLIANCE

A. LAWS AND REGULATIONS. All Equipment, Products, or Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Equipment, Products, or Services are sold.

B. LICENSES. Vendor must maintain a valid and current status on all required federal, state/provincial, and local licenses, bonds, and permits required for the operation of the business that the Vendor conducts with Sourcewell and Participating Entities.

22. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

Vendor certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during this Contract Vendor declares bankruptcy, Vendor must immediately notify Sourcewell in writing.

Vendor certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Vendor further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time.

23. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS

Participating Entities that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may also require additional requirements based on specific funding specifications. Within this Article, all references to "federal" should be interpreted to mean the United States federal government. The following list only applies when a Participating Entity accesses Vendor's Equipment, Products, or Services with United States federal funds.

A. EQUAL EMPLOYMENT OPPORTUNITY. Except as otherwise provided under 41 C.F.R. § 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. §60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 C.F.R. §, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 C.F.R. § 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” The equal opportunity clause is incorporated herein by reference.

B. DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148). When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency. Vendor must be in compliance with all applicable Davis-Bacon Act provisions.

C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements

do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of \$150,000 require the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Vendor certifies that during the term of this Contract will comply with applicable requirements as referenced above.

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. § 180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Vendors must file any required certifications. Vendors must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Vendors must disclose any lobbying with non-federal funds that

takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Vendors must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Vendor must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Vendor further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of 3 years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Vendor must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Vendor must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Vendor agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Vendor that are directly pertinent to Vendor's discharge of its obligations under this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents.

L. PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322). A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

24. CANCELLATION

Sourcewell or Vendor may cancel this Contract at any time, with or without cause, upon 60 days' written notice to the other party. However, Sourcewell may cancel this Contract immediately upon discovery of a material defect in any certification made in Vendor's Proposal. Cancellation of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to cancellation.

Sourcewell

thyssenkrupp Elevator

By: DocuSigned by:
Jeremy Schwartz
C0FD2A139D06489...
Jeremy Schwartz

By: DocuSigned by:
Mark Hintz
62E6066A69F2417...
Mark Hintz

Title: Director of Operations & Procurement/CPO

Title: Vice President Contracts Department

Date: 8/26/2020 | 9:50 AM CDT

Date: 8/26/2020 | 7:07 PM CEST

Approved:

By: DocuSigned by:
Chad Coauette
7E42B8F817A64CC...
Chad Coauette

Title: Executive Director/CEO

Date: 8/26/2020 | 12:23 PM CDT

RFP 080420 - Elevators, Escalators, and Moving Walks with Related Equipment, Services, and Supplies

Vendor Details

Company Name: thyssenkrupp Elevator
Address: 3100 Interstate North Circle
Suite 500
Atlanta, GA 30339
Contact: Jamie Blackman
Email: jamie.blackman@thyssenkrupp.com
Phone: 770-799-0478
HST#: 62121126-7

Submission Details

Created On: Monday July 06, 2020 07:33:19
Submitted On: Friday July 31, 2020 01:48:41
Submitted By: Jamie Blackman
Email: jamie.blackman@thyssenkrupp.com
Transaction #: 32231029-e36b-494f-a111-141e907ae5cd
Submitter's IP Address: 96.77.92.138

Specifications

Table 1: Proposer Identity & Authorized Representatives

General Instructions (applies to all Tables) Sourcwell prefers a brief but thorough response to each question. Please do not merely attach additional documents to your response without also providing a substantive response. Do not leave answers blank; mark "NA" if the question does not apply to you (preferably with an explanation).

Line Item	Question	Response *
1	Proposer Legal Name (and applicable d/b/a, if any):	thyssenkrupp Elevator
2	Proposer Address:	3100 Interstate North Circle Suite 500 Atlanta, GA 30339
3	Proposer website address:	www.thyssenkrupp.com
4	Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer and, in the event of award, will be expected to execute the resulting contract):	Regards, Mark Hintz Vice President, Contracts Department 70 799 0448, mark.hintz@thyssenkrupp.com thyssenkrupp Elevator Corporation, 3100 Interstate N Cir SE, Suite 500, Atlanta, GA 30339
5	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Jeff Jaudes, CEI National Account Manager Government contracts 972-365-6128
6	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	Jamie Blackman National Accounts Coordinator, National Accounts 770-799-0478

Table 2: Company Information and Financial Strength

Line Item	Question	Response *
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7	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services.	<p>ThyssenKrupp Elevator is a US \$3.8 billion dollar company that manufactures, installs and services a wide variety of passenger and freight needs. Headquartered in Atlanta, Georgia, ThyssenKrupp Elevator Corporation provides a full range of elevators, lifts and escalators for all types of passenger and freight applications. Complete elevator systems, including all major components, are manufactured at our plants in Tennessee, Mississippi, Toronto and New York City. ThyssenKrupp Elevator is represented by over 135 branches and 546 local representatives in the United States and Canada and employs over 10,000 manufacturing, installation, service, repair, sales and management professionals. Most impressive is the fact that we individually service nearly 240,000 elevators, escalators and lifts in North America, over 50,000 of which were manufactured and installed by other companies.</p> <p>ThyssenKrupp Elevator's ultimate parent is ThyssenKrupp AG, a large German corporation headquartered in Düsseldorf. ThyssenKrupp AG's predecessor, Thyssen AG entered the North American vertical transportation market in the 1980's, and was growing its business, when it acquired Dover Elevator Company in July 1999. Dover was well established in the U.S. market, and the merger of these two companies created the largest vertical transportation company in North America. Thyssen and Dover Elevator joined forces as ThyssenKrupp Elevator with one purpose: to exceed member expectations with a powerful combination of products, services and technology</p>
8	What are your company's expectations in the event of an award?	Our expectation as an existing provider is to continue to grow both Sourcewell and our portfolios in providing unsurpassed services to our customers
9	Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response.	<p>thyssenkrupp Elevator is a US \$3.8 billion dollar company that manufactures, installs and services a wide variety of passenger and freight needs. Headquartered in Atlanta, Georgia, thyssenkrupp Elevator Corporation provides a full range of elevators, Escalators, and Moving Walks with Related Equipment, Services, and Supplies. Complete elevator systems, including all major components, are manufactured at our plants in Tennessee, Mississippi, Toronto and New York City. thyssenkrupp Elevator is represented by over 135 branches and 564 local representatives in the United States and Canada and employs over 10,000 manufacturing, installation, service, repair, sales and management professionals. Most impressive is the fact that we individually service nearly 240,000 elevators, escalators and lifts in North America, over 50,000 of which were manufactured and installed by other companies</p> <p>**Please see the Attachment thyssenkrupp 2018-2019 Financial Report**</p> <p>***Please see the Attached DNB Rating Report***</p>
10	What is your US market share for the solutions that you are proposing?	US Market Share : 38%
11	What is your Canadian market share for the solutions that you are proposing?	<ul style="list-style-type: none"> Canadian Market : 40%
12	Has your business ever petitioned for bankruptcy protection? If so, explain in detail.	Lawsuits do occur and exist; however, TKEC has adequate risk management, legal and insurance safeguards in place to protect itself and its customers when required. ThyssenKrupp Elevator has not been involved in bankruptcy or reorganization. Notwithstanding, ThyssenKrupp Elevator Corporation is a \$3.8 billion company.

