

**Solicitation Number: RFP #010521****CONTRACT**

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and BCI Burke Company, LLC, 727 Northwest Way, Fond du Lac, WI 54937 (Vendor).

Sourcewell is a State of Minnesota local government agency and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada. Sourcewell issued a public solicitation for Playground and Water Play Equipment with Related Accessories and Services from which Vendor was awarded a contract.

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

1. TERM OF CONTRACT

- A. **EFFECTIVE DATE.** This Contract is effective upon the date of the final signature below.
- B. **EXPIRATION DATE AND EXTENSION.** This Contract expires February 17, 2025, unless it is cancelled sooner pursuant to Article 22. 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 14 survive the expiration or cancellation of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

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

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

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

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

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

3. PRICING

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

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

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

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

time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery.

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

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 Participating Entity will notify the Vendor as soon as possible and the Vendor will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Participating Entity.

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

C. HOT LIST PRICING. At any time during this Contract, Vendor may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Vendor determines it will offer Hot List Pricing, it must be submitted electronically to 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 Participating Entities.

4. PRODUCT AND PRICING CHANGE REQUESTS

Vendor may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed 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); and
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing

restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

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

5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS

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

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

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

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

6. PARTICIPATING ENTITY USE AND PURCHASING

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

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

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

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

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

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

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

7. CUSTOMER SERVICE

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

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

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

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

A. CONTRACT SALES ACTIVITY REPORT. Each calendar quarter, Vendor must provide a contract sales activity report (Report) to the 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/Province;
- Customer Zip Code;
- Customer Contact Name;
- Customer Contact Email Address;
- Customer Contact Telephone Number;
- Sourcwell Assigned Entity/Participating Entity Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcwell 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 Sourcwell, the Vendor will pay an administrative fee to Sourcwell on all Equipment, Products, and Services provided to Participating Entities. The Administrative Fee must be included in, and not added to, the pricing. Vendor may not charge Participating Entities more than the contracted price to offset the Administrative Fee.

The Vendor will submit payment to Sourcwell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased by Participating Entities under this Contract during each calendar quarter. Payments should note the Vendor's name and Sourcwell-assigned contract number in the memo; and must be mailed to the address above "Attn: Accounts Receivable" or remitted electronically to Sourcwell's banking institution per Sourcwell's Finance department instructions. Payments must be received no later than 45 calendar days after the end of each calendar quarter.

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

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

9. AUTHORIZED REPRESENTATIVE

Sourcewell's Authorized Representative is its Chief Procurement Officer.

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

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

A. **AUDIT.** Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices relevant this Agreement are subject to examination by Sourcewell or the Minnesota State Auditor for a minimum of six years from the end of this Contract. This clause extends to Participating Entities as it relates to business conducted by that Participating Entity under this Contract.

B. **ASSIGNMENT.** Neither 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.

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

D. **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.

E. **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. For any conflict between the attached Proposal and the terms set out in Articles 1-22, the terms of Articles 1-22 will govern.

F. **RELATIONSHIP OF THE PARTIES.** The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their

respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.

11. LIABILITY

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

12. 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.

13. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT

A. INTELLECTUAL PROPERTY

1. *Grant of License.* During the term of this Contract:
 - a. Sourcewell grants to Vendor a royalty-free, worldwide, non-exclusive right and license to use the Trademark(s) provided to Vendor by Sourcewell in advertising and promotional materials for the purpose of marketing Sourcewell's relationship with Vendor.
 - b. Vendor grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Vendor's Trademarks in advertising and promotional materials for the purpose of marketing Vendor's relationship with Sourcewell.
2. *Limited Right of Sublicense.* The right and license granted herein includes a limited right of each party to grant sublicenses to its and their respective distributors, marketing representatives, and agents (collectively "Permitted Sublicensees") in advertising and promotional materials for the purpose of marketing the Parties' relationship to Participating Entities. Any sublicense granted will be subject to the terms and conditions of this Article. Each party will be responsible for any breach of this Article by any of their respective sublicensees.
3. *Use; Quality Control.*

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

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

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

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

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

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

14. 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.

15. FORCE MAJEURE

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

16. SEVERABILITY

If any provision of this Contract is found 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.

17. PERFORMANCE, DEFAULT, AND REMEDIES

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

1. *Notification.* The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the 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 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 Participating Entities as a result of such failure to proceed will be borne by the Vendor.

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

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

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

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

18. INSURANCE

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

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

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

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

Minimum limits:

- \$500,000 each accident for bodily injury by accident
- \$500,000 policy limit for bodily injury by disease
- \$500,000 each employee for bodily injury by disease

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

Minimum Limits:

- \$1,000,000 each occurrence Bodily Injury and Property Damage
- \$1,000,000 Personal and Advertising Injury
- \$2,000,000 aggregate for Products-Completed operations
- \$2,000,000 general aggregate

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

Minimum Limits:

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

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

Minimum Limits:
\$2,000,000

5. *Professional/Technical, Errors and Omissions, and/or Miscellaneous Professional Liability*. During the term of this Contract, Vendor will maintain coverage for all claims the Vendor may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Vendor's professional services required under this Contract.

Minimum Limits:
\$2,000,000 per claim or event
\$2,000,000 – annual aggregate

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.

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

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

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

maintained by the Vendor or its subcontractors. Where permitted by law, Vendor must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

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

19. COMPLIANCE

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

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

20. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

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

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

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

Participating Entities that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may also require additional requirements based on specific funding specifications. Within this Article, all references to "federal" should be interpreted to mean the United States federal government.

The following list only applies when a Participating Entity accesses Vendor's Equipment, Products, or Services with United States federal funds.

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

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

C. **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708).** Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40

hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

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

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

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

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Vendors must file any required certifications. Vendors must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any

agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Vendors must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Vendors must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

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

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

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

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

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

22. CANCELLATION

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

Sourcewell

BCI Burke Company, LLC

DocuSigned by:
Jeremy Schwartz
C0FD2A139D06489...
By: _____
Jeremy Schwartz
Title: Director of Operations &
Procurement/CPO
Date: 2/15/2021 | 10:34 PM CST

DocuSigned by:
Doug Pietrowski
5E49EAF153C543E...
By: _____
Doug Pietrowski
Title: Chief Financial Officer
Date: 2/15/2021 | 1:06 PM PST

Approved:
DocuSigned by:
Chad Coauette
7E42B8F817A64CC...
By: _____
Chad Coauette
Title: Executive Director/CEO
Date: 2/15/2021 | 10:45 PM CST

RFP 010521 - Playground and Water Play Equipment with Related Accessories and Services

