

Resolution No. 2024-3236

A Resolution of the City of Sanford, Florida, amending the City's annual operating budget for the fiscal year beginning October 1, 2023 and ending September 30, 2024; providing for implementing administrative actions; providing for a savings provision; providing for conflicts; providing for severability and providing for an effective date.

Whereas, the Commission of the City of Sanford, Florida has adopted an annual operating budget for the fiscal year beginning October 1, 2023 and terminating on September 30, 2024 specifying certain projected revenues and expenditures for the operations of Sanford municipal government; and

Whereas, the City's budget presumes that each department generally will, to the best of their ability, maintain its expenditures within its allocated budgeted level and exercise prudence in expending funds during the course of the City's fiscal year; and

Whereas, from time-to-time circumstances and events may require that the original City budget may need revision; and

Whereas, the City Commission, in its judgment and discretion, has the authority to adjust the budget to more closely coincide with actual and expected events.

Now, therefore, be it adopted and resolved by the City Commission of the City of Sanford, Florida as follows:

Section 1. Adoption of Budget Amendment.

The annual operating budget of the City of Sanford for the fiscal year beginning October 1, 2023 and terminating on September 30, 2024 is hereby revised and amended by Attachment "A". The Attachment is hereby incorporated into this Resolution as if fully set forth herein verbatim. Except as amended herein, the annual operating budget for the City of Sanford for fiscal year beginning October 1, 2023 and

terminating on September 30, 2024 shall remain in full force and effect.

Section 2. Implementing administrative actions.

The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Resolution by means of such administrative actions as may be deemed necessary and appropriate.

Section 3. Savings.

The prior actions of the City of Sanford relating to the adoption of the City budget and related activities are hereby ratified and affirmed.

Section 4. Conflicts.

All resolutions or parts of resolutions in conflict with this Resolution are hereby repealed.

Section 5. Severability.

If any section, sentence, phrase, word, or portion of this Resolution is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Resolution not otherwise determined to be invalid, unlawful, or unconstitutional.

Section 6. Effective Date.

This Resolution shall become effective immediately upon enactment.

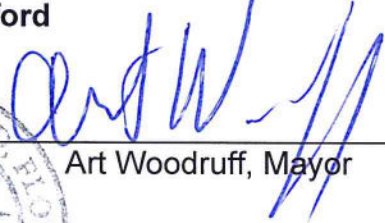
Passed and adopted this 25th day of March, 2024.

Attest:

City Commission of the City of
Sanford



Traci Houchin, MMC, FCRM
City Clerk



Art Woodruff, Mayor



For use and reliance of the Sanford
City Commission only.
Approved as to form and legality.



William Colbert, City Attorney

ATTACHMENT A REQUEST FOR BUDGET AMENDMENT

Fiscal Year 2024
Department: Public Works

Division: Streets

1/10/2024

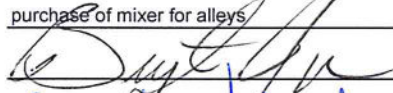
CHANGES IN REVENUES

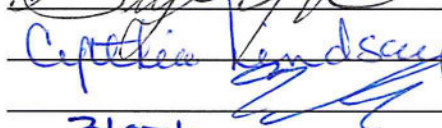
REVENUE ACCOUNT NUMBER						Current	Current	Amount of	Adjusted
Fund	Revenue	Act Cd	Ele	Project #	Revenue Account Title	Budget	Balance	Change	Unrealized
360	4047	541	63	00	pw1401 improvements other than build	\$ 484,253	\$396,747	\$ 150,677	246,070
TOTAL CHANGES IN REVENUES								\$ 150,677	

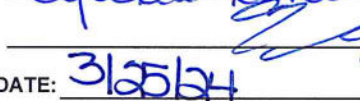
CHANGES IN EXPENDITURES

EXPENDITURE ACCOUNT NUMBER						Current	Current	Amount of	Remaining	
Fund	Dpt/Div	Activity	Obj	Ele	Project #	Expenditure Account Title	Budget	Balance	Change	Balance
360	4047	541	64	00	pw1401	capital machinery	\$ 38,949	19,151	150,677	169,828
							\$ -			-
							\$ -			-
TOTAL CHANGES IN EXPENDITURES								\$ 150,677		

REASON FOR AMENDMENT: purchase of mixer for alleys

DIRECTOR APPROVAL:  DATE: 3/13/24

FINANCE APPROVAL:  DATE: 3/13/24

CITY MANAGER APPROVAL:  DATE: 3/26/24

CITY COMMISSION AGENDA DATE: 3/25/24 APPROVED Y

FOR FINANCE USE

Entry Date: _____

Batch Number: _____

Document #: BA 06 706



CITY COMMISSION MEMORANDUM 24-097
MARCH 25, 2024, AGENDA

TO: Honorable Mayor and Members of the City Commission
PREPARED BY: Pete Wilson, Streets Superintendent
SUBMITTED BY: Norton N. Bonaparte, Jr., ICMA-CM, City Manager
SUBJECT: Approval of Procurement and Resolution No. 2024-3236; 5-yard concrete truck; Terex Advance Mixer, Inc.

STRATEGIC PRIORITIES:

- Unify Downtown & the Waterfront
- Promote the City's Distinct Culture
- Update Regulatory Framework
- Redevelop and Revitalize Disadvantaged Communities

SYNOPSIS:

Approve Resolution No. 2024-3236, to amend the Streets Division budget in the amount of \$150,676 and a procurement for a low volume mid-range mixer truck from Terez Advance Mixer, Inc., is requested.

FISCAL/STAFFING STATEMENT:

Funding in the amount of \$150,676.33 is requested and available in the FY 2023/2024 Stormwater Capital Machinery and Equipment account.

BACKGROUND:

The streets division is responsible for maintaining the alley curbing, and the alley aprons. Currently the Streets division outsources this work. By having this piece of machinery, the division will be able to do the work in house and in a timely manner.

The vehicle will be purchased on a Sourcewell Contract # 110421-TEX.

LEGAL REVIEW:

No legal review is requested of the City Attorney.

RECOMMENDATION:

City staff recommends that the City Commission approve Resolution No. 2024-3226, to amend the Streets Division budget in the amount of \$150,676.33 and the procurement of a low volume mid-range mixer truck from Terez Advanced Mixer, Inc.

SUGGESTED MOTION:

“I move to approve Resolution No. 2024-3236, and the procurement of a low volume mid-range mixer truck, as proposed.”

