



**PARTICIPATING ADDENDUM
FLOORCOVERING & INSTALLATION SERVICES 2016-2021
Administered by the State of Utah (hereinafter "Lead State")**

**MASTER AGREEMENT
Re:Source Utah
Master Agreement No: MA2282
(hereinafter "Contractor")**

And

**State of Utah
(hereinafter "Participating State/Entity")**

Page 1 of 6

1. **Scope:** This addendum covers the Floorcovering & Related Services led by the State of Utah for use by state agencies and other entities located in the Participating **State/Entity** authorized by that state's statutes to utilize **State/entity** contracts with the prior approval of the state's chief procurement official.

2. **Participation:** Use of specific NASPO ValuePoint cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use **State/entity** contracts are subject to the prior approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

3. **Participating State Modifications or Additions to Master Agreement:**

(These modifications or additions apply only to actions and relationships within the Participating Entity.)

Addition of Attachment A: State of Utah Standard Terms and Conditions State Cooperative Contract and State of Utah Additional Terms and Conditions for WSCA-NASPO Participating Addendums.

Attachment B: Installation Pricing (Product Pricing incorporated by reference – Attachment C Master Agreement MA2282.

Insurance Requirement:

The Contracted Supplier's or its authorized dealers who perform installation services or subcontract for installation services shall procure and maintain insurance which shall protect the Contracted Supplier and/or authorized dealer and The State and/or purchasing entity (as an additional insured) from any claims from bodily injury, property damage, or personal injury covered by the indemnification obligations set forth herein. The Contracted Supplier's authorized dealer or representative shall procure and maintain the insurance policies described below at their own expense and shall furnish to the procurement manager, upon award, an insurance certificate listing the participating State(s) as certificate holder and as an additional insured. The insurance certificate must document that the Commercial General Liability insurance coverage purchased by the authorized dealer to include contractual liability coverage applicable to this Master Agreement. In addition, the insurance certificate must provide the following information: the name and address of the insured; name, address, telephone number and signature of the authorized agent; name of the insurance company (authorized to operate in all States); a



**PARTICIPATING ADDENDUM
FLOORCOVERING & INSTALLATION SERVICES 2016-2021
Administered by the State of Utah (hereinafter "Lead State")**

**MASTER AGREEMENT
Re:Source Utah
Master Agreement No: MA2282
(hereinafter "Contractor")**

And

**State of Utah
(hereinafter "Participating State/Entity")**

Page 2 of 6

description of coverage in detailed standard terminology (including policy period, policy number, limits of liability, exclusions and endorsements) and an acknowledgment of notice of cancellation to the participating States.

Authorized dealer is required to maintain the following insurance coverage's during the term of the WSCA Master Agreement:

- 1) Statutory Workers' Compensation Insurance and Employers' Liability Insurance providing benefits and not less than one million dollars (\$1,000,000). The Best's rating requirements are waived for coverage provided by the Workers' Compensation Fund. The Contractor shall require all Subcontractors at any tier to take and maintain similar policies of Workers' Compensation Insurance.
- 2) Commercial General Liability Insurance and/or Comprehensive General Liability Insurance, including coverage for premises/operations, explosion, collapse and underground hazards, products/completed operations, contractual (including this Contract), and personal injury, including employees with limits of not less than one million dollars (\$1,000,000) each occurrence, and not less than three million dollars (\$3,000,000) general aggregate and three million dollars (\$3,000,000) products/completed operations aggregate. Aggregate limit shall be designated as applying to this Contract. If this insurance coverage is written on a "claims made" basis, the certificate of insurance required below shall so indicate and the policy shall contain an extended reporting period provision or similar 'tail' provision such that claims reported up to three (3) years beyond the date of Substantial Completion of this Contract are covered.
- 3) Comprehensive Automobile Liability Insurance including owned, hired and non-owned automobiles with limits not less than one million dollars (\$1,000,000) any one accident or loss.

Within 30 days of contract award, the Contracted Supplier and/or Authorized Dealer must submit proof of certificate of insurance that meets the above requirements or the Participating States requirements.

4. Lease Agreements: Leasing IS NOT an alternative under the Master Agreement.



**PARTICIPATING ADDENDUM
FLOORCOVERING & INSTALLATION SERVICES 2016-2021
Administered by the State of Utah (hereinafter "Lead State")**

**MASTER AGREEMENT
Re:Source Utah
Master Agreement No: MA2282
(hereinafter "Contractor")**

And

**State of Utah
(hereinafter "Participating State/Entity")**

5. Usage Reporting and Administrative Fee Requirement:

State of Utah Administrative Fee: Contractor agrees to provide a quarterly administrative fee to the State of Utah in the form of a Check or EFT payment. The fee will be payable to the "State of Utah Division of Purchasing" and will be sent to State of Utah, Division of Purchasing, 3150 State Office Building, Capitol Hill, PO Box 141061, Salt Lake City, UT 84114. The Administrative Fee will be 1% and will apply to all purchases for goods and services (net of any returns, credits, or adjustments) made under the awarded contract.

