

PROFESSIONAL SERVICES AGREEMENT

for the Library Flex Shelving Agreement # 1

THIS AGREEMENT is executed this 7th day of February, 2023, by and between the City of Carmel-By-The-Sea, a municipal corporation, (hereinafter "City"), and Krueger International Inc., dba KI doing business as Systems & Space Inc. (hereinafter "Consultant"), collectively referred to herein as the "parties".

WHEREAS, the City wishes to engage Consultant to perform the services required by this Agreement; and

WHEREAS, Consultant is willing to render such professional services, as hereinafter defined, on the following terms and conditions; and

WHEREAS, Consultant represents that it is trained, experienced and competent and holds all necessary licenses and certifications to perform the services required by this Agreement.

NOW, THEREFORE, in consideration of the terms and conditions herein contained, the parties hereby covenant and agree as follows:

1. SERVICES

- A. **Scope of Services.** Consultant agrees to provide to the City, as the scope of services ("Scope of Services") under this Agreement, the following: Spacesaver Flex Shelving including design, deliver, installation, and training. The Scope of Services is attached hereto as Exhibit "A." The Scope of Services under this Agreement should include, but is not limited to, a project description, project phases, task descriptions, identification of key personnel, identification of subconsultants, their key personnel and general description of services that will be performed, as further set forth in this Agreement and attachments hereto. Consultant agrees to all of the following:
- i. Consultant will furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space and facilities, and all tests, testing and analyses, calculations, and all other means whatsoever, except as otherwise expressly specified in this Agreement, necessary to perform the services required of Consultant under this Agreement.
 - ii. Consultant's designated representative(s) who are authorized to act on its behalf and to make all decisions in connection with the performance of services under this Agreement are listed in Exhibit "A," Fee Schedule which is made a part of this Agreement.
 - iii. Consultant must make every reasonable effort to maintain the stability and continuity of Consultant's key personnel and subcontractors, if any, listed in Exhibit B to perform the services required under this Agreement. Consultant must notify City and obtain City's written approval with respect of any changes in key personnel prior to the performance of any services by replacement personnel.

- iv. Consultant must obtain City's prior written approval before utilizing any subcontractors to perform any services under this Agreement. This written approval must include the identity of the subcontractor and the terms of compensation.
- v. Consultant represents that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Consultant will at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described in this Agreement. In meeting its obligations under this Agreement, Consultant must employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of Consultant under this Agreement.
- vi. City may inspect and accept or reject any of Consultant's work under this Agreement, either during performance or when completed. Acceptance of any of Consultant's work by City will not constitute a waiver of any of the provisions of this Agreement.
- vii. The Consultant must maintain any work site in the City in a safe condition, free of hazards to persons and property resulting from its operations.

B. Change Orders.

- i. Agreements and Change Orders exceeding \$24,999 require City Council approval to be valid.
- ii. The City may order changes to the Scope of Services, consisting of additions, deletions, or other revisions, and the compensation to be paid Consultant will be adjusted accordingly. All such changes must be authorized in writing, and executed by Consultant and City. The cost or credit to City resulting from changes in the services will be determined by the written agreement between the parties. However, any increase in compensation beyond the compensation limit amount approved by the City Council must be authorized in advance by the City Council and any service provided by Consultant in the absence of such approval are at Consultant's sole risk.
- iii. Consultant will not be compensated for any services rendered in connection with its performance of this Agreement that are in addition to or outside of those set forth in the Scope of Services or otherwise required by this Agreement, unless such additional services are authorized in advance and in writing by City.
- iv. If Consultant believes that additional services are needed to complete the Scope of Services, Consultant will provide the City Administrator with written notification describing the proposed additional services, the reasons for such services, and a detailed proposal regarding cost.

C. Familiarity with Services and Site.

- i. By executing this Agreement, Consultant represents that Consultant:
 - a. has thoroughly investigated and considered the Scope of Services to be performed;

- b. has carefully considered how the services should be performed;
 - c. understands the facilities, difficulties, and restrictions attending performance of the services under this Agreement; and
 - d. possesses all licenses required under local, state or federal law to perform the services contemplated by this Agreement, and will maintain all required licenses during the performance of this Agreement.
- ii. If services involve work upon any site, Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, before commencing its services. Should Consultant discover any latent or unknown conditions that may materially affect the performance of services, Consultant will immediately inform City of such fact and will not proceed except at Consultant's own risk until written instructions are received from City.

2. COMPENSATION

- A. **Total Fee.** Subject to any limitations set forth in this Agreement, the City agrees to pay and Consultant agrees to accept as full and fair consideration for the performance of this Agreement, hourly fees as set forth in the Fee Schedule (Exhibit "A"), in a total amount not-to-exceed Sixty-Eight Thousand Eight Hundred and Fifty Dollars (\$68,850.72). Such compensation is the "Maximum Authorized Expenditure" under this Agreement. The Fee Schedule includes, but is not limited to, fees for each phase and task, not-to-exceed total fee, hourly rates, reimbursable rates and subconsultant mark-up rates. The use of subconsultants will not be considered a reimbursable expense, and such costs must be applied towards the approved budgeted amount. Payment of any compensation to Consultant is contingent upon performance of the terms and conditions of this Agreement to the satisfaction of the City. If the City determines that the Services set forth in the written invoice have not performed in accordance with the terms of this Agreement, the City is not responsible for payment until the Services have been satisfactorily performed.
- B. **Invoicing.** Consultant must submit to the City monthly written invoices to the City's Project Representative, identified in Section 5 below. Invoices must be prepared in a form satisfactory to the City, describing the services rendered and associated costs for the period covered by the invoice. The City will provide invoicing format upon request. Consultant may not bill the City for duplicate services performed by more than one person. Consultant's invoices must include, but are not limited to, the following information:
 - i. Project Title, the City's Purchase Order number and City's Project Code(s) for each project;
 - ii. Invoice number and date;
 - iii. A brief description of services performed for each project phase and/or task;
 - iv. The budgeted amount for each phase, task and item, including the total amount, with the same for approved Change Orders, if any;
 - v. Amount invoiced to date divided by the agreed total compensation, expressed as a percentage, with the same for approved Change Orders, if any;

- vi. The amount earned and invoiced to date for each phase, task and/or item, including the total amount, with the same for approved Change Orders, if any;
- vii. The amount previously invoiced for each phase, task and/or item, including the total amount, with the same for approved Change Orders, if any;
- viii. The amount due for the period covered by this invoice for each phase, task, and/or item, including the total amount, with the same for approved Change Orders, if any;
- ix. For time and materials authorizations, the number of hours spent, by whom and their hourly rate for each phase, task and/or item, including the total amount;
- x. The costs incurred, including reimbursables, for each phase, task, and/or item for the agreed total compensation and approved Change Orders, if any, along with a brief description of those costs;
- xi. The total amount due for the period covered by this invoice, including subconsultants and vendors of services or goods;
- xii. Copies of subconsultant, vendor, and reimbursable invoices including hourly breakdowns when requested by City.
- xiii. Copies of subconsultant and vendor lien releases.

Any such invoices must be in full accord with any and all applicable provisions of this Agreement. Consultant must submit invoices to the City on or before the sixteenth (16th) day of each month for services performed in the preceding month.

The City will review each invoice submitted by Consultant to determine whether the work performed and expenses incurred are in compliance with this Agreement. In the event that no charges or expenses are disputed, the invoice will be approved and paid.

Except as to any charges for work performed or expenses incurred by Consultant that are disputed by City, the City will pay on each such invoice within thirty (30) days of receipt; provided, however, that Consultant submits an invoice which is not incorrect, incomplete, or not in accord with the provisions of this Agreement. If any charges or expenses are disputed by City, the invoice will be returned by City to Consultant for correction and resubmission, and the City will not be obligated to process any payment to Consultant until thirty (30) days after a correct and complying invoice has been submitted by Consultant. Payment to Consultant for services performed under this Agreement may not be deemed to waive any defects in the services performed by Consultant, even if such defects were known to City at the time of payment. City reserves the right to withhold future payment to Consultant if any aspect of the Consultant's work is found to be non-conforming to the terms of this Agreement.

The City is not obligated to pay Consultant a greater percentage of the Maximum Authorized Expenditure than the actual percentage of services completed as of the invoice date.

Consultant agrees to remit and is responsible for all withholding taxes, income taxes, unemployment insurance deductions, and any other deductions required by applicable federal, state or local laws and regulations for Consultant, its employees, subconsultants and vendors of services or goods.

- C. **Adjustment of Maximum Authorized Expenditure.** The City may increase or decrease the Maximum Authorized Expenditure by issuing a Change Order to the Agreement in accordance with Section 1.B "Change Orders" above. Should Consultant consider that any request or instruction from the City's Project Representative constitutes a change in the scope of services, Consultant will advise the City's Project Representative, in writing, within fourteen (14) calendar days of such request or instruction. Without said written advice within the time period specified, the City is not obligated to make any payment of additional compensation to Consultant.
- D. **Hourly Rates.** Payment for all authorized services, including payment for authorized on-call, as-needed services, will be made by the City to Consultant in accordance with the various hourly rates as set forth in the Consultant's Key Personnel, Compensation & Fee Schedule (Exhibit "B").
- E. **Subconsultants and Vendors.** Invoices for subconsultants and vendors of services or goods will be paid by the City to Consultant in accordance with the various rates as set forth in the Consultant's Fee Schedule (Exhibit "A"). All reimbursable expenses will be considered as included within the Maximum Authorized Expenditure. Consultant is solely responsible for payment to subconsultants and vendors of services or goods, and the City is not responsible or liable for any payments to subconsultants and vendors, either directly or indirectly.
- F. **Audit and Examination of Accounts:**
- i. Consultant must keep and will cause any assignee or subconsultant under this Agreement to keep accurate books of records and accounts, in accordance with sound accounting principles, which pertain to services to be performed under this Agreement.
 - ii. Any audit conducted of books of records and accounts must be kept in accordance with generally accepted professional standards and guidelines for auditing.
 - iii. Consultant must disclose and make available any and all information, reports, books of records or accounts pertaining to this Agreement to the City and any city of the County of Monterey, or other federal, state, regional or governmental agency which provides funding for these Services.
 - iv. Consultant must include the requirements of Section 2F, "Audit and Examination of Accounts," in all contracts with assignees or subconsultants under this Agreement.
 - v. All records provided for in this Section are to be maintained and made available throughout the performance of this Agreement and for a period of not less than four (4) years after full completion of the Services. All records, which pertain to actual disputes, litigation, appeals or claims, must be maintained and made available for a period of not less than four (4) years after final resolution of such disputes, litigation, appeals or claims.

3. AGREEMENT TERM

- A. **Term.** The work under this Agreement will commence by February 7, 2023 and must be completed by June 30, 2028 unless sooner terminated or the City grants an extension of time in writing pursuant to the terms of this Agreement, except for provisions in this Agreement that will survive the termination or completion of this Agreement. Consultant will perform Change Order services as set out in Section 1.B, "Amendment of Services (Change Orders)," in a timely manner or in accordance with the agreed upon Change Order Project Schedule.
- B. **Timely Work.** Consultant will perform all Services in a timely fashion, as set forth more specifically in Section 3.A, "Term," and Section 3.C, "Project Schedule," of this Agreement. Failure to perform is deemed a material breach of this Agreement, and the City may terminate this Agreement with no further liability hereunder, or may authorize, in writing, an extension of time to the Agreement.
- C. **Project Schedule.** Services must be completed by Consultant in accordance with the Project Schedule set forth in Exhibit "A." The parties may, from time to time, by Change Order, alter the Project Schedule. Consultant will provide the Services pursuant to the Project Schedule or any applicable Project Schedule Change Order. If at any time Consultant discovers that the Project Schedule cannot be met, Consultant must promptly notify the City in writing and provide a revised Project Schedule for review and consideration by City.

If a Project Schedule is not required, Consultant will perform the Services under this Agreement in accordance with the following phase, task and/or milestone dates:

- Week 1: Systems ordered by SSI
 - Week 11: Product Ships from Manufacturer
 - Week 13: SS receives product and begins installation based on date set with Carmel Public Library
- D. **Notice to Proceed.** Upon execution of this Agreement by both parties and the receipt of all documentation required by this Agreement to be provided by Consultant to the City, including proof of insurance and tax identification numbers, the City will issue a written Notice to Proceed to the Consultant. The City may, in its sole discretion, issue subsequent notices from time to time regarding further portions or phases of the work. Upon receipt of such notices, Consultant will diligently proceed with the Services authorized and complete those Services within the agreed time specified in said notice. Consultant will not proceed with any of the Services unless they have received a Notice to Proceed from the City.

4. CONSULTANT'S EMPLOYEES AND SUBCONSULTANTS

- A. **Listed Employees and Subconsultants.** Consultant will perform the Services using the individuals listed in the Key Employees and Subconsultants List attached hereto in Exhibit "B."
- B. **Substitution of Employees or Subconsultants:**
- i. Consultant may not substitute any key employee or subconsultant listed in Exhibit "B" without the prior written approval of the City, and such approval will not be unreasonably

withheld. The City will not approve removal or substitution of employees or subconsultants for the reason that Consultant or its affiliates has called on such individuals to perform services for another client of the Consultant.

- ii. If, at any time, the City reasonably objects to the performance, experience, qualifications or suitability of any of Consultant's employees or subconsultants, then Consultant may, upon written request from the City, replace such employee or subconsultant. Consultant must, subject to scheduling and staffing considerations, make reasonable efforts to replace the individual with an individual of similar competency and experience.
 - iii. Whether or not the City consents to, or requests a substitution of any employee or subconsultant of Consultant, the City will not be liable to pay additional compensation to Consultant for any replacement or substitution.
- C. **Sub-agreements with Subconsultants.** Consultant will incorporate the terms and conditions of this Agreement into all sub-agreements with subconsultants in respect of the Services necessary to preserve all rights of the City under this Agreement. Consultant is fully responsible to the City of all acts and omissions of subconsultants and of persons employed by any subconsultant.
- D. **Not an Agent of the City.** Nothing in this Agreement will be interpreted to render the City the agent, employer, or partner of Consultant, or the employer of anyone working for or subcontracted by Consultant, and Consultant must not do anything that would result in anyone working for or subcontracted by Consultant being considered an employee of the City. Consultant is not, and must not claim to be, an agent of the City.
- E. **Independent Contractor:**
- i. Consultant is an independent contractor. This Agreement does not create the relationship of employer and employee, a partnership, or a joint venture. The City may not control or direct the details, means, methods or processes by which Consultant performs the Services. Consultant is responsible for performance of the Services and may not delegate or assign any Services to any other person except as provided for in this Agreement. Consultant is solely liable for the work quality and conditions of any partners, employees and subconsultants.
 - ii. No offer or obligation of permanent employment with the City or particular City department or agency is intended in any manner, and Consultant may not become entitled by virtue of this Agreement to receive from the City any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. Consultant will be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of Consultant's performance of Services under this Agreement. Consultant will defend, indemnify and hold the City harmless from any and all liability, which the City may incur because of Consultant's failure to pay such taxes.

