

RESOLUTION NO. 23-183

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING THE PURCHASE OF AN ASPHALT PAVER BASE MACHINE FROM THOMPSON TRACTOR COMPANY, INC., IN THE TOTAL AMOUNT OF \$228,282.30; AGREEING TO BE BOUND BY THE TERMS AND CONDITIONS OF THE SOURCEWELL PURCHASING AGREEMENT GOVERNING THAT PURCHASE; AND AUTHORIZING A BUDGET AMENDMENT.

BE IT RESOLVED that:

1. The appropriate officers of the City are authorized to accept and deliver on behalf of the City that certain proposal between the City and Thompson Tractor Company, Inc., relating to the purchase of an asphalt paver base machine for the Utilities Department in the amount of Two Hundred Twenty-Eight Thousand, Two Hundred Eighty-Two Dollars and Thirty Cents (\$228,282.30) in substantially the form **attached** as Exhibit A and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager.
2. By accepting the proposal referenced above, that the City agrees to be bound to the same terms and conditions as were obtained by Sourcewell, through an advertised, competitive bidding process, RFP #060122—Roadway Paving Equipment, in the form **attached** as Exhibit B.
3. The following budget amendment #41 is adopted for the City of Panama City Beach, Florida, for the fiscal year beginning October 1, 2022 and ending September 30, 2023, as shown in and in accordance with the **attached** and incorporated Exhibit C.

THIS RESOLUTION shall be effective immediately upon passage.

PASSED in regular session this 25th day of May, 2023.

CITY OF PANAMA CITY BEACH

By: _____

Mark Sheldon, Mayor

ATTEST:

Lynne Fasone

Lynne Fasone, City Clerk



PROPOSAL/EQUIPMENT ORDER

Print Date:	5/16/2023
Quote No.:	4973232073-6
Customer No:	6062800
Valid Until:	6/9/2023
PO:	
Salesman:	Mark Andrew McCarty
Phone:	

PURCHASER
CITY OF PANAMA CITY BEACH
 110 S. ARNOLD RD
 PANAMA CITY BEACH FL 32407

SHIP TO
CITY OF PANAMA CITY BEACH
 110 S. ARNOLD RD
 PANAMA CITY BEACH FL 32407

FV P285FV SN: EQN155129 \$228,282.30
 NEW 2023 WEILER P285 FV
 WARRANTY: 3 YEAR/3,000 HOUR PWR + HYD + TECH WARRANTY (WHICHEVER OCCURS FIRST)

PRICED USING SOURCWELL CONTRACT: 060122-WLR

WEILER LIST PRICE- \$253,647

FREIGHT/PREP/DELIVERY
WARRANTY
FIRE EXTINGUISHER

WEILER SOURCEWELL 10% DISCOUNT

Sales Subtotal	228,282.30
Tax Subtotal	0.00
Total	228,282.30

Prices, Taxes and Availability are subject to change

The Equipment purchased hereunder will be delivered to Purchaser at _____ as soon as available from Seller's stock or from the factory, subject to normal delivery scheduling, and the Sales Price includes normal delivery charge, unless the following sentence applies: (Mark box if applicable.)

Delivery will be f.o.b. Seller's address above unless Purchaser's address is shown in in the preceding sentence and a separate delivery charge is shown above. Delivery dates are approximate and subject to change. Seller will not be liable for any delays in delivery due to any cause whatsoever beyond Seller's direct control.

This Order consists of two pages. Purchaser agrees to purchase the equipment described above on the Terms and Conditions set forth above and on the back of this page or the accompanying page.