Vendor Details

Company Name: BCI Burke Company, LLC
Does your company conduct business under any other name? If yes, please state: WI
Address: 727 Northwest Way
Fond du Lac, WI 54935
Contact: Marianne Larson
Email: mlarson@bciburke.com
Phone: 920-933-6701
HST#:

Submission Details

Created On: Thursday November 12, 2020 10:17:31
Submitted On: Tuesday January 05, 2021 09:24:22
Submitted By: Jessica Westphal
Email: jwestphal@bciburke.com
Transaction #: 496579f6-aad4-4995-b61d-21d352c781ce
Submitter's IP Address: 24.196.128.114

Specifications

Table 1: Proposer Identity & Authorized Representatives

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

Line Item	Question	Response *
1	Proposer Legal Name (and applicable d/b/a, if any):	BCI Burke Company, LLC
2	Proposer Address:	727 Northwest Way Fond du Lac, WI 54937
3	Proposer website address:	www.bciburke.com
4	Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer and, in the event of award, will be expected to execute the resulting contract):	Doug Pietrowski, Chief Financial Officer, 727 Northwest Way, Fond du Lac, WI 54937 dpietrowski@bciburke.com (920) 921-9220
5	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Marianne Larson, Sales Support Manager, 727 Northwest Way, Fond du Lac, WI 54397, mlarson@bciburke.com, (920) 933-6701
6	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	Jessica Westphal, Sales Support Coordinator 727 Northwest Way, Fond du Lac, WI 54397, jwestphal@bciburke.com, (920) 933-6697

Table 2: Company Information and Financial Strength

Line Item	Question	Response *
7	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services.	JE Burke Company was incorporated in 1920 as a weather-stripping company that quickly expanded to include the design and production of designer radiator furniture. After receiving a request to fabricate a slide for a family friend, JE Burke entered the playground industry and soon playground products were the company's main focus. The company remained family-owned and operated under the JE Burke company name until it was purchased from Greg Burke in 1997 and was incorporated as BCI Burke Company, LLC. Burke just celebrated our 100th anniversary this year. Our mission at Burke is simple: To bring Play That Moves You to communities around the world. Our purpose each and every day is to create quality and innovative playground equipment that inspires us to move. We do this with a culture that is focused on outcomes where everyone wins – the Company, our Employees, our Representatives, our Partners, our Customers and the Community. It's what we focus on every day. See attachment Burke History.
8	What are your company's expectations in the event of an award?	Our expectations are that Burke and Sourcewell will work as a cohesive team to provide Sourcewell customers with the highest quality products and services for the best value in the industry. We will commit our resources to immediately train our internal staff, Representatives and current customers regarding the benefits of purchasing through Sourcewell. We will market the Sourcewell contract to existing Burke and Sourcewell customers. We will introduce Sourcewell to the Canadian market using our current Representative and targeted Marketing initiatives to increase brand awareness for both Burke and Sourcewell in Canada. The Burke/Sourcewell partnership will continue to grow throughout the term of the contract as we exceed member expectations and bring "Play That Moves You" to communities throughout the US and Canada.

9	<p>Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response.</p>	<p>BCI Burke FEIN#: 39-1900568 NCAIS #: 332300 Architectural & Structural Metals Manufacturing Industry Type: Manufacturing Sub Type: Fabricated Metal Product Manufacturing</p> <p>Burke is a privately held company that is growing rapidly and has a strong financial position. We are pleased to provide the attached references to demonstrate our financial strength.</p> <p>BCI Burke has entered its 100th year of continuous operation in 2020 making us the oldest commercial playground equipment manufacturer in the United States. Achieving longevity such as this can only be accomplished through continued operational discipline and financial strength.</p> <p>See financial attachments</p>	*
10	<p>What is your US market share for the solutions that you are proposing?</p>	<p>Burke is proudly represented by local Representative Partners throughout the United States. Our market share varies by territory but is as strong as 30% in some areas.</p>	*
11	<p>What is your Canadian market share for the solutions that you are proposing?</p>	<p>Burke is proudly represented by local Representative Partners throughout Canada Our market share varies by province but is as strong as 15% in some areas.</p>	*
12	<p>Has your business ever petitioned for bankruptcy protection? If so, explain in detail.</p>	<p>Burke has not ever petitioned for bankruptcy protection.</p>	*
13	<p>How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization. a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned? b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?</p>	<p>Burke is best described as a manufacturer.</p> <p>Burke has thirty contracted US and Canadian Representative Firms that employ outside and inside sales representatives and administrative staff. The Representative Firms are responsible for servicing all markets within their contracted territory. The Representative Firms are independent entities that contract with Burke to sell Burke products within their specific territory.</p> <p>Please see the enclosed Representative Territory map to identify coverage of Burke products and services throughout the United States and Canada. Having solid relationships with our Representatives is critical for Burke; in fact it is these very relationships that set Burke apart in the industry from other manufacturers. Bottom line is that the customer needs to be taken care of in a timely manner, and that is what Burke and our Representatives do. It may sound like a simple concept, but it is not common in our industry.</p> <p>The relationship with our Representatives is based upon a model that consists of shared goals and objectives, mutual dependence, open lines of communication, mutual commitment to customer satisfaction, concerns for others profitability, and trust. Each of these items overlaps the next and must remain in proportional balance in order for Burke and our Representatives to be successful. Burke realizes that the Representative is also our customer and to maintain our model of successful factory/Representative relationship, professional respect, continuous improvement initiatives, and investment of effort by top management are a necessity. Burke recognizes and strives to support our Representative Firms' efforts by timely responses and open lines of communication, and in the end, this allows Burke and our Representatives to offer superior customer service to the end customer.</p>	*
14	<p>If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.</p>	<p>It is a requirement in our industry to have all products certified through IPEMA to the ASTM F1487 and CSA Z614 playground safety standards for equipment and surfacing. We are active participants in the equipment certification program and the surfacing certification program, and all of our products are certified to the appropriate standards. Our company also maintains certification to ISO 9001 and ISO 14001, which are both necessities to compete and carry on business in our industry. BCI Burke offers Installer Training done in conjunction with NPCAI to offer both NPCAI and Burke Installer Certification. Many of our Representative Firms send their installers to this training to become Burke Certified Installers to ensure our products are installed safely, properly and compliant.</p>	*
15	<p>Provide all "Suspension or Debarment" information that has applied to your organization during the past ten years.</p>	<p>Burke has not had any Suspension or Disbarment proceedings during the past ten years.</p>	*