5. REPRESENTATIVES AND COMMUNICATIONS

- A. **City's Project Representative.** The City appoints the individual named below as the City's Project Representative for the purposes of this Agreement ("City's Project Representative"). The City may unilaterally change its project representative upon notice to Consultant.

Name: Ashlee Wright_____
Title: Library and Community Activities Director_____
Address: P.O. Box 800, Carmel-by-the-Sea, CA 93921_____
Telephone: (831) 624-1366_____
Email: awright@ci.carmel.ca.us_____

- B. **Consultant's Project Manager.** Consultant appoints the person named below as its Project Manager for the purposes of this Agreement ("Consultant's Project Manager").

Name: Jackie Greely_____
Title: Systems Planner_____
Company: Systems & Space Inc._____
Address: 500 Boulder Court, Suite B, Pleasanton, CA 94566_____
Telephone: (925) 426-1955_____
Email: jgreely@systmsnspace.com_____

- C. **Meet and Confer.** Consultant agrees to meet and confer with the City's Project Representative, its agents or employees with regard to Services as may be required by the City to insure timely and adequate performance of this Agreement.
- D. **Communications and Notices.** All communications between the City and Consultant regarding this Agreement, including performance of Services, will be between the City's Project Representative and Consultant's Project Manager. Any notice, report, or other document that either party may be required or may wish to give to the other must be in writing and will be validly given to and received by the addressee, if delivered personally, on the date of such personal delivery, if delivered by email, on the date of transmission, or if by mail, seven (7) calendar days after posting.

6. INDEMNIFICATION

Consultant hereby agrees to the following indemnification clause:

To the fullest extent permitted by law (including, without limitation, California Civil Code Sections 2782 and 2782.6), Consultant will defend (with legal counsel reasonably acceptable to the City), indemnify and hold harmless the City and its officers, designated agents, departments, officials, representatives and employees (collectively "Indemnitees") from and against claims, loss, cost, damage, injury expense and liability (including incidental and consequential damages, Court costs, reasonable attorneys' fees as may be determined by the Court, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) to the extent they arise out of, pertain to, or relate to, the negligence, recklessness, or willful misconduct of Consultant, any subconsultant or subcontractor, anyone directly or indirectly employed by them, or anyone that they control (collectively "Liabilities"). Such obligations to defend, hold harmless and

indemnify any Indemnitee will not apply to the extent that such Liabilities are caused in part by the active negligence or willful misconduct of such Indemnitee.

Notwithstanding the provisions of the above paragraph, Consultant agrees to indemnify and hold harmless the City from and against all claims, demands, defense costs, liability, expense, or damages arising out of or in connection with damage to or loss of any property belonging to Consultant or Consultant's employees, subconsultants, representatives, patrons, guests or invitees.

In no event will the obligation of the Consultant exceed the limitations on the duty to defend and indemnify as set forth in Civil Code Sections 2782, 2782.6, and 2782.8.

7. INSURANCE

Consultant must submit and maintain in full force all insurance as described herein. Without altering or limiting Consultant's duty to indemnify, Consultant must maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

- A. Commercial General Liability Insurance including but not limited to premises, personal injuries, bodily injuries, property damage, products, and completed operations, with a combined single limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
- B. Professional Liability Insurance with limits of not less than \$1,000,000 per occurrence or claim and \$2,000,000 in the aggregate. Consultant will have a policy for professional liability coverage that provides coverage on an occurrence basis or obtain extended reporting (tail) coverage (with the same liability limits) for at least three years following the City's acceptance of the work.
- C. Automobile Liability Insurance covering all automobiles, including owned, leased, non-owned, and hired automobiles, used in providing Services under this Agreement, with a combined single limit of not less than \$1,000,000 per occurrence.
- D. Workers' Compensation Insurance. If Consultant employs others in the performance of this Agreement, Consultant must maintain Workers' Compensation insurance in accordance with California Labor Code section 3700 and with a minimum of \$1,000,000 per occurrence.
- E. Other Insurance Requirements:
 - i. All insurance required under this Agreement must be written by an insurance company either:
 - a. admitted to do business in California with a current A.M. Best rating of no less than A:VI; or
 - b. an insurance company with a current A.M. Best rating of no less than A:VII. Exception may be made for the State Compensation Insurance Fund when not specifically rated.
 - ii. Each insurance policy required by this Agreement may not be canceled, except with prior written notice to the City.

- iii. All liability and auto policies must:
 - a. Provide an endorsement naming the City of Carmel-by-the-Sea, its officers, officials, employees, and volunteers as additional insureds. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 23 37 forms if later revisions used).
 - b. Provide that such Consultant's insurance is primary as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City is excess to the Consultant's insurance and will not contribute with it.
 - c. Contain a "Separation of Insureds" provision substantially equivalent to that used in the ISO form CG 00 01 10 01 or their equivalent.
 - d. Provide for a waiver of any subrogation rights against the City via an ISO CG 24 01 10 93 or its equivalent.
- iv. Prior to the start of work under this Agreement, Consultant will file certificates of insurance and endorsements evidencing the coverage required by this Agreement with the City. Consultant will file a new or amended certificate of insurance promptly after any change is made in any insurance policy which would alter the information on the certificate then on file.
- v. Neither the insurance requirements hereunder, nor acceptance or approval of Consultant's insurance, nor whether any claims are covered under any insurance, may in any way modify or change Consultant's obligations under the indemnification clause in this Agreement, which will continue in full force and effect. All coverage available to the Consultant as named insured will also be available and applicable to the additional insured. Notwithstanding these insurance requirements, Consultant is financially liable for its indemnity obligations under this Agreement.
- vi. All policies must be written on a first dollar coverage basis or contain a deductible provision. Any deductibles or self-insured retentions ("SIR") must be declared to and approved by the City. At the option of the City, either: the insured will reduce or eliminate such deductibles or SIR as respects the City, its officers, officials, employees and volunteers; or Consultant will provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses. In no event will any SIR or insurance policy contain language, whether added by endorsement or contained in the policy conditions, that prohibits satisfaction of any self-insured provision or requirement by anyone other than the named insured, or by any means including other insurance, or which is intended to defeat the intent or protection of an additional insured.
- vii. City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

- viii. Consultant must require and verify that all subconsultants and subcontractors maintain insurance meeting all the requirements in this Agreement.
- ix. If Consultant, for any reason, fails to have in place at all times during the term of this Agreement all of the required insurance coverage, the City may, but is not obligated to, obtain such coverage at Consultant's expense and deduct the cost from the sums due Consultant. Alternatively, City may terminate the Agreement.
- x. The existence of the required insurance coverage under this Agreement will not be deemed to satisfy or limit Consultant's indemnity obligations under this Agreement. Consultant acknowledges that the insurance coverage and policy limits set forth in this Agreement constitute the minimum coverage and policy limits required. Should any coverage carried by the Consultant or any subcontractor of any tier have limits of liability that exceed the limits or have broader coverage than required in this Agreement, those higher limits and that broader coverage are deemed to apply for the benefit of any person or organization included as an additional insured and those limits and broader coverage will become the required minimum limits and insurance coverage in all sections of this Agreement. Any insurance proceeds available to City in excess of the limits and coverages required by this Agreement, and which is applicable to a given loss, must be made available to City to compensate it for such losses.
- xi. Consultant must give City prompt notice of claims made of lawsuits initiated that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability insurance policies.
- xii. The Consultant hereby waives any right of subrogation that any of its insurers may have or that they may accrue out of the payment of any claim related to the Consultant's performance of this Agreement, regardless of whether any endorsements required by this section are obtained.

8. PERFORMANCE STANDARDS

- A. Consultant warrants that Consultant and Consultant's agents, employees, and subconsultants performing Services under this Agreement are specially trained, experienced, and competent and have the degree of specialized expertise contemplated within California Government Code Section 37103, and further, are appropriately licensed to perform the work and deliver the Services required under this Agreement.
- B. Consultant, its agents, employees, and subconsultants must perform all Services in a safe and skillful manner consistent with the usual and customary standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields in accordance with sound professional practices. All work product of Consultant must comply with all applicable laws, rules, regulations, ordinances and codes. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and will advise City of any changes in any laws that may affect Consultant's performance of this Agreement. All Services performed under this Agreement that are required by law to be performed or supervised by licensed personnel must be performed in accordance with such licensing requirements.

- C. Consultant must furnish, at its own expense, all materials, equipment and personnel necessary to carry out the terms of this Agreement. Consultant may not use the City premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.
- D. Consultant agrees to perform all work under this Agreement to the satisfaction of City and as specified herein. The City's Project Representative or his or her designee will evaluate the work. If the quality of work is not satisfactory, City in its discretion may meet with Consultant to review the quality of work and resolve the matters of concern, and may require Consultant to repeat the work at no additional fee until it is satisfactory.

9. CITY INFORMATION AND RESOURCES

- A. **Available Information.** The City will make available to Consultant all relevant information, plans, maps, reports, specifications, standards and pertinent data which is in the hands of the City and is required by Consultant to perform the Services. Consultant may rely upon the accuracy and completeness of such information and data furnished by the City, except where it is stated otherwise or unreasonable.
- B. **City Resources.** The City acknowledges that Consultant's ability to provide the Services in accordance with this Agreement may be dependent on the City providing available information and resources in a prompt and timely manner as reasonably required by Consultant. To the extent that the City fails to provide City resources, Consultant will not be liable for any resulting delay in the Services or failure to meet the Project Schedule, but in no event will such delay or failure to provide City resources constitute a breach of this Agreement by the City, nor will Consultant be entitled to extra compensation for same. Consultant's sole remedy shall be an extension of time to complete the Scope of Services.
- C. **Obligations of Consultant.** No reviews, approvals, or inspections carried out or supplied by the City will derogate from the duties and obligations of Consultant, and all responsibility related to performance of the Services will be and remain with Consultant.

10. OWNERSHIP AND USE OF MATERIALS

- A. **Ownership of the Materials.** All data, studies, reports, calculations, field notes, sketches, designs, drawings, plans, specifications, cost estimates, manuals, correspondence, agendas, minutes, notes, audio-visual materials, photographs, models, software data, computer software (if purchased on the City's behalf) and other documents or products produced by Consultant under this Agreement (collectively, "the Materials") are and will remain the property of the City even though Consultant or another party may have physical possession of them or a portion thereof. Consultant hereby waives, in favor of the City, any moral rights Consultant, its employees, subconsultants, vendors, successors or assignees may have in the Materials.
- B. **No Patent or Copyright Infringement.** Consultant guarantees that in its creation of the Materials produced under this Agreement, no federal or state patent or copyright laws were violated. Consultant agrees that all copyrights, which arise from creation of the work or Services pursuant to this Agreement, will be vested in the City and waives and relinquishes all claims to copyright

or intellectual property rights in favor of the City. Consultant covenants that it will defend, indemnify and hold City harmless from any claim or legal action brought against the City for alleged infringement of any patent or copyright related to City's use of Materials produced by Consultant and its employees, agents and subconsultants under this Agreement.

- C. **Delivery and Use of the Materials.** All Materials will be transferred and delivered by Consultant to the City without further compensation following the expiration or sooner termination of this Agreement, provided that the City may, at any time prior to the expiration or earlier termination of this Agreement, give written notice to Consultant requesting delivery by Consultant to the City of all or any part of the Materials in which event Consultant must forthwith comply with such request. The Materials created electronically must be submitted in a format and medium acceptable to the City. The Materials may be used by the City in any manner for the intended purpose or as part of its operations associated with the Materials.
- D. **Survival of Ownership and Use Provisions.** The provisions contained in Section 10, Ownership and Use of Materials survives the expiration or earlier termination of this Agreement, and that this Section is severable for such purpose.
- E. **Additional Copies.** If the City requires additional copies of reports, or any other material that Consultant is required to furnish as part of the Services under this Agreement, Consultant must provide such additional copies, and the City will compensate Consultant for the actual costs related to the production of such copies by Consultant.

11. CONFIDENTIALITY

- A. **No Disclosure.** Consultant must keep confidential and may not disclose, publish or release any information, data, or confidential information of the City to any person other than representatives of the City duly designated for that purpose in writing by the City. Consultant may not use for Consultant's own purposes, or for any purpose other than those of the City, any information, data, or confidential information Consultant may acquire as a result of the performance of the Services under this Agreement. Consultant must promptly transmit to the City any and all requests for disclosure of any such confidential information or records. The obligations under this Section will survive the expiration or earlier termination of this Agreement.
- B. **California Public Records Act.** Consultant acknowledges that the City is subject to the California Public Records Act (Government Code Section 6250 et seq.), known as the "PRA," and agrees to any disclosure of information by the City as required by law. Consultant further acknowledges that it may have access to personal information as defined under the PRA, and Consultant will not use any such personal information for any purposes other than for the performance of Services under this Agreement without the advance written approval of the City.

All Scopes of Services and related documents received will be public records, with the exception of those elements, identified by the Consultant as business trade secrets and are plainly marked "Trade Secret," "Confidential," or "Proprietary." If disclosure is required under the PRA or otherwise by law, the City will not be liable or responsible for the disclosure of any such records and the Consultant will indemnify, defend, and hold the City harmless for any such disclosure.

12. CONFLICT OF INTEREST

Consultant covenants that neither Consultant, nor any officer, principal or employee of its firm, has or will acquire any interest, directly or indirectly, that would conflict in any manner with the interests of City relating to this Agreement or that would in any way hinder Consultant's performance of services under this Agreement. Consultant's attention is directed to the conflict of interest rules applicable to governmental decision-making contained in the Political Reform Act (California Government Code Section 87100 and following) and its implementing regulations (California Code of Regulations, Title 2, Section 18700 et seq.), and California Government Code section 1090.