Signature: _____ Date: _____ TTCO: _____

TERMS AND CONDITIONS

1. **EXECUTION OF OTHER DOCUMENTS.** If the full amount of the purchase price is not paid in cash, when the equipment necessary to fill this order is available, Purchaser agrees on demand to execute and deliver to Seller such promissory notes, security agreements, financing statements, equipment leases, and other documents as Seller may require evidencing and securing the Total Balance shown above. In the event Purchaser fails to execute and deliver such documents, the entire Net Balance Due shall, at Seller's election, be immediately due and payable, together with interest as provided below from the date demand is made by Seller.
2. **RISK OF LOSS; INSURANCE.** The equipment shall at all times after delivery to Purchaser, Purchaser's agent, or a transportation company for delivery to Purchaser, whichever first occurs, be the sole responsibility of Purchaser, and all risk of loss or damage to the equipment or any part thereof from any cause whatsoever shall be borne by Purchaser, and shall not operate to extinguish or diminish the liability of Purchaser to Seller. Unless Purchaser pays Seller cash on or prior to delivery, Purchaser shall procure, and furnish to Seller, evidence of insurance showing the existence of valid and collectible insurance insuring the equipment against loss from fire, theft, collision and comprehensive coverage in an amount not less than the Net Balance Due or Amount to be Financed shown above, with loss thereunder payable to Seller, as loss payee, as its interest may appear. If the equipment is leased by Purchaser, Purchaser shall also furnish evidence of liability insurance satisfactory to Seller in its sole discretion.
3. **DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY.** Purchaser understands and agrees that Seller is not the manufacturer of the equipment described in this order. Seller makes no representation or warranty against latent or patent defects in material or workmanship, no warranty of capacity or performance, and no warranty that the equipment will meet the requirements of any law, regulation, specification or contract term that provides for or requires specific machinery or apparatus or specific capacity or methods of operation. New Caterpillar products are sold subject to the terms of the applicable Caterpillar warranty. Purchaser hereby acknowledges receipt of any applicable Caterpillar warranty or warranties identified on this order. Seller assumes no responsibility for such warranties. Seller will cooperate with Purchaser in seeking to obtain adjustment from the manufacturer for any breach of the manufacturer's warranty. Unless otherwise provided in a writing signed by Seller, any transportation, travel and other expenses will be for Purchaser's account. In no event will Seller have any obligation on account of any defect or defects in the equipment, or of any failure of the equipment to operate as warranted, or for any loss or damage to or caused by the equipment. With respect to equipment described herein as "used" or "other", Purchaser agrees that all such equipment is sold "AS IS" and with all faults or defects except as otherwise expressly provided in any express warranty specifically set forth hereon or contained in a separate writing signed by Seller. The foregoing provisions are in lieu of all other warranties, express or implied. SELLER HEREBY DISCLAIMS, AND PURCHASER HEREBY WAIVES, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AND ANY OTHER WARRANTY OR OBLIGATION OF SELLER TO PURCHASER ON ACCOUNT OF ANY DEFECT IN OR ANY FAILURE OR INSUFFICIENCY OF THE EQUIPMENT. In no event will Seller be liable for any special or consequential damages sustained by Purchaser, even if Seller had reason to know of them. Purchaser expressly agrees that Seller and its officers, agents, affiliates and employees shall not be liable in tort -- whether on claims of negligence, wantonness, fraud, misrepresentation, suppression, strict liability, or other theory of tort liability -- for any action or failure to act in connection with the making of this order or negotiations leading up to it, or the repair or operation of the equipment. Purchaser agrees that it is the intent of the parties to absolve Seller, its officers, agents, affiliates, and employees, from all liability in tort, and that Purchaser's sole and exclusive remedy against Seller, its officers, agents, affiliates, and employees, shall be in contract under this order or under the express warranties, if any, made by Seller under this order or in a separate writing signed by Seller.
4. **PRODUCT IMPROVEMENTS; REPAIRS OF DAMAGE.** Purchaser acknowledges that the equipment delivered pursuant to this order may have been modified by Seller at the manufacturer's direction or request to update or improve the equipment after it left the manufacturer's plant and that Seller may have repaired or repaired damage to the equipment suffered in demonstration, transit or storage. Purchaser consents to such modifications, repairs, or repainting and waives any further notice or disclosure thereof.
5. **SELLER'S RESERVATION OF TITLE.** Seller hereby retains title to all equipment described hereon until the Total Time Pay Balance shown hereon is paid in full or, in the case of a cash sale paid by check or a sale on account, until Seller receives full payment of the Net Balance Due in collected funds. All payments under this order shall be made in United States dollars and immediately available funds. If Purchaser defaults on any payment, the unpaid balance of the Total Time Pay Balance shall be immediately due and payable, at Seller's election. If Seller does not receive collected funds or is not paid in full when due. Seller may repossess the equipment, sell it at public or private sale or accept it in satisfaction of the unpaid debt (at Seller's election), and exercise all rights and remedies of a secured party following default by its debtor. A copy of this order may be filed as a financing statement.
6. **INTEREST AFTER DEFAULT.** After default by Purchaser in the payment of any sum owed by Purchaser under this order, such sum shall accrue interest daily, payable on demand, at the per annum rate that is 2% in excess of the highest prime rate published in The Wall Street Journal on the date of default, such rate to increase or decrease in like amount each time the prime rate changes until such sum is paid in full.
7. **COLLECTION COSTS.** Purchaser agrees to pay all expenses, including reasonable attorney's fees, incurred by Seller in enforcing this order or collecting any sum owed by Purchaser hereunder following default by Purchaser.
8. **ARBITRATION OF DISPUTES.** Purchaser and Seller acknowledge and agree that the transaction between them involves "commerce" as that term is used in the Federal Arbitration Act. Purchaser and Seller agree that all disputes, controversies or claims of any kind whatsoever arising out of or related to this order, the equipment, the transactions evidenced or contemplated by this order, any prior negotiations or dealings between them, or any maintenance or service performed by Seller on the equipment or on any other related or unrelated property before or after the date of this order, or arising out of or related to any relationship resulting from any of the foregoing, whether based in tort, contract, warranty, or statutory or strict liability, shall be submitted to binding arbitration held in Birmingham, Alabama in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitrator shall determine whether the dispute is subject to arbitration. Judgment on the arbitrator's award may be entered by any court of competent jurisdiction. The arbitration shall be conducted by a sole arbitrator who shall be well versed in the sale and financing of equipment of the type involved in the dispute and shall, at the election of either party, be an attorney at law who has been licensed to practice at least 10 years. The arbitrator may not award, punitive, consequential or special damages. The foregoing does not affect the right of either party to seek a judgment in court against the other on a contract claim for breach of an express covenant to pay money and for interest and costs of collection, or to exercise any right of offset or self-help repossession, or to seek a court order for possession of personal property, or to seek an injunction or other purely equitable remedy other than a stay of arbitration. The parties agree that the commencement of litigation by either of them pursuant to the preceding sentence or otherwise shall not operate as a waiver or estoppel of the right to arbitrate any counterclaim or other similar claim, and that upon the giving of a notice of arbitration of the counterclaim or similar claim by any party hereto, the litigation of the counterclaim shall be stayed and the counterclaim shall be submitted to binding arbitration hereunder. The parties hereby waive the right to trial by jury of all disputes, controversies and claims which they have hereby agreed to resolve by arbitration whether or not the dispute, claim or controversy is submitted to arbitration or is decided by a court.
9. **NO ADDITIONAL OR DIFFERENT TERMS.** If Purchaser has sent or hereafter sends Seller a purchase order, order acknowledgement, or other writing that states terms additional to or different from those contained in this order, any acceptance of this order by Seller is expressly made conditional on Purchaser's acceptance of the terms and conditions of this order, and Seller hereby gives notification of its objection to any additional or different terms proposed by Purchaser.