Attachments: (1) quote T2318
(2) Sourcewell agreement
(3) Budget amendment



TEREX ADVANCE MIXER INC

Quotation

Quotation Date: 2/28/24 Date Printed: 2/28/24 Expiration Date: 3/27/24
Quotation Number: T2318 Revision No: 2
Your Reference:

Our Reference: Kevin Fix
Customer Number: P0285
Customer RFQ Number:

Delivery Address:
City Of Sanford
300 N. Park Ave.
Sanford FL 32771

Document Address:
City Of Sanford
300 N. Park Ave.
Sanford FL 32771

Ship Via:
DRIVEAWAY SERVICE

Terms of Delivery:
CPT, DEL ADDRESS, INCOTERMS 2020

Salesperson:

Delivery Terms Location:

Label Note:

Wanted Delivery Date:
5/30/24

Payment Terms:
0% down C of O Held until payment received or proof of financing

Table with columns: Pos, Part No, Del, Description, Configuration ID, Configuration Description, Sale Qty, Unit, Price, Disc. %, Planned Delivery Date, Net Amount USD. Includes rows for LV MIDI TRUCK and LOW VOLUME MID-RANGE MIXER TRUCK.

691731
LOW VOLUME MID-RANGE MIXER TRUCK

Table with columns: Characteristic, Characteristic Value, Unit, Quantity. Includes rows for LOW VOLUME MODEL, LOW VOLUME CHASSIS MANUFACTURER.

Remittance Address: Terex Advance Mixer Inc.
Wire ACH Info: ACH ABA: 111-000-012
AR Contact Info.: Phone: 877-794-5284 Option 2
Parts/Sales Contact: Phone: 600-433-6681
Main Office: Terex Advance Mixer Inc.
7727 Freedom Way
Fort Wayne, IN 46818
Phone: 260-497-0726
Fax: 260-497-0952



TEREX ADVANCE MIXER INC

Quotation

Quotation Date: 2/28/24 Date Printed: 2/28/24 Expiration Date: 3/27/24
Quotation Number: T2318 Revision No: 2
Your Reference:

Our Reference: Kevin Fix
Customer Number: P0285
Customer RFQ Number:

Table with columns: Pos Del, Part No Description, Sale Price, Qty, Unit, Configuration ID, Configuration Description, Unit, Quantity, Price, Disc. % Planned Delivery Date, Net Amount USD. Rows include: LOW VOLUME CHASSIS MODEL MV607, LOW VOLUME TANDEM SUSPENSION FIXED TANDEM SUSPENSION, LOW VOLUME BRAKING SYSTEM MERITOR AIR S-CAM TYPE, LOW VOLUME CHASSIS ENGINE CUMMINS L9 270HP, LOW VOLUME CHASSIS TRANSMISSION ALLISON 3500, GROSS VEHICLE WEIGHT RATING - FRONT 14700 lb, GROSS VEHICLE WEIGHT RATING - REAR 30000 lb, GROSS VEHICLE WEIGHT RATING - TOTAL 45000 lb, LOW VOLUME CHASSIS WHEEL BASE 211 in, LOW VOLUME HYDRAULIC PUMP DRIVE PTO DRIVEN HYDRAULIC PUMP, LOW VOLUME CHARGE HOPPER POWER FLIP CHARGE HOPPER, LOW VOLUME HOPPER EXTENSION NO HOPPER EXTENSION, LOW VOLUME DRUM SIZE 6.0 YD DRUM WITH 0" NOSE EXTENSION, LOW VOLUME DRUM MATERIAL 3/16" AR400

Remittance Address: Terex Advance Mixer Inc. 12223 Collections Center Drive Chicago, IL 60693

Wire ACH Info: ACH ABA: 111-000-012 Wire ABA: 026-009-593 Account #: 375-194-3183 Bank of America

AR Contact Info.: Phone: 877-794-5284 Option 2 Email: GBS.US.AR@Terex.com

Parts/Sales Contact: Phone: 800-433-6691 Fax: 260-497-0939

Main Office: Terex Advance Mixer Inc. 7727 Freedom Way Fort Wayne, IN 46818 Phone: 260-497-0728 Fax: 260-497-0952



TEREX ADVANCE MIXER INC

Quotation

Quotation Date: 2/28/24 Date Printed: 2/28/24 Expiration Date: 3/27/24
 Quotation Number: T2318 Revision No: 2
 Your Reference:

Our Reference: Kevin Fix
 Customer RFQ Number:

Customer Number: P0285

Pos	Part No	Sale Qty	Unit	Price	Disc. %	Net Amount
Del	Description	Price Qty	Unit		Planned Delivery Date	USD

Configuration ID		Unit	Quantity
Characteristic	Characteristic Value		
LOW VOLUME WATER TANK SIZE	95 GALLON WATER TANK		
LOW VOLUME UNIT COLOR	ONE COLOR W/ CLEAR COAT		
LOW VOLUME UNIT DECALS	NO DECALS		

Sub Total:	147,683.00
DELIVERY	2,993.33
TOTAL:	150,676.33

Remittance Address:
 Terex Advance Mixer Inc.
 12223 Collections Center Drive
 Chicago, IL 60693

Wire ACH Info:
 ACH ABA: 111-000-012
 Wire ABA: 026-009-593
 Account #: 375-194-3183
 Bank of America

AR Contact Info.:
 Phone: 877-794-6264 Option 2
 Email: GBS.US.AR@Terex.com

Parts/Sales Contact:
 Phone: 800-433-6691
 Fax: 260-497-0939

Main Office:
 Terex Advance Mixer Inc.
 7727 Freedom Way
 Fort Wayne, IN 46818
 Phone: 260-497-0728
 Fax: 260-497-0952



Solicitation Number: RFP #110421

CONTRACT

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and Terex Utilities, Inc., 3140 15th Avenue SE, Watertown, SD 57201 (Supplier).

Sourcewell is a State of Minnesota local government unit 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 eligible 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. Sourcewell issued a public solicitation for Public Utility Equipment with Related Accessories and Supplies from which Supplier was awarded a contract.

Supplier 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 December 27, 2025, unless it is cancelled sooner pursuant to Article 22. This Contract may be extended one additional year upon the request of Sourcewell and written agreement by Supplier.
- C. **SURVIVAL OF TERMS.** Notwithstanding any expiration or termination of this Contract, all payment obligations incurred prior to expiration or termination will survive, as will the following: Articles 11 through 14 survive the expiration or cancellation of this Contract. All other rights will cease upon expiration or termination of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

- A. **EQUIPMENT, PRODUCTS, OR SERVICES.** Supplier will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above.

Supplier'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 and the current model. Supplier may offer close-out or refurbished Equipment or Products if they are clearly indicated in Supplier'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.** Supplier 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, Supplier warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Supplier'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 extends beyond the expiration of the Supplier's warranty will be passed on to the Participating Entity. Supplier's Limited Product Warranty is applicable to all Equipment, Products, and Services provided.