Consultant is required to file a Form 700 in compliance with the City's Conflict of Interest Code unless a written determination by the City Administrator is made modifying or eliminating said requirement, or unless otherwise exempted by law.

In addition, Consultant, Consultant's employees, and subconsultants agree as follows:

- A. That they will conduct their duties related to this Agreement with impartiality, and must, if they exercise discretionary authority over others in the course of those duties, disqualify themselves from dealing with anyone with whom a relationship between them could bring the impartiality of Consultant or its employees into question;
- B. May not influence, seek to influence, or otherwise take part in a decision of the City knowing that the decision may further their private interests;
- C. May not accept any commission, discount, allowance, payment, gift, or other benefit connected, directly or indirectly, with the performance of Services related to this Agreement, that causes, or would appear to cause, a conflict of interest;
- D. May have no financial interest in the business of a third party that causes, or would appear to cause, a conflict of interest in connection with the performance of the Services related to this Agreement, and if such financial interest is acquired during the term of this Agreement, Consultant must promptly declare it to the City, and;
- E. May not, during the term of this Agreement, perform a service for, or provide advice to, any person, firm, or corporation, which gives rise to a conflict of interest between the obligations of Consultant under this Agreement and the obligations of Consultant to such other person, firm or corporation.

13. DISPUTE RESOLUTION

- A. **Dispute Resolution Procedures.** The parties will make reasonable efforts to promptly resolve any dispute, claim, or controversy arising out of or related to this Agreement ("Dispute") using the Dispute Resolution Procedures set forth in this Section.
- B. **Negotiations.** First, the City's Project Representative and Consultant's Project Manager will make reasonable efforts to resolve any Dispute by amicable negotiations and will provide frank, candid, and timely disclosure of all relevant facts, information, and documents to facilitate negotiations. Should these negotiations be unsuccessful in resolving the Dispute, the matter will

be promptly referred to the City Administrator or designee, and the Consultant's Principal, who will meet and confer, in good faith, to resolve the Dispute to mutual satisfaction of the parties.

- C. **Mediation.** If all or any portion of a Dispute cannot be resolved by good faith negotiations as set forth above within thirty (30) days of the date that the matter was referred to the City Administrator pursuant to subsection B above, either party may, by notice to the other party, submit the Dispute for formal mediation to a mediator selected mutually by the parties from the Monterey Superior Court's Court-Directed Mediator Panel list. The duration of any such mediation may not exceed 2 hours unless otherwise agreed to by the parties. The cost of the mediation (including fees of mediators) will be borne equally by the parties, and each party will bear its own costs of participating in mediation. The mediation will take place within or in close proximity to the City of Carmel-by-the-Sea.

In any mediation conducted pursuant to this section, the provisions of California Evidence Code section 1152 will be applicable to limit the admissibility of evidence disclosed by the parties in the course of the mediation. In the event the parties are unsuccessful in resolving the dispute through the mediation process, then the parties agree that the dispute will be submitted to Binding Arbitration to a single Arbitrator in accordance with the existing Rules of Practice and Procedure of the Judicial Arbitration and Mediation Services, Inc. (JAMS) within thirty (30) days of the close of mediation as declared by the mediator.

- D. **Arbitration.** The submission to Mediation and Arbitration in accordance with the requirements of this section of any and all agreements, differences, or controversies that may arise hereunder is made a condition precedent to the institution of any action or appeal at law or in equity with respect to the controversy involved. The award by the arbitrator will have the same force and effect and may be filed and entered, as a judgment of the Superior Court of the State of California and is subject to appellate review upon the same terms and conditions as the law permits for judgments of Superior Courts. A "Prevailing Party" will be determined in the Arbitration, and the prevailing party will be entitled to reasonable attorney's fees and costs incurred, and accrued interest on any unpaid balance that may be due. Costs will include the cost of any expert employed in the preparation or presentation of any evidence. All costs incurred and reasonable attorney fees will be considered costs recoverable in that proceeding, and be included in any award.

14. TERMINATION OF AGREEMENT

- A. **Termination for Cause or Default.** The City reserves the right to immediately terminate this Agreement, in whole or in part, if Consultant or any subconsultant defaults or fails to deliver the Services in accordance with the terms and conditions of this Agreement. Such termination must be in writing, setting forth the effective date of termination, and will not result in any penalty or other charges to the City, and may be issued without any prior notice. Without limitation, Consultant is in default of its obligations contained in this Agreement if Consultant, or any subconsultant:
- i. Fails to perform the required Services within the term and/or in the manner provided under this Agreement;

- ii. Fails to supply sufficient, properly skilled workers or proper workmanship, products, material, tools and equipment to perform the Services;
 - iii. Fails to observe or comply with all laws, ordinances, including all requirements of governmental or quasi-governmental authorities, including federal, state, and local government enactments, bylaws, and other regulations now or, following the date of this Agreement, in force that pertain to;
 - iv. Fails to observe or comply with the City's reasonable instructions;
 - v. Breaches the Conflict of Interest provisions of this Agreement; or
 - vi. Otherwise violates any provision of this Agreement.
- B. **Termination for Convenience.** The City may, at its option and sole discretion, terminate this Agreement, in whole or in part, with or without cause, at any time during the Agreement Term for the convenience of the City, upon ten (10) days written notice to the Consultant.
- C. **Steps after Termination:**
- i. Upon termination of this Agreement by the City for any reason, the City will pay Consultant for satisfactorily performed Services and disbursements incurred by Consultant to the date of termination pursuant to this Agreement, less any amounts necessary to compensate the City for damages or costs incurred by the City arising from Consultant's default. Termination will be without prejudice to any other rights or remedies the City may have.
 - ii. Upon receipt of written notice of termination of this Agreement by the City for any reason, Consultant must:
 - a. Promptly cease all Services, including Services provided by any subconsultant, unless otherwise directed by the City; and
 - b. Deliver to the City all the Materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement. Such Materials are to be delivered to the City in completed form; however, notwithstanding the provisions of Section 10, Ownership and Use of Materials, herein, the City may condition payment for services rendered to the date of termination upon Consultant's delivery to the City of such Materials.
 - iii. If this Agreement is terminated by the City for any reason, the City is hereby expressly permitted to assume the projects and Services, and to complete them by any means including, but not limited to, an agreement with another party.

15. LEGAL ACTION / VENUE

- A. Should either party to this Agreement bring legal action against the other, the validity, interpretation and performance of this Agreement will be controlled by and construed under the laws of the State of California, excluding California's choice of law rules.
- B. Venue for any such action relating to this Agreement will be in Monterey County.
- C. If any legal action or proceeding, including action for declaratory relief, is brought for the enforcement of this Agreement or because of an alleged dispute, breach, default or misrepresentation in connection with this Agreement, the prevailing party may recover reasonable attorneys' fees as may be determined by the Arbitrator, experts' fees, and other costs, in addition to any other relief to which the party may be entitled.

16. MISCELLANEOUS PROVISIONS

- A. **Non-discrimination.** During the performance of this Agreement, Consultant, and its subconsultants, may not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age, or sexual orientation, either in Consultant's employment practices or in the furnishing of services to recipients. Consultant further acknowledges that harassment in the workplace is not permitted in any form, and will take all necessary actions to prevent such conduct.
- B. **Acceptance of Services Not a Release.** Acceptance by the City of the Services to be performed under this Agreement does not operate as a release of Consultant from professional responsibility for the Services performed.
- C. **Force Majeure.** Either party is absolved from its obligation under this Agreement when and to the extent that performance is delayed or prevented, and in the City's case, when and to the extent that its need for vehicles, materials, or Services to be supplied hereunder are reduced or eliminated by any course, except financial, for reasons beyond its control. Such reasons include, but are not limited to: earthquake, flood, epidemic, fire, explosion, war, civil disorder, act of God or of the public enemy, act of federal, state or local government, or delay in transportation to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.
- D. **Headings.** The headings do not govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions of this Agreement. The headings are for convenience only.
- E. **Entire Agreement.** This Agreement, including the Exhibits attached hereto, constitutes the entire agreement between the parties hereto with respect to the terms, conditions, and Services and supersedes any and all prior proposals, understandings, communications, representations and agreements, whether oral or written, relating to the subject matter thereof pursuant to Section 1B, "Change Order of Services." Any Change Order to this Agreement will be effective only if it is in writing signed by both parties hereto and will prevail over any other provision of this Agreement in the event of inconsistency between them.

- F. **Conflict between Agreement and Exhibits.** In the event of a conflict between a provision in this Agreement and a provision in an Exhibit attached to this Agreement, the provisions in this Agreement will take precedence.
- G. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original, and may be signed in counterparts, but all of which together will constitute one and the same Agreement.
- H. **Multiple Copies of Agreement.** Multiple copies of this Agreement may be executed, but the parties agree that the Agreement on file in the office of the City's City Clerk is the version of the Agreement that governs should any difference exist among counterparts of this Agreement.
- I. **Authority.** Any individual executing this Agreement on behalf of the City or Consultant represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- J. **Severability.** If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the enforceability of the remaining provisions will not be impaired thereby. Limitations of liability and indemnities will survive termination of the Agreement for any cause. If a part of the Agreement is valid, all valid parts that are severable from the invalid part remain in effect. If a part of this Agreement is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.
- K. **Non-exclusive Agreement.** This Agreement is non-exclusive and both the City and Consultant expressly reserve the right to enter into agreements with other Consultants for the same or similar services, or may have its own employees perform the same or similar services.
- L. **Assignment of Interest.** The duties under this Agreement are not assignable, delegable, or transferable without the prior written consent of the City. Any such purported assignment, delegation, or transfer constitutes a material breach of this Agreement upon which the City may terminate this Agreement and be entitled to damages.
- M. **City Business License.** Prior to receiving a Notice to Proceed from the City, Consultant will obtain and maintain a valid City of Carmel-by-the-Sea Business License for the duration of the Agreement. Costs associated with the license are the responsibility of Consultant.
- N. **Laws.** Consultant agrees that in the performance of this Agreement it will comply with all applicable federal, state and local laws and regulations. This Agreement will be governed by and construed in accordance with the laws of the State of California and the City of Carmel-by-the-Sea.

IN WITNESS WHEREOF, the parties enter into this Agreement hereto on the day and year first above written in Carmel-by-the-Sea, California.

CITY OF CARMEL-BY-THE-SEA

CONSULTANT

City Administrator

Consultant Signature

Printed Name

Date

Printed Name

Date

Title

Consultant Legal Company Name

APPROVED AS TO FORM:

By: _____

Brian Pierik, Esq., City Attorney

Date: _____

ATTEST:

By: _____

Nova Romero, MMC, City Clerk

Date: _____

Exhibit "A" Scope of Services, Fee Schedule, and Project Schedule

Exhibit "A"



Systems and Space Inc.

Proposal to Improve Space Management and Storage Capacity



We have set the standard in customer care - Because we understand the composition and characteristics that are intrinsic to space management and capacity planning.

Park Branch - Harrison Memorial Library

Park Branch Library - Flex Shelving

January 4, 2023

Submitted To: Lea Ann McDonald

Park Branch - Harrison Memorial Library

Mission and 6th Ave

Carmel By The Sea, CA 93921

Submitted By: Jackie Greely

Systems Planner

Systems & Space, Inc.

500 Boulder Court, Suite B

Pleasanton, CA 94566

(925) 426-1955

Partners in Progressive Storage Solutions

This proposal will demonstrate to you that selecting SSI as your storage solution partner will create smarter storage initiatives and help uncover the space needed to grow.

Who Is Systems & Space?

SYSTEMS & SPACE, INC. (SSI) is a premier provider of space, storage and filing solutions for today's business environment. Since 1988 we've been developing complete storage and space management strategies and solutions – for all types of businesses. We are experts at individual systems analysis, systems hardware, engineering, and implementation. Our mission is to deliver your project on time, within budget – and trouble free.

Executive Summary

SYSTEMS & SPACE, INC., is pleased to present this proposal to the space management team at your company. The attached detailed architectural drawings outline your specific requirements and our solution. This proposal is available for acceptance 30 days from the cover date.

Why Systems & Space, Inc.?

In order to complete this project on time, with high quality results, it is essential to select a company that can work within your timelines, budget and meet your planning requirements, now and for the long term.

SSI possesses the capability to ensure the success of this project because:

- SSI understands the scope of your specific planning requirements
- SSI engineering, project management experience and system planning are unparalleled in the industry
- SSI has a longstanding partnership with Spacesaver Corporation
- SSI offers extended warranty programs to preserve your investment for years to come.

The SSI management team is committed at every level to the success of your project.

Why Spacesaver?

SPACESAVER is the industry leader in high-density mobile file systems. Spacesaver has been in business since 1972 and has more installations than all its competitors. For material protection, storage efficiency, durability, reliability, security, safety, and accessibility, Spacesaver is the state-of-the-art solution for all your storage requirements.

Design

This proposal includes an architectural drawing to allow for visual acceptance. The drawing outlines room dimensions, system dimensions, stored media - existing plus increased capacities and storage weight.

Floor Loading

Floor load data that applies to the project is subject to interpretation by a certified structural engineer. SSI is providing reference data for determining load and distribution conditions. Floor load and considerations are to be reviewed and evaluated by a qualified engineer. It is the responsibility of client to have this system approved for the floor loading if needed.

SYSTEMS & SPACE, INC. can assist with the floor load assessment process. We will work directly with your structural engineer or we can provide a certified structural engineer and consulting. A complete analysis, including any required building modifications, designs and supporting structural calculations, will be prepared for a fixed fee. The fee will be determined by the complexity of the project and pricing will be submitted at your request.

Delivery, Installation, Training, and Warranty

Components and materials will be shipped approximately 6-8 weeks upon receipt of purchase order and completed checklist. A field service supervisor and job crew leader will be assigned prior to the system installation. They will remain with the project until completion to control all scheduling, freight, elevator access and all phases of the installation to assure complete satisfaction with minimal disruption to your staff. Spacesaver warrants that all equipment shall be free from defects in materials and workmanship for five (5) years from the date of the customer's written acceptance of installation – to assure complete satisfaction. This proposal is based on installation utilizing a Monday-Friday workweek and non-union hours of 8:00 AM – to 5:00 PM. Should you require different hours, other options are available. SSI will provide unlimited training to all users to assure optimal use of your system.