13	<p>How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization.</p> <p>a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned?</p> <p>b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?</p>	<p>B- thyssenkrupp does not have a dealer network; all products and services are performed and manufactured by thyssenkrupp. Our network of employees across the US states are individual employees and Union employees. Sales and distribution are performed by location</p>
14	<p>If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.</p>	<p>All of our elevator service technicians are licensed to perform services on all vertical transportation. Both by the IUEC and local authorities having jurisdiction. ***Please see Attachment for State Contractors Licenses ***</p>
15	<p>Provide all "Suspension or Debarment" information that has applied to your organization during the past ten years.</p>	<p>In the past 10 years thyssenkrupp has not had any suspensions or debarments.</p>

Table 3: Industry Recognition & Marketplace Success

Line Item	Question	Response *
16	<p>Describe any relevant industry awards or recognition that your company has received in the past five years</p>	<p>2015 ThyssenKrupp Recognized by MIT Technology Review as One of the 50 Smartest Companies - ThyssenKrupp Elevator Wins 2015 Tennessee Governor's Environmental Stewardship Award - ThyssenKrupp Elevator's Enviromax® Earns Top Awards from Environmental Leader - ThyssenKrupp Elevator's U.S. Factory Earns LEED ® Gold Certification Middleton - 2016 thyssenkrupp' s installation of 53 elevators and 88 escalators in Rome's metro Line C in Italy has won of the "Project of the Year 2016" Award, in the Escalators category presented by international magazine Elevator World. ***All awards listed above are attached in our proposed documents***</p>
17	<p>What percentage of your sales are to the governmental sector in the past three years</p>	<p>We currently maintain a Federal Service Supply contract for the next 20 years and have for the last 20 years. Approximately 23% of our maintenance is with federal, state, local and city government.</p>
18	<p>What percentage of your sales are to the education sector in the past three years</p>	<p>Education: 15%</p>
19	<p>List any state, provincial, or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?</p>	<p>thyssenkrupp Elevator does business with multiple cooperative purchasing companies such as, Omnia, Vizient, Premier, Equalis and Healthtrust. There are over 40,000 units attached to these cooperative organizations both government and commercial that thyssenkrupp maintains. The release of any other customers' information without their approval is against thyssenkrupp policy.</p>
20	<p>List any GSA contracts or Standing Offers and Supply Arrangements (SOSA) that you hold. What is the annual sales volume for each of these contracts over the past three years?</p>	<p>GSA - FSS 9M+ GSA - PBS 9M+</p>

Table 4: References/Testimonials

Line Item 21. Supply reference information from three customers who are eligible to be Sourcewell participating entities.

Entity Name *	Contact Name *	Phone Number *
The release of any other customers' information without their approval is against thyssenkrupp policy.	The release of any other customers' information without their approval is against thyssenkrupp policy.	The release of any other customers' information without their approval is against thyssenkrupp policy.
The release of any other customers' information without their approval is against thyssenkrupp policy.	The release of any other customers' information without their approval is against thyssenkrupp policy.	The release of any other customers' information without their approval is against thyssenkrupp policy.
The release of any other customers' information without their approval is against thyssenkrupp policy.	The release of any other customers' information without their approval is against thyssenkrupp policy.	The release of any other customers' information without their approval is against thyssenkrupp policy.

Table 5: Top Five Government or Education Customers

Line Item 22. Provide a list of your top five government, education, or non-profit customers (entity name is optional), including entity type, the state or province the entity is located in, scope of the project(s), size of transaction(s), and dollar volumes from the past three years.

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *
Various States	Government	Georgia - GA	Vertical Transportation	100+ locations	Approximately 669K – Annual
Various States	Government	Georgia - GA	Vertical Transportation	148 Locations	Approximately 3.2M – Annual
University	Education	Florida - FL	Vertical Transportation	138 Units	Approximately 1M – Annual
University	Education	North Carolina - NC	Vertical Transportation	357 Units	Approximately 1.3M Annually
University	Education	Colorado - CO	Vertical Transportation	167 Units	Approximately \$313K Annually

Table 6: Ability to Sell and Deliver Service

Describe your company’s capability to meet the needs of Sourcewell participating entities across the US and Canada, as applicable. Your response should address in detail at least the following areas: locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employees (or employees of a third party), and any overlap between the sales and service functions.

Line Item	Question	Response *
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23	Sales force.	<p>thyssenkrupp Elevator's North American Division is separated into three regions, consisting over 6,000 employees working directly at our branch and regional offices. These locations are as listed below. See Attachments Question #17 Sales Force Map & Branch location Map for the listing of over 135 offices across the US. Our local customer service is supported by our call center, TK Communications which is operational 24/7 if the local branch is not available.</p> <p>Total number and location of sales persons employed by Supplier.</p> <ul style="list-style-type: none"> • Pacific Northwest - 52 • California - 59 • Southwest - 47 • Midwest - 73 • Central US - 52 • South – 50 • Southeast - 53 • Florida - 56 • Mid-Atlantic - 48 • Northeast - 53 • TOTAL – 546 Sales employees
24	Dealer network or other distribution methods.	<p>Services are scheduled and provided at a local branch level. Distribution of products will be managed at the local level, we have branches/locations in North America..</p>
25	Service force.	<p>Service Force:</p> <ul style="list-style-type: none"> • Thyssenkrupp has 3200+ service technicians in the US and Canada. All service technicians are IUEC members and employees of thyssenkrupp Elevator
26	Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.	<p>We provide Regular and Routine Maintenance 7/24/365. All maintenance programs are code compliant and if needed adjusted to meet our member needs. You can always count on our:</p> <ul style="list-style-type: none"> • 2,600 highly-trained service technicians, experts in thyssenkrupp and third-party (OEM) equipment • 24/7 emergency service availability from technicians who are always nearby • 24/7 thyssenkrupp call center, standing by to quickly take your call • Customer Portal, an online tool for managing your elevator account and placing service requests • Global network of engineers and experts, International Technical Services • Advanced diagnostic tools for communicating with thyssenkrupp and third-party equipment • Predictive maintenance solution, MAX, which dramatically improves elevator uptime using Internet of Things (IoT) technology • Dedicated account managers, your point of contact for account-related issue • Capital planning services to help you budget for future expenses <p>For an emergency such as an entrapment our goal is to get respond in 30 minutes or less, however due to locations outside of our control including but not limited to traffic, environment, location and access. hour during normal business hours, if not sooner. For an entrapment after normal business hours, we would strive for onsite response in less than 2 hours. For non-emergencies service requests during normal business hours, we should meet same day response. For non-emergency service requests after normal business hours, we will strive to provide response by the following business day.</p> <p>** Please see the Attachment: Service Brochure**</p>

27	Identify your ability and willingness to provide your products and services to Sourcewell participating entities in the United States.	<p>Thyssenkrupp elevator has the size and resources to fully support the members and their vertical transportation needs, when and where we are needed. This includes around the clock call center, dedicated account manager and sophisticated online tools as well as around the clock engineering support.</p> <p>Our goal is to exceed the members expectations by partnering with Sourcewell to achieve continues growth.</p> <p>thyssenkrupp Elevator utilizes GPS within our Technician's mobile devices so that we can route the closest technician to service calls in effort to reduce downtime. We continually look for ways to better serve and communicate with our customers. As we find more ways to improve our service through mobile technology ThyssenKrupp Elevator is always communicating these new enhancements to our customers.</p>	*
28	Identify your ability and willingness to provide your products and services to Sourcewell participating entities in Canada.	<p>thyssenkrupp Elevator utilizes GPS within our Technician's mobile devices so that we can route the closest technician to service calls in effort to reduce downtime. We continually look for ways to better serve and communicate with our customers. As we find more ways to improve our service through mobile technology ThyssenKrupp Elevator is always communicating these new enhancements to our customers.</p> <p>Thyssenkrupp elevator has the size and resources to fully support the members and their vertical transportation needs, when and where we are needed. This includes around the clock call center, dedicated account manager and sophisticated online tools as well as around the clock engineering support.</p> <p>Our goal is to exceed the members expectations by partnering with Sourcewell to achieve continues growth</p>	*
29	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	thyssenkrupp is able to service all areas of the US and Canada	*
30	Identify any Sourcewell participating entity sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?	Our services will be available to all participating entities	*
31	Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories.	There are no defined specific contract requirements or restrictions that would apply.	*