Quarterly Reports: Offeror agrees to provide a quarterly utilization report, reflecting net sales to the State during the associated fee period. The report will show the quantities and dollar volume of purchases by each agency and political subdivision. The quarterly report will be provided in secure electronic format and/or submitted electronically to the Utah reports email address: salesreports@utah.gov.

Report Schedule: Quarterly utilization reports shall be made in accordance with the following schedule:

Period End	Reports Due
March 31	April 30
June 30	July 31
September 30	October 31
December 31	January 31

Fee Payment: After the State receives the quarterly utilization report it will send the Offeror an invoice for the total quarterly administrative fee owed to the State. Offeror shall pay the quarterly administrative fee within thirty (30) days from receipt of invoice.

Timely Reports and Fees: If the quarterly administrative fee is not paid by thirty (30) days of receipt of invoice or quarterly utilization reports are not received by the report due date, then Offeror will be in material breach of the awarded contract.

6. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):



**PARTICIPATING ADDENDUM
FLOORCOVERING & INSTALLATION SERVICES 2016-2021
Administered by the State of Utah (hereinafter "Lead State")**

MASTER AGREEMENT
Re:Source Utah
Master Agreement No: MA2282
(hereinafter "Contractor")

And

State of Utah
(hereinafter "Participating State/Entity")

Contractor

Name	Mannington Mills dba Mannington Commercial
Address	PO Box 12281, Calhoun, GA 30703
Telephone	804-580-0751
Fax	David Stinson
E-mail	David_stinson@mannington.com

Installer

Name	Commercial Flooring Services (CFS) Re:Source Utah
Address	260 West 600 South, Salt Lake City, UT 84101
Telephone	801-355-9300
Fax	Tony or Lori
E-mail	tony@utahcfs.com or lori@utahcfs.com.com

Participating Entity

Name	Terri O'Toole
Address	3150 State Office Bldg., Capitol Hill, Salt Lake City, UT 84114
Telephone	801-538-3147
Fax	801-538-3882
E-mail	totoole@utah.gov

7. **Named Installers:** The named Installer(s) is/are the only installer(s) authorized to provide services under this Participating Addendum. The named Installer(s) participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement as well as the additional terms and conditions set forth in this Participating Addendum and all other requirements.

8. **Orders:** Any Order placed by a Participating Entity or Purchasing Entity for a Product and/or Service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the Order agree in writing that another contract or agreement applies to such Order.



**PARTICIPATING ADDENDUM
FLOORCOVERING & INSTALLATION SERVICES 2016-2021
Administered by the State of Utah (hereinafter "Lead State")**

**MASTER AGREEMENT
Re:Source Utah
Master Agreement No: MA2282
(hereinafter "Contractor")**

And

State of Utah
(hereinafter "Participating State/Entity")

Page 5 of 6

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating State: Utah	Contractor: Mannington Commercial
By:	By:
Name: Chris Hughes	Name: Harvey L. Newkirk, Jr.
Title: Assistant Director	Title: Controller
Date: 3/3/16	Date: 3/3/16

Named Installer: Re:Source Utah
By:
Name: TONY LORDS
Title: MEMBER/MANAGER
Date: 3-1-2016

For questions on executing a participating addendum, please contact:

NASPO ValuePoint Cooperative Development Coordinator Telephone	Paul Stembler 651-206-3858
--	-------------------------------



NASPO ValuePoint
PARTICIPATING ADDENDUM
FLOORCOVERING & INSTALLATION SERVICES 2016-2021
Administered by the State of Utah (hereinafter "Lead State")

MASTER AGREEMENT
Re:Source Utah
Master Agreement No: MA2282
(hereinafter "Contractor")

And

State of Utah
(hereinafter "Participating State/Entity")

Page 6 of 6

E-mail	pstembler@naspovaluepoint.org
--------	--

[Please email fully executed PDF copy of this document to PA@naspovaluepoint.org to support documentation of participation and posting in appropriate data bases]

**ATTACHMENT A: STATE OF UTAH STANDARD TERMS AND CONDITIONS
STATE COOPERATIVE CONTRACT**

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63G-6a, Utah Code, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the State to purchase certain specified services, and other approved purchases for the State.
2. **CHOICE OF LAW, CONTRACT JURISDICTION, AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** The Contractor and any and all supplies, services, equipment, and construction furnished under this contract will comply fully with all applicable Federal and State laws, rules, codes and regulations, including applicable licensure and certification requirements.
4. **RECORDS ADMINISTRATION:** The Contractor shall maintain or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records shall be retained by the Contractor for at least six (6) years after the contract terminates, or until all audits initiated within the six (6) years, have been completed, whichever is later. The Contractor agrees to allow State and Federal auditors, and State Agency Staff, access to all the records to this contract for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** The Status Verification System, also referred to as "E-verify", only applies to contracts issued through a Request for Proposal process, and to sole sources that are included within a Request for Proposal. It does not apply to other types of procurement processes, including but not limited to Invitation for Bids or to Multiple Stage Bids.

5.1 Status Verification System

1. Contractor certifies as to its own entity, under penalty of perjury, that Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of Contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws including Section 63G-12-302, Utah Code, as amended.