C. **DEALERS, DISTRIBUTORS, AND/OR RESELLERS.** Upon Contract execution and throughout the Contract term, Supplier must provide to Sourcewell a current means to validate or authenticate Supplier's authorized dealers, distributors, or resellers relative to the Equipment, Products, and Services offered under this Contract, which will be incorporated into this Contract by reference. It is the Supplier's responsibility to ensure Sourcewell receives the most current information.

3. PRICING

All Equipment, Products, or Services under this Contract will be priced at or below the price stated in Supplier'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, Supplier 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 within ten days after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery. In the event of the delivery of nonconforming Equipment and Products, the Participating Entity will notify the Supplier as soon as possible and the Supplier will repair or replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Participating Entity.

Supplier 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 Supplier in breach of this Contract if the Supplier intentionally delivers substandard or inferior Equipment or Products.

B. **SALES TAX.** Each Participating Entity is responsible for supplying the Supplier 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, Supplier may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Supplier 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

Supplier 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 Supplier Development Administrator. This approved form is available from the assigned Sourcewell Supplier Development 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 Change Request Form will become an amendment to this Contract and will 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. Supplier 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.

Supplier is responsible for familiarizing its sales and service forces with Sourcewell contract use eligibility requirements and documentation and will encourage potential participating entities 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.** Supplier's employees may be required to perform work at government-owned facilities, including schools. Supplier'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 Supplier that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Supplier. Typically, a Participating Entity will issue an order directly to Supplier or its authorized

subsidiary, distributor, dealer, or reseller. 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 or cancellation of this Contract; however, Supplier performance, Participating Entity payment obligations, and any applicable warranty periods or other Supplier or Participating Entity obligations may extend beyond the term of this Contract.

Supplier's acceptable forms of payment are included in its attached Proposal. 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, or other required transaction documentation, may be negotiated between a Participating Entity and Supplier, 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 negotiated directly between the Participating Entity and the Supplier. Any negotiated additional terms and conditions must never be less favorable to the Participating Entity than what is contained in this Contract.

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

D. TERMINATION OF ORDERS. Participating Entities may terminate an order, in whole or in part, immediately upon notice to Supplier 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 equipment, products, or services to be purchased; or
2. Federal, state, or provincial laws or regulations prohibit the purchase or change the Participating Entity's requirements.

E. 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. Supplier will assign an Account Representative to Sourcewell for this Contract and must provide prompt notice to Sourcewell if that person is changed. The Account Representative will be responsible for:

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

B. **BUSINESS REVIEWS.** Supplier 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, sales data reports, 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, Supplier must provide a contract sales activity report (Report) to the Sourcewell Supplier Development Administrator assigned to this Contract. Reports are due no later than 45 days after the end of each calendar quarter. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Supplier must submit a report indicating no sales were made).

The Report must contain the following fields:

- Participating Entity Name (e.g., City of Staples Highway Department);
- Participating Entity Physical Street Address;
- Participating Entity City;
- Participating Entity State/Province;
- Participating Entity Zip/Postal Code;
- Participating Entity Contact Name;
- Participating Entity Contact Email Address;
- Participating Entity 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 Supplier.

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

The Supplier will submit payment 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 Supplier's name and Sourcewell-assigned contract number in the memo; and must be mailed to the address above "Attn: Accounts Receivable" or remitted electronically to Sourcewell's banking institution per Sourcewell's Finance department instructions. Payments must be received no later than 45 calendar days after the end of each calendar quarter.

Supplier 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 Supplier is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Supplier 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.

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

10. AUDIT, ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

A. **AUDIT.** Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by Sourcewell or the Minnesota State Auditor for a minimum of six 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.

B. **ASSIGNMENT.** Neither party may assign or otherwise transfer its rights or obligations under this Contract without the prior written consent of the other party and a fully executed assignment agreement. Such consent will not be unreasonably withheld. Any prohibited assignment will be invalid.

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

D. **WAIVER.** Failure by either party to take action or assert any right under this Contract will not be deemed a waiver of such right in the event of the continuation or repetition of the

circumstances giving rise to such right. Any such waiver must be in writing and signed by the parties.

E. **CONTRACT COMPLETE.** This Contract represents the complete agreement between the parties. No other understanding regarding this Contract, whether written or oral, may be used to bind either party. For any conflict between the attached Proposal and the terms set out in Articles 1-22 of this Contract, the terms of Articles 1-22 will govern.

F. **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. INDEMNITY AND HOLD HARMLESS

Except to the extent of the negligence or willful misconduct of the respective indemnitee, Supplier must indemnify, defend, save, and hold Sourcewell and its Participating Entities, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees incurred by Sourcewell or its Participating Entities, arising out of any act or omission in the performance of this Contract by the Supplier 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. Sourcewell's responsibility will be governed by the State of Minnesota's Tort Liability Act (Minnesota Statutes Chapter 466) and other applicable law. No party shall be liable hereunder for incidental, indirect, or consequential damages, even if advised of the possibility thereof.

12. GOVERNMENT DATA PRACTICES

Supplier 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 Supplier under this Contract.

13. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT

A. INTELLECTUAL PROPERTY

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

b. Supplier grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Supplier's trademarks in advertising and promotional materials for the purpose of marketing Supplier'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 their respective subsidiaries, distributors, dealers, resellers, 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. Neither party may alter the other party's trademarks from the form provided and must comply with removal requests as to specific uses of its trademarks or logos.

b. 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. As applicable, Supplier 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 Supplier in violation of applicable patent or copyright laws.

5. *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 suppliers which may be used until the next printing). Supplier 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 Supplier 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. Send all approval requests to the Sourcewell Supplier Development Administrator assigned to this Contract.

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

14. GOVERNING LAW, JURISDICTION, AND VENUE

The substantive and procedural laws of the State of Minnesota will govern this Contract. Venue for all legal proceedings arising out of this Contract, or its breach, must be in the appropriate state court in Todd County, Minnesota or federal court in Fergus Falls, Minnesota.

15. 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.

16. SEVERABILITY

If any provision of this Contract is found by a court of competent jurisdiction to be illegal, unenforceable, or void then both parties will be relieved from all obligations arising from that provision. If the remainder of this Contract is capable of being performed, it will not be affected by such determination or finding and must be fully performed.

17. 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 of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Supplier 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 Sourcewell or Supplier may escalate the resolution of the issue to a higher level of management. The Supplier will have 30 calendar days to cure an outstanding issue.
3. *Performance while Dispute is Pending.* Notwithstanding the existence of a dispute, the Supplier must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Supplier fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, the Supplier will bear any additional costs incurred by Sourcewell and/or its Participating Entities as a result of such failure to proceed.

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.

The party claiming default must provide written notice of the default, with 30 calendar days to cure the default. Time allowed for cure will not diminish or eliminate any potential liability for 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.

18. INSURANCE

A. REQUIREMENTS. At its own expense, Supplier 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.* Supplier 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, Supplier 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, Supplier will maintain umbrella coverage over Employer's Liability, Commercial General Liability, and Commercial Automobile.