Table 7: Marketing Plan

Line Item	Question	Response *
32	Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.	<p>Upon Award we will schedule online training with all offices and supply them with the new materials to be able to discuss with entity's the Sourcewell program.</p> <ul style="list-style-type: none"> We will post on our social media site a link to the Sourcewell website. Continued participation in trade shows within our industry posting placards stating that we are a supplier for Sourcewell. Additionally, we will host a conference call with our District VPs to inform them of any changes that might have been made to our existing contract with Sourcewell. <p>***Please see uploaded Sourcewell Introduction Letter and Quick Reference Guide.*** If awarded these can be modified if requested</p>
33	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	<ul style="list-style-type: none"> On our internal website we will post a link to all required documents and forms to sell these services to the membership On our social media site we will post a link to the Sourcewell Website When participating in trade shows within our industry posting placards stating that we are a supplier for Sourcewell Additionally, local meetings with BOMA and facilities management companies.
34	In your view, what is Sourcewell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcewell-awarded contract into your sales process?	<p>Please refer Question Number 32. thyssenkrupp, if awarded will send out an information package on any and all new information for Sourcewell to all of our branches. They will receive a copy of the contract and any training material needed. They will also receive the negotiated billing rates and labor rates. An aggressive training schedule will be established between National Accounts and the Regions to educate them on the Sourcewell processes and documentation.</p> <p>Our expectation of Sourcewell s role is promoting thyssenkrupp and our services through your website and trade shows, also training sessions to the existing portfolio as well as the new membership. As we have experienced in the past as an Sourcewell supplier, we would also expect the continued open line of communication between thyssenkrupp and our customers.</p>
35	Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.	<p>No, there are many moving parts that require direct communication between the customer and thyssenkrupp before services can be provided. Elevators are not a shelf type product, all services and products come directly from thyssenkrupp and services are performed by thyssenkrupp employees.</p>

Table 8: Value-Added Attributes

Line Item	Question	Response *
36	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell participating entities. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	<p>Do to the elevator safety code requirement and reliability associated with elevators and escalators our training for the general public is limited to the in car or group panel operational switches. There is no charge for training on the proper usage of these switches for operational control.</p>

37	Describe any technological advances that your proposed products or services offer.	<p>New Installation: In 2015 thyssenkrupp partnered with Microsoft Azure enterprise to introduce the MAX, an elevator extension to bring the technology into the Internet of Things. Instead of delivering a brand-new elevator, thyssenkrupp' s MAX is a box that costs "less than an iPad" and attaches to existing elevators. The MAX keeps tabs on the elevator's vitals so it can send maintenance calls when it senses parts wearing out and, once enough data is collected, make data models that set up maintenance calls before parts break. By using MAX, large buildings and skyscrapers can set their elevators to anticipate rush-hour surges in the lobby or on upper level floors that have higher demand. In addition, MAX, powered by Microsoft's Azure cloud technology, can help drive a wide range of other efficiencies, like keycard connectivity that can automatically whisk riders directly to their floor. MAX uses the cloud to monitor each individual component of the elevator, so each lift can get planned proactive maintenance before it breaks down, rather than unexpected work afterwards.</p>
38	Describe any "green" initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.	<p>Sustainability is embedded in the strategies, policies and business practices of ThyssenKrupp Elevator Americas. We strive to create a culture that fosters greener solutions for every aspect of our business, from daily operations to the materials we use in our products. By implementing the right actions today, we are making a better world for tomorrow.</p> <ul style="list-style-type: none"> • Green Rating Systems and LEED - Our commitment to green building is companywide. We are a corporate-level member of the US Green Building Council and a Visionary Sponsor of the Living Building Challenge • Material Transparency - We are at the forefront of the building industry – pioneering a new vision of manufacturing product transparency. • Products and Services - From elevator fluids to lighting, our products and services are designed with the environment in mind. • Corporate Citizenship - Looking out for our people and our communities is just as important to us as building premium products.
39	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	<p>***Please see the attached LEED Certificate BioBlend Enviromaz***</p>
40	Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response.	<p>thyssenkrupp is committed to developing MBE/WBE/DVBE enterprises in the marketplace. thyssenkrupp currently spends over \$8,000,000.00 annually with MBE/WBE/DVBE enterprises. In order to ensure the quality of our preventative maintenance programs and services provided to TKE's Customers we do not plan to subcontract ANY part of our preventative maintenance or repair work. However, thyssenkrupp does purchase materials and parts from MBE/WBE/DVBE enterprise suppliers. Below is a list of some of the larger MBE/WBE/DVBE firms that we currently do business with and our annualized spend for each vendor.</p> <p>***Please see Attachment MBE/WBE/DVBE/SBE Participation Program***</p>

41	What unique attributes does your company, your products, or your services offer to Sourcewell participating entities? What makes your proposed solutions unique in your industry as it applies to Sourcewell participating entities?	<p>Here at thyssenkrupp Elevator we say, “we engineer confidence.” We take this statement seriously. Over 10,000 manufacturing, installation, service, repair, sales and management professionals work each day to build, install, maintain, and modernize elevators, escalators, and moving walks safely.</p> <p>From a safety standpoint, you want to hire someone you can trust — a company that specializes in servicing all kinds of elevators, not just the ones they manufacture. Our ITS Americas (International Technical Services) facility offers our mechanics the latest in diagnostic tools, troubleshooting support, PC board repair, and technical training. This support is backed by our field engineers, available 24 hours a day, who are among the most skilled experts in the industry.</p> <p>As the largest producer of elevators in the Americas with over 135 locations, you can be confident that we have the size and resources to support you, whenever and wherever you need us. Our technicians are on the road day and night, never far away from your equipment.</p> <p>When something does go wrong, you want to know someone is there to help. That’s why thyssenkrupp Elevator Communications answers elevator telephones 24 hours a day, 365 days a year. Our highly trained staff currently handles over one million calls a year, is capable of translating up to 135 different languages, and strives to keep response time below ten seconds.</p> <p>Our local team is ready to assist you in making sound decisions about your needs and systems</p>
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Table 9: Warranty

Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your warranty materials (if applicable) in the document upload section of your response in addition to responding to the questions below.