2. Contractor shall require that the following provision be placed in each subcontract at every tier: "The subcontractor shall certify to the main (prime or general) contractor by affidavit that the subcontractor has verified through the Status Verification System the employment status of each new employee of the respective subcontractor, all in accordance with applicable immigration laws including Section 63G-12-302, Utah Code, as amended, and to comply with all applicable employee status verification laws. Such affidavit must be provided prior to the notice to proceed for the subcontractor to perform the work."

3. The State will not consider a proposal for award, nor will it make any award where there has not been compliance with this Section. Contractor's failure to comply with this Section will be considered a material breach pursuant to Section 35 of this contract.

4. Manually or electronically signing the contract is deemed to be Contractor's certification of compliance with all provisions of this employment status verification certification required by all applicable status verification laws including Section 63G-12-302, Utah Code, as amended.

5.2 Indemnity Clause for Status Verification System

1. Contractor (includes, but is not limited to any Contractor, Design Professional, Designer or Consultant) shall protect, indemnify and hold harmless, the State and its officers, employees, agents, representatives and anyone that the State may be liable for, against any claim, damages or liability arising out of or resulting from violations of the above Status Verification System Section whether violated by employees, agents, or contractors of the following: (1) Contractor; (2) Subcontractor at any tier; and/or (3) any entity or person for whom the Contractor or Subcontractor may be liable.

2. Notwithstanding Section 1. above, Design Professionals or Designers under direct contract with the State shall only be required to indemnify the State for a liability claim that arises out of the design professional's services, unless the liability claim arises from the Design Professional's negligent act, wrongful act, error or omission, or other liability imposed by law except that the design professional shall be required to indemnify the State in regard to subcontractors or subconsultants at any tier that are under the direct or indirect control or responsibility of the Design Professional, and includes all independent contractors, agents, employees or anyone else for whom the Design Professional may be liable at any tier.

6. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-7, Utah Code, as amended.
7. **INDEPENDENT CONTRACTOR:** Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the State to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to Contractor by the State. Contractor shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the State. Persons employed by the State and acting under the direction of the State shall not be deemed to be employees or agents of Contractor.
8. **INDEMNITY CLAUSE:** Contractor agrees to indemnify, save harmless, and release the State of Utah, and all its

officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the acts or negligence of the Contractor's officers, agents, volunteers, employees, its subcontractors or its subconsultants, at any tier, but not for claims arising from the State's sole negligence, provided that such indemnity obligation is valid only to the extent (a) the State gives the Contractor notice in writing of any such claims except that such notice is waived to the extent it does not affect the Contractor's ability to defend the claim, and the State hereby permits the Contractor, through counsel of its choice and at the Contractor's sole cost and expense, to answer the claims and defend any related suit with good faith cooperation between the State and Contractor, and (b) the State gives the Contractor, to the extent allowed by law and within the reasonable capabilities of State, all requested information, assistance and authority, at the Contractor's sole cost and expense, to reasonably enable the Contractor to defend such suit. This obligation shall survive termination of the contract. The parties agree that if there are any Limitations of the Contractor's Liability, including a limitation of liability for anyone for whom the Contractor is responsible, such Limitations of Liability will not apply to injuries to persons, including death, or to damages to property.

9. **EMPLOYMENT PRACTICES CLAUSE:** Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, Contractor agrees to abide by Utah's Executive Order, dated December 13, 2006, which prohibits sexual harassment in the work place.
10. **SEVERABILITY:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
11. **RENEGOTIATION OR MODIFICATIONS:** The terms of this contract will not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the State Director of Purchasing. Automatic renewals will not apply to this contract.
12. **DEBARMENT:** Contractor certifies that neither it nor its principals are presently or have ever been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the State. The Contractor must notify the State Director of Purchasing within thirty (30) days if debarred by any governmental entity during the Contract period.
13. **TERMINATION:** Unless otherwise stated in this contract, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon sixty (60) days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
14. **NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:**
 1. Upon thirty (30) days written notice delivered to the Contractor, this contract may be terminated in whole or in part at the sole discretion of the State, if the State reasonably determines that a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of the contract.
 2. Upon thirty (30) days written notice delivered to the Contractor, this contract may be terminated in whole or in part, or have the services and purchase obligations of the State proportionately reduced, at the sole discretion of the State, if the State reasonably determines that a change in available funds affects the State's ability to pay under the contract. A change of available funds as used in this paragraph, includes, but is not limited to, a change in Federal or State funding, whether as a result of a legislative act or by order of the President or the Governor.
 3. If a notice is delivered under paragraph 1 or 2 of this Section 14 "NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW," the State will reimburse the Contractor for products properly delivered or services properly performed up until the effective date of said notice. The State will not be liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of said notice.
 4. Notwithstanding any other paragraph or provision of this Section 14 "NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW," if the State in said notice to the Contractor indicates that the Contractor is to immediately cease from placing any orders or commitments with suppliers, subcontractor or other third parties, the Contractor shall immediately cease such orders or commitments upon receipt of said notice and the State shall not be liable for any such orders or commitments made after the receipt of said notice.
15. **TAXES:** Bid/proposal prices will be exclusive of state sales, use and federal excise taxes. The State of Utah's sales and use tax exemption number is 11736850-010-STC, located at http://purchasing.utah.gov/contract/documents/salestaxexemption_formsinged.pdf. The tangible personal property or services being purchased are being paid from STATE funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract, or contract orders. The State of Utah's Federal excise exemption number is 87-780019K.
16. **WARRANTY:** Contractor agrees to warrant and assume responsibility for all products that it licenses, contracts, or sells to the State under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. Contractor (seller) acknowledges that all warranties granted to the State (buyer) by the

Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the Contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the Contractor's skill or judgment to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: Contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to Contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, Contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State may otherwise have under this contract.