Table 3: Industry Recognition & Marketplace Success

Line Item	Question	Response *
16	Describe any relevant industry awards or recognition that your company has received in the past five years	Burke has been featured in many magazines and received recognition for many of our designs. <ul style="list-style-type: none"> • Featured in LASN 2017 Playground Issue – Hope Playground in Redmond, OR. • Featured in LASN 2016 School Issue – First United Methodist Church in Richardson, TX • 2015 Ruth Hughes Innovative Accessible Recreation Facility Award from the New Jersey Commission on Recreation for Individuals with Disabilities for The Jets Play 60 All Access Playground at Central Park of Morris County Please see attached Burke Awards for additional awards we have also received.
17	What percentage of your sales are to the governmental sector in the past three years	30% of Burke's sales over the past three years are to the governmental sector.
18	What percentage of your sales are to the education sector in the past three years	35% of Burke's sales over the past three years are to the education sector..
19	List any state, provincial, or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	OMNIA Partners - Contract # R170301 Over \$18M in sales over past 3 years Equalis Group/Sourcing Alliance - Contract # 2020.05.4A New Contract, no reported sales at this time. HGACBuy- Contract # PR11-20 Approximately \$1M in Sales in past 3 years Ohio State Contract – Schedule # 800702 Approximately \$3M in Sales in past 3 years NJ State Contract – Contract # T0103, 16-FLEET-00134 Over \$2.7M in Sales over past 3 years
20	List any GSA contracts or Standing Offers and Supply Arrangements (SOSA) that you hold. What is the annual sales volume for each of these contracts over the past three years?	GSA – Contract #'s 47QSMA20D08NL & 47QSMA20D08NM Over \$6 Million in sales over the past 3 years CMAS – Contract#'s 4-20-78-0025B & 4-20-78-0025C Over \$700,000 in sales over the past 3 years

Table 4: References/Testimonials

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

Entity Name *	Contact Name *	Phone Number *
Mecklenburg County Parks and Recreation	James Rainey	(980) 314-1043
Downers Grove School District	Kevin Barto	(630) 719-5858
Charlotte County	Lacey Solomon	(941) 833-3840

Table 5: Top Five Government or Education Customers

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

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *
Clark County School Distict	Education	Nevada - NV	Playground Equipment, Surfacing, Install	Range from \$15,000 to \$250,000	\$2,200,000
Town of Islip	Government	New York - NY	Playground Equipment, Surfacing and Install	ange from \$2,000 to \$155,000	\$2,800,000
Camp Lejeune	Government	North Carolina - NC	Playground Equipment, Surfacing, Install and Demo	Range from \$50,000 to \$100,000 per Location	\$6,500,000
USD 259	Education	Kansas - KS	Playground Equipment, Surfacing and Install	Range \$500 to \$120,000 per project	\$1,700,000
IDEA Schools	Education	Texas - TX	Playground Equipment, Surfacing and Install	Range from \$50,000 - \$200,000	\$2,800,000

Table 6: Ability to Sell and Deliver Service

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

Line Item	Question	Response *
23	Sales force.	<p>Burke employs four Regional Sales Managers (RSM) who assist our Representative firms and customers in a variety of ways. Each RSM is assigned a territory within the United States and Canada (Northeast, Southeast, Western and Midwest). The RSMs assist our Representative Firms by joining them in customer visits, lunch & learns, tradeshows, territory development, training and recruiting. The RSMs report directly to Michael Phelan, Burke's President/CEO. Burke's Sales Support and Marketing Departments provide continuous support to the RSMs and Representatives. This model has proven to be very effective for Burke and demonstrates our commitment to fully support our Representative firms and our customers.</p> <p>Burke RSMs also handle Burke Direct sales into areas that are not currently covered by a contracted Representative firm. RSMs work closely with Burke Sales Support Staff to ensure exceptional Burke designs, timely submission of proposals and quotes, order placement, order delivery, equipment installation and service.</p>
24	Dealer network or other distribution methods.	<p>Burke has thirty contracted US and Canadian Representative Firms that employ outside and inside sales representatives and administrative staff. The Representative firms are responsible for servicing all markets within their contracted territory. The Representative firms are independent entities that contract with Burke to sell Burke products within their specific territory.</p> <p>The Burke team is here to help before, during and after the sale – long after. From the initial design through the final installation, Burke works closely with its Representatives and directly with government entities to make sure all the pieces come together. Our focus is not just about Play that Moves Us today; it is about building a relationship with Sourcewell Partners and customers for years to come.</p> <p>Having solid relationships with our Representatives is critical for Burke; in fact it is these very relationships that set Burke apart in the industry from other manufacturers. Bottom line is that the customer needs to be taken care of in a timely manner, and that is what Burke and our Representatives do. It may sound like a simple concept, but it is not common in our industry.</p> <p>The relationship with our Representatives is based upon a model that consists of shared goals and objectives, mutual dependence, open lines of communication, mutual commitment to customer satisfaction, concerns for others profitability, and trust. Each of these items overlaps the next and must remain in proportional balance in order for Burke and our Representatives to be successful. Burke realizes that the Representative is also our customer and to maintain our model of successful factory/Representative relationship professional respect, continuous improvement initiatives, and investment of effort by top management are a necessity. Burke recognizes and strives to support our Representative Firms' efforts by timely responses and open lines of communication, and in the end this allows Burke and our Representatives to offer superior customer service to the end customer. Please see the enclosed Representative map to identify coverage of Burke products and services throughout the United States and Canada.</p>
25	Service force.	<p>We have one service and parts center with three full time technicians. The hours of operation are 7:30am-4:30pm Central Time. After-hour phone calls are recorded and are returned / answered the following business day. Additionally, our Representatives have access to our website 24/7. This website offers our Representatives a large amount of information they can access before, during or after our normal hours of operation.</p> <p>Burke has a toll free Customer Service telephone number available for customers to call the factory direct. Our Customer Service staff has the ability to process requests almost immediately and we can ship service parts the same day in many cases, including Next Day Air service if the situation requires it. Customer Service requests are forwarded directly to the Production Manager and their staff for immediate processing</p>