Line Item	Question	Response *
42	Do your warranties cover all products, parts, and labor?	Yes, if installed by thyssenkrupp and if we currently maintain the equipment. *
43	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	thyssenkrupp shall neither be required nor obligated to service, make renewals or repairs upon the equipment by reason of negligence, obsolescence, misuse of the equipment, loss of power, blown fuses, tripped stop switches, theft, vandalism, explosion, fire, power failure, water damage, storm, lightning, nuisance calls or by any other reason or any other cause beyond Service Provider's control, except ordinary wear and tear from the commencement date of this agreement or equipment not under thyssenkrupp service *
44	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	Yes, it does cover the expense of technicians' travel time and mileage to perform warranty repairs *
45	Are there any geographic regions of the United States (and Canada, if applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell participating entities in these regions be provided service for warranty repair?	No, thyssenkrupp can provide a certified technician in all regions. *
46	Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?	thyssenkrupp Elevator will cover warranty service or proposed installed and maintained or under service by thyssenkrupp. *
47	What are your proposed exchange and return programs and policies?	No, thyssenkrupp does not exchange or return parts or equipment *
48	Describe any service contract options for the items included in your proposal.	<ul style="list-style-type: none"> • thyssenkrupp elevator is flexible in contract negotiation to meet the need of the member. Belo are the four major contract variation, all contract levels meet code compliance • Bronze • Gold • Platinum • Platinum Premier <p>***Please see attachment with Service Level Explanations*** *</p>

Table 10: Payment Terms and Financing Options

Line Item	Question	Response *
49	What are your payment terms (e.g., net 10, net 30)?	<ul style="list-style-type: none"> • Service: Typically, we will bill monthly or quarterly in advance. Payment is expected NET 30. • Repair: 50% upon award, 50% upon completion of the work. • Construction: Progressively in line with percentage of completion. 10% retainage. • However, with advanced notice we can accommodate most any billing and collection terms • Our local branch will send invoices to the location/member • National Accounts also has a consolidated billing option as well as a Web-Billing department. No fees are associated with any of these options.
50	Do you provide leasing or financing options, especially those options that schools and governmental entities may need to use in order to make certain acquisitions?	No, we do not provide leasing or financing options, especially those options that schools and governmental entities may need to use in order to make certain acquisitions
51	Briefly describe your proposed order process. Include enough detail to support your ability to report quarterly sales to Sourcewell as described in the Contract template. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the Sourcewell participating entities' purchase orders.	<p>All orders are processed through our local branch. Orders are not taken through a public ordering system. Orders are placed internally and tracked by our system. All payment invoicing and collections tracking are performed by an Oracle system locally and nationally, and at this time we are unaware of any limitations.</p> <p>We are currently reporting quarterly to Sourcewell and have no issue to date</p> <p>All requests are made to the National Account POCs, that way they can be tracked accordingly and distributed to the correct branch for activation and response.</p>
52	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell participating entities for using this process?	<p>Our local branch will send invoices to the location/member</p> <ul style="list-style-type: none"> • National Accounts also has a consolidated billing option as well as a Web-Billing department. No fees are associated with any of these options. • Credit Card Payments as well.

Table 11: Pricing and Delivery

Provide detailed pricing information in the questions that follow below. Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract as described in the RFP, the template Contract, and the Sourcwell Price and Product Change Request Form.

Line Item	Question	Response *
53	Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcwell discounted price) on all of the items that you want Sourcwell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response.	The Pricing attachment is a Not to Exceed Pricing Schedule ***See Pricing Schedule*** <ul style="list-style-type: none"> • Sourcwell Billing Rates 2020 RFP #1080420 • Sourcwell Not to Exceed Pricing 2020 RFP #1080420
54	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	20% lower than posted National pricing
55	Describe any quantity or volume discounts or rebate programs that you offer.	Based on individual volume by member, additional discounts can be negotiated by the local branch
56	Propose a method of facilitating “sourced” products or related services, which may be referred to as “open market” items or “nonstandard options”. For example, you may supply such items “at cost” or “at cost plus a percentage,” or you may supply a quote for each such request.	Based on individual volume by member, additional discounts can be negotiated by the local branch. Materials purchased for out of scope work sold to the customer will have a markup capped at not to exceed 30%
57	Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.	No additional cost for standard contract services
58	If freight, delivery, or shipping is an additional cost to the Sourcwell participating entity, describe in detail the complete freight, shipping, and delivery program.	For items not covered by the agreement additional shipping charges to expedite may be accessed
59	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	No change for these locations
60	Describe any unique distribution and/or delivery methods or options offered in your proposal.	Does not apply

Table 12: Pricing Offered

Line Item	The Pricing Offered in this Proposal is: *	Comments
61	d. other than what the Proposer typically offers (please describe).	Is a not to exceed matrix based on union labor rates by location across North America and at a 20% reduction of our nationally posted rates. *** See Attached NTE Billable rates Pricing document****

Table 13: Audit and Administrative Fee

Line Item	Question	Response *
62	Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcewell. This process includes ensuring that Sourcewell participating entities obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcewell.	A singular point of contact in the National Accounts Department has been established to coordinate with the local branches to ensure that pricing meets the requirements of the master agreement. Should the member request an additional audit, the request would be made through that point of contact to verify in document compliance from the local branch. All contract before submission are review by National Accounts and our Vice Presidents of contract along with our account receivable department to ensure pricing is contract compliant and that the proper reporting will be made to Sourcewell.
63	Identify a proposed administrative fee that you will pay to Sourcewell for facilitating, managing, and promoting the Sourcewell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See the RFP and template Contract for additional details.)	A 4% administrative fee will be paid on new installation, modernizations, quoted repair and regular and routine maintenance services.

Table 14A: Depth and Breadth of Offered Equipment Products and Services

Line Item	Question	Response *
64	Provide a detailed description of the equipment, products, and services that you are offering in your proposal.	SoundNet, our on-site 24/7 dispatch center, monitors elevator telephones, dispatches service calls and answers phone calls for of offices across the U.S. and Canada. SoundNet serves ThyssenKrupp Elevator and its affiliates 365 days a year. Manufacturing: thyssenkrupp Elevator manufacture Hydraulic, traction, dumbwaiters and escalator vertical transportation. New Installation: tractions, hydraulic, mrl escaltoprs moving wsalks ect/.. Modernizations: thyssenkrupp Elevator is fully capable to modernize all types of vertical transportation. Parts and Supplies: Our local offices have immediate access to normal wear & tear components and 24/7 turnaround on many non-stock items. Additionally, (ITS) International Technical Services in Dallas, TX provides direct board and drive repair /exchange capabilities. Having this "internal component" is both unique in our industry and critical to maintaining a high level of equipment availability. Service: thyssenkrupp Elevator provides local and national service for all vertical transportation systems Consulting: Site Audits for contract compliance and Capital Planning.
65	Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.	<ul style="list-style-type: none"> • Modernization • New Installation • Site Reviews • Capital Planners • Telephone Monitoring • Repair • Vertical Transportation Maintenance

Table 14B: Depth and Breadth of Offered Equipment Products and Services

Indicate below if the listed types or classes of equipment, products, and services are offered within your proposal. Provide additional comments in the text box provided, as necessary.

Line Item	Category or Type	Offered *	Comments
66	Elevators	<input checked="" type="radio"/> Yes <input type="radio"/> No	All models and manufacturers
67	Escalators	<input checked="" type="radio"/> Yes <input type="radio"/> No	All models and manufacturers
68	Moving Walkways	<input checked="" type="radio"/> Yes <input type="radio"/> No	All models and manufacturers
69	Dumbwaiters	<input checked="" type="radio"/> Yes <input type="radio"/> No	All models and manufacturers
70	Wheelchair, vertical and inclined platform lifts	<input checked="" type="radio"/> Yes <input type="radio"/> No	All models and manufacturers
71	Installation, modernization, preventative maintenance services, emergency and on-call response services, repair, inspection, and warranty services. Explain, in detail, in the Comments section.	<input checked="" type="radio"/> Yes <input type="radio"/> No	All models and manufacturers
72	Supplies, parts, and accessories related to items 66-70 above.	<input checked="" type="radio"/> Yes <input type="radio"/> No	If currently being maintained by thyssenkrupp

Table 15: Industry Specific Questions

Line Item	Question	Response *
73	If you are awarded a contract, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the contract.	Proposed vs Award Growth by Number of units Growth by number of customers Client satisfaction surveys
74	Describe how your company offerings conform to industry model safety and performance codes and standards. Provide, if applicable, ISO and industry-specific quality management system certifications.	*** Please see Attached Osha Reports and As your service provider, we build safety into everything we do. By meeting or exceeding national and local elevator codes for our equipment, we maintain a safe environment for your passengers as well as our technicians. Through our expertise and training, we identify and eliminate potential hazards. We also stay current with the latest: • Service standards and processes • Equipment inspections and certifications • Construction and installation standards By partnering with thyssenkrupp, you can count on us to provide safe and reliable vertical transportation to the riding public.
75	Describe the process of design, engineering, installation, and inspection at a project level.	Please refer to the Attached PDF Elevator Product Guide. It includes descriptions on thyssenkrupp engineering project levels.