10. Notice of Thompson Tractor Co., Inc. and Caterpillar, Inc. Customer Data and Telematics

Data Privacy Statements Customer Data

We collect information about specific machines or products (e.g., configuration or consumption of parts and services by serial number) or groups of machines or products and customer information allows for identifying and contacting a customer such as name, address, phone number and email address.

Telematics Data

In the event this machine is equipped with telematics devices such as VisionLink, data concerning this machine, its condition, and its operation is being collected and transmitted to Caterpillar Inc., its affiliates, and/or Thompson Tractor Co., Inc.

<https://digitalauthorizationtool.cat.com/>

Thompson Tractor Co., Inc. recognizes and respects customer privacy. The Thompson Tractor Co., Inc. Customer Data Privacy Statement and the Telematics Data Privacy Statement (the "Privacy Statement") describe the categories of information collected, the purposes of the processing of the information, and how the information is shared. The Privacy Statements are available online at www.thompsontractor.com

Initial: _____



Solicitation Number: RFP #060122

CONTRACT

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and Weiler Inc., 815 Weiler Drive, Knoxville, IA 50138 (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 Roadway Paving Equipment 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 August 1, 2026, 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.

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 at a reasonable

time 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 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 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 or its authorized dealers, distributors, or resellers, as applicable. 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, performance issues, 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. 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 Contract 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

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.

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, 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. 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 liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

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

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 liability-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 cannot 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 a 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

DocuSigned by:
Jeremy Schwartz
By: C0FD2A139D06489...
Jeremy Schwartz
Title: Chief Procurement Officer
Date: 7/29/2022 | 12:58 PM CDT

Weiler Inc.

DocuSigned by:
Bill Hood
By: EEC59E090FE3416...
Bill Hood
Title: VP
Date: /9/2022 | 1:23 PM PDT

Approved:

DocuSigned by:
Chad Coquette
By: 7E42B8F817A64CC...
Chad Coquette
Title: Executive Director/CEO
Date: /9/2022 | 3:23 PM CDT

RFP 060122 - Roadway Paving Equipment

Vendor Details

Company Name: Weiler Inc.
Does your company conduct business under any other name? If yes, please state: IA
Address: 815 Weiler Drive
Knoxville, IA 50138
Contact: Andy Adamcik
Email: aadamcik@weilerproducts.com
Phone: 641-828-2334
Fax: 641-218-0776
HST#: 42-1499763

Submission Details

Created On: Monday May 09, 2022 10:20:12
Submitted On: Tuesday May 31, 2022 07:59:25
Submitted By: Andy Adamcik
Email: aadamcik@weilerproducts.com
Transaction #: 6cd35d3f-7022-4c79-96b7-33c822fea292
Submitter s IP Address: 69.18.48.141

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")	Weiler Inc.
2	Identify all subsidiary entities of the Proposer whose equipment, products, or services are included in the Proposal.	N/A
3	Identify all applicable assumed names or DBA names of the Proposer or Proposer's subsidiaries in Line 1 or Line 2 above.	Weiler Weiler Products
4	Provide your CAGE code or Unique Entity Identifier (SAM):	N/A
5	Proposer Physical Address:	815 Weiler Drive Knoxville, IA 50138
6	Proposer website address (or addresses):	www.weilerproducts.com
7	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):	Bill Hood VP 815 Weiler Drive Knoxville, IA 50138 bhood@weilerproducts.com 641) 828-5243
8	Proposer's primary contact for this proposal name, title, address, email address & phone):	Andy Adamcik Marketing Manager 815 Weiler Drive Knoxville, IA 50138 aadamcik@weilerproducts.com 641) 828-2334
9	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	Greg Haglin President, Government Solutions Team 523 Carver Lane Lebanon, TN 37087 weiler@govsolutionsteam.com 218) 894-6815