26	Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.	<p>Burke Customer Service staff is arranged to provide a person to talk to when a need arises. Incoming calls go directly to a real-live person, not an answering system. Staff also stagger their breaks, lunches and vacations to ensure someone is always available for calls during normal business hours. Our Customer Service staff has the ability to process requests immediately and we can service parts the same day in many cases, including Next Day Air service if the situation requires it. They have the availability to see stock status of parts to ensure promises made to customers on ship dates are met. Their requests (via information from the customer) are forwarded directly to the Production Manager and staff for immediate processing.</p> <p>Burke is committed to providing superior customer service. Not only do we evaluate our processes internally, we regularly send Customer Satisfaction Surveys to recent order recipients. We request feedback on quality, appearance, and the ease of installation. The survey also requests input on our selection of products, service provided by our Sales Representatives, and suggestion for improvement. These responses are then documented and reviewed by our Management, Quality and Customer Service departments.. This data is used to evaluate opportunities for continual improvement of system effectiveness and customer satisfaction.</p>	*
27	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in the United States.	Burke is able to offer our contracted products and services to Sourcewell customers throughout the United States.	*
28	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in Canada.	<p>Burke is very willing and able to provide our products and services to Sourcewell customers in Canada. Since 2010 we have had an Authorized Representative, PlayQuest Recreation, proudly representing Burke products in the Provinces of Alberta, Manitoba, Saskatchewan, Northwest Territories, Yukon and Northern British Columbia. PlayQuest Recreation provides turnkey solutions for any sized project. Since then Burke has hired on two more Representatives. Cobequid Consulting representing the Provinces of Nova Scotia, New Brunswick and Prince Edward Island and Suttle Recreation covering the Provinces of British Columbia and Yukon.</p> <p>Burke is actively seeking new Representation in the areas that are currently being serviced by Burke Direct. Burke's Regional Sales Manager visits Canada frequently and is working on partnerships with local installers and surfacing companies in Ontario and Quebec. In the City of Brampton, the fastest growing municipality in Canada, Burke equipment has been officially approved. Several architectural firms are scheduled to review Burke products and we are aggressively pursuing approval to be included in their specifications.</p>	*
29	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	Burke is able to offer our contracted products and services to Sourcewell customers throughout the United States and Canada without any geographic restrictions.	*
30	Identify any Sourcewell participating entity sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?	Burke is not restricted by any other cooperative agreements pertaining to the Member Sectors to which we can sell. Burke is able to provide our contracted products and services in the government, education and not-for-profit sectors.	*
31	Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories.	There are no specific contract requirements or restrictions that would apply to Sourcewell members in Hawaii and Alaska and in US Territories. These customers would be handled directly by Burke Corporate as a Burke direct customer.	*

Table 7: Marketing Plan

Line Item	Question	Response *
32	Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.	<p>Burke will develop and utilize cobranded postcard mailers, email blasts, and Google Adwords advertising to dramatically elevate awareness. In addition, each message will be shared via our social media campaign.</p> <p>Website / Catalog Burke's two most impactful marketing initiatives are our website and catalog. Burke will maintain a dedicated page within our website outlining our relationship with Sourcewell and providing a link to the Sourcewell web site. Sourcewell will also be included in our printed catalog.</p> <p>Direct Mail Campaigns/ Co-branded Collateral/Advertising Schedule Our marketing team will build in the Sourcewell logo and language to co-brand our pieces in our scheduled marketing campaigns. Additionally, we will budget for additional mailings specific to Sourcewell Direct mail postcards will be sent to our database, along with any database records that Sourcewell provides.</p> <p>Print advertising is scheduled in local and national publications for the year and will include Sourcewell in our scheduled placements. These publications include, but are not limited to Parks & Recreation Magazine and Parks and Rec Business Magazine. We also participate in state specific publications such as California Parks and Recreation Society (CPRS) Magazine, and our partnership will also be reflected in those advertisements.</p> <p>Tradeshow Participation Burke has increased our presence in both the local and national tradeshow circuit, heavily increasing our marketing efforts for the National Recreation and Parks Association (NRPA) Annual Conference in September, as well as the American Society of Landscape Architects (ASLA) immediately following NRPA in October. We will incorporate the Sourcewell logo in our physical handouts, as well as our pre-and post-show marketing efforts, including print advertising in national magazines and show specific publications, email blasts, and our social media campaign.</p> <p>Internal Promotion Burke provides a Burke Spot for all upcoming news and events to all our employees and Representative Firms. We will send ongoing updates regarding the contract award and reminders will be include the Sourcewell contract in their communication and sales tactics. We hold an annual Sales Conference for our Representative Firms that include continuing education presentations and updates. Sourcewell contract details and reminders are included in these presentations.</p> <p>See attached examples of Burke's 2021 Catalog, Shade Systems Catalog, and current marketing materials used with similar contracts and promotions.</p>
33	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	Burke uses Facebook, Twitter, LinkedIn, YouTube, Vimeo and a Blog to share pertinent information with followers that include both Representative and potential customers. Many of our Representatives share Burke posts and information with their followers to help spread the message even further. Burke also runs an email campaign, utilizes AdWords and Remarketing and participates in Facebook ads to assist in brand awareness and help promote its products.
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>By linking existing clients with Burke, Sourcewell can provide customers better and additional resources by promoting this contract and partnership.</p> <p>In addition to the marketing efforts above in Question 32, Burke will pull our existing government customers from our databases and send targeted email blasts and direct mail postcards to these contacts. Our message will include not only the award of the contract, but can also include our past efforts and successes utilizing this contract and encourage them to take advantage of this opportunity.</p> <p>Because these contacts are existing customers, our Representative Firms and sales staff can also contact some of these clients directly, based on the relationship we have built and sustained in some of these markets to promote the benefits of utilizing Sourcewell for another project.</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.	Most business is conducted through location Representatives due to the complexity of playground projects. If awarded the Sourcewell Contract, Burke is open to replicating an ordering system similar to the GSA Advantage website for use by Sourcewell customers.

Table 8: Value-Added Attributes

Line Item	Question	Response *

36	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell participating entities. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	<p>BCI Burke offers Installer Training done in conjunction with NPCAI to offer both NPCAI and Burke certifications. This is a two day training at a significantly reduced rate that includes lodging and meals. Installers will also receive a tour of Burke Headquarters. Installer Training is optional; installers do not need to be Burke or NPCAI Certified to install our equipment as long as the installation instructions are followed. Burke also offers product training, including Lunch & Learns for designers and staff. Topics include:</p> <ul style="list-style-type: none"> • Proper Playground Maintenance • Play That Moves You – Making The Case for Play • Designing Play That Moves You • Burke Product Training • Creating Safer Play – NPPS Safety Supervision <p>Burke offers a continuing education program to Parks and Recreation professionals, Landscape Architects and Architects where they can obtain CEU credits and help further their education. The program is offered as a self-paced online course through AEC Daily as well as in-person at conferences, symposiums or Lunch and Learns. The in-person training is provided by a certified trainer and includes leave behind study guides and references to help keep important information at their disposal. These three courses are developed with experts in the field and provide no-cost training options and offer the opportunity to learn about Inclusive Play, Outdoor Fitness and Obstacle Courses and Outdoor Musical Instruments.</p>
37	Describe any technological advances that your proposed products or services offer.	<p>EZDesign Software Burke's Designers utilize our proprietary EZDesign software, which is known to be the most advanced in the industry – features all applicable safety standards and ADA requirements built right into the design configurator.</p> <p>KoreKonnnect Direct-Bolt System Nucleus and Voltage feature our Industry-leading KoreKonnnect direct-bolt system resulting in the strongest and most accurate connection system ever. Factory located connection points make for easy, precise installation and an error-free fit. Best of all, KoreKonnnect is covered for 100 years under our non-pro-rated Generations Warranty KoreKonnnect clamp castings [Nucleus, Voltage] shall be cast aluminum heat-treated alloy A356-T6 with a tensile strength of at least 34,000 psi, yield strength of at least 24,000 psi, shear of 20,700 psi, and elongation of 3.50% minimum. Each casting shall clamp to the post with two connection bolts. Clamp casting shall encapsulate the component attached to support surge loads, preventing surge loads being supported by only the hardware. Clamp shall be finished with a baked on powder coating.</p> <p>Color compounded, rotationally molded plastics You'll get long wear and bright, vibrant colors that hold up for years thanks to our thick, durable rotomolded plastics with UV-20 protection. Color compounding provides greater structure integrity for the life of rotationally molded products; the UV inhibitor is added during the production process and keeps these plastics from UV degradation and fading like that of products produced via a Dry-Blend process. Rotationally Molded Plastic Parts shall be manufactured from color compounded, linear, low-density polyethylene with an average of .250" wall thickness and textured non-sliding surfaces. Plastic parts shall be UV stabilized to UV-20 and shall have a density of 0.935 per ASTM D-1505. Plastic parts shall have a tensile strength at yield no less than 2800 psi with flexural modulus of 90,000 psi.</p>

