



## Notice of Statewide Contract Award

*Official signed contract documents are on file with OMES-Central Purchasing.*

**Contract Title:** Vehicle Lifts and Garage Associated Equipment

**Statewide Contract # :** SW 798 NASPO

**Contract Issuance Date:** 5/25/2017

**Total Number of Vendors:** One (1)) *(For details see: Vendor Information Sheet)*

**Contract Period:** 5/25/2017 through 02/09/2019

**Agreement Period:** 05/25/2017 through 02/09/2022

**Authorized Users:** **All State Departments, Boards, Commissions, Agencies and Institutions, in addition to Counties, School Districts and Municipalities which may avail themselves of this contract.**

**Contract Priority:** Non Mandatory

**Type of Contract:** NASPO ValuePoint Multistate

**OMES-CP Contact:** Theresa Johnson **Title:** Contracting Officer

**Phone:** 1 - 405 - 521 - 2289 **Email:** theresa.johnson@omes.ok.gov



## Awarded Supplier Information

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**Supplier Name:** Mohawk Resources. LTD

**Supplier ID #:** 0000286637

**Supplier Address:** P.O. Box 110

**City:** Amsterdam

**State:** NY

**Zip Code:** 12010

**Contact Person Name:** Steve Perlstein

**Phone #:** 1-518-842-1431 ext. 24

**Title:** President

**Fax #:** 1-578-842-1289

**Email:** sperlstein@mohawklifts.com

**Website:** [www.govlifts.com](http://www.govlifts.com)

**Authorized Location:** ☐ Locations list attached as *(attachment title)*

☐ Address:

City:

State:

Zip Code:

**Contract ID #:** 4826

**Delivery:**

**Minimum Order:**

**P/Card Accepted:** ☐ Yes

☐ No

**Other:** Contract pricing available on supplier website: <http://www.govlifts.com/ok>

**MASTER CONTRACT**

**No. 05316**

**VEHICLE LIFTS AND GARAGE ASSOCIATED EQUIPMENT**

*For Use by Eligible Purchasers*

**By and Between**

**STATE OF WASHINGTON  
DEPARTMENT OF ENTERPRISE SERVICES**



**and**

**MOHAWK RESOURCES LTD**

**Dated February 10, 2017**

## **MASTER CONTRACT**

**No. 05316**

### **VEHICLE LIFTS AND GARAGE ASSOCIATED EQUIPMENT**

This Master Contract ("Master Contract") is made and entered into by and between the State of Washington acting by and through the Department of Enterprise Services, a Washington State governmental agency ("Enterprise Services"), NASPO ValuePoint and Mohawk Resources Ltd ("Contractor") and is dated as of February 10, 2017.

#### **RECITALS**

- A. Pursuant to Legislative direction codified in RCW chapter 39.26, Enterprise Services, on behalf of the State of Washington, is authorized to develop, solicit, and establish master contracts for goods and/or services for general use by Washington state agencies and certain other entities (eligible purchasers).
- B. On behalf of the State of Washington, Enterprise Services, as part of a competitive governmental procurement, issued Invitation For Bid No. 05316 dated November 18, 2016 regarding Vehicle Lifts and Garage Associated Equipment.
- C. Enterprise Services evaluated all responses to the Invitation For Bid and identified Contractor as an/the apparent successful bidder.
- D. Enterprise Services has determined that entering into this Master Contract will meet the identified needs and be in the best interest of the State of Washington.
- E. The purpose of this Master Contract is to enable eligible purchasers to purchase the goods and/or services as set forth herein.

#### **AGREEMENT**

NOW THEREFORE, in consideration of the mutual promises, covenants, and conditions set forth herein, the parties hereto hereby agree as follows:

- 1. **TERM.** The term of this Master Contract is 2 Years (24 months), commencing February 10, 2017 and ending February 10, 2019 with the option to extend the contracts for an additional 36 months. The Master Contract is subject to earlier termination.
- 2. **NASPO VALUEPOINT PARTICIPATING ENTITIES.** States, should they so choose, may award Participating Addendums in order to access contract pricing under this Master Contract. Each state would be responsible for completing and signing a separate Participating Addendum with any of the Contractors awarded under this Master Contract.
- 3. **ELIGIBLE PURCHASERS.** This Master Contract may be utilized by any of the following types of entities in the State of Washington ("Purchaser"):
  - 3.1. **WASHINGTON STATE AGENCIES.** This Master Contract may be utilized by:
    - Washington state agencies, departments, offices, divisions, boards, and commission; and