Table 2: Company Information and Financial Strength

Line Item	Question	Response *
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10	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>Weiler is an engineering based manufacturer of equipment for the asphalt paving market. The company was founded in 2000 by Pat Weiler. Weiler was an executive with Vermeer prior to starting a contract manufacturing company. The company began by building machines on a contract basis with the intent to have it's own product line.</p> <p>The company purchased the intellectual property of the BG730 road widener and BG650 windrow elevator from Caterpillar in 2005, updated the product and sold and serviced the product through the Caterpillar dealer network. With the input of dealers and end users, the company has introduced more than 25 products to the asphalt paving market since 2005. Weiler continued its relationship with Caterpillar by signing every North America Cat dealers as Weiler dealers. The company has grown from its original 40,000 square foot facility to more than 400,000 square feet and 550 employees. Weiler is vertically integrated and strives to control as much of the manufacturing process as possible with in-house state-of-the-art machining centers, welding, wet and powder coating and assembly operations.</p> <p>As an engineering based manufacturer, products are the focus. Product development comes from listening to the contractor and designing products that meet their needs. We support the product through the Cat dealer network of paving specialists and service technicians along with Weiler product and service support specialists.</p> <p>Weiler has been manufacturing roadway paving equipment since 2005.</p>
11	What are your company's expectations in the event of an award?	<p>Weiler's expectations in the event of an award would begin with continued growth in sales of our products to governmental agencies through our Sourcewell contract. This contract will continue to be our go-to-market strategy in the governmental market, and we will position this solution as the top priority for the governmental business of our sales network. Cat equipment is offered on various Sourcewell contracts, therefore, our sales network is familiar with Sourcewell and selling through contracts. Many of the agencies that would have interest in our products are currently purchasing Cat equipment through Sourcewell and have a strong relationship with the sales, service and support team from their local Cat dealer. This is the same group that will be selling, servicing and supporting Weiler products.</p> <p>As a testament to our commitment to contract success in the event of another award, we will continue to engage the proven support and abilities of GST - Government Solutions Team of Lebanon, TN to utilize the Sourcewell contract to its fullest potential. Greg and his team are currently working with Cat dealers and will continue to be a great asset to integrate Weiler products into the Cat dealer governmental sales strategies.</p>
12	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>Weiler is a privately held company and does not release financial statements. The company is financially strong with continued growth for the past 15 years. The business started in a 40,000 square foot facility in 2000. Six major expansions to the facility have taken place since 2008 to the current 400,000 square feet of manufacturing and office space. Employment has grown exponentially as well to more than 550 employees. Sales have grown annually, including during the challenging 2020 fiscal year. Throughout this growth, the company continues to operate debt free.</p> <p>For a financial reference, please contact Brian Hannah at (515) 245-3037 or brian.hannah@wellsfargo.com.</p>
13	What is your US market share for the solutions that you are proposing?	<p>By subcategory of equipment:</p> <ul style="list-style-type: none"> Commercial Pavers - 47% full product offering. The P385B is the highest selling commercial paver in the U.S., 2-to-1 over the closest competitive machine. Road Wideners - 80% Windrow Elevators - 90% Material Transfer Vehicles - 75% Static, Split Drum Compactors - 80% Front Mount Screeds - 50% Tack Distributors - 25% Soil Stabilizer - 50% Force Feed Loader - 25%
14	What is your Canadian market share for the solutions that you are proposing?	<p>By subcategory of equipment:</p> <ul style="list-style-type: none"> Commercial Pavers - 35% Road Wideners - 70% Windrow Elevators - 80% Material Transfer Vehicles - 70% Front Mount Screeds - 40% Tack Distributors - 20%
15	Has your business ever petitioned for bankruptcy protection? If so, explain in detail.	No.

16	<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>Weiler is best described as a manufacturer.</p> <p>Weiler has a very close working relationship with Caterpillar, although no formal partnership connection. All Weiler products are sold and serviced exclusively at Caterpillar dealers across North America. All Cat dealers in North America are also Weiler dealers. Weiler employs 7 territory sales managers in addition to a sales manager. Weiler territory managers work directly with, and support the Cat dealer sales reps and municipal customers through and after the sales process of Weiler machines.</p> <p>Weiler employs 5 product specialists who work with customers for operational training, machine startup support and post sale operation and maintenance support.</p> <p>Weiler employs 5 service support specialists and a service support manager. Weiler service support works directly with Cat dealer service managers and technicians for service related items. In addition, Weiler hosts annual service training at the factory for Cat technicians. To date, more than 500 Cat technicians have been to Weiler service training.</p> <p>Weiler territory managers, product specialists and service specialists are Weiler employees. Dealer sales reps and service technicians are employees of Cat dealers.</p>
17	<p>If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.</p>	<p>N/A. Licenses and certifications are not required.</p>
18	<p>Provide all "Suspension or Debarment" information that has applied to your organization during the past ten years.</p>	<p>NA – No suspension or disbarment information has been applied to Weiler.</p>

Table 3: Industry Recognition & Marketplace Success

Line Item	Question	Response *
19	<p>Describe any relevant industry awards or recognition that your company has received in the past five years</p>	<p>Weiler equipment has been widely recognized by industry publications as product leaders in the asphalt paving field. Weiler and our products have been recognized with the following awards:</p> <p>Asphalt Contractor Top 30 Product (E1650) 2018. Asphalt Contractor Top 30 Product (P385B) 2019. Equipment Today Top 50 Product (P265) 2019. Association of Equipment Manufacturers Pillar of the Industry Award 2019. Asphalt Contractor Top 30 Product (P395) 2020. Association of Equipment Manufacturers Advocates Gold Award 2020. Asphalt Contractor Top 30 Product (E1650A) 2021. Equipment Today Top 50 Product (P395) 2021. Asphalt Contractor Top 30 Product (E2850C) 2022. Asphalt Contractor Top 30 Product (P285) 2022.</p>
20	<p>What percentage of your sales are to the governmental sector in the past three years</p>	<p>7% of our sales are to governmental agencies.</p> <p>The paving process is quite often outsourced by government agencies, thus our equipment is more typically sold to private contractors. But as we stated in our answers to questions 12 and 13, we are the market share leader in the paving equipment industry. Municipal agencies who perform their own paving prefer Weiler equipment.</p>
21	<p>What percentage of your sales are to the education sector in the past three years</p>	<p>0%. Our product is not applicable to the education sector.</p>
22	<p>List any state, provincial, or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?</p>	<p>Our current Sourcwell contract, and continuing with our future contract if awarded through this RFP, is our go-to-market strategy in the governmental market.</p> <p>As the manufacturer, Weiler does not hold any other cooperative contracts besides Sourcwell.</p>
23	<p>List any GSA contracts or Standing Offers and Supply Arrangements (SOSA) that you hold. What is the annual sales volume for each of these contracts over the past three years?</p>	<p>N/A. Weiler currently does not hold any GSA contracts.</p>

Table 4: References/Testimonials

Line Item 24. Supply reference information from three customers who are eligible to be Sourcewell participating entities.