38	Describe any "green" initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.	<p>We all share one earth, and at Burke we want to preserve our planet for future generations of children. We've implemented a variety of practices to help us help keep our shared world a better, greener place.</p> <p>Manufacturing: Being ISO 14001:2015 certified means we have strict environmental controls built into our manufacturing process. We get 100% of our energy from wind and other renewable resources. This helped us earn the Green Power Partner designation from the US Environmental Protection Agency – the only playground manufacturer to achieve this! Internally, we have a very comprehensive recycling program where we recycle the following:</p> <ul style="list-style-type: none"> • Metal products, including stainless steel and copper/brass • Aluminum • Cardboard (separate dumpsters on site for this) • HDPE (High Density Polyethylene) • Wood pallets • Paper and aluminum cans and plastic bottles (bins at each person's desk for these) <p>Additionally, we have an internal EMAP (Environmental Management Action Plan) to try to achieve 100% LED Lighting in the entire facility over a three year span starting in 2019. To date we are over 90% LED fixtures on our campus. In our powder coat system, we utilize phosphate-free chemicals in our cleaning processes, as well as enlist a third-party certified handler to manage any wastes from this process according to State and Federal regulations. We also utilize motion activated lights wherever feasible to reduce the amount of energy consumed in lighting, especially in warehouse and even restroom areas.</p> <p>Design: We design high-quality products with long life expectancies and quality components to extend the useable life of the play space. Many of our raw materials have recycled content, including our steel tubes and castings. In addition, many other Burke products are made from recycled material. For example, the NaturePlay® ClubHouse™ Board Panels and Roofs are made from 75% post-consumer material and are 100% recyclable after use.</p> <p>Offices: Our corporate office uses energy efficient LED lighting to help reduce energy use on a daily basis. We also use recycled paper to print our catalogs and created a digital catalog to decrease the amount of paper being used. We abide by the six R's: Reduce, Reuse, Recycle, Repair, Recover and Respect.</p> <p>Suppliers: To minimize transportation costs and fuel usage, we prefer to work with suppliers located near our manufacturing facility if at all possible.</p> <p>See attachment Green Initiative</p>
39	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	<p>Burke has received the ISO 14001:2015 Certification by the NSF-International Strategic Registrations for Design and Manufacture of Playground Park and Recreation Equipment with the Design, Manufacture and Distribution of Specialized Parts. We get 100% of our energy from wind and other renewable resources. This helped us earn the Green Power Partner designation from the US Environmental Protection Agency – the only playground manufacturer to achieve this! See attachment Green Initiative</p>
40	Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response.	<p>BCI Burke is not eligible for WMBE or SBE accreditation, however many of our local Sales Representatives have obtained these accreditations.</p>

<p>41</p>	<p>What unique attributes does your company, your products, or your services offer to Sourcewell participating entities? What makes your proposed solutions unique in your industry as it applies to Sourcewell participating entities?</p>	<p>Research At Burke we believe great product design comes from great research, for example we continue to study how children play with our partner at University of Nebraska Omaha and incorporate what we learn into our product and playground designs. Our product design process includes a focus on how to enhance development and overall experience for children and adults of all abilities.</p> <p>Design To design the best playgrounds that comply with necessary standards, Burke has proprietary software that has all of the controls built-in to ensure all safety standards are met. Fusing creativity into playspaces, we have landscape designers to design custom playspaces using panels and unique layouts to create a space that ignites imagination and brings communities together.</p> <p>Playground Grant Search and Fundraising Burke provides options and programs that can help you raise funds and search for grants to help fund your playground equipment. For your convenience, we've brought together information on our fundraising program, grant resources and purchasing cooperatives. And of course, we're always glad to discuss your playground equipment needs and help you find ways to get the playground your kids deserve. https://www.bciburke.com/resources/playground-funding-resources</p> <p>Promotions and Grants Burke offers three to four promotions annually that we will share with Sourcewell participants. We also have a Burke in-kind grant program that customers can apply for if they meet the criteria.</p>
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Table 9: Warranty