Minimum Limits:

\$2,000,000

5. *Network Security and Privacy Liability Insurance.* During the term of this Contract, Supplier will maintain coverage for network security and privacy liability. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The insurance must cover claims which may arise from failure of Supplier's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data – including but not limited to, confidential or private information, transmission of a computer virus, or denial of service.

Minimum limits:

\$2,000,000 per occurrence

\$2,000,000 annual aggregate

Failure of Supplier 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, Supplier 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 Supplier Development Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf.

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

C. ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE. Supplier agrees to list Sourcewell and its Participating Entities, including their officers, agents, and employees, as an additional insured under the Supplier's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Supplier, and products and completed operations of Supplier. 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.** Supplier 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 Supplier 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 Supplier or its subcontractors. Where permitted by law, Supplier must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. **UMBRELLA/EXCESS LIABILITY/SELF-INSURED RETENTION.** The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies), or self-insured retention.

19. 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.** Supplier 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 Supplier conducts with Sourcewell and Participating Entities.

20. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

Supplier 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 Supplier declares bankruptcy, Supplier must immediately notify Sourcewell in writing.

Supplier 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. Supplier certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Supplier further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time.

21. 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 have additional requirements based on specific funding source terms or conditions. 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 Supplier'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. Supplier 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. Supplier certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Supplier 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. Supplier certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Supplier 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). Supplier 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. Supplier 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). Suppliers must file any required certifications. Suppliers 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. Suppliers 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. Suppliers 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, Supplier must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Supplier 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, Supplier 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, Supplier 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). Supplier agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Supplier that are directly pertinent to Supplier'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 Supplier'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.

M. FEDERAL SEAL(S), LOGOS, AND FLAGS. The Supplier not use the seal(s), logos, crests, or reproductions of flags or likenesses of Federal agency officials without specific pre-approval.

N. NO OBLIGATION BY FEDERAL GOVERNMENT. The U.S. federal government is not a party to this Contract or any purchase by an Participating Entity and is not subject to any obligations or liabilities to the Participating Entity, Supplier, or any other party pertaining to any matter resulting from the Contract or any purchase by an authorized user.

O. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS. The Contractor acknowledges that 31 U.S.C. 38 (Administrative Remedies for False Claims and Statements) applies to the Supplier's actions pertaining to this Contract or any purchase by a Participating Entity.

P. FEDERAL DEBT. The Supplier certifies that it is non-delinquent in its repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowance, and benefit overpayments.

Q. CONFLICTS OF INTEREST. The Supplier must notify the U.S. Office of General Services, Sourcewell, and Participating Entity as soon as possible if this Contract or any aspect related to the anticipated work under this Contract raises an actual or potential conflict of interest (as described in 2 C.F.R. Part 200). The Supplier must explain the actual or potential conflict in writing in sufficient detail so that the U.S. Office of General Services, Sourcewell, and Participating Entity are able to assess the actual or potential conflict; and provide any additional information as necessary or requested.

R. U.S. EXECUTIVE ORDER 13224. The Supplier, and its subcontractors, must comply with U.S. Executive Order 13224 and U.S. Laws that prohibit transactions with and provision of resources and support to individuals and organizations associated with terrorism.

S. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. To the extent applicable, Supplier certifies that during the term of this Contract it will comply with applicable requirements of 2 C.F.R. § 200.216.

T. DOMESTIC PREFERENCES FOR PROCUREMENTS. To the extent applicable, Supplier certifies that during the term of this Contract will comply with applicable requirements of 2 C.F.R. § 200.322.

22. CANCELLATION

Sourcewell or Supplier 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 Supplier's Proposal. Cancellation of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to cancellation.

Sourcewell

Terex Utilities, Inc.

DocuSigned by:
Jeremy Schwartz
By: C9FD2A139D0648D...
Jeremy Schwartz
Title: Chief Procurement Officer
Date: 12/20/2021 | 2:15 PM CST

DocuSigned by:
Jim Lohan
By: 15EE52AEF7BC457...
Jim Lohan
Title: VP Sales and Marketing
Date: 2/1/2022 | 5:37 AM PST

Approved:

DocuSigned by:
Chad Coauette
By: 7E42BBF817A64CC...
Chad Coauette
Title: Executive Director/CEO
Date: 2/1/2022 | 7:41 AM CST

RFP 110421 - Public Utility Equipment with Related Accessories and Supplies

Vendor Details

Company Name: Terex Utilities
Does your company conduct business under any other name? If yes, please state: Terex Utilities, Inc., Terex Services, Terex USA LLC, Terex GmbH
Address: 3140 15th Avenue SE
Watertown, South Dakota 57201
Contact: Michael Lenling
Email: michael.lenling@terex.com
Phone: 940-704-9146
HST#:

Submission Details

Created On: Monday October 25, 2021 10:54:07
Submitted On: Thursday November 04, 2021 12:54:24
Submitted By: Michael Lenling
Email: michael.lenling@terex.com
Transaction #: bf572454-f3b5-451c-8873-bb6be1574db5
Submitter's IP Address: 165.225.217.48

Specifications

Table 1: Proposer Identity & Authorized Representatives

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

Line Item	Question	Response*
1	Proposer Legal Name (one legal entity only): (In the event of award, will execute the resulting contract as "Supplier")	Terex Utilities, Inc.
2	Identify all subsidiary entities of the Proposer whose equipment, products, or services are included in the Proposal.	Terex USA LLC, Terex GmbH
3	Identify all applicable assumed names or DBA names of the Proposer or Proposer's subsidiaries in Line 1 or Line 2 above.	Terex Utilities, Terex Services, Terex USA LLC, Terex GmbH
4	Proposer Physical Address:	3140 15th Avenue SE Watertown, SD 57201
5	Proposer website address (or addresses):	www.terex.com
6	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):	Jim Lohan VP Sales and Marketing 3140 15th Ave SE, Watertown, SD 57201 jim.lohan@terex.com (612) 730-6927
7	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Michael Lenling Territory Sales Manager 3155 S Burleson Blvd, Burleson, TX 76028 michael.lenling@terex.com (940) 704-9146
8	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	Stephanie Evans Sales Operations Manager 3140 15th Ave SE, Watertown, SD 57201 stephanie.evans@terex.com (605) 882-5604 Michele Laurie Technical Support Manager 3140 15th Ave SE, Watertown, SD 57201 michele.laurie@terex.com (605) 884-3837