76	Describe, in detail, your approach to providing both maintenance and repair for your units in service.	thyssenkrupp approach to providing both maintains and repair to system under service is both proactive and predictive maintenanc3e. Years of identifying failure rates for individual components gives us the ability to adjust reoccurring maintenance of those component or to replace the components before failure. Unfortunately in some cases a repair will need to be made where a unit is not operating, Because of our information data base we are well stocked with those components / parts locally and nationally to have the unit operational as soon as possible	*
77	Describe the manufacturing process or material specifications-related attributes that differentiate your offering from your competitors.	***Please See Attached Document – Quality Supplier and Simplifying our Strategy***	*
78	Describe the applications for your product in the government, education, and non-profit verticals.	Our Product applications do not differentiate Verticals	*
79	Discuss the breadth of your parts inventory and the ability that your service and/or maintenance team will have the necessary replacement parts readily available.	ITS offers the latest in diagnostic tools, troubleshooting support, PC board repair and technical training computer boards can be on site in less than 24 hours. In addition to servicing thyssenkrupp elevators, our ITS-trained technicians are knowledgeable on a variety of manufacturers' units, including Otis, Schindler, KONE, Westinghouse, Montgomery, Haughton, U.S. Elevator and many others. In fact, over one third of the elevators serviced by thyssenkrupp are manufactured by our competitors. Each branch has, in addition to technicians, mechanics and helpers, an adjuster that can troubleshoot all issues that are complex or of great detail is on site at each of the over 135 branches across the Unites States. The average tenure of our mechanics is 12.5 years. The majority of our mechanics have been in the field between 15 and 20 years. Most replacement parts are stored at the branch or in our technicians' trucks. If the repair is a larger part thyssenkrupp usually has a turnaround time of 72 hours to get the replacement part depending on the issue.	*
80	Describe your product line in terms of sustainability and recycling.	Sustainability is embedded in the strategies, policies and business practices of ThyssenKrupp Elevator Americas. We strive to create a culture that fosters greener solutions for every aspect of our business, from daily operations to the materials we use in our products. By implementing the right actions today, we are making a better world for tomorrow.	*

Exceptions to Terms, Conditions, or Specifications Form

Only those Proposer Exceptions to Terms, Conditions, or Specifications that have been accepted by Sourcewell have been incorporated into the contract text.

Documents

Ensure your submission document(s) conforms to the following:

1. Documents in PDF format are preferred. Documents in Word, Excel, or compatible formats may also be provided.
 2. Documents should NOT have a security password, as Sourcewell may not be able to open the file. It is your sole responsibility to ensure that the uploaded document(s) are not either defective, corrupted or blank and that the documents can be opened and viewed by Sourcewell.
 3. Sourcewell may reject any response where any document(s) cannot be opened and viewed by Sourcewell.
 4. If you need to upload more than one (1) document for a single item, you should combine the documents into one zipped file. If the zipped file contains more than one (1) document, ensure each document is named, in relation to the submission format item responding to. For example, if responding to the Marketing Plan category save the document as "Marketing Plan."
- [Financial Strength and Stability](#) - thyssenkrupp 2018-2019 Financial Report Question 9 - Copy.pdf - Friday July 31, 2020 01:30:59
 - [Marketing Plan/Samples](#) - Question #32 Marketing Plan Docs.zip - Friday July 31, 2020 01:32:33
 - [WMBE/MBE/SBE or Related Certificates](#) - Question #40 thyssenkrupp Elevator Corporation MBE-WBE-DVBE Participation Program.doc.docx - Friday July 31, 2020 01:33:01
 - [Warranty Information](#) - Question #48 Warranty - Service Contract Options.zip - Friday July 31, 2020 01:33:24
 - [Pricing](#) - Pricing Question #51.zip - Friday July 31, 2020 01:36:09
 - [Additional Document](#) - Sourcewell RFP 080420 Bid Documents.zip - Friday July 31, 2020 01:44:35

Proposer's Affidavit

PROPOSER AFFIDAVIT AND ASSURANCE OF COMPLIANCE

I certify that I am the authorized representative of the Proposer submitting the foregoing Proposal with the legal authority to bind the Proposer to this Affidavit and Assurance of Compliance:

1. The Proposer is submitting this Proposal under its full and complete legal name, and the Proposer legally exists in good standing in the jurisdiction of its residence.
2. The Proposer warrants that the information provided in this Proposal is true, correct, and reliable for purposes of evaluation for contract award.
3. The Proposer, including any person assisting with the creation of this Proposal, has arrived at this Proposal independently and the Proposal has been created without colluding with any other person, company, or parties that have or will submit a proposal under this solicitation; and the Proposal has in all respects been created fairly without any fraud or dishonesty. The Proposer has not directly or indirectly entered into any agreement or arrangement with any person or business in an effort to influence any part of this solicitation or operations of a resulting contract; and the Proposer has not taken any action in restraint of free trade or competitiveness in connection with this solicitation. Additionally, if Proposer has worked with a consultant on the Proposal, the consultant (an individual or a company) has not assisted any other entity that has submitted or will submit a proposal for this solicitation.
4. To the best of its knowledge and belief, and except as otherwise disclosed in the Proposal, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest. An organizational conflict of interest exists when a vendor has an unfair competitive advantage or the vendor's objectivity in performing the contract is, or might be, impaired.
5. The contents of the Proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or legally authorized agent of the Proposer and will not be communicated to any such persons prior to Due Date of this solicitation.
6. If awarded a contract, the Proposer will provide to Sourcewell Participating Entities the equipment, products, and services in accordance with the terms, conditions, and scope of a resulting contract.
7. The Proposer possesses, or will possess before delivering any equipment, products, or services, all applicable licenses or certifications necessary to deliver such equipment, products, or services under any resulting contract.
8. The Proposer agrees to deliver equipment, products, and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.
9. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
10. The Proposer understands that Sourcewell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statutes Section 13.591, subdivision 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals become public data. Minnesota Statutes Section 13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.
11. Proposer its employees, agents, and subcontractors are not:
 - a. Included on the "Specially Designated Nationals and Blocked Persons" list maintained by the Office of Foreign

Assets Control of the United States Department of the Treasury found at:
<https://www.treasury.gov/ofac/downloads/sdnlist.pdf>;

b. Included on the government-wide exclusions lists in the United States System for Award Management found at:
<https://www.sam.gov/portal/3>; or

c. Presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this solicitation.

By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - Jeff Jaudes, National Account Manager, thyssenkrupp Elevator

The Proposer declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proposer foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the bid.

Yes No

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Check the box in the column "I have reviewed this addendum" below to acknowledge each of the addenda.