- Any the following institutions of higher education: state universities, regional universities, state college, community colleges, and technical colleges.
- 3.2. **MCUA PARTIES.** This Master Contract also may be utilized by any of the following types of entities that have executed a Master Contract Usage Agreement with Enterprise Services:
- Political subdivisions (e.g., counties, cities, school districts, public utility districts);
  - Federal governmental agencies or entities;
  - Public-benefit nonprofit corporations (i.e., § 501(c)(3) nonprofit corporations that receive federal, state, or local funding); and
  - Federally-recognized Indian Tribes located in the State of Washington.
4. **SCOPE – INCLUDED GOODS/SERVICES AND PRICE.**
- 4.1. **CONTRACT SCOPE.** Pursuant to this Master Contract, Contractor is authorized to sell only those goods and/or services set forth in *Exhibit A – Included Goods/Services* for the prices set forth in *Exhibit B – Prices and Contractor entire catalog*. Contractor shall not represent to any Purchaser under this Master Contract that Contractor has contractual authority to sell any goods and/or services beyond those set forth in *Exhibit A – Included Goods/Services*.
- 4.2. **STATE'S ABILITY TO MODIFY SCOPE OF MASTER CONTRACT.** Subject to mutual agreement between the parties, Enterprise Services reserves the right to modify the goods and/or services included in this Master Contract; *Provided*, however, that any such modification shall be effective only upon thirty (30) days advance written notice; and *Provided further*, that any such modification must be within the scope of this Master Contract.
- 4.3. **PRICE CEILING.** Although Contractor may offer lower prices to Purchasers, during the term of this Master Contract, Contractor guarantees to provide the Goods/Services at no greater than the prices set forth in *Exhibit B – Prices for Goods/Services* (subject to economic adjustment as set forth herein).
- 4.4. **MASTER CONTRACT INFORMATION.** Enterprise Services shall maintain and provide information regarding this Master Contract, including scope and pricing, to eligible Purchasers.
5. **CONTRACTOR REPRESENTATIONS AND WARRANTIES.** Contractor makes each of the following representations and warranties as of the effective date of this Master Contract and at the time any order is placed pursuant to this Master Contract. If, at the time of any such order, Contractor cannot make such representations and warranties, Contractor shall not process any orders and shall, within three (3) business days notify Enterprise Services, in writing, of such breach.
- 5.1. **QUALIFIED TO DO BUSINESS.** Contractor represents and warrants that it is in good standing and qualified to do business in the State of Washington, that it possesses and shall keep current all required licenses and/or approvals, and that it is current, in full compliance, and has paid all applicable taxes owed to the State of Washington.
- 5.2. **SUSPENSION & DEBARMENT.** Contractor represents and warrants that neither it nor its principals or affiliates presently are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any governmental contract by any governmental department or agency within the United States.

- 5.3. **QUALITY OF GOODS OR SERVICES.** Contractor represents and warrants that any goods and/or services sold pursuant to this Master Contract shall be merchantable, shall conform to this Master Contract and Purchaser's Purchase Order, shall be fit and safe for the intended purposes, shall be free from defects in materials and workmanship, and shall be produced and delivered in full compliance with applicable law. Contractor further represents and warrants it has clear title to the goods and that the same shall be delivered free of liens and encumbrances and that the same do not infringe any third party patent. Upon breach of warranty, Contractor will repair or replace (at no charge to Purchaser) any goods and/or services whose nonconformance is discovered and made known to the Contractor. If, in Purchaser's judgment, repair or replacement is inadequate, or fails of its essential purpose, Contractor will refund the full amount of any payments that have been made. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.
- 5.4. **PROCUREMENT ETHICS & PROHIBITION ON GIFTS.** Contractor represents and warrants that it complies fully with all applicable procurement ethics restrictions including, but not limited to, restrictions against Contractor providing gifts or anything of economic value, directly or indirectly, to Purchasers' employees.
- 5.5. **WASHINGTON'S ELECTRONIC BUSINESS SOLUTION (WEBS).** Contractor represents and warrants that it is registered in Washington's Electronic Business Solution (WEBS), Washington's contract registration system and that, all of its information therein is current and accurate and that throughout the term of this Master Contract, Contractor shall maintain an accurate profile in WEBS.
- 5.6. **STATEWIDE PAYEE DESK.** Contractor represents and warrants that it is registered with the Statewide Payee Desk, which registration is a condition to payment.
- 5.7. **MASTER CONTRACT PROMOTION; ADVERTISING AND ENDORSEMENT.** Contractor represents and warrants that it shall use commercially reasonable efforts both to promote and market the use of this Master Contract with eligible Purchasers and to ensure that those entities that utilize this Master Contract are eligible Purchasers. Contractor understands and acknowledges that neither Enterprise Services nor Purchasers are endorsing Contractor's goods and/or services or suggesting that such goods and/or services are the best or only solution to their needs. Accordingly, Contractor represents and warrants that it shall make no reference to Enterprise Services, any Purchaser, or the State of Washington in any promotional material without the prior written consent of Enterprise Services.
- 5.8. **MASTER CONTRACT TRANSITION.** Contractor represents and warrants that, in the event this Master Contract or a similar contract, is transitioned to another contractor (e.g., Master Contract expiration or termination), Contractor shall use commercially reasonable efforts to assist Enterprise Services for a period of sixty (60) days to effectuate a smooth transition to another contractor to minimize disruption of service and/or costs to the State of Washington.