Table 2: Company Information and Financial Strength

Line Item	Question	Response
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9	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>Terex Utilities, founded in 1945 with the advent of the groundbreaking Tel-E-lect digger derrick, has been rooted in the growth and maintenance of this nation's utility infrastructure for well over 70 years. We've seen the good times and the bad and through it all, we've been there for you. We've listened to you when you've approached us with problems that you run into during your daily operations and have turned them into workable solutions for you...throughout your good times and your bad times.</p> <p>Now, as we're traveling together into the 21st century, we are proud to be a part of the next exciting phase of providing you with state-of-the-art solutions steeped in the tradition of those people that built the power and communication grid...hard-working and inventive.</p> <p>Digger Derrick Development The 50's and 60's saw three innovations were introduced that are still in use today - the Rite-Way auger storage bracket, PG (pole grabbing) winch, and the hydraulic collector block. With the latter, for the first time digger derricks could rotate continuously and without restriction making them a much more versatile machine.</p> <p>The Telecon (TElect ECONomy) was introduced which allowed a digger to be mounted on a smaller, lighter and more maneuverable chassis. The Commander 1 Series digger derrick was developed featuring two innovations that are still used as the standard today, box constructed booms and dual lift cylinders. Also we developed and introduced the first fiberglass third section built to eliminate pin-on third sections. We can't rest on our laurels however, and we're continuing to lead innovations today.</p> <p>Aerial Device Development The 70's, 80's and early 90's saw us broadening our equipment offerings to include aerial devices. The first was named the "Zip Boom" family and consisted of a telescopic aerial and a articulated aerial. A unique fiberglass boom manufacturing process was developed resulting in the Tele-Glass boom. 1992 was a pretty big advancement for us in the aerial device product category as we added one of the best known names to our family - Hi-Ranger. The name still arouses passion and continues to be used as a model designation for all of our aerial devices today. Right on the heels of that announcement was the introduction of the hydraulic lift which allowed aerial devices to add height to the working envelope without adding additional boom length by elevating the complete aerial device 15' higher. We've since added different configurations and heights which gives our products exceptional flexibility. And, of course, we're not done!</p> <p>Auger Drills & Auger Tooling Development We continue to develop our business from the ground up. Not only product development but through research, design, safety and our service channels. As with the recent addition of Auger Drills and Auger Tooling, we continue to expand into markets for continued growth. Compact and powerful Terex Auger Drills offer a wide range of drill speeds and the highest drill torque per class. In addition, Terex offers a vast line of auger tools for hard rock, dirt, and high production drilling, as well as coring systems, pilots, bits, hubs, boring heads, and shank plates.</p> <p>Today, we operate around the globe and we are properly positioned to help you even more. With our products, our innovations and our commitment to being right beside you, we look to partner with you into the next century . . . and beyond!</p> <p>Terex Utilities works for you by listening, responding and delivering solutions with speed. We understand your challenges. We have a diverse team of people who are committed to delivering reliable equipment to you. We work to develop innovative technology and services quickly. All of this is in an effort to find solutions that allow you to work more efficiently.</p> <p>Terex Way Values Integrity Respect Improvement Servant Leadership Courage Citizenship</p>
10	What are your company's expectations in the event of an award?	Terex will provide a quality product, with support and service after the sale.
11	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>NYSE ticker symbol: TEX</p> <p>https://investors.terex.com/investor-relations/financial-reporting/annual-reports/default.aspx</p> <p>Terex-Corporation-2020-Annual-Report Form 8-K</p>
12	What is your US market share for the solutions that you are proposing?	35%
13	What is your Canadian market share for the solutions that you are proposing?	30%
14	Has your business ever petitioned for bankruptcy protection? if so, explain in detail.	No.
15	<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. Manufacturer / Service Provider</p> <p>Terex Utilities is a leading manufacturer of utility equipment. We are also a large provider of service and parts for the utility equipment industry.</p> <p>We have a network of Account Managers across the majority of the United States with the exception of New England States and Florida. In these two areas we work through a third party distributor. The Account Managers covering the majority of the United States are our team members.</p>

16	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	None are required. ISO 9001:2015. We are certified through June of 2024.
17	Provide all "Suspension or Debarment" information that has applied to your organization during the past ten years.	We do not have any.

Table 3: Industry Recognition & Marketplace Success

Line Item	Question	Response
18	Describe any relevant industry awards or recognition that your company has received in the past five years	Forbes' "The Just 100: America's Best Corporate Citizens in 2016!" Arbor Age A+ New Products Award for the XT PRO Series of Tree Trimmers Construction Equipment Top 100 Winner for the Hi-Ranger LTM Series
19	What percentage of your sales are to the governmental sector in the past three years	15%.
20	What percentage of your sales are to the education sector in the past three years	less than 5%.
21	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?	We currently only hold a contract with Sourcwell but are exploring other cooperative purchasing options. While exact sales dollars is confidential, cooperative purchasing has increased incrementally each of the last 3 years. Over the last 3 years, our Sourcwell utilization has increased 68% from 2019-2020, and from 2020-2021 an increase of 59%. Total utilization increase from this period of 2019-2021 is almost 2.5x.
22	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?	N/A

Table 4: References/Testimonials

Line item 23. Supply reference information from three customers who are eligible to be Sourcwell participating entities.

Entity Name*	Contact Name*	Phone Number*
North Texas Tollway Authority	Floyd Spencer - Fleet Manager	(214) 224-2268
CoServ	Tim Meyer - Fleet Manager	(940) 368-9294
Rusk County Electric Coop	Jim Dickeson - Operations Superintendent	(903) 646-3042
Seattle City Light	Dustin Atkin	(206) 459-3446

Table 5: Top Five Government or Education Customers

Line item 24. 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*
Seattle City Light	Government	Washington - WA	Supplied and supplying distribution aerial and digger derrick devices.	undisclosed / confidential.	undisclosed / confidential.
Washington State DOT	Government	Washington - WA	Supplied and supplying distribution aerial devices.	undisclosed / confidential.	undisclosed / confidential.
Tennessee Valley Authority	Government	Tennessee - TN	Supplied transmission aerial devices.	undisclosed / confidential.	undisclosed / confidential.
City of Tallahassee	Government	Tennessee - TN	Supplied distribution aerial devices.	undisclosed / confidential.	undisclosed / confidential.
Los Angeles Department of Water and Power	Government	California - CA	Supplied distribution aerial devices.	undisclosed / confidential.	undisclosed / confidential.

Table 6: Ability to Sell and Deliver Service

Describe your company's capability to meet the needs of Sourcwell 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
25	Sales force.	Terex Utilities, along with distributors and rental partners Commercial Truck Equipment, JA Kiley Company, NESCO, Ring Power, Scott Powerline, Custom Truck One Source (CTOS) and Wajax continue to create the most comprehensive sales, rental and service offerings across North America for electric utility customers.