Entity Name *	Contact Name *	Phone Number *	
City of Atchison, KS	Seth Howard	913) 367-5515	*
Franklin County, Alabama	David Palmer	256) 332-8434	*
Livingston County (NY) Highway Department	Bryan Gall	585) 243-6700	*

Table 5: Top Five Government or Education Customers

Line Item 25. 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 *	
South Dakota DOT	Government	South Dakota - SD	Highway Paving	\$200,000 \$200,000 \$200,000 \$200,000	\$1,000,000	*
Livingston Co. Highway Department	Government	New York - NY	Road Widening	\$300,000 \$300,000	\$600,000	*
South Carolina DOT	Government	South Carolina - SC	Highway Paving	\$200,000 \$200,000 \$200,000	\$600,000	*
Indiana DOT - Indianapolis	Government	Indiana - IN	Highway Paving	\$200,000 \$200,000 \$200,000	\$600,000	*
Tennessee DOT	Government	Tennessee - TN	Highway Paving Road Widening	\$300,000 \$100,000	\$400,000	*

Table 6: Ability to Sell and Deliver Service

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

Line Item	Question	Response *	
26	Sales force.	<p>Weiler dealer network is exclusively the Caterpillar dealer network. The vast number of sales reps in our CAT/Weiler dual dealerships are the "feet on the street" in our US and Canadian sales force at Weiler.</p> <p>Weiler also employs 7 territory sales manager, in addition to a sales manager. Territory sales managers work directly with Cat dealer sales reps across the US and Canada, including governmental sales reps, to determine the appropriate machine to fit the needs of the agency purchasing, pricing and machine specs. Weiler reps will work with dealer reps to ensure machine is ordered with proper options and establish delivery date to meet the needs of the purchasing agency.</p>	*
27	Dealer network or other distribution methods.	<p>Weiler products are sold exclusively through Cat dealers in North America. Every Cat dealer in North America is also a Weiler dealer. Weiler has contracts with each dealer outlining the dealer's primary responsibility for developing and promoting Weiler sales, rentals, parts and servicing of Weiler products within the service territory established by Caterpillar. The Cat dealer network has coverage of every county in the U.S. and province in Canada.</p>	*

28	Service force.	<p>Weiler products are supported and serviced through our dealers' (common with Caterpillar) expert service departments, which are second to none. To further support our customers, Weiler employs 5 service support specialists, in addition to a service manager. Service support specialists work directly with our (and Cat) dealer service teams to quickly diagnose and repair Weiler machines.</p> <p>Weiler conducts annual service training for our (and Cat) dealer technicians with more than 500 Cat dealer technicians having attended in the last five years.</p>
29	Describe the ordering process. If orders will be handled by distributors, dealers or others, explain the respective roles of the Proposer and others.	<p>Our smooth ordering process will take place at the local level, done with and through our experienced dealers. When a Sourcewell member decides to purchase a Weiler product through our Sourcewell contract:</p> <ol style="list-style-type: none"> 1. The Sourcewell member will include their contract number and Sourcewell member number on the Purchase order they issue to our (the Cat) dealer. 2. Our (and Cat) dealer will issue a PO to Weiler to order machine, if not in inventory at dealer. 3. Our (and Cat) dealer will issue an invoice, accept payment and deliver the machine to the member agency. 4. After the machine has been delivered, the dealer will include the member number when filing their sales claim with Weiler. 5. Weiler will create the quarterly report and send sales information to Sourcewell along with the corresponding administrative fees. <p>Important to note: if additional terms or conditions are requested by a customer, such agreement should be executed with the local dealer.</p>
30	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>Our front-line customer service team with whom the Sourcewell members will interact is the sales and service teams within our (and CAT's) dealer network. Weiler strategically placed territory managers, product specialists and service specialists work very closely with dealer sales, parts and service personnel to ensure prompt response and resolution to customer service issues. With our relationship with Caterpillar, all Weiler equipment uses Cat engines providing familiarity for field technicians as well as common parts for best-in-class parts availability. Weiler service specialists are available 24 hours a day, 7 days a week for dealer support. Weiler service specialists and design engineers will travel to the customer when needed to address a service and/or machine performance concern.</p> <p>Weiler provides suggested stocking lists for dealers for all Weiler equipment. Weiler has parts readily available to ship in the event the dealer does not have in stock. Parts orders have priority over production parts in the factory, meaning all parts orders will be processed through the factory before production parts, if the part is not in stock. 95% of parts are available to customers within 24 hours.</p>
31	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in the United States.	<p>Weiler is able and willing to provide our products and services to Sourcewell members throughout the United States. Our current and pending Sourcewell contract is Weiler's go-to-market strategy in the governmental market. Weiler has sold and serviced equipment in all 50 states. The Weiler dealer network has strategic, geographical coverage for every county in the U.S.</p>
32	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in Canada.	<p>Weiler is able and willing to provide our products and services to Sourcewell members throughout Canada. Our current and pending Canoe contract is Weiler's go-to-market strategy in the Canadian governmental market. Weiler has sold and serviced equipment in 8 provinces. The Weiler (and CAT) dealer network has strategic, geographical coverage for every province in Canada.</p>
33	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	<p>There is NO geographical area of the United States or Canada which Weiler does not serve.</p>
34	Identify any Sourcewell participating entity sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?	<p>Weiler is capable of servicing all Sourcewell participating entity sectors. We are not limited by any existing contracts. Sourcewell is our go-to-market strategy.</p>
35	Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories.	<p>Weiler has NO unique requirements for members in Hawaii, Alaska or the US Territories.</p>