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
Addendum_1_Elevators, Escalators, and Moving Walks_RFP_080420 Wed June 17 2020 01:48 PM	<input checked="" type="checkbox"/>	1



RFP #080420
REQUEST FOR PROPOSALS
for
Elevators, Escalators, and Moving Walks with Related Equipment, Services, and
Supplies

Proposal Due Date: August 4, 2020, 4:30 p.m., Central Time

Sourcewell, a State of Minnesota local government agency and service cooperative, is requesting proposals for Elevators, Escalators, and Moving Walks with Related Equipment, Services, and Supplies to result in a contracting solution for use by its Participating Entities. Sourcewell Participating Entities include thousands of governmental, higher education, K-12 education, nonprofit, tribal government, and other public agencies located in the United States and Canada. A full copy of the Request for Proposals can be found on the Sourcewell Procurement Portal [<https://proportal.sourcewell-mn.gov>]. Only proposals submitted through the Sourcewell Procurement Portal will be considered. Proposals are due no later than August 4, 2020, at 4:30 p.m. Central Time, and late proposals will not be considered.

Solicitation Schedule

Public Notice of RFP Published:	June 16, 2020
Pre-proposal Conference:	July 8, 2020, 10:00 a.m., Central Time
Question Submission Deadline:	July 28, 2020, 4:30 p.m., Central Time
Proposal Due Date:	August 4, 2020, 4:30 p.m., Central Time Late responses will not be considered.
Opening:	August 4, 2020, 6:30 p.m., Central Time **

** SEE RFP SUB-SECTION V. G. "OPENING"

I. ABOUT SOURCEWELL PARTICIPATING ENTITIES

A. SOURCEWELL

Sourcewell is a State of Minnesota local government agency and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that facilitates a competitive public solicitation and contract award process for the benefit of its 50,000+ participating entities across the United States and Canada. Sourcewell's solicitation process complies with State of Minnesota law and policies, conforms to Canadian trade agreements, and results in cooperative contracting solutions from which Sourcewell's Participating Entities procure equipment, products, and services.

Cooperative contracting provides participating entities and vendors increased administrative efficiencies and the power of combined purchasing volume that result in overall cost savings. At times, Sourcewell also partners with other purchasing cooperatives to combine the purchasing volume of their membership into a single solicitation and contract expanding the reach of contracted vendors' potential pool of end users.

Sourcewell uses a website-based platform, the Sourcewell Procurement Portal, through which all proposals to this RFP must be submitted.

B. USE OF RESULTING CONTRACTS

In the United States, Sourcewell's contracts are available for use by:

- Federal and state government entities;
- Cities, towns, and counties/parishes;
- Education service cooperatives;
- K-12 and higher education entities;
- Tribal government entities;
- Some nonprofit entities; and
- Other public entities.

In Canada, Sourcewell's contracts are available for use by:

- Provincial and territorial government departments, ministries, agencies, boards, councils, committees, commissions, and similar agencies;
- Regional, local, district, and other forms of municipal government, municipal organizations, school boards, and publicly-funded academic, health, and social service entities referred to as MASH sector (this should be construed to include but not be limited to the Cities of Calgary, Edmonton, Toronto, Calgary, Ottawa, and Winnipeg), as well as any corporation or entity owned or controlled by one or more of the preceding entities;

- Crown corporations, government enterprises, and other entities that are owned or controlled by these entities through ownership interest;
- Members of the Rural Municipalities of Alberta (RMA) and their represented Associations, Saskatchewan Association of Rural Municipalities (SARM), Saskatchewan Urban Municipalities Association (SUMA), Association of Manitoba Municipalities (AMM), Local Authority Services (LAS), Municipalities Newfoundland and Labrador (MNL), Nova Scotia Federation of Municipalities (NSFM), and Federation of Prince Edward Island Municipalities (FPEIM).

For a listing of current United States and Canadian Participating Entities visit Sourcewell's website (note: there is a tab for each country's listing): <https://www.sourcewell-mn.gov/sourcewell-for-vendors/member-locator>.

Access to contracted equipment, products, or services by Participating Entities is typically through a purchase order issued directly to the applicable vendor. A Participating Entity may request additional terms or conditions related to a purchase. Use of Sourcewell contracts is voluntary and Participating Entities retain the right to obtain similar equipment, products, or services from other sources.

To meet Participating Entities' needs, public notice of this RFP has been broadly published, including notification in the United States to each state-level procurement department for possible re-posting.

Proof of publication will be available at the conclusion of the solicitation process.

II. EQUIPMENT, PRODUCTS, AND SERVICES

A. SOLUTIONS-BASED SOLICITATION

This RFP and contract award process is a solutions-based solicitation; meaning that Sourcewell is seeking equipment, products, or services that meet the general requirements of the scope of this RFP and that are commonly desired or are required by law or industry standards.

B. REQUESTED EQUIPMENT, PRODUCTS, OR SERVICES

It is expected that Proposers will offer a wide array of equipment, products, or services at lower prices and with better value than what they would ordinarily offer to a single government entity, a school district, or a regional cooperative.

1. Sourcewell is seeking proposals for Elevators, Escalators, and Moving Walks with Related Equipment, Services, and Supplies, including, but not to be limited to:
 - a. Elevators, escalators, and moving walkways;

- b. Dumbwaiters;
- c. Wheelchair, vertical and inclined platform lifts;
- d. Installation, modernization, preventative maintenance services, emergency and on-call response services, repair, inspection, and warranty services related to a. - c. above; and,
- e. Supplies, parts, and accessories related to a. - d. above.

A Proposer may elect to offer a materials-only solution, a turn-key solution, or an alternative solution. Generally, a turn-key solution is most desirable to Sourcewell and its Participating Entities, however, it is not mandatory or required.

2. The primary focus of this solicitation is on elevators, escalators, and moving walks. This solicitation should NOT be construed to include:

- a. Pool or physical therapy lifts.

3. This solicitation does not include those equipment, products, or services covered under categories included in contracts currently maintained by Sourcewell:

- a. Vehicle Lifts, with Garage and Fleet Maintenance Equipment (RFP #013020)
- b. Facility MRO (Maintenance, Repair & Operations), Industrial & Building Supplies with Related Equipment, Accessories (RFP #121218)

Proposers may include related equipment, accessories, and services to the extent that these solutions are complementary to the equipment, products, or service(s) being proposed.

Generally, the solutions for Participating Entities are turn-key solutions, providing a combination of equipment, products and services, delivery, and installation to a properly operating status. However, equipment or products only solutions may be appropriate for situations where Participating Entities possess the ability, either in-house or through local third-party contractors, to properly install and bring to operation the equipment or products being proposed.

Sourcewell prefers vendors that provide a sole source of responsibility for the products and services provided under a resulting contract. If Proposer requires the use of dealers, resellers, or subcontractors to provide the products or services, the Proposal should address how the products or services will be provided to Participating Entities and describe the network of dealers, resellers, and/or subcontractors that will be available to serve Participating Entities under a resulting contract.

Sourcewell desires the broadest possible selection of equipment, products, and services being proposed over the largest possible geographic area and to the largest possible cross-section of Sourcewell current and future Participating Entities.

C. REQUIREMENTS

It is expected that Proposers have knowledge of all applicable industry standards, laws, and regulations and possess an ability to market and distribute the equipment, products, or services to Participating Entities.

1. Safety Requirements. All items proposed must comply with current applicable safety or regulatory standards or codes.
2. Deviation from Industry Standard. Deviations from industry standards must be identified with an explanation of how the equipment, products, and services will provide equivalent function, coverage, performance, and/or related services.
3. New Equipment and Products. Proposed equipment and products must be for new, current model; however, Proposer may offer certain close-out equipment or products if it is specifically noted in the Pricing proposal.
4. Delivered and operational. Unless clearly noted in the Proposal, equipment and products must be delivered to the Participating Entity as operational.
5. Warranty. All equipment, products, supplies, and services must be covered by a warranty that is the industry standard or better.