26	Dealer network or other distribution methods.	<p>Our combined investments have an expansive network with a footprint of 20 factories and final-stage manufacturing locations, 60 service centers and 240 mobile hydraulic technicians – all working together to support our customers with shorter lead times on new equipment, outstanding rental availability, and the right parts and service support when and where they need it.</p> <p>We are committed and engaged with our partners to listen, understand and quickly provide innovative solutions for electric utility customers.</p>
27	Service force.	<p>Terex Services offers a broad range of service solutions focused on keeping customers' equipment and their operators productive and safe. Terex Services has more than 200 factory-trained technicians and more than 20 factory branch locations to service Terex aerial devices, digger derricks, construction equipment, mobile cranes and Genie booms and lifts.</p> <p>From inspections for compliance regulations, preventative maintenance work and general repairs to reconditioning, refurbishment and replacement parts, Terex Services provides quality work performed by factory trained technicians that are dedicated to increasing the uptime of your aerial work platform, construction, mobile crane and utility equipment.</p>
28	Describe the ordering process. If orders will be handled by distributors, dealers or others, explain the respective roles of the Proposer and others.	<p>Direct orders will be handled by Terex. Once the opportunity has been quoted and the customer approves to move forward, the Terex Territory Sales Manager (TSM) will receive a PO and/or signed Coversheet (1st page of quote) from the customer. The TSM will then submit the order internally for processing. Once the order has been processed, a Sales Order Acknowledgement will be created internally and provided to the TSM who will then pass this document to the customer.</p> <p>If the order comes from a Terex Dealer Partner, the order will be processed thru that respective dealer and Terex will be notified that the Sourcwell contract was utilized</p>
29	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>Terex Services offers a broad range of service solutions focused on keeping customers' equipment and their operators productive and safe. Terex Services has more than 200 factory-trained technicians and more than 20 factory branch locations to service Terex aerial devices, digger derricks, construction equipment, mobile cranes and Genie booms and lifts.</p> <p>From inspections for compliance regulations, preventative maintenance work and general repairs to reconditioning, refurbishment and replacement parts, Terex Services provides quality work performed by factory trained technicians that are dedicated to increasing the uptime of your aerial work platform, construction, mobile crane and utility equipment.</p>
30	Describe your ability and willingness to provide your products and services to Sourcwell participating entities in the United States.	<p>Terex strives to continue to provide high-quality equipment and services (branch and field services) to all customers including both Sourcwell participating entities and non-participants in the United States and Canada. Terex TSM's, Field Service Technicians, and Service Branches, along with our dealer partner network and their service capabilities, are devoted to supporting our customers and providing top-notch customer service. We strive to be the most customer-responsive company in the industry as determined by our customers. We are driven by our mission to provide solutions to our customers that yield superior productivity and return on investment. It is Terex commitment to serve all customers with the highest level of integrity.</p>
31	Describe your ability and willingness to provide your products and services to Sourcwell participating entities in Canada.	<p>Terex strives to continue to provide high-quality equipment and services (branch and field services) to all customers including both Sourcwell participating entities and non-participants in the United States and Canada. Terex TSM's, Field Service Technicians, and Service Branches, along with our dealer partner network and their service capabilities, are devoted to supporting our customers and providing top-notch customer service. We strive to be the most customer-responsive company in the industry as determined by our customers. We are driven by our mission to provide solutions to our customers that yield superior productivity and return on investment. It is Terex commitment to serve all customers with the highest level of integrity.</p> <p>Our dealer network in Canada has been an extension of Terex Utilities for many years. In 2018, Terex added two new factory dealer representatives covering Canada. Both of these representatives are familiar with the Sourcwell process and have been instructed to promote Sourcwell for the Canadian market as well.</p>
32	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	<p>Our sales and service network covers from coast to coast in the US and all the population centers of Canada.</p>
33	Identify any Sourcwell 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?	<p>Terex will fully serve all Sourcwell participating entity sector customers throughout the entire United States and through our dealer partners both in the United States and Canada.</p>
34	Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories.	<p>Third parties are utilized for both Hawaii and Alaska.</p> <p>Hawaii DMS Diesel Repair, LLC 24 Railroad Ave Hilo, HI 96720</p> <p>Alaska Seaside Diesel Repair 5741 Concrete Way Juneau, AK</p>

Table 7: Marketing Plan

Line Item	Question	Response
35	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.	Our Marketing strategy would be to assign ownership to an Account Manager who would take the lead role and provide direction to other Sales people located in areas where we expect to have the most interaction.
36	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	<p>Terex Utilities currently has a Twitter account (www.twitter.com/TerexUtilities), a Facebook account (www.Facebook.com/TerexUtilities), and also a LinkedIn account (www.linkedin.com/company/terexutilities/). Each outlet is used to post articles and information about our products and services.</p> <p>Another tool we use is Pardot, which allows us to create, deploy and manage online marketing campaigns. Through our utilization of Pardot and Salesforce, we are able to drive greater results from service and equipment marketing campaigns.</p>
37	In your view, what is Sourcwell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcwell-awarded contract into your sales process?	Sourcwell is currently part of our municipal and coop sales strategy. In every case possible we promote the value and simplicity of using Sourcwell to speed up or eliminate the bid process. In many cases we can convert the customer from going out to bid and use Sourcwell as a resource. Due to Sourcwell flexibility we have converted opportunities from using other state contracts to Sourcwell as well.
38	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>Replacement Parts for Terex Utilities are available for purchase through an online e-commerce platform shared with our AWP (Genie) division. Customer's with (B2B) or without (B2C) an account for either product line can be setup with online access. This provides live price and availability and access to placing orders from our parts catalog through both of our North American distribution hubs (Southaven, MS & North Bend, WA). The system also offers access to shipment tracking and invoicing. Accounts can also be configured to receive email acknowledgements and shipping confirmations to the individual that placed the order.</p> <p>www.myparts.terex.com (B2C) www.parts.terex.com (B2B)</p>