Table 7: Marketing Plan

Line Item	Question	Response *
36	Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.	<p>If awarded a new Sourcewell contract, this will continue to be our go-to-market strategy for the governmental market. Weiler is very committed to cooperate with Sourcewell to further train our sales management team and our dealer sales representatives to ensure maximum awareness and embracement of our Sourcewell contract. To show our commitment to our Sourcewell contract, we have engaged to deploy the proven ability of GST - Government Solutions Team of Lebanon, TN to build maximum embracement throughout our dealer network. GST will be available in-territory to assist our dealers to increase awareness and comfort for members' in the Sourcewell process.</p> <p>If awarded a contract, Weiler will send out a Pavecast (a Weiler video podcast distributed to our dealer network) announcing the award and providing information on the new contract number. See attachment Weiler Govt Purchasing Brochure. We will update our Governmental Purchasing Guide literature to include the new contract information. This guide is available on our public (weilerproducts.com) and dealer (weilerdealer.com) website.</p> <p>We will update our Government Solutions website page (weilerproducts.com/support/government-solutions) with the new contract new and link to Sourcewell website.</p> <p>At every opportunity Weiler territory managers have to present at dealer sales meetings, we provide a slide with information about our Sourcewell contract. We will continue to promote the contract at internal and external sales meetings.</p> <p>Weiler participates in the annual Cat dealer GIDEX event as a sponsor and presenter, and will continue to do so and promote our Sourcewell contract, if awarded.</p>
37	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	<p>Our dealer focused Pavecasts, video podcasts, are sent directly to our dealer sales force via email and accessible on our dealer website. These Pavecasts cover a variety of topics related to Weiler sales initiatives and will include one dedicated to the new Sourcewell contract if awarded.</p> <p>We are active on various social media platforms and will include a post across all platforms announcing the new contract, if awarded.</p>
38	In your view, what is Sourcewell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcewell-awarded contract into your sales process?	<p>Sourcewell is a well-respected contracting agency within the public procurement industry. It is important, in the event of an award, that our products and logos be included in Sourcewell marketing and website. We believe that the most important role that Sourcewell can play in marketing our contract and products, is to market themselves and promote contract purchasing across the industry.</p> <p>Weiler will promote the Sourcewell contract during all sales meetings with governmental agencies. Our territory managers remind dealer sales reps that Weiler has a Sourcewell contract anytime we learn of an opportunity to sell to a governmental entity and ask the question if they have presented the Sourcewell contract as a purchase option.</p>
39	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>With limited application. Our products are very technical in nature and require significant interaction with our product experts to ensure the machine is configured to meet the needs of the agency. Our dealers will work with their local agencies to become registered vendors in their e-procurement system.</p>

Table 8: Value-Added Attributes

Line Item	Question	Response *
40	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.	<p>Weiler provides operation and maintenance training at the startup of each machine. A Weiler factory representative will coordinate with the servicing dealer as to when the machine will startup and be onsite throughout the first day of operation.</p> <p>In addition to Weiler factory reps, our dealers have a Paving Specialist who is also available to the member for training and follow up support.</p> <p>Many dealers, along with Weiler reps, offer off-season training classes for operation and maintenance. Dealers will communicate with members if and when those trainings are available.</p> <p>Jobsite starting training with Weiler factory representation is provided at no charge.</p>
41	Describe any technological advances that your proposed products or services offer.	Weiler holds seven patents, with additional patents pending, for features on our products. Weiler innovations have become the standard throughout the industry. Weiler engineers are continually advancing the products to provide extended wear life and lower operating costs for the customer. We feel we are the value leader in the industry with lowest cost of ownership and highest resale values.
42	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.	Our machines use the latest Cat engines with lowest fuel consumption in the paving industry. Asphalt is a recyclable product. Much of the new asphalt produced today consists of up to 50% recycled materials, including old asphalt and recycled roof shingles.
43	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.	Weiler strives for energy efficiency throughout the factory. LED lights were installed for significantly reduced energy usage. Steel is recycled and sent back to steel mills for zero waste.
44	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.	N/A.
45	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?	<p>Weiler products are industry leading and have changed the standard for commercial size paver and material transfer vehicle customers. Competitors have introduced new products in an attempt to offer similar features and benefits found in our products.</p> <p>Weiler's relationship with Caterpillar provides us with the most extensive dealer network in the paving industry. Our dealers hold the largest parts inventory and largest number of service technicians available in the industry.</p>

Table 9A: 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 *
46	Do your warranties cover all products, parts, and labor?	Yes. Our warranty covers all products, part and labor. Details are included in the Attached Weiler Limited Warranty document.
47	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	We do not impose usage restrictions. Our warranty covers defects in workmanship and material throughout the specified warranty timeframe, as long as the machine is used as designed.
48	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	No, Our warranty does not cover travel time and mileage, as standard in our industry.
49	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 Sourcewell participating entities in these regions be provided service for warranty repair?	We have no geographical region which we are unable to provide a certified technician to perform warranty repair. Our dealer network provides unmatched coverage throughout North America.
50	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?	Warranty repair for Weiler machines is typically performed by our dealer service technicians. Certain components, such as tires, batteries, etc., are warranted by their manufacturers and may have different warranty than that of Weiler.
51	What are your proposed exchange and return programs and policies?	We warrant that each Weiler machine will be free of defects in workmanship and material and operate as intended at time of delivery. If not, Weiler will make any necessary corrections.
52	Describe any service contract options for the items included in your proposal.	Through this proposed contract, Weiler is offering extended warranty options with various term length and coverage options including: 1) Powertrain 2) Powertrain + Hydraulics 3) Powertrain + Hydraulics + Electric Details of these extended warranty options are included in the attached Weiler Extended Warranty documents. Our dealers offer members the option to enter into a Customer Service Agreement (CSA) to perform routine maintenance and/or repairs. Each CSA contract is customizable to the member needs. Members can work with their local Weiler dealer for additional details on available CSA options.