Extended Warranty Programs

Extended warranty programs are available to protect and preserve your investment. These programs include 1st priority service response and covered check-up appointments throughout the years. For more information, simply ask your Systems Planner.



Business



Government



Justice



Library



Museum

The State of California has determined that any person who purports to have the capacity to undertake or submits a bid to construct these types of structures must be licensed pursuant to Contractors License Law (B & P Code, Division 3, Chapter 9)

CALIFORNIA STATE CONTRACTOR'S LICENSE NUMBER 599899

Payment Terms *50% Deposit with order *40% When product ships from factory *10% Due upon completion

**** A copy of the Front and Back of the Credit Card and the Cardholders Photo Identification is Required**

X

Client Approval

Print Name

Date

Systems Planner: Jackie Greely

Project #23287

Critical Path to Installation: 11-13-Week Standard Lead Time

Order placed – (see attached checklist)

- Week 1 – Systems Ordered by SSI
- Week 11 – Product Ships from Manufacturer
- Week 13 – SSI receives product and begins installation based on date set with Park Branch - Harrison Memorial Library

Installation Information:

1. Company Name _____
2. Contact name at installation area _____
3. Street Address _____
4. Suite, Bldg., or Floor _____
5. City, State, Zip Code _____
6. Contact Phone # _____ Pager/Cell # _____
7. Fax # _____ E-Mail Address _____



Billing Information:

8. Company Name: _____
9. Accounting Department Contact Name _____
10. Billing Address _____
11. Suite, Bldg., or Floor _____
12. City, State, Zip Code _____
13. Contact Phone # _____ Pager/Cell # _____
14. Fax # _____ E-Mail Address _____



Acknowledgement Information:



15. Company Name _____

16. Contact name to send order Acknowledgement to _____

17. Street Address _____

18. Suite, Bldg., or Floor _____

19. City, State, Zip Code _____

20. Contact Phone # _____ Pager/Cell _____

Systems Planner: Jackie Greely

Project #23287

Checklist for Ordering & Developing Spacesaver System

☐ Review and sign off on drawings

☐ Choose shelving colors from Spacesaver Color Selector: _____

☐ Choose end panels from WilsonArt Laminate book: _____

☐ Attach purchase order and deposit to proposal

☐ Sign and date acceptance areas on proposal

☐ Client's Move Date: _____

☐ General Contractor's Name: _____

Phone # _____ Fax # _____

Mobile # _____ Email _____

☐ Finished Floor Covering Type: Carpet or Tile (Circle one)

☐ Finished Floor Covering Installation Date: _____

☐ If project is Existing Construction, is client considering replacing Finished Floor Covering?

Yes / No Tile or Carpet (Circle one)

☐ Is there a Construction/Move schedule available? Yes or No

☐ Project Completion Date: _____

☐ Non union hours of Installation are Monday through Friday 8:00 AM to 5:00 PM.



After 5 PM and anytime on Saturday and Sunday is overtime.

☐ Security: Do SSI personnel need access badges, escorts, etc.?

☐ Parking: Are permits required? Yes or No

X

Client Approval

Print Name

Date

Systems Planner: Jackie Greely

Project #23287

Notice: This proposal contains information that is proprietary to Systems & Space, Inc. and is intended for the use of Park Branch - Harrison Memorial Library only. No part of this proposal or the enclosed CAD drawings may be used, reproduced, or disclosed to any other party without prior consent of SYSTEMS & SPACE, INC.

TERMS & CONDITIONS FOR PRODUCTS, SYSTEMS & INSTALLATIONS

1. **GENERAL:** These terms & conditions shall apply to sales from SYSTEMS & SPACE, INC. to BUYER and to any quotation by SYSTEMS & SPACE, INC. for sales. These terms & conditions shall not be superseded by any terms & conditions in BUYER'S order. **If a Contract Agreement will be issued in lieu of, or in addition to execution of this proposal, Buyer agrees to include this proposal as an Exhibit to the Contract Agreement.**
2. **PRICING:** This proposal is valid for **60 days** from the date of the proposal.
3. **PAYMENT TERMS:** The Buyer shall issue SYSTEMS & SPACE INC. a 50% deposit with order, 40% when product ships from factory, and 10% balance due upon completion. If the BUYER issues a purchase order for goods and/or services, the BUYER shall state the deposit amount on BUYER's purchase order. A monthly finance charge of 1 1/2% per month shall accrue to the BUYER on all outstanding invoices beyond 30 days.
4. **ENGINEERING DATA:** The proposal, drawings and/or specifications of any quotation are confidential engineering data, and represent SYSTEMS & SPACE, INC.'S investment in engineering skill and development, and remain the property of SYSTEMS & SPACE, INC. Such are submitted with the understanding that the information will not be disclosed or used in any manner detrimental to SYSTEMS & SPACE, INC. All specifications and dimensions of proposal, drawings are approximate, and are subject to changes during detailed engineering.
5. **DELIVERY:** Shipping or delivery dates are approximate. SYSTEMS & SPACE, INC. shall not be liable for delays in or failure of delivery due to changes requested by BUYER, or causes beyond its control. At the request of BUYER, BUYER shall make payment as though shipment has been made as specified and for any expenses incurred by SYSTEMS & SPACE, INC. due to BUYER'S request in delaying shipment.
6. **STORAGE:** If product is stored for more than 30 days at SYSTEMS & SPACE, Inc. due to delays in delivery caused by BUYER, SYSTEMS & SPACE INC. will charge BUYER at the rate of 1% of BUYER's invoice per month pro-rated daily.
7. **SPECIALS:** Special items not considered as standard inventory by SYSTEMS & SPACE, INC. and/or manufactured by SYSTEMS & SPACE, INC. to BUYER'S specifications or job requirements, will become the sole property of the BUYER and will not be accepted for return.
8. **INSURANCE:** SYSTEMS & SPACE, INC. carries Workers' Compensation insurance with statutory limits as required by law. In addition, SYSTEMS & SPACE, INC. carries General Liability Insurance with \$1M occurrence/\$2M general aggregate/\$2M completed operations, and Auto Liability with \$1M combined single limit. Upon request, entities shall be named as Additional Insured under endorsements available for the current policy period.
9. **CANCELLATION:** On all cancelled orders, BUYER shall compensate SYSTEMS & SPACE, INC. for its performance, commitments and damage as follows: BUYER shall pay SYSTEMS & SPACE, INC. a cancellation fee not to exceed the original purchase price.
10. **CONSTRUCTION AREA:** BUYER shall provide SYSTEMS & SPACE, INC. with a free and clear construction site. All materials and/or construction shall be removed from the area. BUYER will furnish SYSTEMS & SPACE, INC. with adequate electrical power to efficiently operate the power tools required for the installation.
11. **UNLOADING, SPOTTING AND STORAGE:** BUYER shall provide SYSTEMS & SPACE, INC. with adequate unloading facilities, and sufficient access to those facilities to insure SYSTEMS & SPACE, INC.'S efficient unloading procedure. Adequate aisles shall be provided by the BUYER to provide efficient handling of the materials from the unloading of storage area to the construction site.
12. **COMMENCEMENT OF INSTALLATION AT JOB SITE:** SYSTEMS & SPACE, INC. will not be obligated to commence work at job site until receipt of written notice from BUYER that BUYER'S building is ready for use and necessary utilities and equipment are supplied there as well.
13. **CHANGES IN WORK:** Should the BUYER order changes in the work, such orders and adjustments shall be made in writing to SYSTEMS & SPACE, INC. The contract price shall be adjusted according to the changes in the work specified.
14. **COMPLETION:** Installation shall be deemed completed upon use of any equipment by BUYER.
15. **FLOORS:** BUYER is responsible for the load bearing capacity of the floor upon which the proposed installation shall be constructed.
16. **FLOOR COVERING:** Existing floor covering may require removal prior to the start of our scope of work. Removal and replacement of existing floor covering is specifically excluded from this proposal. Should the client wish Systems & Space, Inc. to remove the existing floor covering, please consult your Systems Planner for a quote for this work. Please note that while Systems & Space, Inc. will use every precaution to maintain the integrity of the

existing floor covering, we cannot guarantee that the existing floor covering will be suitable for reuse. Client acknowledges that installation of new floor covering may be required, at an additional cost to client.

17. SURVEYS, PERMITS AND REGULATIONS: BUYER shall procure and pay for all permits, inspections, and/or structural calculations required by any governmental authority for any part of the work performed by SYSTEMS & SPACE, INC., except if otherwise stated.
18. TESTING: All material and equipment for testing the installation shall be provided at BUYER'S expense. At the time that SYSTEMS & SPACE, INC. states to the BUYER that the work is complete, the BUYER will inspect the work and if the work is in conformity with the terms and provisions of the proposal, the BUYER shall accept the same and deliver to SYSTEMS & SPACE, INC. a signed statement of acceptance. If the BUYER fails to so notify SYSTEMS & SPACE, INC. or if the BUYER fails to make such inspection, the work shall be conclusively deemed accepted by the BUYER.
19. LABOR RELATIONS: SYSTEMS & SPACE, INC. is a non-union contractor. Unless specifically outlined in the project specifications and/or bid documentation, our bid will not be based upon compliance with the terms and conditions of any labor agreements. Any requirement to comply with labor agreements identified after submission of this bid will require an increase in our contract amount to reflect this change. Our proposal is based upon an eight (8) hour workday during normal business hours (unless otherwise specified). No provisions have been made for overtime or shift premium pay.
20. LEGAL ACTION: In the event that any legal action is initiated regarding the breach of any terms or conditions of this agreement, the prevailing party shall be entitled to receive in addition to any damages suffered, their court costs and attorney's fees incurred.

X

Client Approval

Systems Planner: Jackie Greely

Print Name

Date

Project#MrgProjectI

**Solicitation Number: RFP#121919****CONTRACT**

This Contract is between **Sourcewell**, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and **Krueger International Inc., dba KI**, 1330 Bellevue Street, P.O. Box 8100, Green Bay, WI 54308 (Vendor).

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

Vendor desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and its Members (Members).

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 February 18, 2024, unless it is cancelled sooner pursuant to Article 24. This Contract may be extended up to one additional one-year period upon request of Sourcewell and with written agreement by Vendor.
- C. **SURVIVAL OF TERMS.** Articles 11 through 16 survive the expiration or cancellation of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

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

All Equipment and Products provided under this Contract must be new/current model. Vendor may offer close-out or refurbished Equipment or Products if they are clearly indicated in Vendor's product and pricing list. Unless agreed to by the Member in advance, Equipment or Products must be delivered as operational to the Member's site.

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

B. **LAWS AND REGULATIONS.** All Equipment, Products, or Services must comply fully with applicable federal laws and regulations, and with the laws of the state or province in which the Equipment, Products, or Services are sold.

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

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

3. PRICING

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

Regardless of the payment method chosen by the Member, 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 Member at the time of purchase.

When providing pricing quotes to Members, all pricing quoted must reflect a Member'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 Member's requested delivery location.

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

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

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

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

C. HOT LIST PRICING. At any time during this Contract, Vendor may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Vendor determines it will offer Hot List Pricing, it must be submitted electronically to Sourcwell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcwell 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 Members.

4. PRODUCT AND PRICING CHANGE REQUESTS

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

- Identify the applicable Sourcwell 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)
- 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 Sourcwell Price and Product Request Form will become an amendment to this Contract and be incorporated by reference.

5. MEMBERSHIP, CONTRACT ACCESS, AND MEMBER REQUIREMENTS

A. **MEMBERSHIP.** Membership in Sourcewell is open to public and nonprofit entities across the United States and Canada; such as municipal, state/province, K-12 and higher education, tribal government, and other public entities.

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

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

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

6. MEMBER ORDERING AND PURCHASE ORDERS

A. **PURCHASE ORDERS AND PAYMENT.** To access the contracted Equipment, Products, or Services under this Contract, Member must clearly indicate to Vendor that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Vendor. Typically a Member will issue a purchase order directly to Vendor. Members may use their own forms for purchase orders, but it should clearly note the applicable Sourcewell contract number. Members will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Member.

B. **ADDITIONAL TERMS AND CONDITIONS.** Additional terms and conditions to a purchase order may be negotiated between a Member and Vendor, such as job or industry-specific requirements, legal requirements (such as affirmative action or immigration status requirements), or specific local policy requirements. Any negotiated additional terms and conditions must never be less favorable to the Member than what is contained in Vendor's Proposal.

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

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

E. **TERMINATION OF PURCHASE ORDERS.** Members may terminate a purchase order, in whole or in part, immediately upon notice to Vendor in the event of any of the following events:

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

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

7. CUSTOMER SERVICE

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

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

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

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

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

The Report must contain the following fields:

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

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcewell, the Vendor will pay an administrative fee to Sourcewell on all Equipment, Products, and Services provided to Members. The Vendor will submit a check payable to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased by Members under this Contract during each calendar quarter. Payments should note the Sourcewell-assigned contract number in the memo and must be mailed to the address above "Attn: Accounts Receivable." Payments must be received no later than forty-five (45) calendar days after the end of each calendar quarter.

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

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

9. AUTHORIZED REPRESENTATIVE

Sourcewell's Authorized Representative is its Chief Procurement Officer.

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

10. ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

- A. **ASSIGNMENT.** Neither the Vendor nor Sourcewell may assign or transfer any rights or obligations under this Contract without the prior consent of the parties and a fully executed assignment agreement. Such consent will not be unreasonably withheld.
- B. **AMENDMENTS.** Any amendment to this Contract must be in writing and will not be effective until it has been fully executed by the parties.
- C. **WAIVER.** If either party fails to enforce any provision of this Contract, that failure does not waive the provision or the right to enforce it.
- D. **CONTRACT COMPLETE.** This Contract contains all negotiations and agreements between Sourcewell and Vendor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.
- E. **RELATIONSHIP OF THE PARTIES.** The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, master-servant, principal-agent, or any other relationship.

11. LIABILITY

Vendor must indemnify, save, and hold Sourcewell and its Members, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees, arising out of the performance of this Contract by the Vendor or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications.