- 17. INSURANCE:** To protect against liability, loss and/or expense in connection with Contractor's performance described under this contract, Contractor shall obtain and maintain in force during the entire period of this contract without interruption, at its own expense, insurance from an insurance company authorized to do business in the State. Contractor must maintain General Liability Insurance and/or Comprehensive General Liability Insurance, including coverage for premises/operations, explosion, collapse and underground hazards, products/completed operations, contractual (including this contract), and personal injury, including employees with policy limits not less than one million dollars (\$1,000,000.00) each occurrence and three million dollars (\$3,000,000.00) in the aggregate during the term of this contract. Aggregate limit shall be designated as applying to this contract. If this insurance coverage is written on a "claims made" basis, the certificate of insurance required below shall so indicate and the policy shall contain an extended reporting period provision or similar 'tail' provision such that claims reported up to three (3) years beyond the date of Substantial Completion of this contract are covered. The carrying of insurance required by this contract shall not be interpreted as relieving the Contractor of any other responsibility or liability under this contract or any applicable law, statute, rule, regulation, or order.

Contractor must provide proof of insurance to State and must add State as an additional insured with notice of cancellation. Contractor acknowledges that within thirty (30) days of contract award, Contractor and/or Contractor's subcontractors must submit proof of certificate of insurance that meets the above requirements.

It shall be the responsibility of Contractor to require any of their Subcontractor(s) to secure the same insurance coverage as prescribed herein for the Contractor.

- 18. WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE:** Contractor shall maintain during the term of this contract, workers' compensation insurance for all its employees as well as any subcontractor employees related to this contract. Worker's compensation insurance shall cover full liability under the worker's compensation laws of the jurisdiction in which the service is performed at the statutory limits required by said jurisdiction.

Contractor must provide proof of insurance to State and must add State as an additional insured with notice of cancellation. Contractor acknowledges that within thirty (30) days of contract award, the Contractor and/or Contractor's subcontractors must submit proof of certificate of insurance that meets the above requirements.

- 19. PARTICIPANTS:** This is a contract to provide the State of Utah government departments, institutions, agencies, political subdivisions (i.e., colleges, school districts, counties, cities, etc.), and, as applicable, nonprofit organizations and agencies of the federal government with the goods and/or services described in the bid/proposal.
- 20. POLITICAL SUBDIVISION PARTICIPATION:** Participation under this contract by political subdivisions (i.e., colleges, school districts, counties, cities, etc.), nonprofit organizations, and agencies of the federal government will be voluntarily determined by the political subdivisions, nonprofit organizations, and agencies of the federal government. The Contractor agrees to supply the political subdivisions, nonprofit organizations, and agencies of the federal government based upon the same terms, conditions and prices.
- 21. INDIVIDUAL CUSTOMER:** Each State agency and public entity that purchases products/services will be treated as if they were Individual Customers. Each agency and public entity will be responsible to follow the terms and conditions of the contract; and they have the same rights and responsibilities for their purchases as the State has in the contract. Contractor agrees that each state agency and public entity will be responsible for their own charges, fees, and liabilities; and the Contractor will apply the charges to each State Agency and public entity individually.
- 22. QUANTITY ESTIMATES:** The State does not guarantee to purchase any amount under the contract to be awarded. Estimated quantities are for proposing purposes only and are not to be construed as a guarantee to purchase any amount.
- 23. DELIVERY:** The prices proposed will be the delivered price to any state agency or political subdivision. Unless otherwise specified by the State, all deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the Buyer except as to latent defects, fraud, and Contractor's warranty obligations. The minimum shipment amount, if any, will be listed in the Contract. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an order to be shipped without transportation charges that is back ordered will be shipped without transportation charges.
- 24. REPORTS AND FEES:**
- Administrative Fee:** Contractor agrees to provide a quarterly administrative fee to the State in the form of a Check or EFT payment. The fee will be payable to the "State of Utah Division of Purchasing" and will be sent to State of Utah, Division of Purchasing, 3150 State Office Building, Capitol Hill, PO Box 141061, Salt Lake City, UT 84114. The Administrative Fee will be the amount listed in the solicitation and will apply to all purchases (net of any returns, credits, or adjustments) made under this Contract for the period.