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

Line Item	Question	Response *
42	Do your warranties cover all products, parts, and labor?	<p>Burke stands behind our products like no other playground manufacturer. It starts with Burke Built® quality that is backed by the longest and strongest warranty in the industry – the Burke’s Generations Warranty®. We don’t prorate your warranty and if a plastic play event needs replacement during the warranty period due to manufacturing defect, we’ll replace it for free and give you a brand-new warranty on the part.</p> <p>Burke’s hand-crafted quality also means less maintenance is required, which keeps your operating costs low and your playground open for play.</p> <p>The Burke Generations Warranty is the longest and strongest in the industry and shows our commitment to creating spaces that will serve communities for years to come.</p> <p>Labor is not included in Burke’s warranty. However, numerous Burke Representatives include a supplemental warranty for labor related to warrant repairs on Burke equipment.</p> <p>Each warranty claim is reviewed on a case by case basis to ensure the full scope of the claim is understood and documented. It is during this review that a decision is made on the cost of labor and if it is to be covered in relation to the claim. See Burke Warranty and Shade Systems Warranty attachments</p>
43	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	<p>Our warranty is not prorated and replacement parts covered under that warranty will have their own appropriate, full-length warranty instead of being restricted to the balance of the original warranty period which is based on the date it was shipped by the manufacturer. Furthermore, all parts covered under Burke’s warranty are shipped free of charge.</p>
44	Do your warranties cover the expense of technicians’ travel time and mileage to perform warranty repairs?	<p>Burke offers a Back-charge/Reimbursement form as needed (which includes mileage reimbursement) for when products are replaced. Every circumstance is handled individually by Customer Service staff and/or Plant Manager.</p>
45	Are there any geographic regions of the United States or Canada (as applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell participating entities in these regions be provided service for warranty repair?	<p>Burke has Authorized Representatives across the US and Canada that are able to assist with locating qualified installers for removal or replacement of parts. If there is a territory unrepresented by a Burke Dealer, Burke Corporate will locate a qualified organization to assist with product removal or installation. Many of Burke parts can be simply replaced without needing to rely on outside contractors or installers.</p>
46	Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?	<p>Burke does not cover warranty service for parts made by other manufacturers. Burke also takes great care in making sure we do not mix and match our parts with other manufacturers on the same piece of play equipment. Installers will, in most cases, work with whatever equipment is on site, even if it is multiple suppliers, however warranty service should be directed to the original manufacturer if at all possible.</p>
47	What are your proposed exchange and return programs and policies?	<p>If products are returned to Burke due to an error in ordering or the customer has changed their mind on something, parts that can go directly into stock with no additional work are simply put into stock and the customer is credited for those parts. Parts that need additional processing or re-powder coating are assessed a 25% re-stocking charge. If parts are not able to be used (as determined by the Quality Manager) and have to be scrapped, the customer will not receive credit for those items.</p>
48	Describe any service contract options for the items included in your proposal.	<p>Burke does not provide service contract options.</p>

Table 10: Payment Terms and Financing Options

Line Item	Question	Response *
49	What are your payment terms (e.g., net 10, net 30)?	There are no credit requirements for governmental entities purchasing with BCI Burke. All governmental entities are granted net 30 day terms.
50	Describe any leasing or financing options available for use by educational or governmental entities.	To assist with financing, Burke partners with NewLane Finance to offer a payment plan for approved customers. See NewLane Finance attachment
51	Briefly describe your proposed order process. Include enough detail to support your ability to report quarterly sales to Sourcwell 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 Sourcwell participating entities' purchase orders.	The Burke Representative will receive a signed quotation or purchase order from the Sourcwell customer. The Representative will utilize Burke's internet based ordering system which is available for use by Authorized Representatives only. The system is entirely self-developed and self-managed by our in-house IT and Order Entry Departments. Once the order is placed, our Order Entry Department will process the order internally. The order is carefully reviewed by the Order Entry and Design Departments to ensure the order matches the customer's purchase order including equipment, color, price, requested delivery date, shipping location and any other information pertinent to the order. The Burke Representative will invoice the customer once the order has shipped. All Sourcwell orders will be flagged as such in Burke's system so that Burke's Accounting Department is able to easily identify the Sourcwell orders and generate quarterly reports which accurately reflect Sourcwell order totals.
52	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcwell participating entities for using this process?	Burke is currently not set up to accept P-card payments. If awarded the Sourcwell contract, Burke will carefully consider adding this capability.

Table 11: Pricing and Delivery

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

Line Item	Question	Response *
53	Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcwell discounted price) on all of the items that you want Sourcwell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response.	All contract pricing is determined using product category discounts. Information relating to Burke equipment, Burke Turf, Burke Tiles, Shade and installation is provided in the Burke 2021 Price List attachment which includes Burke Equipment & Surfacing Pricing, Burke Equipment Installation Rates, and Shade Structures Pricing.

54	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	<p>Burke will offer discounts off of list price for each product category as follows:</p> <ul style="list-style-type: none"> • 7% Discount off of published list prices: <ul style="list-style-type: none"> o Burke Playground Equipment o Sports & Recreation Equipment o Site Amenities o Borders • 5% Discount off of published list prices <ul style="list-style-type: none"> o Burke Turf o Burke Tiles <p>3.5% Discount for shade products</p> <ul style="list-style-type: none"> • Burke Equipment Installation <ul style="list-style-type: none"> o Not to exceed rates based on List Price of proposed equipment. See attached chart which provides the rates for each state. • Burke Tile Installation Rates <ul style="list-style-type: none"> o A per tile rate based on location of project. See attached chart which provides the rates for each state. • Freight <ul style="list-style-type: none"> o Due to fluctuations in freight rates and the varying size and shape of playground equipment, freight is determined on a per project basis. Freight will be invoiced to NJPA customers at Burke's cost. The freight charge will be clearly noted on the quote provided by Burke. <p>All pricing information relating to Burke equipment, Burke Turf, Burke Tiles and installation is provided in the Burke 2021 Price List attachment</p>								
55	Describe any quantity or volume discounts or rebate programs that you offer.	<p>Burke will offer the following volume discounts on Burke Playground Equipment, Sports & Recreation Equipment, Site Amenities and borders:</p> <table border="0"> <tr> <td>List Price Range</td> <td>Discount off of list price</td> </tr> <tr> <td>\$1-\$49,999</td> <td>Standard proposed discount of 7% off of list price</td> </tr> <tr> <td>\$50,000-\$99,999</td> <td>10% Discount off of list price</td> </tr> <tr> <td>\$100,000 and above</td> <td>15% Discount off of list price</td> </tr> </table> <p>Burke offers promotions throughout the year which will provide additional customer discounts. These promotional prices will be offered to Sourcewell customers and quoted accordingly. We will encourage Sourcewell customers to utilize these deep discounts when they are available.</p> <p>Please note that volume pricing does not apply to surfacing or installation.</p>	List Price Range	Discount off of list price	\$1-\$49,999	Standard proposed discount of 7% off of list price	\$50,000-\$99,999	10% Discount off of list price	\$100,000 and above	15% Discount off of list price
List Price Range	Discount off of list price									
\$1-\$49,999	Standard proposed discount of 7% off of list price									
\$50,000-\$99,999	10% Discount off of list price									
\$100,000 and above	15% Discount off of list price									
56	Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request.	<p>Sourcewell customers are able to purchase non-Burke contracted products and services by utilizing the "open market" clause in the Sourcewell contract. Our Representative firms distribute a wide variety of ancillary products including water play, bleachers, park shelters, non-Burke surfacing (PIP, EWF etc.) offering a full turn-key solution for Sourcewell customers. Burke will provide line item quotations for these "open market" items on the Sourcewell quote, and will clearly indicate that these are "open market" goods and/or services. The Sourcewell customer will be required to sign the quotation, which is an indication that they agree to the products and services as quoted.</p>								
57	Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.	<p>All costs for the project will be indicated as a line item on the customer's quotation. Installation will be charged per the Equipment Installation Rate sheet included in the pricing section. These charges are "do not exceed" rates and do not apply to prevailing wage projects. Please see the Equipment Installation Rate sheet for more information. The customer will be notified of any additional charges that may apply to custom equipment, surface mount or coastal paint options.</p>								
58	If freight, delivery, or shipping is an additional cost to the Sourcewell participating entity, describe in detail the complete freight, shipping, and delivery program.	<p>Due to fluctuating fuel prices, freight rates are quoted on a per project basis, and are valid for 30 days from the quote date. The freight charge will be clearly indicated on the quote provided by Burke and will be quoted at Burke's cost.</p>								
59	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	<p>Burke will use transportation brokers to source out the most cost effective freight rate to ship to Alaska, Hawaii and Canada. The freight charges will be clearly noted on the quote provided by Burke.</p>								