D. ANTICIPATED CONTRACT TERM

Sourcewell anticipates that the term of any resulting contract(s) will be four (4) years. Up to two one-year extensions may be offered based on the best interests of Sourcewell and its Participating Entities.

E. ESTIMATED CONTRACT VALUE AND USAGE

Based on past volume of similar contracts, the estimated annual value of all transactions from contracts resulting from this RFP are anticipated to be USD \$30M; therefore, proposers are expected to propose volume pricing. Sourcewell anticipates considerable activity under the contract(s) awarded from this RFP; however, sales and sales volume from any resulting contract are not guaranteed.

F. MARKETING PLAN

Proposer's sales force will be the primary source of communication with Participating Entities. The Proposer's Marketing Plan should demonstrate Proposer's ability to deploy a sales force or dealer network to Participating Entities, as well as Proposer's sales and service capabilities. It is expected that Proposer will promote and market any contract award.

G. ADDITIONAL CONSIDERATIONS

1. Contracts will be awarded to Proposers able to best meet the need of Participating Entities. Proposers should submit their complete line of equipment, products, or services that are applicable to the scope of this RFP.
2. Proposers should include all relevant information in its proposal, since Sourcewell cannot consider information that is not included in the Proposal. Sourcewell reserves the right to verify Proposer's information and may request clarification from a Proposer, including samples of the proposed equipment or products.
3. Depending upon the responses received in a given category, Sourcewell may need to organize responses into subcategories in order to provide the broadest coverage of the requested equipment, products, or services to Participating Entities. Awards may be based on a subcategory.
4. A Proposer's documented negative past performance with Sourcewell or its Participating Entities occurring under a previously awarded Sourcewell contract may be considered in the evaluation of a proposal.

III. PRICING

A. REQUIREMENTS

All proposed pricing must be:

1. Either Line-Item Pricing or Percentage Discount from Catalog Pricing, or a combination of these:
 - a. **Line-item Pricing** is pricing based on each individual product or services. Each line must indicate the Vendor's published "List Price," as well as the "Contract Price."
 - b. **Percentage Discount from Catalog or Category** is based on a percentage discount from a catalog or list price, defined as a published Manufacturer's Suggested Retail Price (MSRP) for the products or services. Individualized percentage discounts can be applied to any number of defined product groupings. Proposers will be responsible for providing and maintaining current published MSRP with Sourcewell, and this pricing must be included in its proposal and provided throughout the term of any Contract resulting from this RFP.
2. The Proposer's ceiling price (Ceiling price means that the proposed pricing will be considered as the highest price for which equipment, products, or services may be billed to a Participating Entity). However, it is permissible for vendors to sell at a price that is lower than the contracted price;
3. Stated in U.S. and Canadian dollars (as applicable); and
4. Clearly understood, complete, and fully describe the total cost of acquisition (e.g., the cost of the proposed equipment, products, and services delivered and operational for its intended purpose in the Participating Entity's location).

Proposers should clearly identify any costs that are NOT included in the proposed product or service pricing. This may include items such as installation, set up, mandatory training, or initial inspection. Include identification of any parties that impose such costs and their relationship to the Proposer. Additionally, Proposers should clearly describe any unique distribution and/or delivery methods or options offered in the Proposal.

B. ADMINISTRATIVE FEES

Proposers are expected to pay to Sourcewell an administrative fee in exchange for Sourcewell facilitating the resulting contracts. The administrative fee is normally calculated as a percentage of the total sales to Participating Entities for all contracted equipment, products, or services made during a calendar quarter, and is typically one percent (1%) to two percent (2%). In some categories, a flat fee may be an acceptable alternative.

IV. CONTRACT

Proposers awarded a contract will be required to execute a contract with Sourcewell (see attached template). Only those modifications the Proposer indicates in its proposal will be available for discussion. Much of the language in the Contract reflects Minnesota legal requirements and cannot be altered. Numerous and/or onerous exceptions that contradict Minnesota law may result in the Proposal being disqualified from further review and evaluation.

To request a modification to the Contract terms, conditions, or specifications, a Proposer must complete and submit the Exceptions to Terms, Conditions, or Specifications table, with all requested modifications, through the Sourcewell Procurement Portal at the time of submitting the Proposer's Proposal. Exceptions must:

1. Clearly identify the affected article and section, and
2. Clearly note what language is requested to be modified.

Unclear requests will be automatically denied.

Only those exceptions that have been accepted by Sourcewell will be included in the contract document provided to the awarded vendor for signature.

If a Proposer receives a contract award resulting from this solicitation it will have up to 30 days to sign and return the contract. After that time, at Sourcewell's sole discretion, the contract award may be revoked.

V. RFP PROCESS

A. PRE-PROPOSAL CONFERENCE

Sourcewell will hold an optional, non-mandatory pre-proposal conference via webcast on the date and time noted on page one of this RFP and on the Sourcewell Procurement Portal. The

purpose of this conference is to allow potential Proposers to ask questions regarding this RFP and Sourcewell's competitive contracting process. Information about the webcast will be sent to all entities that have registered for this solicitation opportunity through their Sourcewell Procurement Portal Vendor Account. Pre-proposal conference attendance is optional.

B. QUESTIONS REGARDING THIS RFP AND ORAL COMMUNICATION

Questions regarding this RFP must be submitted through the Sourcewell Procurement Portal. The deadline for submission of questions is found in the Solicitation Schedule and on the Sourcewell Procurement Portal. Answers to questions will be issued through an addendum to this RFP. Repetitive questions will be summarized into a single answer and identifying information will be removed from the submitted questions.

All questions, whether specific to a Proposer or generally related to the RFP, must be submitted using this process. Do not contact individual Sourcewell staff to ask questions or request information as this may disqualify the Proposer from responding to this RFP. Sourcewell will not respond to questions submitted after the deadline.

C. ADDENDA

Sourcewell may modify this RFP at any time prior to the proposal due date by issuing an addendum. Addenda issued by Sourcewell become a part of the RFP and will be delivered to potential Proposers through the Sourcewell Procurement Portal. Sourcewell accepts no liability in connection with the delivery of any addenda.

Before a proposal will be accepted through the Sourcewell Procurement Portal, all addenda, if any, must be acknowledged by the Proposer by checking the box for each addendum. It is the responsibility of the Proposer to check for any addenda that may have been issued up to the solicitation due date and time.

If an addendum is issued after a Proposer submitted its proposal, the Sourcewell Procurement Portal will WITHDRAW the submission and change the Proposer's proposal status to INCOMPLETE. The Proposer can view this status change in the "MY BIDS" section of the Sourcewell Procurement Portal Vendor Account. The Proposer is solely responsible to check the "MY BIDS" section of the Sourcewell Procurement Portal Vendor Account periodically after submitting its Proposal (and up to the Proposal due date). If the Proposer's Proposal status has changed to INCOMPLETE, the Proposer is solely responsible to:

- i) make any required adjustments to its proposal;
- ii) acknowledge the addenda; and
- iii) ensure the re-submitted proposal is received through the Sourcewell Procurement Portal no later than the Proposal Due Date and time shown in the Solicitation Schedule above.

D. PROPOSAL SUBMISSION

Proposer's complete proposal must be submitted through the Sourcewell Procurement Portal no later than the date and time specified in the Solicitation Schedule. Any other form of proposal submission, whether electronic, paper, or otherwise, will not be considered by Sourcewell. **Late proposals will not be considered.** It is the Proposer's sole responsibility to ensure that the proposal is received on time.

It is recommended that Proposers allow sufficient time to upload the proposal and to resolve any issues that may arise. The time and date that a Proposal is received by Sourcewell is solely determined by the Sourcewell Procurement Portal web clock.