Table 9B: Performance Standards or Guarantees

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

Line Item	Question	Response *
53	Describe any performance standards or guarantees that apply to your services	Weiler stands behind our product 100%. If the product does not perform to expectations, we will buy back the product or replace with a mutually agreed upon substitute.
54	Describe any service standards or guarantees that apply to your services policies, metrics, KPIs, etc.)	Weiler strives for minimal downtime for customers through dealer inventoried parts and trained technicians. Our parts analyst works closely with our dealers to ensure they have the appropriate amount of Suggested Stocking List parts on-hand, based on the number of similar machines within their servicing territory. In the instance, the dealer does not have the part on-hand, Weiler will strive to have the part delivered as soon as possible to minimize machine downtime for the member. Weiler standard policy is for dealer technicians to contact Weiler service specialists with any questions as soon as needed. In the instance, the issue cannot be resolved over the phone, Weiler service specialists will travel to the machine to diagnose and repair with as minimal downtime as possible.

Table 10: Payment Terms and Financing Options

Line Item	Question	Response *
55	Describe your payment terms and accepted payment methods.	Our dealers accept payment from members and their terms and accepted methods may vary. Net 30 is the most common term.
56	Describe any leasing or financing options available for use by educational or governmental entities.	Our dealers offer many leasing and financing options. Weiler equipment has special financing rates available through Cat Finance and Wells Fargo. In addition, our dealers may have additional financing programs established within their service territory available to Sourcewell members.
57	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.	Dealers are required to provide Weiler with a copy of the sales agreement with the member to: 1) Ensure proper pricing has been applied 2) Ensure the proper administrative fee is submitted to Sourcewell
58	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell participating entities for using this process?	Since our dealers will be receiving payments direct from Sourcewell members, accepting P-card procurement will be at their discretion. Many dealers accept this method without additional fees. Some have limitations on the amount that can be processed.

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 *
59	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.	Our proposed contract pricing is simple. We offer to all Sourcewell members, a substantial discount off current list price at the date of their order. Current machine list price is in the attached Sourcewell Price List document, For execution of the agreement, we will ask dealers and members to use the price list that is current at the time of the quote. Dealers will work with the member to configure the machine with desired specs and apply the minimum Sourcewell discount.
60	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.	Weiler will offer a discount of 10% off list price for the entire Weiler product offering.
61	Describe any quantity or volume discounts or rebate programs that you offer.	Our dealers are empowered to consider purchase order volume, repeat customer relationships, etc., and may provide additional volume discounts at their discretion.
62	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.	Sourced goods/open market items are available to members from our dealers. These goods and services will be priced at fair market value and will be determined between the member and the selling dealer.
63	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.	Dealers will include a PDI price in the initial quote to the member. The PDI (Pre- Delivery Inspection) price varies by dealer and machine being quoted. Any additional dealer costs will be itemized and included in the quote to the member.
64	If freight, delivery, or shipping is an additional cost to the Sourcewell participating entity, describe in detail the complete freight, shipping, and delivery program.	Machine pricing is F.O.B. from Weiler's facility in Knoxville, IA. Sourcewell members will be charged for freight to their local dealer, which will vary by dealer location. Delivery from the dealer location to the Sourcewell member's location will also be charged to the member if delivery is requested.
65	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	Machine pricing is F.O.B. from Weiler's facility in Knoxville, IA. No unique conditions apply to these regions.
66	Describe any unique distribution and/or delivery methods or options offered in your proposal.	If there are any unique member requirements our dealers will work with the members on a case by base basis.

Table 12: Pricing Offered

Line Item	The Pricing Offered in this Proposal is: *	Comments
67	c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.	This proposed contract will be our go-to-market strategy across the US and Canada and is priced accordingly.

Table 13: Audit and Administrative Fee

Line Item	Question	Response *
68	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.	<p>For each Sourcewell sale, we require the dealer to submit to Weiler a copy of the sales order to the purchasing entity to confirm:</p> <ol style="list-style-type: none"> 1) that proper pricing has been applied, 2) the proper contract and member numbers were included on the sales offer to the customer, and 3) to provide the proper administrative fee to Sourcewell. <p>We internally track sales of all our products to end users. Each quarter we review all sales to governmental agencies and verify if that sale was through the Sourcewell contract. Two Weiler employees review sales quarterly to ensure all Contract sales are reported.</p> <p>Once Sourcewell sales are verified, the quarterly report is prepared by our marketing coordinator, approved by the marketing manager and submitted for payment to our accounting department.</p>
69	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.	Weiler will review governmental sales quarterly and compare Sourcewell versus overall sales. Our goal with the contract is to increase the percentage of Sourcewell sales in relation to overall governmental sales.
70	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.)	Weiler proposes a 1% administrative fee to Sourcewell for the sale of new machines made through the Sourcewell contract.