60	Describe any unique distribution and/or delivery methods or options offered in your proposal.	Because Burke quotes out each project individually, we are able to accommodate special delivery requests (lift gate, residential delivery, and timekeeper) for an additional cost which will be reflected on the quotation	*
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Table 12: Pricing Offered

Line Item	The Pricing Offered in this Proposal is: *	Comments
61	b. the same as the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.	

Table 13: Audit and Administrative Fee

Line Item	Question	Response *
62	Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcewell. This process includes ensuring that Sourcewell participating entities obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcewell.	As mentioned in the answer to question 51, each Sourcewell customer order is carefully audited by our Accounting Department, Design Department and Sales Department to ensure everything is to the customer's specifications and according to the terms and conditions of the Sourcewell contract. Burke works very closely with our Representatives and customers to ensure total customer satisfaction throughout the entire process.
63	Identify a proposed administrative fee that you will pay to Sourcewell for facilitating, managing, and promoting the Sourcewell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See the RFP and template Contract for additional details.)	Burke is pleased to offer an administrative fee of 2% of the of the customer price of all products and services invoiced/sold under the Sourcewell contract. This fee will be reported and paid to Sourcewell on a quarterly basis. The sale will be reported and the fee paid once full payment is received from the Sourcewell customer. Burke agrees not to up-charge or offset the administrative fees to Sourcewell Members.

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

Line Item	Question	Response *
64	Provide a detailed description of the equipment, products, and services that you are offering in your proposal.	Playground Equipment Sports & Recreation Equipment Site Amenities Shade Burke Turf and Burke Tiles Surfacing, including plastic borders Installation of Burke Equipment Installation of Burke Turf & Burke Tiles Delivery of all products Sourcewell customers will also be able to purchase non-Burke contracted products and services by utilizing the "open market" clause in the contract. Our Representative firms sell a wide variety of products including water play, bleachers, shelters, surfacing (PIP, EWF etc.), offering a full turn-key solution for your park or school. See attachments: Burke 2021 Catalog Shade Systems Catalog
65	Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.	Burke does not have any products or services that have subcategories.

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

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

Line Item	Category or Type	Offered *	Comments	
66	Playground equipment, site furnishings, site amenities, and accessories.	<input checked="" type="radio"/> Yes <input type="radio"/> No	N/A	*
67	Water play and aquatic recreational structures and equipment.	<input type="radio"/> Yes <input checked="" type="radio"/> No	These products are available for purchase via open market designation through our local Representative Firms	*
68	Playground surfacing and fall protection, and water play and aquatic recreational surfacing.	<input checked="" type="radio"/> Yes <input type="radio"/> No	Burke offers Burke Turf and Burke Tile pricing as line items on the contract. Additional surfacing options are available as open market items through our Authorized Representatives.	*
69	Services related to the solutions above.	<input checked="" type="radio"/> Yes <input type="radio"/> No	N/A	*

Table 15: Industry Specific Questions

Line Item	Question	Response *
70	If you are awarded a contract, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the contract.	If we are awarded the contract we will monitor our progress and success by measuring activity and revenue generation. The best metrics to capture this are tracking the project dollars quoted using the contract and the order dollars placed using the contract. We can track this by Representative firm and by territory to understand where we are being successful and develop targeted efforts for areas we want to improve.
71	Describe how your offering addresses the needs of user's safety, well-being, and range or level of accessibility?	At Burke, we design and test our products to all applicable safety standards. We are participants in the International Play Equipment Manufacturer's Association (IPEMA) certification program, and our facility and processes are audited by IPEMA and their third-party verifier to participate in the program and maintain certified products. Burke's Engineering and Product Design Manager, Scott Liebelt, is a director on the IPEMA Board of Directors. He attends ASTM and IPEMA meetings to participate in writing, revising, and interpreting the IPEMA procedures and ASTM-1487 standard, which is the consumer safety performance specification for playground equipment for public use. We have six Burke employees from a variety of departments that are Certified Playground Safety Inspectors (CPSI) through the National Recreation and Park Association (NRPA). The design of our playspaces also promotes safety, well-being and accessibility by focusing on not just access but Universal Design. This means designing spaces to be useable for everyone in the community, regardless of ability, level of concentration or age. Not only do we provide a variety of play events that are designed with these principles, but the overall play environment design has the Universal Design lens with play variety and equity as important considerations. In order to create spaces for the well-being and development of all people, we need to design them with engagement, excitement, socialization and community for everyone.
72	Describe how your offering addresses the user's desire to customize the offering (e.g. themes, etc.).	Customizable playspaces can set your playground apart and create an imaginative play experience like no other! Your Burke Representative and our creative Design Team will help you bring your play environment to life and create a space that's as unique as your community with anything from custom vehicles, play panels, photo opportunity panels, storefronts, post toppers, counters, NaturePlay, ClubHouses, barns, airplanes and more! Our Design Team has backgrounds in design, animation, landscape architecture and art and uses their creativity and experience to design a play environment that fosters pretend play and helps children develop friendships and enhance their imaginative skills.
73	Identify any certification(s) that your business or the products included in your proposal have attained or received.	<ul style="list-style-type: none"> • ISO 9001:2015 Certification • ISO 14001:2015 Certification • Founding and active member of the International Play Equipment Manufacturer's Association (IPEMA). In fact Burke's Engineering and Product Manager, Scott Liebelt, is a director on the IPEMA Board of Directors. He attends ASTM and IPEMA meetings to participate in writing, revising, and interpreting the IPEMA procedures and ASTM-1487 standard, which is the consumer safety performance specification for playground equipment for public use. • Accredited IPEMA Certification facility • Alliant Energy's Second Nature™ Program • Partner with US Environmental Protection Agency Green Power Program • Partner with the National Program for Playground Safety (NPPS) and only playground manufacturer to give a free NPPS Playground Supervision Safety Kit with every modular play structure order! • Currently, six Burke employees are certified through the National Recreation and Park Association (NRPA) as Certified Playground Inspectors

Table 16: Exceptions to Terms, Conditions, or Specifications Form

Line Item 74. NOTICE: To identify any exception, or to request any modification, to the Sourcwell template Contract terms, conditions, or specifications, a Proposer must submit the exception or requested modification on the **Exceptions to Terms, Conditions, or Specifications Form** immediately below. The contract section, the specific text addressed by the exception or requested modification, and the proposed modification must be identified in detail. Proposer's exceptions and proposed modifications are subject to review and approval of Sourcwell and will not automatically be included in the contract.