Table 8: Value-Added Attributes

Line Item	Question	Response
39	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcwell participating entities. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	Terex offers onsite unit specific mechanic training tailored to the needs of the customer. We also offer operator training ranging from unit in-services to our Digger Derrick and Aerial Device Edge Operator Safety Training Programs. We also offer an extensive online course selection which includes: Aerial Inspections, Digger Derrick Inspections, Dielectric Testing, Driver Safety Training, Hydraulic Troubleshooting, Aerial Edge Operator Safety Training and Digger Derrick Operator Safety Training programs. Additionally we also offer Tech-Tips which take a technician step-by-step through numerous maintenance procedures on our public website.
40	Describe any technological advances that your proposed products or services offer.	Terex builds its reputation on reliability and not just having technological advances but making those technologies robust enough for the environment they are applied into. It is easy to make technological advances it is harder to make them reliable able to stand over time. That is where Terex excels. Terex continues to offer product innovations for safety, performance, green energy, and maintenance.
41	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>Terex has been down the road of high cost highly complex "Green" technology that provides very little theoretical payback and many times a net negative payback in actual practice. Terex has evolved in our outlook on "Green" Initiatives and in 2015 began developing the HyPower IM system.</p> <p>The HyPower IM system utilizes plug in battery power to do what batteries do best, eliminate idle, but relies on the engine for it to do what it does best and that is move the truck and booms. Terex realized a lower cost, lower weight, less complex system could be developed which eliminated a large part of the fuel burn and carbon emissions as well as noise in the duty cycle of equipment used in utility applications. It was developed around the simple idea of providing the customer the most advantages for the least cost and complexity and achieving a balance which would actually provide an economic benefit for the customer. In 2017 Terex made the decision that it would be the only "Green" system we would offer our customers going forward.</p> <p>In 2019, Terex partnered with Viatec to offer a new version of the HyPower system that operates completely independent from the chassis engine. The latest HyPower system can be upgraded with a variety of charge options and battery sizes. This new system provides real time feedback to the operator for idle hours mitigated, battery life, emissions saved.</p> <p>Terex opened a new manufacturing facility in 2020 that includes an onsite storm water treatment basin and drought resistant plantings, which include approximately 2,000 perennials and shrubs and prairie grass that is supportive of storm water infiltration and pollinator habitat.</p> <ul style="list-style-type: none"> The new facility also utilizes LED fixtures, which have around 54% energy savings and LED Site poles, with around 70% energy savings. <p>Terex works to meaningfully reduce waste and foster a culture of conservation. We continually work to identify waste reduction, recycling and re-use opportunities.</p>
42	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.	N/A.
43	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>Terex Utilities is committed to providing accredited diverse business enterprises ("DBEs"), such as women, minority and service-disabled veteran owned businesses, maximum practicable opportunity to participate in providing products and services to Terex Utilities. By diversifying our supplier base, we enhance competition and innovation among our suppliers, which helps us to provide our customers with safe, reliable, and market competitive products.</p> <p>Terex Utilities has set a 5% goal on average for spending with DBEs. Terex Utilities achieves this goal through a supplier selection process focusing on local businesses, businesses in close proximity to our manufacturing facility, national DBE public web sites, and those suggest by our customer base.</p>
44	What unique attributes does your company, your products, or your services offer to Sourcwell participating entities? What makes your proposed solutions unique in your industry as it applies to Sourcwell participating entities?	Terex equipment is unique in that we traditionally have not cut corners when it comes to designing our equipment. Our welded derrick boom sections are the hardest boom in the industry to fabricate but provide the strongest strength to weight ratio. The same can be said for our rectangular, tapered fiberglass booms. All of our fiberglass booms are designed to maintain a strong bond with the steel which means they are many times stronger than required to meet industry required safety factors. This cost more money and takes more time but provides a much superior product that will maintain bonding and strength for the life of the equipment when used as designed. This has been the way our products have designed and built going back to the 1950's and a proud tradition we carry on today.

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
45	Do your warranties cover all products, parts, and labor?	Yes. See uploaded reference document, "TUFM 1050 Limited Product Warranty 1" and "Terex Utilities, Terms & Conditions of Sale, U.S".
46	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	All of our models are designed with intended use. If damage looks to be outside of normal use/wear and tear, communication is started with the customer to come to a resolution. See uploaded reference document, "TUFM 1050 Limited Product Warranty 1" and "Terex Utilities, Terms & Conditions of Sale, U.S".
47	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	Standard warranty coverage includes 90 days of travel time and mileage, initiating at time of equipment delivery or vehicle in-service.
48	Are there any geographic regions of the United States or Canada (as applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcwell participating entities in these regions be provided service for warranty repair?	Terex has both certified field services technicians and service branches and leverages the field service and branch support of our dealer partners.
49	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?	See uploaded reference document, "TUFM 1050 Limited Product Warranty 1" and "Terex Utilities, Terms & Conditions of Sale, U.S". For equipment and install related items, Terex will cover the warranty. For chassis related issues, the OEM is responsible to provide warranty service.
50	What are your proposed exchange and return programs and policies?	Terex does not accept returns or exchanges of equipment. If a situation arises where a potential issue occurs, the situation will be reviewed and resolved via offering product training, field service, branch service, technical assistance, and will work with the customer on a mutually beneficial solution.
51	Describe any service contract options for the items included in your proposal.	Terex proposes a discounted hourly labor rate of services provided by Terex Branch and Field Service Technicians, included as an option in the RFP. Please see the uploaded document, "2022 Sourcwell Hourly Labor Rates_".

Table 10: Payment Terms and Financing Options

Line Item	Question	Response
52	Describe your payment terms and accepted payment methods?	For Products or Services purchased by Buyer shall be made in accordance with any of the following terms, provided they have been previously arranged with and expressly approved by Seller in writing: (1) cash in advance; (2) confirmed, irrevocable letter of credit established in such amount and form and at such time and at such bank as shall be approved by Seller in respect of each order; (3) credit account purchases for which payment will be due and payable on net thirty (30) day terms, plus service and other charges applicable to past due amounts in accordance with Seller's written notices; or (4) other payment arrangements expressly approved by Seller in writing prior to or at the time the order is placed. If any Buyer credit account purchase is not paid in accordance with Seller's credit payment terms, in addition to any other remedies allowed in equity or by law, Seller may refuse to make further shipments without advance payment by Buyer. Nothing contained herein shall be construed as requiring Seller to sell any Products or Services to Buyer on credit terms at any time, or prohibiting Seller from making any and all credit decisions which it, in its sole discretion, deems appropriate for Seller. Seller may charge interest on all amounts not paid when due and Buyer agrees to pay such interest calculated on a daily basis, from the date that payment was due until the Seller receives payment in full, at the rate of 1.5% per month or the maximum rate permitted by applicable law. Seller shall be entitled to an equitable adjustment in the price of Products or Services in order to account for increases in the cost to Seller of labor or materials, or in the event of unanticipated or unforeseen circumstances.
53	Describe any leasing or financing options available for use by educational or governmental entities.	We offer Finance and Leasing solutions thru our Terex Financial Services. We can provide loans, fair market value leases, TRAC or Split TRAC Leases, Capital Leases. See uploaded "Financial Solutions" pdf.
54	Describe any standard transaction documents that you propose to use in connection with an awarded contract (order forms, terms and conditions, service level agreements, etc.). Upload a sample of each (as applicable) in the document upload section of your response.	Quote includes a coversheet to be executed with signature, date, and total dollar amount. This quote also includes the terms and conditions. For a new account, customers will be required to provide a W9 and fill out a Customer Information Form. See uploaded documents, "Cover Sheet Example" and "Terex Utilities, Terms & Conditions of Sale, U.S".
55	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcwell participating entities for using this process?	Terex does accept the P-card procurement and payment process. The Sourcwell participating entity would be subject to a 2% for most P-Cards, but 3.25% for AmEx.

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 Sourcewell Price and Product Change Request Form.