2. **Quarterly Reports:** Contractor agrees to provide a quarterly utilization report, reflecting net sales to the State during the associated fee period. The report will show the quantities and dollar volume of purchases by each agency and political subdivision. The report will be provided in secure electronic format and/or submitted electronically to the Utah reports email address salesreports@utah.gov.
3. **Payment and Report Schedule:** Payments and reports shall be made in accordance with the following schedule:

<u>Period End</u>	<u>Fee and Reports Due</u>
March 31	April 30
June 30	July 31
September 30	October 31
December 31	January 31

4. **Timely Reports and Fees:** If the Administrative Fee is not paid by the Due Date or Quarterly Reports are not received by the Due Date, then the Contractor will be in breach of the Contract, and the Contract may be canceled for cause.
25. **PROMPT PAYMENT DISCOUNT:** Contractor may quote a prompt payment discount based upon early payment; however, discounts offered for less than thirty (30) days will not be considered in making the award. Contractor shall list Payment Discount Terms on invoices. The prompt payment discount will apply to payments made with purchasing cards and checks. The date from which discount time is calculated will be the date a correct invoice is received or receipt of shipment, whichever is later; except that if testing is performed, the date will be the date of acceptance of the merchandise.
26. **FIRM PRICES:** Unless otherwise stated in the special terms and conditions, for the purpose of award, offers made in accordance with this solicitation must be good and firm for a period of ninety (90) days from the date of bid/proposal opening.
27. **PRICE GUARANTEE, ADJUSTMENTS:** The contract pricing resulting from this bid/proposal will be guaranteed for the period specified. Following the guarantee period, any request for price adjustment must be for an equal guarantee period, and must be made at least 30 days prior to the effective date. Requests for price adjustment must include documentation supporting the request and demonstrating a logical mathematical link between the current price and the proposed price. Any adjustment or amendment to the contract will not be effective unless approved by the State Director of Purchasing. The State will be given the immediate benefit of any decrease in the market, or allowable discount.
28. **ORDERING AND INVOICING:** Orders will be placed by the using agencies directly with the Contractor. All orders will be shipped promptly in accordance with the delivery guarantee. The Contractor will then promptly submit invoices to the ordering agency. The State contract number and the agency ordering number will appear on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by the State will be those prices on file with the Division of Purchasing. The State has the right to adjust or return any invoice reflecting incorrect pricing.
29. **PAYMENT:** Payments are normally made within thirty (30) days following the date the order is delivered or the date a correct invoice is received, whichever is later. After sixty (60) days from the date a correct invoice is received by the appropriate State official, the Contractor may assess interest on overdue, undisputed account charges up to a maximum of the interest rate paid by the IRS on taxpayer refund claims, plus two percent, computed similarly as the requirements of Utah Code Section 15-6-3. The IRS rate is adjusted quarterly, and is applied on a per annum basis, on the invoice amount that is overdue. Payments may be made via a State of Utah (or political subdivision) "Purchasing Card" (major credit card). All payments to the Contractor will be remitted by mail, electronic funds transfer, or Purchasing Card.
30. **MODIFICATION OR WITHDRAWAL OF BIDS/PROPOSALS:** Bids/proposals may be modified or withdrawn prior to the time set for the opening of bids/proposals. After the time set for the opening of bids/proposals, no bids/proposals may be modified or withdrawn.
31. **BID/PROPOSAL PREPARATION COSTS:** The State is not liable for any costs incurred by the offeror in bid/proposal preparation.
32. **INSPECTIONS:** Goods furnished under this contract will be subject to inspection and test by the Buyer at times and places determined by the Buyer. If the Buyer finds goods furnished to be incomplete or not in compliance with bid/proposal specifications, the Buyer may reject the goods and require Contractor to either correct them without charge or deliver them at a reduced price which is equitable under the circumstances. If Contractor is unable or refuses to correct such goods within a time deemed reasonable by the Buyer, the Buyer may cancel the order in whole or in part. Nothing in this paragraph will adversely affect the Buyer's rights including the rights and remedies associated with revocation of acceptance under the Uniform Commercial Code.
33. **INDEMNIFICATION – INTELLECTUAL PROPERTY:** Contractor warrants that any products provided by Contractor to the State under this contract, if any, including their use by the State in unaltered form, will not, to Contractor's knowledge, infringe any third party copyrights, patents or trade secrets that exist on the effective date of this contract and that arise or are enforceable under the law of the United States of America during the duration of this contract.

Contractor will release, indemnify and hold the State, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract. The parties agree that if there are any Limitations of the Contractor's Liability, including a limitation of liability for anyone for whom the Contractor is responsible, such Limitations of Liability will not apply to this section.

34. **OWNERSHIP IN INTELLECTUAL PROPERTY:** The State and Contractor each recognizes that it has no right, title or interest, proprietary or otherwise, in or to the name or any logo, or Intellectual Property owned or licensed by the other,

unless otherwise agreed upon by the parties in writing. The State and Contractor each agree that, without prior written consent of the other or as described in this contract, it shall not use the name, any logo, or Intellectual Property owned or licensed by the other.