12. AUDITS

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

13. GOVERNMENT DATA PRACTICES

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

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

14. INTELLECTUAL PROPERTY

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

15. PUBLICITY, MARKETING, AND ENDORSEMENT

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

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

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

16. GOVERNING LAW, JURISDICTION, AND VENUE

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

17. FORCE MAJEURE

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

18. SEVERABILITY

If any provision of this Contract is found to be illegal, unenforceable, or void then both Sourcewell and Vendor will be relieved of all obligations arising under such provisions. If the

remainder of this Contract is capable of performance, it will not be affected by such declaration or finding and must be fully performed.

19. PERFORMANCE, DEFAULT, AND REMEDIES

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

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

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

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

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

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

20. INSURANCE

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

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

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

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

Minimum limits:

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

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

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

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

Minimum Limits:

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

\$1,000,000 Personal and Advertising Injury

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

\$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Vendor will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer).

Minimum Limits:

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

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

Minimum Limits:

\$2,000,000

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

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

Upon request, Vendor must provide to Sourcewell copies of applicable policies and endorsements, within ten (10) days of a request. Failure to request certificates of insurance by Sourcewell, or failure of Vendor to provide certificates of insurance, in no way limits or relieves Vendor of its duties and responsibilities in this Contract.

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

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

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

F. **SELF-INSURED RETENTIONS.** Any self-insured retention in excess of \$10,000 is subject to Sourcewell's approval.

21. COMPLIANCE

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

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

22. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

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

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

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

Members 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. Members may also require additional requirements based on specific funding specifications. Within this Article, all references to “federal” should be interpreted to mean the United States federal government. The following list only applies when a Member accesses Vendor’s Equipment, Products, or Services with United States federal funds.

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

B. **DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148).** When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5,

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

C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. § 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

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

certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

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

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

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Vendors must file any required certifications. Vendors must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Vendors must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Vendors must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

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

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

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

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

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

24. CANCELLATION


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

Sourcewell
DocuSigned by:
By: Jeremy Schwartz
C0FD2A139D06489...
Jeremy Schwartz
Title: Director of Operations &
Procurement/CPO
Date: 2/17/2020 | 5:07 PM CST

Krueger International Inc. dba KI
DocuSigned by:
By: Guy Patkze
E297FD57BA1145A...
Guy Patkze
Title: Assistant Secretary
Date: 2/18/2020 | 7:11 AM PST

Approved:

121919-KII

DocuSigned by:
By:  _____
7E42B8F817A64CC...
Chad Coauette
Title: Executive Director/CEO
Date: 2/17/2020 | 6:58 PM CST

RFP 121919 - Furniture Solutions with Related Accessories and Services

Vendor Details

Company Name: Krueger International, Inc.

Does your company conduct business under any other name? If yes, please state: KI

Address: PO Box 8100
Green Bay, WI 54308-8100

Contact: Lee Amundson

Email: lee.amundson@ki.com

Phone: 800-454-9796

Fax: 920-468-2781

HST#: 39-1375589

Submission Details

Created On: Monday November 11, 2019 10:11:49

Submitted On: Wednesday December 18, 2019 14:55:34

Submitted By: Lee Amundson

Email: lee.amundson@ki.com

Transaction #: 65568d9f-fb8c-441f-b9ab-7550f60a8d82

Submitter's IP Address: 208.50.15.6

Specifications

Table 1: Proposer Identity & Authorized Representatives

Line Item	Question	Response *	
1	Proposer Legal Name (and applicable d/b/a, if any):	Krueger International, Inc. (d/b/a: KI)	*
2	Proposer Address:	1330 Bellevue Street, PO Box 8100 Green Bay, WI 54308-8100	*
3	Proposer website address:	ki.com	*
4	Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer):	Guy Patkze Assistant Secretary 1330 Bellevue Street Green Bay, WI 54302 guy.patkze@ki.com 920.468.2541	*
5	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Kelli Plamann Contract Program Manager 1330 Bellevue Street Green Bay, WI 54302 kelli.plamann@ki.com 920.468.2719	*
6	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	MARK WALDECKER Corporate Accounts / K-12 Dealer Development Manager P: 920.406.3508 M: 920.327.0195 F: 920.468.2729 E: mark.waldecker@ki.com ki.com ANDY VANSTRATEN Contract Manager P: 920.468.2394 E: andy.van.straten@ki.com ki.com	

Table 2: Company Information and Financial Strength

Line Item	Question	Response *
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7	<p>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>	<p>Who We Are OUR FOUNDATION</p> <p>The metal chair was KI's flagship product in 1941. Innovative for its time, it brilliantly answered the call for seating that was portable, stackable, durable and affordable. KI recognized the market's need and responded with a welcome solution. The KI folding chair symbolizes a long legacy of listening to our customers. Our insightful ability to solve problems through product design and space planning concepts has made us a respected leader in manufacturing furniture solutions – products that skillfully support the success of customers in the business, university, educational, healthcare, and government markets.</p> <p>Today, we've grown well beyond our folding chair origins and offer a broad portfolio ranging from seating and tables to architectural walls and panel systems. Our award-winning innovations reflect a desire to meet your objectives, be your go-to resource and build an enduring relationship with you.</p> <p>This foundation and a strong market understanding is why KI customers throughout the world continue to rely on our trusted expertise to create solutions that fit their environments. That's why we say we offer far more than furniture ... We're Furnishing Knowledge.</p> <p>What Makes Us Different We want to hear what you have to say about your goals, how your employees or students want to work or learn, your expectations ... even what you want people to feel when they walk into your space. That way, we can help you make well-informed, educated decisions about your furniture investment. Following are a few more reasons customers keep coming back to KI for furniture solutions.</p> <p>EASY TO DO BUSINESS</p> <p>Whether you need help space planning, selecting surface materials, determining what furniture best fits your work style, or coordinating installation with other contractors, we're here to help.</p> <p>CORE MARKET FOCUS</p> <p>We stay laser focused on our core markets, persistently growing our knowledge, understanding and experience within each. That helps us design furniture solutions and support services that address the needs specific to:</p> <ul style="list-style-type: none"> • Higher Education • K-12 Education • Workplace • Healthcare • Federal & State Government <p>MARKET OF ONE® PHILOSOPHY</p> <p>We believe the only customer who matters is you – you are our Market of One. So we've structured everything from our service and support teams to the manufacturing floor to be nimble and adaptable to your needs. We're the right place for furniture, service and fulfillment options that align with your brand, culture and work environment.</p> <p>FULFILLMENT FREEDOM</p> <p>We will gladly collaborate and coordinate with any partner, dealer and/or installation entity you choose. We do not prescribe to pre-set distribution channels. Rather, we allow you to determine the best means to manage ordering and fulfillment activities.</p> <p>EMPLOYEE OWNERSHIP</p> <p>KI is 100% employee owned and when you own something, you treat it differently. Everyone in the organization from the executive office to the production floor has a stake in the game.</p> <p>DELIVERY AND INSTALLATION SERVICES</p> <p>Delivery day should be exciting, not stressful. Should that date need to change for any reason, just let us know. We'll adjust accordingly.</p> <p>Should you need assistance with fulfillment, KI offers a comprehensive service package. A factory-trained, on-site management team will oversee your project from initial pre-planning meetings through the final walk-through. Options for warranty and</p>
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8	<p>Provide a detailed description of the products and services that you are offering in your proposal.</p>	<p>Furnishing Knowledge Through Design Through human-centered design, we create compelling environments by aligning culture, brand and functional objectives. The ideas behind this approach include adaptive design, increased user control, higher levels of engagement and defining a balance between the basic workstyles (Focus, Interaction, Ideation and Regenerative), and behavioral needs of users.</p> <p>Furnishing a business office, a hospital lounge, a classroom, or a government facility takes special knowledge. What choices will best serve the application? How will you create the look to reflect a distinct personality, and the functionality to serve unique needs? KI is here to help. Selling you furniture comes at the end of the process. First, we bring you information, skill, and partnership. We listen to what you need, then work with you to create it. And if we don't already have it, we'll design it from scratch. Our long experience ensures that when we say the "best furniture," we mean the best quality providing the best style and function.</p> <p>Learning Spaces – Dynamic Collaboration, Conventional Classrooms, Technology Integrated, Engaging/Presenting, and Lecture/Auditorium.</p> <p>Social Spaces / Third Spaces – Learning Commons/Media Centers, Lobby/Lounge, Cafes and cafeterias/Dining and Living Spaces.</p> <p>Offices and Workstations – Flexible, Accommodating Workspaces, Peak Performance, Designed to move.</p> <p>Training Rooms – Transforming Training Environments, Impactful Solutions.</p> <p>Conference Rooms – Masterful Meetings, Bringing Ideas to the Table.</p> <p>Storage Solutions – Intelligent, Innovative, Integrated.</p>
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9	What are your company's expectations in the event of an award?	<p>Our overall goal, if awarded, is to continue to grow our ability to offer public agencies functional products with the latest designs and highest quality. Our ability to listen and understand the customer's needs will continue to be one of our main goals in the relentless drive to make the Customer's experience with KI effortless.</p> <p>With the continued partnership with Sourcewell, we believe that we will continue to grow our presence within these core markets. Sourcewell has consistently demonstrated the importance of support to awarded vendors and we expect that by continuing to share and enhance the same core values we can continue to grow our Educational and Government accounts by making them aware of the benefits of both Sourcewell and KI.</p>	*
10	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.	Please find KI's Condensed, Consolidated balance sheet for 2017/2018, Surety Letter and a copy of our current insurance certificate for your review.	*
11	What is your US market share for the solutions that you are proposing?	Since KI is a privately held, 100 percent employee owned company, we prefer to keep certain information confidential. However, KI defines our business via what we term as "Core Markets". To be a KI Core Market means we must currently maintain a Top 3 position or can attain a Top 3 market share position in a relatively short number of years. Higher Education, K-12 and Government markets are all Core Markets for KI. KI has an experienced team in place that follows this market share and is extremely committed to maintaining and growing those positions.	*
12	What is your Canadian market share, if any?	KI has have the same commitment to Core Markets in Canada that we have in the United States and other countries throughout the world. We will continue to grow and gain market share on all of our "Core Markets".	*
13	Has your business ever petitioned for bankruptcy protection? If so, explain in detail.	KI has never petitioned for bankruptcy protection.	*
14	How is your organization best described: is it your written authorization to act as a distributor with your sales and service force and with you	<p>KI is a manufacturer, but not only do we make the products, we have the capability to fulfill these orders direct to the member or through a local distributor of their choosing. KI also has the ability to service direct through our Service subsidiary, a one stop shop.</p> <p>At KI, we believe that the only customer who matters is you – you are our Market of One. So we've structured everything from our service and support teams to the manufacturing floor to be nimble and adaptable to your needs.</p> <ul style="list-style-type: none"> • Dedicated Service – You will have a team of experienced KI professionals assisting you through the furniture procurement journey. In addition, you have 24/7/365 access to your order information from any electronic device via ki.com/orderstatus. • Fulfillment Freedom – While we offer space planning, shipping and installation services, we will never limit you to working with agencies owned or affiliated strictly with KI. Rather, we will gladly collaborate and coordinate with any partner, dealer and/or installation entity YOU choose. KI does not prescribe to preset distribution channels. Rather, we deploy local KI representatives to work directly with you. KI's approach provides alternative procurement methods that allow you, not the manufacturer, to determine the best means to manage ordering and fulfillment activities. It also provides you the opportunity to reduce costs via bypassing the traditional dealer/"middleman" model, if required. <p>This client-centric business model is the engine that continues to drive KI's growth and client satisfaction. Ultimately, clients appreciate the flexibility to make purchasing and fulfillment decisions according to their needs versus what may be most expedient for the manufacturer.</p>	*
15	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>Please find all KI's licenses per state attached for your review. KI is authorized to sell products and provide services in all 50 states, the District of Columbia, and Canada. KI complies with applicable federal, state, local, and industry laws for each purchasing member where ever they are located.</p> <p>KI does work with third party certified service providers and obtains license verification and insurance certificates for all providers whom we work with.</p>	*
16	Provide all "Suspension or Disbarment" information that has applied to your organization during the past ten years.	KI has not been subject to any suspension or disbarment in the past ten years or ever.	*

17	<p>Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.</p>	<p>Seating</p> <ul style="list-style-type: none"> - Stack and Guest Seating - Task Seating - Lobby & Lounge Seating - Folding Chairs and Stools - Multiple Seating <p>Storage</p> <ul style="list-style-type: none"> - Files and Storage - High-density and mobile storage systems <p>Technology Support furniture</p> <ul style="list-style-type: none"> - Desking - Powered Tables - Tables - Accessories <p>Systems/Modular Furniture</p> <ul style="list-style-type: none"> - Desking - Caseloads - Panels - Accessories <p>Library Furniture</p> <ul style="list-style-type: none"> - Tables and Chairs - Lobby & <p>Lounge Cafeteria</p> <p>Furniture</p> <ul style="list-style-type: none"> - Tables - Folding Tables - Seating and Chairs Early Childhood <p>Furniture</p> <ul style="list-style-type: none"> - Tables - Seating and chairs - Storage Audio Visual <p>Furniture</p> <ul style="list-style-type: none"> - Tables - Accessories <p>Training Furniture</p> <ul style="list-style-type: none"> - Tables - Desks - Seating and Chairs - Stools Educational Office <p>Furniture</p> <ul style="list-style-type: none"> - Tables - Desking - Accessories - Seating and Chairs Auditorium/Fixed <p>Seating & Tables Demountable Walls</p> <p>Residence Hall</p> <p>Healthcare</p> <ul style="list-style-type: none"> - Sleepers - Chairs - Recliners - Caseloads Freestanding Classroom and School <p>Furniture</p> <ul style="list-style-type: none"> - Tables - Desking - Seating and Chairs - Storage - Accessories <p>Upholstery</p>
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Table 3: Industry Recognition & Marketplace Success