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

Proposer's Affidavit

PROPOSER AFFIDAVIT AND ASSURANCE OF COMPLIANCE

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

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

by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this solicitation.

By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - Jessica Westphal, Sales Support Coordinator, BCI Burke Company, LLC

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

Yes No

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

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

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
Addendum 6_Playground_Water_Play_Equipment_RFP_010521 Tue December 22 2020 03:29 PM	<input checked="" type="checkbox"/>	1
Addendum 5_Playground_Water_Play_Equipment_RFP_010521 Fri December 18 2020 04:15 PM	<input checked="" type="checkbox"/>	1
Addendum 4_Playground_Water_Play_Equipment_RFP_010521 Mon December 7 2020 07:55 AM	<input checked="" type="checkbox"/>	1
Addendum 3_Playground_Water_Play_Equipment_RFP_010521 Thu November 19 2020 08:52 AM	<input checked="" type="checkbox"/>	1
Addendum 2_Playground_Water_Play_Equipment_RFP_010521 Fri November 13 2020 09:09 AM	<input checked="" type="checkbox"/>	2
Addendum 1_Playground_Water_Play_Equipment_RFP_010521 Thu November 12 2020 10:53 AM	<input checked="" type="checkbox"/>	2

**AMENDMENT #1
TO
CONTRACT # 010521-BCI**

THIS AMENDMENT is by and between **Sourcewell** and **BCI Burke Company, LLC** (Vendor).

Vendor was awarded a Sourcewell Contract for Playground and Water Play Equipment with Related Accessories and Services effective February 15, 2021, through February 17, 2025, relating to the provision of services by Vendor to Sourcewell and its Members (Original Agreement).

The parties agree that certain terms within the Original Agreement will be updated and amended and only to the extent as hereunder provided.

IN CONSIDERATION OF the mutual covenants and agreements described in this Amendment, the parties agree as follows:

1. This Amendment is effective upon the date of the last signature below.
2. Table 13: Audit and Administrative Fee—Line Item Question 63 of the Proposal is deleted in its entirety and replaced with the following new language:

RESPONSE: Burke is pleased to offer an administrative fee of 2% of the customer price of all products and services, excluding freight and bond charges, invoiced/sold under the Sourcewell contract. This fee will be reported and paid to Sourcewell on a quarterly basis. The sale will be reported, and the fee paid once full payment is received from the Sourcewell customer. Burke agrees not to up-charge or offset the administrative fees to Sourcewell Members.

Except as amended by this Amendment, the Original Agreement remains in full force and effect.

Sourcewell

DocuSigned by:
By: Jeremy Schwartz
Authorized Signature COFD2A139D06489...

Jeremy Schwartz
Name – Printed

Title: Director of Operations & Procurement/CPO

Date: 3/10/2021 | 5:29 PM CST

BCI Burke Company, LLC

DocuSigned by:
By: Marianne Larson
Authorized Signature 560EA7AAB49D42D...

Marianne Larson
Name – Printed

Title: Sales Support Manager

Date: 3/10/2021 | 2:23 PM PST

Sourcewell-APPROVED:

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

Chad Coauette
Name – Printed

Title: Executive Director/CEO

Date: 3/10/2021 | 5:47 PM CST

**AMENDMENT #2
TO
CONTRACT # 010521-BCI**

THIS AMENDMENT is by and between **Sourcewell** and **BCI Burke Company, LLC** (Vendor).

Sourcewell awarded Vendor a contract for Playground and Water Play Equipment with Related Accessories and Services effective February 15, 2021, through February 17, 2025, relating to the provision of services by Vendor to Sourcewell and its Members (Original Agreement).

The parties agree that certain terms within the Original Agreement will be amended and only to the extent as hereunder provided.

IN CONSIDERATION OF the mutual covenants and agreements described in this Amendment, the parties agree as follows:

1. This Amendment is effective upon the date of the last signature below.
2. Section 18. Insurance, Subsection A. Requirements, Item 5 Professional/Technical Errors and Omissions of the Original Agreement is deleted in its entirety.

Except as amended by this Amendment, the Original Agreement remains in full force and effect.

Sourcewell

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

Title: Director of Operations & Procurement/CPO

Date: 3/18/2021 | 4:23 PM CDT

BCI Burke Company, LLC

DocuSigned by:
 By: Doug Pietrowski
 Doug Pietrowski
5E49EAF153C543E...

Title: CFO

Date: 3/18/2021 | 2:11 PM PDT

Sourcewell-APPROVED:

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

Title: Executive Director/CEO

Date: 3/18/2021 | 4:25 PM CDT

**AMENDMENT #3
TO
CONTRACT # 010521-BCI**

THIS AMENDMENT is effective upon the date of the last signature below by and between **Sourcewell** and **BCI Burke Company, LLC** (Vendor).

Sourcewell awarded Vendor a contract for Playground and Water Play Equipment with Related Accessories and Services effective February 15, 2021, through February 17, 2025, relating to the provision of services by Vendor to Sourcewell and its Members (Original Agreement).

The parties agree that certain terms within the Original Agreement will be amended and only to the extent as hereunder provided.

IN CONSIDERATION OF the mutual covenants and agreements described in this Amendment, the parties agree as follows:

The response to question 49 in Table 10 of the Proposal is clarified to read: "Payment for equipment items will be due within 30 days after the products ship. Service-related items will typically be invoiced at completion of the project and will be due within 30 days of the invoice date. Larger projects may require progress payments, in which case, these terms will be clearly noted on the customer quotation."

Except as amended by this Amendment, the Original Agreement remains in full force and effect.

Sourcewell

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

BCI Burke Company, LLC

DocuSigned by:
Marianne Larson
By: _____
F7548BD2B6B34BE...
Marianne Larson

Title: Director of Operations & Procurement/CPO

Title: Contracts & Sales Admin Mgr

Date: 5/12/2023 | 7:49 PM CDT

Date: 5/12/2023 | 12:26 PM PDT

Sourcewell—APPROVED:

DocuSigned by:
Chad Coquette
By: _____
7E42B8F817A64CC...
Chad Coquette

Title: Executive Director/CEO

Date: 5/12/2023 | 8:24 PM CDT