- 35. ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the State Director of Purchasing.
- 36. DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the State to declare Contractor in default of the contract: (1) Nonperformance of contractual requirements; (2) A material breach of any term or condition of this contract. The State will issue a written notice of default providing a period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for liquidated or other damages. If the default remains, after Contractor has been provided the opportunity to cure, the State may do one or more of the following: (1) Exercise any remedy provided by law; (2) Terminate this contract and any related contracts or portions thereof; (3) Impose liquidated damages, if liquidated damages are listed in the contract; (4) Suspend Contractor from receiving future bid/proposal solicitations.
- 37. FORCE MAJEURE:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The STATE may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.
- 38. HAZARDOUS CHEMICAL INFORMATION:** If required under this contract, Contractor will provide one set of the appropriate material safety data sheet(s) and container label(s) upon delivery of a hazardous material to the user agency. All safety data sheets and labels will be in accordance with each participating state's requirements.
- 39. NON-COLLUSION:** By signing this contract, Contractor certifies that this contract has been entered into by the parties without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the Solicitation, designed to limit independent proposing or competition.
- 40. PUBLIC INFORMATION:** Contractor agrees that the contract, related Sales Orders, and Invoices will be public documents, and may be available for distribution. Contractor gives the State express permission to make copies of the contract, related Sales Orders, and Invoices in accordance with the State of Utah Government Records Access and Management Act (GRAMA). Except for sections identified in writing and expressly approved by the State Division of Purchasing, Contractor also agrees that the Contractor's response to the solicitation will be a public document, and copies may be given to the public under GRAMA laws. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
- 41. PROCUREMENT ETHICS:** Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (Section 63G-6a-2404, Utah Code, as amended).
- 42. ENERGY CONSERVATION AND RECYCLED PRODUCTS:** Contractor is encouraged to offer Energy Star certified products or products that meet FEMP (Federal Energy Management Program) standards for energy consumption. The State of Utah also encourages contractors to offer products that are produced with recycled materials, where appropriate, unless otherwise requested in this solicitation.
- 43. CONFIDENTIALITY:** During the duration of this contract confidential non-public personal information and confidential information ("Confidential Information") may be disclosed to the Contractor.
1. Confidential Information includes, but is not limited to, names, social security numbers, birth dates, addresses, credit card information, financial account numbers, protected internal Federal or State business processes, policies, procedures, or practices, and information that, by its nature, would be deemed as confidential. The State reserves the right to identify, during and after the term of this contract, additional reasonable types of categories of information that must be kept confidential under federal and state laws by the Contractor and anyone for whom the Contractor may be liable.
 2. If Confidential Information is disclosed to the Contractor, the Contractor will: (a) limit disclosure of any Confidential Information to its directors, officers, employees, agents or representatives (collectively "Representatives") who have a need to know such Confidential Information in connection with the current or contemplated business relationship between the parties to which this contract relates, and only for that purpose; (b) advise its Representatives of the proprietary nature of the Confidential Information and of the obligations set forth in this contract and require such Representatives to keep the Confidential Information confidential; (c) shall keep all Confidential Information strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information; and (d) not disclose any Confidential Information received by it to any third parties except as otherwise agreed to in writing by the State. Contractor will promptly notify the State of any potential or actual misuse or misappropriation of Confidential Information that comes to Contractor's attention.
 3. Contractor shall be responsible for any breach of this duty of confidentiality contract by any of their officers, agents, subcontractors at any tier, and any of their respective representatives, including any required remedies and/or notifications under applicable law (Utah Code Section 13-44-101 thru 301 et al). Contractor shall indemnify, hold harmless and defend the State including anyone for whom the State is liable, from claims related to a breach of these confidentiality requirements by the Contractor or anyone for whom the Contractor

is liable. This duty of confidentiality shall be ongoing and survive the term of this contract.

4. Upon termination or expiration of this contract, Contractor will return all copies of Confidential Information to the State or certify, in writing, the destruction thereof.
5. The State's disclosure of Confidential Information does not transfer ownership of Confidential Information or grant a license thereto to Contractor.

44. CONFLICT OF TERMS: Contractor Terms and Conditions that apply must be in writing and attached to the contract. No other Terms and Conditions will apply to this contract including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be: (1) Attachment A: State of Utah Standard Terms and Conditions; (2) State of Utah Contract Signature Page(s); (3) Additional State Terms and Conditions, if any; and (4) Contractor Terms and Conditions, if any. The terms and conditions contained in Attachment A: State Of Utah Standard Terms and Conditions will be given precedence over any provisions including, but not limited to, limitation of liability, indemnification, standard of care, insurance, or warranty, and will not be nullified by an exception created by a more specific terms elsewhere in the contract.

45. LOCAL WAREHOUSE AND DISTRIBUTION: Contractor will maintain a reasonable amount of stock warehoused in the State of Utah for immediate or emergency shipments. Shipments are to be made in the quantities as required by the various ordering agencies. Orders for less than the minimum specified amount will have transportation charges prepaid by the Contractor and added as a separate item on the invoice. Any portion of an order to be shipped without transportation charges that is back ordered will be shipped without charge.

46. CONTRACT INFORMATION: Contractor understands that pursuant to Section 63G-6a-402(6), Utah Code, as amended, requires the issuing procurement unit, as described in Section 63G-6a-103(26), for the duration of any contract, to make available contact information of the winning contractor to the Department of Workforce Services in accordance with Section 35A-2-203, Utah Code, as amended. This requirement does not preclude Contractor from advertising job openings in other forums throughout the State.

47. WAIVER: No waiver by the State or Contractor of any default shall constitute a waiver of the same default at a later time or of a different default.