Line Item	Question	Response *
18	Describe any relevant industry awards or recognition that your company has received in the past five years	<p>Product Design 2019 BUILDINGS™ Editor's Choice – Hiatus Sleeper Bench 2018 A4LE LE Awards, Solution Provider Award – Ruckus Collection</p> <p>2018 BUILDINGS™ Production Innovation Grand Award (1st Place) – Tattoo Collection 2018 BUILDINGS™ Product Innovation Merit Award (2nd Place) – Ruckus Mobile Height-Adjustable Lectern</p> <p>2018 Best of NeoCon® Gold – Tattoo Collection 2017 Nightingale Award, Gold – Patient Seating – Ruckus Task Chair 2017 Best of NeoCon® Gold – Ruckus Collection 2017 Best of NeoCon® Gold – Universal Height-Adjustable Screen 2017 Best of NeoCon® Gold – Pallas Loft Collection 2017 BUILDINGS™ Production Innovation Grand Award (1st Place) – Ruckus Collection 2016 Nightingale Award, Gold – Fabrics & Textiles Category – Pallas Gaia Collection 2016 Nightingale Award, Silver - Conference Seating Category – Doni Seating Collection 2016 EdSpaces Innovation Awards, Seating Category Winner – Ruckus Collection 2016 EdSpaces Innovation Awards, Best in Competition – Ruckus Collection 2016 BUILDINGS™ Product Innovation Merit Award (2nd Place) – MyPlace Lounge Collection 2016 BUILDINGS™ Product Innovation Merit Award (2nd Place) – Lightline (Freeform) Architectural Wall 2016 Best of NeoCon® Gold – MyPlace Lounge Collection 2015 Best of NeoCon® Gold - Evoke Architectural Walls 2015 Best of NeoCon® Silver - Soltice Metal Collection 2015 Best of NeoCon® Innovation Award - Sway Lounge Collection 2015 #9 Contract Magazine Ranking Health Care Textiles Category – Pallas Textiles</p> <p>Business and Industry 2018 – Weyenberg Prize for Business Excellence 2018</p> <p>KI was awarded the Weyenberg Prize for Business Excellence, co-sponsored by the University of Wisconsin – Green Bay and InitiativeOne Leadership Institute. The Weyenberg Prize seeks to honor business excellence – companies where transformational leadership, strategy development, and strategic execution are embedded deep within the corporate culture.</p> <p>Sustainability</p> <p>2010-2019 Green Masters Award – Wisconsin Sustainable Business Council</p>
19	What percentage of your sales are to the governmental sector in the past three years	KI's percentage of sales into the government sector over the past 3 years is between 5% and 25%. KI's product offerings allow for State and Local government to choose functional and quality products without sacrificing the most current styles and collaborative trends. KI experiences sales growth in the Government sector each year. (This growth does not include KI's Prison Industries programs).
20	What percentage of your sales are to the education sector in the past three years	KI's percentage of sales into the educational sector over the past 3 years is between 50% and 75%. KI proudly manufactures furniture solutions that support the freedom to move, a vital need and so much more. Supporting the development of world-class learning environments has been – and always will be – at the very core of KI. It's what we do best. KI has experiences growth in sales within the educational sector each year. KI education markets are critical to KI's vertical market strategy. The combined sales is ranked 1 and 2 within KI's vertical markets.
21	List any state or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	KI holds cooperative purchasing agreements with groups such as NASPO, OMNIA and TIPS. KI also holds up to 26 State contracts. A growing number of States have adopted the Sourcwell cooperative and KI Furniture as their lead-state contract. Annual Sales per GPO and State contracts vary from \$100K - \$50 Million. Sourcwell is the most requested and utilized contract in KI's portfolio.
22	List any GSA contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	KI holds a General Service Administration (GSA) Contract, number: GS-28F-0033P. Annually, KI performs in the range of \$1 million - \$50 Million.

Table 4: References/Testimonials

Line Item 23. Supply reference information from three customers who are eligible for Sourcewell membership.

Entity Name *	Contact Name *	Phone Number *	
Tulsa Public Schools: East Central Library	Shawn Parks	918.746.9724	*
Stillwater Public Schools: Sangre Ridge Elementary Library	John Anders, Facilities Director	405.533.6340	*
Florida International University	Mark Marine, Manager of Administrative Services	305.348.7357	*
Department of Juvenile Justice: Fort Myers Youth Academy	Katrina Harvey	239.210.0934	

Table 5: Top Five Government or Education Customers

Line Item 24. Provide a list of your top five government, education, or non-profit customers (entity name is optional), including entity type, the state or province the entity is located in, scope of the project(s), size of transaction(s), and dollar volumes from the past three years.

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *	
College/ University	Education	Wisconsin - WI	Supplied good and services	Approximately \$500K to \$1M/project	Approximately \$5M to \$12M	*
College/ University	Education	North Carolina - NC	Supplied good and services	Approximately \$250K to \$1M/project	Approximately \$1M to \$8M	*
K-12 Public	Education	New York - NY	Supplied good and services	Approximately \$250K to \$500K/project	Approximately \$500K to \$5M	*
Local Government	Government	Minnesota - MN	Supplied good and services	Approximately \$500K to \$1M/project	Approximately \$1M to \$8M	*
Local Government	Government	Florida - FL	Supplied good and services	Approximately \$250K to \$500K/project	Approximately \$250K to \$3M	*

Table 6: Ability to Sell and Deliver Service

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

Line Item	Question	Response *	
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25	Sales force.	<p>KI Locations or Sales Specialist Near You In addition to corporate headquarters, showrooms better understand your overall project objectives. KI has broken out the numbers below.</p> <p>National Support and Service:</p> <ul style="list-style-type: none"> - 22 Showrooms – eight of which are international - 3 Divisions - 8 Manufacturing Locations – three of which are international <p>Field Sales Force:</p> <ul style="list-style-type: none"> - 74 Direct Sales Representatives - 87 Independent Sales Representatives - 13 Canadian Sales Representatives <p>Corporate Support and Service:</p> <ul style="list-style-type: none"> - 5 staff - Market Development Analysts - The goal of the Market Development area is to generate thousands of "qualified" project opportunities. These projects must be "new" to the field and not already registered in our internal database. - 54 staff - Inside Sales Support - KI has a dedicated Inside Sales Support area that works within a specific region to support customers, clients and sales representatives. This area includes actively marketing KI's product offering throughout their designated region. - 174 staff – Corporate Customer Service and other Support Teams - When a customer places a call to the KI customer service departments, a member of KI's Welcome Center who will then direct the call to the appropriate individual. KI is committed to providing customers with the most timely and accurate communication possible within a reasonable response timeframe. - Customer Service Agents are assigned to provide support and include the responsibility for handling all aspects of daily project coordination. The primary team contacts are based on expertise. - Customer Service Team Manager provides additional support in the overall coordination of an account's specific needs including designation of resources and project coordination logistics.
26	Dealer network or other distribution methods.	<p>Dealer Network KI has 340 approved dealers and 58 approved dealer representatives c listing for your review.</p> <p>Spacesaver Corporation 23 US Area Contractor/Distributor 11 Canadian Distributors</p>
27	Service force.	<p>Division of KI – Corporate Services</p> <p>52 Staff - Installation Management Services (Corporate Services): The Corporate Services team is comprised of customer focused, factory trained Regional Managers, Installation Supervisors and Certified Installers. Regionally based service teams are available for quick response. These Team Members are factory-trained and specialize in the installation, maintenance, and repair of all of KI's products</p> <ul style="list-style-type: none"> - 9 Staff - Regional Managers - 31 Staff – Installation Supervisors - 9 Staff - Installation and Account Coordinators - 3 Staff - Project Managers - 153 – Certified Installers throughout the country

28	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>Account Management We are transparent when it comes to your project, because we know it is more than a business transaction.</p> <p>While you will have one main point of contact, know that an entire team will be working on your behalf. The cross-functional team includes tenured industry professionals who specialize in executing large and complex projects. The team is selected based on your needs, so in addition to your sales representative and customer service representative, team members may also be selected from design, manufacturing, finance or any other area of the business that could positively impact the outcome of your project.</p> <p>CENTRALIZED PROJECT MANAGEMENT KI's centralized approach to project management, offers clients a variety of critical benefits, including:</p> <ul style="list-style-type: none"> • Intimate project knowledge and local representation • Access to an experienced corporate team of project managers • Access to a dedicated client support team, along with a single point of contact • Complementary CAD and other support services (including revisions) • Continuity and consistency in project management practices • Centralized data management <p>LOCAL SUPPORT Your sales specialist is based out of your geographic area and can respond to your needs in person, if necessary. This person is responsible for your account as well as specific projects you have in progress and will work with you one-on-one to develop account management plans, discuss projects in progress, perform site reviews, etc. The sales specialist can also engage, when necessary, with his or her district sales leader who can provide account support while ensuring project integrity from start to finish.</p> <p>KI Customer Service Customer service agents interface with design/engineering, manufacturing and logistic departments to handle customer concerns and issues. Standard hours of operation are from 8 a.m. to 5 p.m. with fluctuation for specific geographic areas. When a customer places a call to the KI customer service department, the customer will be greeted by a member of KI's Welcome Center who will then direct the call to the appropriate individual. KI is committed to providing customers with the most timely and accurate communication possible and adheres to four-hour response timeframe.</p> <p>Please find the complete Customer Service Program attached for your review.</p>	*
29	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	<p>KI and its Subsidiaries are authorized to sell and provide services in all 50 states, the District of Columbia, Canada and more. Neither KI nor its Subsidiaries are limited to any geographical area.</p> <p>KI and its Subsidiaries are able to service all of Sourcewell market segments through the proposed contract.</p>	*
30	Identify any Sourcewell Member 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?	KI and its Subsidiaries are able to fully serve ALL Sourcewell Member sectors that utilize commercial furnishings through the proposed contract.	*
31	Define any specific contract requirements or restrictions that would apply to our Members in Hawaii and Alaska and in US Territories.	<p>KI and its Subsidiaries do not have any specific requirements or restrictions which apply to Sourcewell Members located outside the continental USA.</p> <p>For shipments destined to other U.S. states (outside the 48 U.S. contiguous) or foreign territories, delivery will be made to a prearranged port. Members shall prepay all freight charges and any extra expenses resulting from any request by Customer for after-hours, holiday, weekend, or specific time delivery, or special carrier, shipping method, (e.g. air freight, exclusive use vehicle) packaging, and/or routing.</p>	*

Table 7: Marketing Plan

Line Item	Question	Response *
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32	Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.	Tradeshows KI will market and promote the Sourcewell contract during tradeshows with customized literature and signage. KI will actively participate in the AASA, NAEP, I-ASBO, NACO, NIGP and all the additional shows we participates in annually. KI attends approximately 50+ tradeshows a year.
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33	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	<p>Over the years, we've developed a keen eye and learned quite a bit about what works and what doesn't. And it's important to us to share that information with you...to inspire you and help you make smart furniture solutions. To that end, we have several resources where you can leverage our experience and get inspired!</p> <p>SOCIAL MEDIA For new product ideas and project inspiration, few social media sites have proven more valuable and visual than Pinterest. We've curated endless boards for cool training spaces, work styles, active design, various products, architectural walls, quotes we love, cities we've visited and our favorite -- #designmoves. If you're looking for inspiration, here's where you'll find it -- PINTEREST.</p> <p>In addition, you can also engage with us on these social channels: facebook, twitter, snapchat, Instagram and YouTube.</p> <p>ELECTRONIC CATALOGS We've developed a catalog for each of our core markets. Each catalog offers insights on the market, real-world images, thought-starters and space planning ideas as well as product recommendations. You can flip through the catalogs here or order a printed copy on KI.com.</p> <p>Higher Education Solutions Catalog K-12 Solutions Catalog Healthcare Solutions Catalog Business Solutions Catalog</p> <p>THOUGHT LEADERSHIP White Papers: Our product design is based on human-centered design. We are often in the field observing, interviewing and experimenting. In addition, our market leadership team is always researching and investigating how our furniture can support the way you work, learn, relax and heal. We've compiled that information into several white papers to help you plan the perfect environment.</p> <p>The Learner's Journey Collegiate/Workplace Design Improving Clinic Design Understanding Active Design</p> <p>KI Blog: If you don't have time to thoroughly read a white paper, you can glean a lot of info from thought leaders.</p>	*
34	In your view, what is Sourcewell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcewell-awarded contract into your sales process?	<p>Marketing Sourcewell proactively and jointly market KI's contract to agencies nationwide throughout the United States through a network of major sponsors (AASA, NAEP, I-ASBO, NACO, NIGP) and state-level sponsors. In addition, Sourcewell staff will enhance the Supplier's marketing efforts through in-person/phone meeting with public agencies, participation in key events, tradeshow, web site, social media, publications, and by providing online tools to the Supplier's sales force.</p> <p>Training Anticipate that Sourcewell would be dedicated to the training and education of KI's sales staff on the Sourcewell contract.</p> <p>Knowledge Management Support Anticipate Sourcewell would provide resources and tools that support marketing, training, and targeting data.</p>	*
35	Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.	KI offers an e-procurement ordering process via third party technologies. These private "purchasing portals" are available for qualified requests. KI customers use the e-procurement system as a means of transacting online purchase orders via private web pages, individually loaded with customer-approved style and finish options as well as contract pricing. These electronic systems allow numerous locations and purchasing entities to utilize one central method of submitting purchase orders, which streamlines paperwork and improves communication.	*

Table 8: Value-Added Attributes

Line Item	Question	Response *
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36	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell Members. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	KI provides published installation/ assembly instructions and user / maintenance manuals for products directly to the client at no additional cost. Along with written information, KI personnel can provide hands-on product training. This valuable face-to-face interaction between knowledgeable KI employees and client facilities personnel provides a proactive learning experience and offers a forum in which to raise questions and discover the most efficient methods of product handling. Once trained, facilities personnel can handle a wide range of product maintenance procedures, eliminating the need to hire outside labor for simple product adjustments. This would be an optional request at no additional charge.	*
37	Describe any technological advances that your proposed products or services offer.	<p>Innovation</p> <p>KI is a unique contract furniture manufacturer. We use a Go-To-Market strategy to tailor products and service solutions to the specific needs of each customer. In fact, many of our "standard" products were born out of the need to solve a particular customer's challenge. Once we develop a furniture innovation, we share in the success of these personalized solutions by making them available to all our customers.</p> <p>Innovation is Part of Our DNA</p> <p>Innovation: Large Space</p> <p>Installation</p> <p>KI has demonstrated the ability to create unique, productive, ergonomically complete work environments based on our client's goals and objectives.</p> <p>Innovation: Implement IPD Process and Save Time KI continues to evolve the innovation process to maximize efficiency through all phases of design, fabrication and construction.</p> <p>The key to a successful IPD process is early trade involvement. KI recognizes that organizations that work on different projects can bring interesting points of view on how to handle specific workplace issues. Electricians and data management specialists can enlighten us on their challenges in managing technology and power that we can integrate with our product solutions. General construction works closely with KI, especially on movable wall projects, because interior architecture and furniture are so tightly entwined.</p>	*
38	Describe any "green" initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.	Please reference KI Circular Economy Model - Attachment	*
39	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	Please reference KI Eco-Labels Ratings Certifications - Attachment	*