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

Line Item	Question	Response *
71	Provide a detailed description of the equipment, products, and services that you are offering in your proposal.	<p>Weiler manufactures an extensive range of paving related equipment, sold and serviced through our dealers' highly qualified personnel. We will be offering new and used asphalt pavers, road wideners, windrow elevators, material transfer vehicles, compactors, soil stabilizer, force feed loader and tack distributors. Our dealers will provide parts, service and CSA options to meet the needs of the agencies.</p> <p>Asphalt Pavers Weiler offers 6 models of pavers with various paving ranges. Our path/utility paver has a paving range of 3'10" - 9', and utilized for utility patch work and path paving throughout communities. Our line of 8' pavers provide options for new road construction, road overlays and commercial work including parking lots and patch work. A variety of governmental agencies, from state DOTs to counties and cities, are currently utilizing Weiler pavers for roadway maintenance throughout North America.</p> <p>Road Wideners Weiler road wideners are used for widening roads, maintaining shoulders and trench filling. Weiler offers four wideners. The wideners are capable of widening from 1' to 14' with depths 12" below and 12" above grade. Wideners are typically utilized by county and state road departments to maintain and build shoulders alongside two and four lane highways.</p> <p>Windrow Elevators Windrow elevators are used in the paving process to pick up asphalt material laid by bellow-dump trucks and place in the paver hopper. Windrow paving is utilized in the western half of North America. Windrow elevators are typically used in highway paving new construction and resurfacing applications.</p> <p>Material Transfer Vehicles Weiler remixing transfer vehicles are used in the paving process to provide non-contact, non-stop paving with reduced particulate and thermal segregation. Typically used in highway paving new construction and resurfacing applications, but can be used in applications where the transfer vehicle is feeding material to the paver in an area where trucking is challenging.</p> <p>Compactors Weiler offers 3 static compactors and 1 pneumatic compactor used in a variety of road maintenance operations. The compactor's split front drum reduces tearing in the new asphalt mat, especially in curved sections of roads.</p> <p>Soil Stabilizer The Weiler S200 soil stabilizer is offered with either a soil or combination rotor and is utilized in base stabilization and is currently being used by a number counties to condition gravel roads by mixing an additive into the roads that improves and extends the life of the rock on the road.</p> <p>Force Feed Loader The Weiler E1050 force feed loader is engineered to perform in a variety of applications year-round. The loader picks up soil, asphalt millings, snow, debris and other windrowed materials for high production material transfer.</p> <p>MotorGrader The G65 motor grader is built from a lineage of market leaders for more than 70 years and is the industry leading compact motor grader. The G65 incorporated big grader features in a compact package with canopy or cab option along with versatile optional equipment including moldboard extensions, bank slope, scarifier, dozer blade and ripper.</p> <p>Tack Distributors Weiler offers 8 different trailer and skid mounted tack distributors ranging from 150 gallon to 600 gallon capacity. Tack distributors are used to spray tack prior to placing asphalt on the new or existing surface. Lower capacity tack distributors are ideal for patch work common with city, county and state road departments.</p>
72	Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.	<p>Road Construction Equipment Road Widening Equipment Asphalt Paving</p>

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
73	Asphalt pavers, screeds, distributors, and loaders	<input checked="" type="radio"/> Yes <input type="radio"/> No	6 asphalt paver models. 3 screed models. 4 material transfer vehicle models. 2 windrow elevator models. 1 force feed loader model.
74	Steel-wheeled and pneumatic tire rollers	<input checked="" type="radio"/> Yes <input type="radio"/> No	3 steel-drum compactor models. 1 pneumatic tire compactor model.
75	Wideners, tack distributors, cold planers, and compactors	<input checked="" type="radio"/> Yes <input type="radio"/> No	4 road widener modes. 8 tack distributor models. 1 soil stabilizer model.
76	Concrete mixers, and gunite or shotcrete delivery equipment	<input type="radio"/> Yes <input checked="" type="radio"/> No	N/A
77	Other	<input type="radio"/> Yes <input checked="" type="radio"/> No	N/A

Table 15: Exceptions to Terms, Conditions, or Specifications Form

Line Item 78. NOTICE: To identify any exception, or to request any modification, to the Sourcwell template Contract terms, conditions, or specifications, a Proposer must submit the exception or requested modification on the **Exceptions to Terms, Conditions, or Specifications Form** immediately below. The contract section, the specific text addressed by the exception or requested modification, and the proposed modification must be identified in detail. Proposer's exceptions and proposed modifications are subject to review and approval of Sourcwell and will not automatically be included in the contract.

Contract Section	Term, Condition, or Specification	Exception or Proposed Modification

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 Sourcwell 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 Sourcwell.
3. Sourcwell may reject any response where any document(s) cannot be opened and viewed by Sourcwell.
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](#) - Weiler_Sourcewell Pricing Documents.zip - Thursday May 26, 2022 14:08:59
- [Financial Strength and Stability](#) - Weiler_Credit References.pdf - Thursday May 26, 2022 14:09:25
- [Marketing Plan/Samples](#) - Weiler_Sourcewell Marketing Samples.zip - Thursday May 26, 2022 09:26:53
- WMBE/MBE/SBE or Related Certificates (optional)
- [Warranty Information](#) - Weiler Warranty Statements.zip - Thursday May 26, 2022 09:27:03
- [Standard Transaction Document Samples](#) - Weiler Standard Transaction Document Samples.zip - Thursday May 26, 2022 09:27:12
- Upload Additional Document (optional)

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. - Andy Adamcik, Marketing Manager, Weiler 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_Roadway_Paving_Eqpt_RFP_060122 Tue May 24 2022 04:31 PM	<input checked="" type="checkbox"/>	1
Addendum_3_Roadway_Paving_Eqpt_RFP_060122 Thu May 19 2022 09:01 AM	<input checked="" type="checkbox"/>	1
Addendum_2_Roadway_Paving_Eqpt_RFP_060122 Fri April 29 2022 04:09 PM	<input checked="" type="checkbox"/>	1
Addendum_1_Roadway_Paving_Eqpt_RFP_060122 Fri April 15 2022 03:54 PM	<input checked="" type="checkbox"/>	1