48. ENTIRE AGREEMENT: This contract, including all Attachments, and documents incorporated hereunder, and the related State Solicitation constitutes the entire agreement between the parties with respect to the subject matter, and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written. The terms of this contract shall supersede any additional or conflicting terms or provisions that may be set forth or printed on the Contractor's work plans, cost estimate forms, receiving tickets, invoices, or any other related standard forms or documents of the Contractor that may subsequently be used to implement, record, or invoice services hereunder from time to time, even if such standard forms or documents have been signed or initialed by a representative of the State. The parties agree that the terms of this contract shall prevail in any dispute between the terms of this contract and the terms printed on any such standard forms or documents, and such standard forms or documents shall not be considered written amendments of this contract.

If services are applicable to this contract, the following additional terms and conditions apply:

49. TIME: Contractor shall complete the scope of services work in a manner to achieve any milestones identified in the procurement documents related to this contract and the attachments to this contract. The full scope of services work shall be completed by any applicable deadline stated in the solicitation.

50. TIME IS OF THE ESSENCE: For all work and services under this contract, time is of the essence and Contractor shall be liable for all damages to the State and anyone for whom the State may be liable, as a result of the failure to timely complete the scope of work required under this contract.

51. CHANGES IN SCOPE: Any changes in the scope of the services to be performed under this contract shall be in the form of a written amendment to this contract, mutually agreed to and signed by duly authorized representatives of both parties, specifying any such changes, fee adjustments, any adjustment in time of performance, or any other significant factors arising from the changes in the scope of services.

52. OWNERSHIP IN DELIVERABLES: Contractor agrees that any deliverables that result from the services it performs for State under the contract, to the extent to which it is eligible under copyright law in any country, shall be deemed a work made for hire, such that all right, title and interest in the work and deliverables reside with the State. To the extent any deliverables are deemed not to be, for any reason whatsoever, work made for hire, Contractor agrees to assign and hereby assigns all right, title, and interest, including but not limited to, copyright, patent, trademark, and trade secret, to such deliverables, and all extensions and renewals thereof, to the State. Contractor further agrees to provide all assistance reasonably requested by State in the establishment, preservation and enforcement of its rights in such deliverables, or subsequent amendments or modifications to such work and deliverables, without any additional compensation to Contractor. Contractor agrees to waive, and hereby, to the extent permissible, waives, all rights relating to such deliverables, or subsequent amendments or modifications to such work and deliverables, including without limitation any and all rights of identification of authorship and any and all rights of approval, restriction or limitation on use.

53. PERFORMANCE EVALUATION: The State may conduct a performance evaluation of the Contractor's services, including specific personnel of the Contractor. References in the contract to Contractor shall include Contractor, Contractor's subcontractors, or subconsultants at any tier, if any. Results of any evaluation will be made available to the Contractor.

54. ADDITIONAL INSURANCE: In addition to the insurance requirements described in Sections 17 and 18 of this contract, and to protect against liability, loss and/or expense in connection with Contractor's performance of services described under this contract, the Contractor shall obtain and maintain in force during the entire period of this contract without interruption, at its own expense, additional insurance as listed below from insurance companies authorized to do business in the State.

1. The following are minimum coverages that may be in addition to the required insurance requirements of this contract:

- (1) Professional liability insurance in the amount as described in the solicitation for this Contract, if applicable.
- (2) Any other insurance, including Comprehensive Automobile Insurance, described in the solicitation for this Contract, if applicable.
- (3) Any type of insurance or any increase of limits of liability not described in this contract which the Contractor requires for its own protection or on account of any statute, rule, or regulation shall be its own responsibility, and shall be provided at Contractor's own expense.

2. The carrying of insurance required by this contract shall not be interpreted as relieving the Contractor of any other responsibility or liability under this contract or any applicable law, statute, rule, regulation, or order.

3. Within thirty (30) days of contract award, the Contractor and/or Contractor's subcontractors must submit proof of certificate of insurance that meets the above requirements.

55. STANDARD OF CARE: The services of Contractor and its subcontractors and subconsultants at any tier, if any, shall be performed in accordance with the standard of care exercised by licensed members of their respective professions having substantial experience providing similar services which similarities include the type, magnitude and complexity of the services that are the subject of this contract. The Contractor shall be liable to the State for claims, liabilities, additional burdens, penalties, damages or third party claims (i.e. another Contractor's claim against the State), to the extent caused by wrongful acts, errors or omissions that do not meet this standard of care.

56. STATE REVIEWS: The right of the State to perform plan checks, plan reviews, other reviews and/or comment upon the services of the Contractor, as well as any approval by the State, shall not be construed as relieving the Contractor from its professional and legal responsibility for services required under this contract. No review by the State or any entity/user, approval or acceptance, or payment for any of the services required under this contract shall be construed to operate as a waiver by the State of any right under this contract or of any cause of action arising out of the performance or nonperformance of this contract, and the Contractor shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the wrongful acts, errors and/or omissions of the Contractor or its subcontractors or subconsultants at any tier, if any.