40	Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response.	<p>As an equal opportunity employer, KI implements fair labor and business practices across all levels of the organization. Promoting a balanced playing field in the marketplace, KI follows basic guidelines when selecting subcontractors. Ensuring fair procurement of products and services, KI participates in the development, preparation and execution of individual subcontracting plans and monitors performance relative to each plan. The company's support of minority and women-owned enterprises is demonstrated through outreach efforts, internal guidelines and processes, contractual language and incentive plans. Some of the specific ways KI can meet supplier diversity initiatives include.</p> <p>Outreach efforts to obtain sources:</p> <ul style="list-style-type: none"> • Contracting minority and small business trade associations • Contracting business development organizations • Requesting sources from the Small Business Administration's Procurement Marketing and Access Network (Pro-Net) System. • Attending small, minority and women-owned small business procurement conferences and trade fair. <p>Internal efforts to guide and encourage purchasing personnel:</p> <ul style="list-style-type: none"> • Presenting workshops, seminars and training programs • Establishing, maintaining and using small, hubzone small, small disadvantaged and women-owned small business source lists, guides and other data for soliciting subcontracts. • Monitoring activities to evaluate compliance with the subcontracting plan <p>KI also participates and cooperates in pertinent studies and/or surveys as well as periodic compliance reporting which show compliance with subcontracting plans.</p> <p>Please find "KI's Minority Plan for 2019" attached for your review.</p> <p>You will also find the certification for each dealer partner listed on the approved dealer list attached for question 26. Dealer Network.</p>	*
41	What unique attributes does your company, your products, or your services offer to Sourcewell Members? What makes your proposed solutions unique in your industry as it applies to Sourcewell members?	<p>KI has numerous unique qualities.</p> <ul style="list-style-type: none"> • The Sourcewell member is the most important customer to KI. Some manufacturers have to keep their largest distributors happy and large distributors have to keep their key providers happy, KI is only concerned with providing the right solution for the Sourcewell members. • If standard furniture options just aren't working for you and you need an "outside the box" solution, look to Infinity from KI. Approximately 20% of all KI solutions fall into the category of Infinity, compared to an industry average of roughly 1%. Whether you want to modify an existing KI product or create something from concept, we can help. • The Education and Government customers are KI's "Core Markets". The Sourcewell members aren't an opportunity market for us they are who we interact with on a daily basis to improve learning and productivity. • KI is 100% employee owned ESOP Company. Every employee/owner is responsible for and committed to doing the right thing, the right way, every time, because we all dependent upon it. • KI is a United States manufacturer. Some of the industry giants import up to 40% of their products sold in the United States. KI imports a much smaller percentage and is driven to create more local jobs who support Education and Government markets with their taxes. • KI has the broadest selection of products in the industry which allows for "1-stop shopping" which allows the Sourcewell member to attain the deepest discount tier more easily than having to select from multiple sources. 	*
42	Identify your ability and willingness to provide your products and services to Sourcewell member agencies in Canada.	<p>KI has the ability to service Canadian customers through our Canada subsidiaries however there are barriers that exist regarding certifications which can be cost prohibitive. KI's current submission does not provide a pricing structure for the international business, however should the Canadian demand increase, KI can look at the pricing structure and business practices required in order to service this geographic area in an effort to navigate the exchange rate and tax challenges.</p>	*

Table 9: Warranty

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

Line Item	Question	Response *	
43	Do your warranties cover all products, parts, and labor?	<p>Yes, KI's warranty, which runs from the date of manufacture, covers defects in materials and craftsmanship found during normal usage of the products during the warranty period.</p> <p>Labor Warranty Further subject to the limitations set forth below, KI warrants that the KI product will be installed in compliance with all manufacturer specifications. If, during the ninety (90) days immediately following initial installation, KI reasonably determines that one or more aspects of the KI product was not installed according to manufacturer specifications, KI shall, at KI's expense, reinstall the affected components according to manufacturer specifications. KI shall be afforded reasonable access to all components suspected to require reinstallation in order to determine warranty coverage. Claims of alleged faulty installation made to KI outside the aforementioned ninety (90)-day period shall fall outside the scope of this warranty, and KI shall be under no obligation to provide any reinstallation services for untimely claims.</p>	*
44	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	KI's Lifetime Warranty applies regardless of the number of shifts the product is used each day, unless specified as an exception. All non-lifetime product warranties are a single 8 hour shift per day.	*
45	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	Yes, KI at its option will either repair or replace the defective product with a comparable component or product, or provide a refund of the purchase price. KI reserves the right to determine labor method used during replacement of product.	*
46	Are there any geographic regions of the United States (and Canada, if applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell Members in these regions be provided service for warranty repair?	KI has the ability to provide a certified technician to perform warranty work in any geographical location. Each Sourcewell Member will be provided detailed information as to how to contact KI or KI's representative for warranty work.	*
47	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?	KI is the manufacturer and will cover all products that are part of our proposal.	*
48	What are your proposed exchange and return programs and policies?	<p>KI is a just in time manufacturer and produces products according to a client's specific specifications, therefore an exchange option or program is not required.</p> <p>Product conforming to the specifications contained in KI's acknowledgement to Customer may not be returned to KI without KI's written consent, which consent may be conditioned upon Customer's agreement to pay re-handling and/or restocking charges and/or to prepay all freight charges on the return shipment.</p> <p>If a product is defective upon arrival, and if written notice of the defect is given to KI, both product and services will be covered by KI's warranty.</p>	*
49	Describe any service contract options for the items included in your proposal.	<p>KI will offer its full product line and our subsidiary companies product lines to Sourcewell. KI has an extensive educational portfolio, along with a full line of systems products, files & storage, seating, tables, lounge seating, healthcare, casegoods, architectural walls, and auditorium applications.</p> <p>KI also has factory trained technicians and installation partners throughout the US that can assist in fulfillment needs.</p>	*

Table 10: Payment Terms and Financing Options

Line Item	Question	Response *	
50	What are your payment terms (e.g., net 10, net 30)?	Payment on all KI invoices shall be made in U.S. dollars within thirty (30) days of the date of each such invoice.	*
51	Do you provide leasing or financing options, especially those options that schools and governmental entities may need to use in order to make certain acquisitions?	Yes, KI offers a lease finance option. The first and last monthly payments are required at the time of signing. Lease quotations subject to National Cooperative Leasing credit approval. Rates are based upon current market and subject to change without notice. Contact KI for a quote.	*
52	Briefly describe your proposed order process. Include enough detail to support your ability to report quarterly sales to Sourcewell as described in the Contract template. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the Sourcewell Members' purchase orders.	<p>KI uses the tools of Salesforce.com to store Sourcewell contract terms and discounting. Salesforce.com is tied to KI's proprietary quoting system in a way that once the Sourcewell contract number is loaded into the system, Salesforce.com auto feeds the discounting into the required Product fields of the quote.</p> <p>Each Sourcewell Purchasing option and tier has a unique contract number in Sourcewell to ensure proper costing is populated based on the customer requirements. KI is composed of a team of inside sales specialists, Regional Sales Representatives and a robust Dealer network.</p> <p>A select number of dealer partners have access to the proprietary quoting program and are trained on its use. All other Dealer network partners must request a quote from KI in an effort to ensure contract discounting compliance. Built into KI's pricing submittal is Dealer compensation.</p> <p>KI values the customer experience and finds great value in allowing the Customer to determine their comfort level in administering a purchase order direct to the Manufacturer or through their trusted Dealer network. Either way, KI makes sure that the end-user price is always based on the awarded contract discount.</p> <p>The unique Sourcewell contract numbers that were applied to the various Sourcewell procurement options (volume tiers and Delivered or Delivered and installed) are noted on the quote cover page and urged to be mentioned on the Members purchase order as an extra measure. Once a PO and accompanied quotation is received by KI's order entry team, they log in the order and order information including the Sourcewell contract numbers. KI's system has programing written to scan for the use of the Sourcewell contract and accrue the administration fee for future reporting and payment.</p> <p>On a quarterly basis KI's Contract Management department will run the reporting based on all of the Sourcewell contracts and input the data into the Sourcewell sales usage templates. The sales total is calculated based upon the agreed upon administration fee and a check from the accrued account is cut and accompanied by the sales usage report to the remittance address of Sourcewell.</p> <p>Over the last few years KI has invested many resources into programing a proficient way to have our procurement programs and automations take the guess work out of the compliances. The current enhancements have helped make a good process great and we are not about to stop there. Every year the KI team looks at how we can reinvest our efforts into making a Customer's experience better. To KI a Customer is defined as our internal team and partners, and anyone affiliated with KI and its business. Our goal is to continue to grow and find ways to make working with KI an effortless experience.</p>	*
53	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell Members for using this process?	Yes, P-Cards are accepted at time of order placement only, order needs to be \$500 or less and be paid in full. There would be no additional costs to the Sourcewell Member if using this process.	*

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 *
54	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.	<p>KI will be providing a percentage discount off KI's published product price lists.</p> <p>In a continuing effort to improve efficiency and reduce our environmental impact, KI will no longer offer printed price lists. KI price lists are now available in electronic format (PDF) only. We have provided Sourcewell with direct links to all of KI product price lists. These price lists are also available at ki.com/planning/pricelists.aspx to download. It is best to rely on the electronic (PDF) versions of the price lists to ensure that you and your members are viewing the most recent pricing.</p> <p>As a manufacturer of commercial educational/office furniture, KI offers numerous options in colors, fabrics, laminates, styles, paint finish for every product we sell. Providing sku # for every option would entail literally millions of sku numbers. Product selections can be provided by KI Representatives or through our extensive dealer network.</p>
55	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.	<p>Catalogs provided show "list pricing". KI will be providing a percentage discount off list pricing.</p> <p>Discounts will vary depending on product and geographic area. KI has established 4 "zones" that will cover our 48 contiguous states. Those 4 zones offer both a "dock" delivery option and an "installed" option for Sourcewell customers. Zone 5 has been established for Alaska and Hawaii. Zone 5 offers a "dock" delivery option only for port of exit. Delivery from continental US to HI or AK may have an additional charge. Installation, if requested, will be negotiated between the customer and the installer on a case by case basis.</p> <p>Using the total list price of a project, the tiered discount can then be determined.</p> <p>Please see the product discount spreadsheet under the Pricing Offered section of the RFP.</p>
56	Describe any quantity or volume discounts or rebate programs that you offer.	<p>KI's pricing policy is to always provide the "BEST PRICE" on all of its products, which eliminates the need for rebates, incentives, or additional discounts. It is KI's intent to provide Sourcewell and its members with the "BEST PRICE", based on the terms and conditions, as documented in the Pricing offer.</p>
57	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.	<p>KI will assist in the procurement of "Sourced Goods" (non-KI product) provided that the majority of the order is made up of KI Products. These items would be sold at cost plus a percentage.</p> <p>KI also has an internal group (Personalized Solutions Group), which takes product solutions and makes minor modifications to them, again to meet a specific client needs, application, or sustainability requirement. Personalized solutions allows KI the ability to create greater variety in products at desirable prices. These items would be quoted on a case by case basis.</p>
58	Identify any element of the total cost of acquisition that is NO pre- delivery inspection, installation, set up, mandatory training	<p>Not only has KI provided a discount for dock delivery but we have also provided an "installed" option for Sourcewell customers.</p> <p>Installation for HI or AK, if requested, will be negotiated between the customer and the installer on a case by case basis.</p> <p>Auditorium /Fixed Seating & Demountable Walls Architectural products charges and are quoted on a project by project basis.</p> <p>Spacesaver Products Installation: Due to the customer nature of this equipment, it is quoted per project; however, installation charges for non-union, non- prevailing wage projects will not exceed 40% of list price for any product categories noted. Projects requiring prevailing wage or union wages must be quoted project by project due to local variations in wages and classifications of labor.</p>

59	If freight, delivery, or shipping is an additional cost to the Sourcewell Member, describe in detail the complete freight, shipping, and delivery program.	<p>Products quoted as “Delivered Pricing”, no additional cost will be given. Customer shall prepay all freight charges and any extra expenses resulting from any request by Customer for after-hours, holiday, weekend, or specific time delivery, or special carrier, shipping method, (e.g. air freight, exclusive use vehicle) packaging, and/or routing.</p> <p>Accessorial Fees: Customer shall be responsible for the payment of all accessorial fees, including, but not limited to, charges necessitated by any of the following:</p> <ul style="list-style-type: none"> • A need for special delivery equipment, including lift gates • The absence of a loading dock • Re-direction or re-consignment of product • Detention charges • Street unloads • Improper refusal of product • After hours/weekend installation • Union labor rates if required • Additional fees for installations in excess of 30 miles from closest servicing center and on full service installation orders less than \$2,500. <p>Auditorium /Fixed Seating & Demountable Walls Architectural products transportation and are quoted on a project by project basis.</p> <p>Spacesaver Products Freight and inside delivery: is quoted per project lowest cost to each member.</p>	*
60	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	KI reserves the right to select the “best way” shipment methods and m a.m. to 3:00 p.m. for truckload or 9:00a.m. to 5:00 p.m. for less than other U.S. states or foreign territories, delivery will be made to a prea	*
61	Describe any unique distribution and/or delivery methods or options offered in your proposal.	<p>KI's Discounting is zoned in a way to provide price relief to geographic areas. Within this structure KI provides multiple delivery options for each end users site conditions and specifics.</p> <p>A few of KI shipping methods are:</p> <ul style="list-style-type: none"> • Parcel (FedEx or UPS) • Standard LTL • Truckload • Advance Shipment Notification (ASN) • Blanket Wrapping 	*

Table 12: Pricing Offered

Line Item	The Pricing Offered in this Proposal is: *	Comments
62	c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.	