In the event of problems with the Sourcewell Procurement Portal, follow the instructions for technical support posted in the portal. It may take up to twenty-four (24) hours to respond to certain issues.

Upon successful submission of a proposal, the Portal will automatically generate a confirmation email to the Proposer. If the Proposer does not receive a confirmation email, contact Sourcewell's support provider at support@bidsandtenders.ca.

To ensure receipt of the latest information and updates via email regarding this solicitation, or if the Proposer has obtained this solicitation document from a third party, the onus is on the Proposer to create a Sourcewell Procurement Portal Vendor Account and register for this solicitation opportunity.

Within the Procurement Portal, all proposals must be digitally acknowledged by an authorized representative of the Proposer attesting that the information contained in the proposal is true and accurate. By submitting a proposal, Proposer warrants that the information provided is true, correct, and reliable for purposes of evaluation for potential contract award. The submission of inaccurate, misleading, or false information is grounds for disqualification from a contract award and may subject the Proposer to remedies available by law.

E. GENERAL PROPOSAL REQUIREMENTS

Proposals must be:

- In substantial compliance with the requirements of this RFP or it will be considered nonresponsive and be rejected.
- Complete. A proposal will be rejected if it is conditional or incomplete.
- Submitted in English.
- Valid and irrevocable for 90 days following the Proposal Due Date.

Any and all costs incurred in responding to this RFP will be borne by the Proposer.

F. PROPOSAL WITHDRAWAL

Prior to the proposal deadline, a Proposer may withdraw its proposal.

G. OPENING

The Opening of Proposals will be conducted electronically through the Sourcewell Procurement Portal. A list of all Proposers will be made publicly available in the Sourcewell Procurement Portal after the Proposal Due Date, but no later than the Opening time listed in the Solicitation Schedule.

To view the list of Proposers, verify that the Sourcewell Procurement Portal opportunities list search is set to "All" or "Closed." The solicitation status will automatically change to "Closed" after the Proposal Due Date and Time.

VI. EVALUATION AND AWARD

A. EVALUATION

It is the intent of Sourcewell to award one or more contracts to responsive and responsible Proposer(s) offering the best overall quality, selection of equipment, products, and services, and price that meet the commonly requested specifications of Sourcewell and its Participating Entities. The award(s) will be limited to the number of Proposers that Sourcewell determines is necessary to meet the needs of Participating Entities. Factors to be considered in determining the number of contracts to be awarded in any category may include the following:

- The number of and geographic location of:
 - Proposers necessary to offer a comprehensive selection of equipment, products, or services for Participating Entities' use.
 - A Proposer's sales and service network to assure availability of product supply and coverage to meet Participating Entities' anticipated needs.
- Total evaluation scores.
- The attributes of Proposers, and their equipment, products, or services, to assist Participating Entities achieve environmental and social requirements, preferences, and goals. Information submitted as part of a proposal should be as specific as possible when responding to the RFP. Do not assume Sourcewell's knowledge about a specific vendor or product.

B. AWARD(S)

Award(s) will be made to the Proposer(s) whose proposal conforms to all conditions and requirements of the RFP, and consistent with the award criteria defined in this RFP.

Sourcewell may request written clarification of a proposal at any time during the evaluation process.

Proposal evaluation will be based on the following scoring criteria and the Sourcewell Evaluator Scoring Guide (available in the Sourcewell Procurement Portal):

Rev. 2/2020

Sourcewell RFP #080420

Elevators, Escalators, and Moving Walks with Related Equipment, Services, and Supplies

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Conformance to RFP Requirements	50
Financial Viability and Marketplace Success	75
Ability to Sell and Deliver Service	100
Marketing Plan	50
Value Added Attributes	75
Warranty	50
Depth and Breadth of Offered Equipment, Products, or Services	200
Pricing	400
TOTAL POINTS	1000

C. PROTESTS OF AWARDS

Any protest made under this RFP by a Proposer must be in writing, addressed to Sourcewell's Executive Director, and delivered to the Sourcewell office located at 202 12th Street NE, P.O. Box 219, Staples, MN 56479. The protest must be received no later than 10 calendar days' following Sourcewell's notice of contract award(s) or non-award and must be time stamped by Sourcewell no later than 4:30 p.m., Central Time.

A protest must include the following items:

- The name, address, and telephone number of the protester;
- The original signature of the protester or its representative;
- Identification of the solicitation by RFP number;
- A precise statement of the relevant facts;
- Identification of the issues to be resolved;
- Identification of the legal or factual basis;
- Any additional supporting documentation; and
- Protest bond in the amount of \$20,000, except where prohibited by law or treaty.

Protests that do not address these elements will not be reviewed.

D. RIGHTS RESERVED

This RFP does not commit Sourcewell to award any contract and a proposal may be rejected if it is nonresponsive, conditional, incomplete, conflicting, or misleading. Proposals that contain false statements or do not support an attribute or condition stated by the Proposer may be rejected.

Sourcewell reserves the right to:

- Modify or cancel this RFP at any time;
- Reject any and all proposals received;
- Reject proposals that do not comply with the provisions of this RFP;
- Select, for contracts or for discussion, a proposal other than that with the lowest cost;

- Independently verify any information provided in a Proposal;
- Disqualify any Proposer that does not meet the requirements of this RFP, is debarred or suspended by the United States or Canada, State of Minnesota, Participating Entity's state or province; has an officer, or other key personnel, who have been charged with a serious crime; or is bankrupt, insolvent, or where bankruptcy or insolvency are a reasonable prospect;
- Waive or modify any informalities, irregularities, or inconsistencies in the proposals received;
- Clarify any part of a proposal and discuss any aspect of the proposal with any Proposer; and negotiate with more than one Proposer;
- Award a contract if only one responsive proposal is received if it is in the best interest of Participating Entities; and
- Award a contract to one or more Proposers if it is in the best interest of Participating Entities.

E. DISPOSITION OF PROPOSALS

All materials submitted in response to this RFP will become property of Sourcewell and will become public record in accordance with Minnesota Statutes Section 13.591, after negotiations are complete. Sourcewell considers that negotiations are complete upon execution of a resulting contract. It is the Proposer's responsibility to clearly identify any data submitted that it considers to be protected. Proposer must also include a justification for the classification citing the applicable Minnesota law.

Sourcewell will not consider the prices submitted by the Proposer to be confidential, proprietary, or trade secret materials. Financial information, including financial statements, provided by a Proposer is not considered trade secret under the statutory definition.

The Proposer understands that Sourcewell will reject proposals that are marked confidential or nonpublic, either substantially or in their entirety.



6/17/2020

Addendum No. 1

Solicitation Number: RFP 080420

Solicitation Name: Elevators, Escalators, and Moving Walks with Related Equipment, Services, and Supplies

Consider the following Question and Answer to be part of the above-titled solicitation documents. The remainder of the documents remain unchanged.

Question 1:

Where are the details for the products that we're providing services (i.e. how many elevators would we be servicing, where are their locations, etc.)?

Answer 1:

Sourcewell utilizes a competitive, solutions-based solicitation approach that is not based on detailed specifications or finite quantities for our cooperative contract awards. A respondent is allowed to propose the entire line of products and services falling within the scope of the RFP. Section II. B. of the RFP addresses the requested equipment, products, or services for this solicitation.

Sourcewell is seeking solutions to serve the largest possible cross-section of current and potential Participating Entities. Refer to RFP Article I., Section B – Participating Entities and Use of the Resulting Contracts.

End of Addendum

Acknowledgement of this Addendum to RFP 080420 posted to the Sourcewell Procurement Portal on 6/17/2020, is required at the time of proposal submittal.