(Revision date: 16 September 2014)

AUTHORIZED DEALER INSTALLATION COST SCHEDULE

AUTHORIZED DEALER NAME:	Commercial Flooring System (CFS) DBA
AUTHORIZED DEALER ADDRESS:	Re:Source Utah
CITY, STATE, ZIP:	260 West 600 South
DEALER CONTACT PERSON:	Salt Lake City, UT 84101
DEALER CONTACT PERSON PHONE:	Tony or Lori
DEALER CONTACT PERSON EMAIL:	801-355-9300
MANUFACTURER/DISTRIBUTOR:	tony@utahcfs.com or lori@utahcfs.com
	Mannington
COVERAGE DESCRIPTION:	State of Utah-hard surface ONLY

INSTALLATION SERVICES COST SCHEDULE		
HARD SURFACE PRODUCT INSTALLATION SERVICES	UOM	COST
Project Management Fee	Sq Ft	\$0.45
VCT Installation	Sq Ft	\$0.76
LVT Installation	Sq Ft	\$1.26
Solid Vinyl Installation	Sq Ft	\$1.52
Rubber Floor Installation	Sq Ft	\$1.26
4" Rubber Coving with Toe	Lin Ft	\$0.70
6" Rubber Coving with Toe	Lin Ft	\$0.98
4" Vinyl with Toe	Lin Ft	\$0.45
6" Vinyl with Toe	Lin Ft	\$0.86
4" Rubber Straight	Lin Ft	\$0.70
6" Rubber Straight	Lin Ft	\$0.98
4" Vinyl Straight	Lin Ft	\$0.45
6" Vinyl Straight	Lin Ft	\$0.86
VCT Removal	Sq Ft	\$0.39
LVT Removal	Sq Ft	\$0.39
Solid Vinyl Removal	Sq Ft	\$0.39
Rubber Floor Removal	Sq Ft	\$0.39
Sheet Goods Installation	Sq Ft.	\$1.26
OTHER SERVICES	UOM	COST
Furniture Lift System	Sq Yd	\$6.57
Furniture Removal/Replacement	Hour	\$35.35
Removal and Disposal of Cove Base	Lin Ft	\$0.15
Floor Patch (Portland Base) Material and Labor	Bag	\$45
Major Floor Preparation - Material Only	Bag	\$35.35
Major Floor Preparation -) Labor Only	Hour	\$35.35
Transition Strips and Labor	Lin Ft	\$2.32
Stair Nosing - Labor and Material	Lin Ft	\$5.00
Additional Cost for After Hours Installation	Sq Yd	\$0.51
TRAVEL EXPENSES**	UOM	COST
Mileage Reimbursement	Mile	\$0.51
Hotel/Motel	Night	\$101.00
Food (Per Diem)	Man	\$30.30
ADHESIVE	UOM	COST
V-81 Premium Latex Adhesive 4 gallon (sheet goods & LVT)	Each	\$ 73.73
V-82 Premium Latex Adhesive 4 gallon (sheet goods & LVT)	Each	\$ 116.41
V-95 Two Component, solvent free epoxy 1 gallon with roller (sheet goods & LVT)	Each	\$ 102.05
M Guard V-11 Premium High Moisture Pressure Sensitive (all VCT & PVT)	Each	\$ 76.09

M Guard V-11 (1 gallon) (all VCT & PVT)	Each	\$ 32.81
MCS-42 Seam Sealer (12 pints) (hard surface)	Each	\$ 138.20
MCS-42 Seam Sealer 1 pint (hard surface)	Each	\$ 28.18
MLG-33 (6 each) Urethane sealer	Each	\$ 103.24
MLG-33 (1 each) Urethane sealer	Each	\$ 32.36
VST-96 Seam Sealer (6 pints) (for use with MCS-42 and MLG-33)	Each	\$ 82.36
VST-96 Seam Sealer (1 kit) (for use with MCS-42 and MLG-33)	Each	\$ 28.87
Camouflage Weld Rods (55 lf) (BioSpec MD)	Each	\$ 50.60
Welding Rods (165 lf)	Each	\$ 48.13
R101G4 Wall Base Adhesive	Each	\$ 93.55
R911G4 Rubber & Vinyl Strair Tread and Rubber tile Adheisve	Each	\$ 159.98
MR721G Tile & Stair Tread Adhesive- 1 gallon	Each	\$ 92.14
Edge Guard (6 8oz bottles per carton)	Each	\$ 65.63
Edge Guard (4 32oz bottles per carton)	Each	\$ 89.33
M Guard V-88 hard surface	Each	\$ 183.48
MR715G Two Part Solvent Free (1 gallon combined) Nose filler	Each	\$ 89.48
Cove Base	UOM	COST
4" Rubber Coving with Toe - Product	Lin Ft	\$0.83
6" Rubber Coving with Toe - Product	Lin Ft	\$1.13
4" Vinyl with Toe - Product	Lin Ft	\$0.52
6" Vinyl with Toe - Product	Lin Ft	\$0.76
4" Rubber Straight - Product	Lin Ft	\$0.83
6" Rubber Straight - Product	Lin Ft	\$1.13
4" Vinyl Straight - Product	Lin Ft	\$0.52
6" Vinyl Straight - Product	Lin Ft	\$0.76
Rubber Stair Treads Type TS	Lin Ft	\$11.07
Rubber Stair Treads w/Riser Type TS	Lin Ft	\$14.34
Other	Sq Yd	