Table 13: Audit and Administrative Fee

Line Item	Question	Response *
63	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 Members 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.	<p>Salesforce.com is communication tool used between the field sales organization and customer support at the corporate office. It gives real-time updates and instructions where needed and helps in product management, reporting, and contract management.</p> <p>Salesforce allows the company to provide one view of the customer to its internal employees and Sales Associates. All KI sales and support roles have visibility to the accounts, contract pricing, and contacts that interact with KI personnel in the order-to-cash cycle. They also have collaborative technology to share information on opportunities and cases.</p> <p>Sourcewell members that have a direct account, the KI contract number is listed on the account. This contract number will automatically appear on their orders when they are entered. If the Sourcewell contract number is noted on the order or on the quote from the sales rep, then that contract number is entered on the order.</p> <p>KI's Process for tracking sales from distributors and/or dealers</p> <ul style="list-style-type: none"> - On a weekly basis, reports of orders that are entered during the previous week are printed. - The end-user is determined on each order by checking the e-mailing the sales rep/dealer - The end-user of each order is then checked against the Sourcewell member list. If the end-user is listed on the membership lists, the contract number is added to the order. - At the end of the quarter, the EDI report is run, which captures all orders during that quarter with the Sourcewell contract number listed on it. - When a dealer would have purchased for a member, the contract number is listed in the notes and all of the member information is then listed on the report. - Showcase query is then used to put the EDI information into the Excel document. - The report is then again checked one last time to make sure end-users are still an existing member of Sourcewell. At this time the member's name, address and member numbers are also check for accuracy. - When all final checks are completed, the report is sent via email to Sourcewell. - The admin fee and letter is then to Sourcewell.
64	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.)	KI and its Subsidiaries would like to propose a 1% administrative fee calculated as a percentage of the contract sale price and to be payable to Sourcewell for facilitation and promotion of the contract opportunity.

Table 14: Industry Specific Questions

Line Item	Question	Response *
65	If you are awarded a contract, provide examples of internal metrics that will be tracked to measure whether you are having success with the contract.	Most important is the feedback from the customer. KI has taken on a major initiative in enhancing the customer experience. Through our continuous improvement of corporate processes and policy to our internal customer service training and our customer surveys KI believes that the customer's needs will continue to change, and KI must adapt with it. Every survey score is reviewed and any score that is low is flagged and a personal call is made by our leadership team to assist in improving the experience and learning what steps need to be taken to make this the exception.

66	Describe any industry testing procedures, quality controls and certifications that apply to the products proposed.	<p>Commitment to Quality Everyone at KI – from the sales representative out in the field to key part of the equation.</p> <p>To ensure our customers throughout the world feel assured that our products and services will meet their diverse quality requirements, we practice several quality performance measurements, including ISO 9001 certification, Six Sigma methodology, Kaizen processes and high ethical standards. We also incorporate environmental health and safety programs to ensure our business protects the health and safety of our employees, customers, vendors, communities and environment.</p> <p>KI's BIFMA Testing Lab certified Sourcewell can assure its members of the finest products by insisting that vendors meet acceptable quality standards. Those acceptable standards in the contract furniture industry are ANSI/BIFMA standards that test for stability, strength, durability and load. We qualify KI products to the applicable ANSI/BIFMA and UL test standards through independent and internal testing. KI is ISO 9001 registered, houses a state-of-the art and accredited laboratory testing facility with accurate equipment and fully trained personnel.</p> <p>*Copies of specific KI product test results are available upon request as required for product specifications, etc.*</p> <p>Our customers' appraisals of our performance, specifically quality, is of utmost importance to us. Please find the attachment titled BIFMA Testing for your review.</p>
67	Describe your ability and plan to address member needs for collaborative space or open concept solutions and how your proposed products factor in to them.	<p>FURNISHING KNOWLEDGE THROUGH DESIGN</p> <p>Design shapes how we see ourselves, drives emotion and ensures safety. Our approach to design uses platforms of simplicity, universality and connectivity. Through human-centered design, we create compelling environments by aligning culture, brand and functional objectives. The ideas behind this approach include adaptive design, increased user control, higher levels of engagement and a balance between the basic work styles (Focus, Interaction, Ideation and Regenerative) and behavioral needs of users.</p> <p>Whether you're furnishing a school, workplace, healthcare center or government facility, each space presents its own nuances and challenges. At KI, we've spent decades learning about each of these core markets. We apply that knowledge to designing furniture that meets each market's specific requirements for aesthetics, durability, functionality, flexibility and technology integration. We invite you to experience how we can collaborate to meet your furniture needs.</p> <p>We can help you design campus and learning spaces that support a variety of engaging activities and reflect the growing importance of innovation, collaboration and creativity as found in professional environments.</p> <p>KI will work with Sourcewell members through brainstorming and collaborative activities to uncover key insights for their specific projects.</p>

68	Describe your design resources to develop or enhance culture, change management and integrated technology needs.	<p>Infinity from KI At KI, we are uniquely positioned to bring your vision to life through our totally from scratch.</p> <p>Infinity from KI is a tried-and-true way for the KI team to engage with you to design and build the furniture you want and need -- personalized for your brand, your employees, your space.</p> <p>Inspiration can come from anywhere. Perhaps you like a standard KI product but you want to change a feature that we may not consider "standard" for that product. That's okay; we can do it! Or, perhaps you want to change everything about the product and create a totally new product. We can do that, too.</p> <p>See It Spec It See It Spec It allows you to view different fabrics, finishes and options on select products. With the click of a button, change the fabrics and finishes on select seating, tables, desking, benching, panel systems, storage and accessories.</p> <p>CAD/Revit Symbols Our CAD and Revit symbol library will quickly and accurately provide you with the product information you need to specify your project.</p> <p>Browse our 2D and 3D planning symbols available in DWG (CAD) or RFA (Revit) formats, compatible with a variety of planning and visualization software platforms. Learn more about our additional technologies, Encompass, 20/20 Technologies and Project Matrix.</p> <p>Images Browse, download and share images of KI furniture in myriad styles and applications.</p> <p>Surface Materials: Fabrics & Finishes Browse standard fabric and finish offerings and view specifications, colorways and product approvals.</p>
69	Describe your ability to evaluate and enhance the utilization or return on investment for design alternatives utilizing your products.	<p>KI has evolved over it's time to not just look at what products we can provide to an end user, but to act as visionaries, to see and understand what the Customer needs. Our design and development team is active among the Architectural and Design firms trying to get an understanding of what our customer in every market is looking for. Over time the way people work changes, and in some cases, history tends to repeat itself and a customer's needs can go full circle. That has never been more apparent than in todays markets and it is importance to stay ahead of those needs.</p> <p>By listening and networking within the core markets, our teams can assist in creating efficiencies and certainly does not sacrifice its quality. We may have started out provid</p>
70	Describe how your products are integrated or factor into a LEED certified facility.	<p>Environmental Overview LEED Programs</p> <p>RECYCLED CONTENT (1-2 Points) All KI products contain varying percentages of recycled content based on the material, product, and any specific or variable requirements.</p> <p>REGIONAL MATERIALS (1-4 Points) Manufactured within 500 miles of the project location. Manufactured: Six manufacturing locations depending on product. Raw materials: As a just in time manufacturer, material selection project locations will vary.</p> <p>CONSTRUCTION WASTE MANAGEMENT (1-2 Points) Packaging Material - All corrugate, plastic wrap, metal or plastic binding is recyclable. - Packaging options help to support LEED NC & CI – MR 2.1 and MR 2.2 Construction Waste Management or LEED EB - MR Prerequisite 1.1 Source Reduction and Waste Management. - KI can assist in creating an onsite recycling program with the General Contractor.</p> <p>LOW EMITTING MATERIALS (1-2 Points) SCS Indoor Advantage™ Gold Certificate can be found at: www.scsglobalservices.org</p>

		<p>- Qualifies for LEED low-emitting materials credits, complies with ANSI/BIFMA X7.1/M7.1, meets CA 01350.</p> <p>CERTIFIED WOOD (1 Point) Forest Stewardship Council (FSC) Certified FSC Chain of Custody verification @ www.fsc.org - Available by "special request" on wood options</p> <p>DAYLIGHT AND VIEWS: Daylighting (1-2 Points) Maximize interior daylighting strategies - Movable Walls and Systems with glass options</p> <p>HEALTH PRODUCT DECLARATIONS (HPD) (1 Point) - Health Product Declaration (HPDs) provide a full disclosure of the potential chemicals of concern in products by comparing product ingredients to a wide variety of "hazard" lists published by government authorities and scientific associations. - KI continues to add products to this list as we receive supplier information.</p> <p>LIFE CYCLE ASSESSMENT (LCA)/ENVIRONMENTAL PRODUCT DECLARATION (EPD) (1 Point) - LCA/EPD is a technique to assess the environmental aspects and potential impacts associated with a product. - Our goal is complete at least one LCA/EPD a year due to the time needed and the costs involved in gathering and creating documentation. - KI continues to add products to this list as we receive supplier information.</p> <p>RE-USE/RECYCLING (1 Point) - KI selects materials that can be recycled at the end of a product's use and designs its products so that it can be easily disassembled and separated for local recycling facilities. - Disassembly Instructions can be found online or by request. - We have resources and a National Program that will assist or remove product and either donate to a non-profit or recycle the product to eliminate it from the landfill.</p> <p>FACTS® CERTIFICATION - The Facts certification mark is owned by the Association for Contract Textiles, Inc. (ACT) - A Facts sustainability rating indicates a textile has been evaluated for environmental, economic and social aspects across its life cycle. - Pallas currently has over 35 sku's that have been awarded this certification.</p> <p>LEED Other Credits: (1-4 Points) - Environmentally preferable interior finishes and furnishings, allows project teams to earn an Innovation point for purchasing products certified under ANSI/BIFMA e3 Furniture Sustainability Standard. - Enhanced Acoustical Performance: Design to meet STC Rating and reducing external and internal noise transmissions/ - Innovation Credits: o Pilot Credit 44: Ergonomic Strategy; Identify activities and behaviors, equipment, and education. o Design for Flexibility o Regional Materials</p>
71	Describe your approach to serving members in state/local Government, education, non-profit, and how you will grow those markets using your products and the Sourcewell contract.	<p>KI and its subsidiaries have been successful in continuing to grow our market share since the beginning of our relationship with Sourcewell in 2008. We believe that our values and passion to support the customer are strongly aligned. Both Sourcewell and KI value the relationships with the customer and continue to better understand how to support the Government and Educational sectors. KI has strong leadership and strive to provide training to our representatives regarding the importance of these aligned goals. In turn we understand the importance of being able to satisfy the customer's desire to work with specific local dealers/ contractors/ installers that other manufacturers who must utilize franchise dealers cannot. The advantage this presents is customer comfort, the ability to work with who they are comfortable with. Our goal is to continue to partner with other Sourcewell contract holders to promote KI product and the Sourcewell portfolio of contracts, for the betterment of its members. Our growth and success in these markets will continue to grow by instilling these values and offering this effortless experience to the Sourcewell members and any customer looking for a furniture solution.</p>

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

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

Documents

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

1. Documents in PDF format are preferred. Documents in Word, Excel, or compatible formats may also be provided.
 2. Documents should NOT have a security password, as Sourcewell may not be able to open the file. It is your sole responsibility to ensure that the uploaded document(s) are not either defective, corrupted or blank and that the documents can be opened and viewed by Sourcewell.
 3. Sourcewell may reject any response where any document(s) cannot be opened and viewed by Sourcewell.
 4. If you need to upload more than one (1) document for a single item, you should combine the documents into one zipped file. If the zipped file contains more than one (1) document, ensure each document is named, in relation to the submission format item responding to. For example, if responding to the Marketing Plan category save the document as "Marketing Plan."
- [Financial Strength and Stability](#) - 10. Financials strength and stability.pdf - Monday December 16, 2019 17:07:33
 - [Marketing Plan/Samples](#) - 32. Marketing - Sourcewell---KI-Contract-Overview.pdf - Monday December 16, 2019 17:08:01
 - [WMBE/MBE/SBE or Related Certificates](#) - 40. Minority (MWBE) Subcontracting Plan-2019.pdf - Monday December 16, 2019 17:08:10
 - [Warranty Information](#) - 43. Terms-Conditions-Rights-and-Warranties.pdf - Monday December 16, 2019 17:08:21
 - [Pricing](#) - 62.Pricing Sourcewell Discount Matrix.xls - Wednesday December 18, 2019 10:37:45
 - [Additional Document](#) - Additional Documents.pdf - Monday December 16, 2019 17:20:07

Proposers Assurance of Comp

PROPOSER ASSURANCE OF COMPLIANCE

PROPOSER'S AFFIDAVIT

The undersigned, authorized representative of the entity submitting the foregoing proposal (the "Proposer"), swears that the following statements are true to the best of his or her knowledge.

1. The Proposer is submitting its proposal under its true and correct name, the Proposer has been properly originated and legally exists in good standing in its state of residence, the Proposer possesses, or will possess before delivering any products and related services, all applicable licenses necessary for such delivery to Sourcwell member agencies. The undersigned affirms that he or she is authorized to act on behalf of, and to legally bind the Proposer to the terms in this Contract.
2. The Proposer, or any person representing the Proposer, has not directly or indirectly entered into any agreement or arrangement with any other vendor or supplier, any official or employee of Sourcwell, or any person, firm, or corporation under contract with Sourcwell, in an effort to influence the pricing, terms, or conditions relating to this RFP in any way that adversely affects the free and open competition for a Contract award under this RFP.
3. The contents of the Proposer's proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or agent of the Proposer and will not be communicated to any such persons prior to the official opening of the proposals.
4. The Proposer has examined and understands the terms, conditions, scope, contract opportunity, specifications request, and other documents in this solicitation and affirms that any and all exceptions have been noted and included with the Proposer's Proposal.
5. The Proposer will, if awarded a Contract, provide to Sourcwell Members the /products and services in accordance with the terms, conditions, and scope of this RFP, with the Proposer-offered specifications, and with the other documents in this solicitation.
6. The Proposer agrees to deliver 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.
7. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
8. The Proposer understands that Sourcwell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statute §13.591, Subd. 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals generally become public data. Minnesota Statute §13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.

The Proposer understands that it is the Proposer's duty to protect information that it considers nonpublic, and it agrees to defend and indemnify Sourcwell for reasonable measures that Sourcwell takes to uphold such a data designation.

☒ 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. - Guy Patske, Assistant Secretary , Krueger International, 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