Line Item	Question	Response
56	Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcewell discounted price) on all of the items that you want Sourcewell 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.	See provided pricing sheet for units and service.
57	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.	Percentage range of discount is 2-5% (not including chassis).
58	Describe any quantity or volume discounts or rebate programs that you offer.	A Sourcewell discount has been applied to the sale price of the units indicated in the attached document.
59	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.	We facilitate these requests by adding "open market items" based on cost plus percentage. A quote is provided for "open market items".
60	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.	Chassis pricing has been excluded from our pricing response due to challenges acquiring/availability of chassis and related chassis pricing in the current marketplace. PDI & FAI will be included in the "open market items" depending on when the request is made.
61	If freight, delivery, or shipping is an additional cost to the Sourcewell participating entity, describe in detail the complete freight, shipping, and delivery program.	Delivery included in the Sourcewell contracted price with exception to Alaska, Hawaii, Canada, or any offshore delivery. These costs would be determined at time of final quote to customer.
62	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	Additional charges apply for delivery to Alaska, Hawaii, Canada, or any offshore delivery. These costs would be determined at time of final quote to customer.
63	Describe any unique distribution and/or delivery methods or options offered in your proposal.	N/A

Table 12: Pricing Offered

Line Item	The Pricing Offered in this Proposal is:	Comments
64	d. other than what the Proposer typically offers (please describe).	Terex pricing offered in this proposal is based on specifications developed specifically for Sourcewell participating entities.

Table 13: Audit and Administrative Fee

Line Item	Question	Response
65	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. Provide sufficient detail to support your ability to report quarterly sales to Sourcewell as described in the Contract template.	When an opportunity is first opened, the account manager selects "Sourcewell" when inputting in the information triggering the RFQ to use our contract pricing. Terex has one point of contact when it comes to Commercial Terms and another coordinator that tracks the invoicing thru our CRM system. Our system and process has been effective and reporting has been consistently provided to Sourcewell each month and quarterly under the current contract.
66	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.	Sourcewell metrics are tracked through our internal CRM system that provides us information such as past history, # of new opportunities, win rate, and more.
67	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.)	Terex proposes a 1% administrative fee to Sourcewell.

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

Line Item	Question	Response
68	Provide a detailed description of the equipment, products, and services that you are offering in your proposal.	Insulated Aerial Devices, Digger Demicks, Repair Service, and Inspections
69	Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.	Terex Utilities can provide multiple types of equipment and services to Sourcewell members. We are a dealer for multiple service body manufactures and can uplift these at multiple locations across the US and Canada. We also tailor a service and inspection programs to maintain a safe operating fleet.

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
70	Telescopic, articulated, mast, and boom, aerial lifts, towers, buckets, and platforms	<input checked="" type="radio"/> Yes <input type="radio"/> No	Telescopic, articulated, and boom aerial lifts, buckets, and platforms.
71	Digger derricks, and cable placing, pulling, and tensioning equipment	<input checked="" type="radio"/> Yes <input type="radio"/> No	Digger derricks
72	Directional drills, trenchless excavation equipment, thrust and boring machines, soil piercing tools, trenchers, rock wheels, and pile drivers	<input checked="" type="radio"/> Yes <input type="radio"/> No	Digger derricks and auger tooling for various drilling conditions.
73	Utility locating equipment	<input type="radio"/> Yes <input checked="" type="radio"/> No	N/A
74	Accessories, supplies, replacement or wear parts, and services related to the offering of equipment in Lines 69-72	<input checked="" type="radio"/> Yes <input type="radio"/> No	Repair Services, Equipment Remounts

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."

[Pricing](#) - Pricing.zip - Thursday November 04, 2021 11:50:37

[Financial Strength and Stability](#) - Financial Strength and Stability.zip - Monday November 01, 2021 14:01:06

[Marketing Plan/Samples](#) - Marketing Plan_Samples.zip - Monday November 01, 2021 14:02:47

[WMBE/MBE/SBE or Related Certificates](#) - DBE figures YTD 2021.xlsx - Wednesday November 03, 2021 10:08:31

[Warranty Information](#) - TUFM 1050 Limited Product Warranty 1.pdf - Sunday October 31, 2021 20:19:04

[Standard Transaction Document Samples](#) - Standard Transaction Document Samples.zip - Monday November 01, 2021 14:04:40

[Upload Additional Document](#) - Terex Supporting Documents.zip - Monday November 01, 2021 14:06:25

Addenda, Terms and Conditions

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 Sourcwell 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 Sourcwell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcwell 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 Sourcwell 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:
 1. 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>;
 2. Included on the government-wide exclusions lists in the United States System for Award Management found at: <https://sam.gov/SAM/>; or
 3. 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. - Michael Lenling, Territory Sales Manager, Terex Utilities, Inc.

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_4_Public_Utility_Equipment_RFP_110421 Thu October 14 2021 04:33 PM	<input checked="" type="checkbox"/>	2
Addendum_3_Public_Utility_Equipment_RFP_110421 Mon September 27 2021 05:28 PM	<input checked="" type="checkbox"/>	1
Addendum_2_Public_Utility_Equipment_RFP_110421 Fri September 24 2021 03:55 PM	<input checked="" type="checkbox"/>	1
Addendum_1_Public_Utility_Equipment_RFP_110421 Mon September 20 2021 02:54 PM	<input checked="" type="checkbox"/>	1

**AMENDMENT #1
TO
CONTRACT #110421-TER**

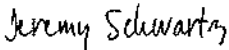
THIS AMENDMENT is effective upon the date of the last signature below by and between **Sourcewell and Terex Utilities, Inc.** (Supplier).

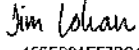
Sourcewell awarded a contract to Supplier to provide Public Utility Equipment with Related Accessories and Supplies to Sourcewell and its Participating Entities, effective February 1, 2022, through December 27, 2025 (Contract).

Supplier has updated its pricing terms, found in Line Item 60 under "Table 11: Pricing and Delivery." The first sentence of Line Item 60 is deleted in its entirety and replaced with the following:

All chassis provided as sourced equipment will be cost plus 5% based on the cost at the time of the quote. Any changes in the chassis price due to model year changes or additional surcharges will be passed on to the customer at cost plus 5% as stated above.


Except as amended above, the Original Agreement remains in full force and effect.

So DocuSigned by:

By: C0FD2A139DD6489...
Jeremy Schwartz, Chief Procurement Officer

Te DocuSigned by:

By: 16EEB2AEF7BC437...
Jim Lohan, VP Sales and Marketing

Date: 8/1/2023 | 8:57 PM CDT

Date: 8/16/2023 | 8:40 AM PDT

App DocuSigned by:

By: 48BAF71B0864454...
Chad Coquette, Executive Director/CEO

Date: 8/16/2023 | 10:42 AM CDT