**6. USING THE MASTER CONTRACT – PURCHASES.**

6.1. **ORDERING REQUIREMENTS.** Eligible Purchasers shall order goods and/or services from this Master Contract, consistent with the terms hereof and by using any ordering mechanism agreeable both to Contractor and Purchaser but, at a minimum, including the use of a purchase order. When practicable, Contractor and Purchaser also shall use telephone orders, email orders, web-based orders, and similar procurement methods (collectively "Purchaser Order"). All order documents must reference the Master Contract number. Contractors shall use secure website to complete contract purchases. The features and functions of the secure website created for use by customers under this contract shall include but shall not be limited to the following:

- Access by standard web browsers
- Unique customer identifying log-in capabilities
- Product information such as unit of measure, item status, price description and photos
- Help functionality
- Reflect current catalog/price list and contract pricing
- Restricted to only those items that may be purchased under this contract by being identified as core items or are within the general product categories established by this contract
- Shall not include any items that are specifically excluded from this contract

6.2. **DELIVERY REQUIREMENTS.** Contractor must ensure that delivery of goods and/or services will be made as required by this Master Contract, the Purchase Order used by Purchasers, or as otherwise mutually agreed in writing between the Purchaser and Contractor. The following apply to all deliveries:

- (a) Contractor shall make all deliveries to the applicable delivery location specified in the Purchase Order. Such deliveries shall occur during Purchaser's normal work hours and within the time period mutually agreed in writing between Purchaser and Contractor at the time of order placement.
- (b) Contractor shall ship all goods and/or services purchased pursuant to this Master Contract, freight charges prepaid by Contractor, F.O.B. destination, freight pre-paid Purchaser's specified destination with all transportation and handling charges included. Contractor shall bear all risk of loss, damage, or destruction of the goods and/or services ordered hereunder that occurs prior to delivery, except loss or damage attributable to Purchaser's fault or negligence.
- (c) All packing lists, packages, instruction manuals, correspondence, shipping notices, shipping containers, and other written materials associated with this Master Contract shall be identified by the Master Contract number set forth on the cover of this Master Contract and the applicable Purchaser's Purchase Order number. Packing lists shall be enclosed with each shipment and clearly identify all contents and any backorders.

**SERVICE AND INSTALLATION LOCATIONS.** See Attachment 1.

- 6.3. **RECEIPT AND INSPECTION OF GOODS AND/OR SERVICES.** Goods and/or services purchased under this Master Contract are subject to Purchaser's reasonable inspection, testing, and approval at Purchaser's destination. Purchaser reserves the right to reject and refuse acceptance of goods and/or services that are not in accordance with this Master Contract and Purchaser's Purchase Order. Purchaser may charge Contractor for the cost of inspecting rejected goods. If there are any apparent defects in the goods and/or services at the time of delivery, Purchaser promptly will notify Contractor. At Purchaser's option, and without limiting any other rights, Purchaser may require Contractor to repair or replace, at Contractor's expense, any or all of the damaged goods and/or services or, at Purchaser's option, Purchaser may note any damage to the goods and/or services on the receiving report, decline acceptance, and deduct the cost of rejected goods and/or services from final payment. Payment for any goods under such Purchase Order shall not be deemed acceptance of the goods.
- 6.4. **ON SITE REQUIREMENTS.** While on Purchaser's premises, Contractor, its agents, employees, or subcontractors shall comply, in all respects, with Purchaser's physical, fire, access, or other security requirements.
- 7. INVOICING & PAYMENT.**
- 7.1. **CONTRACTOR INVOICE.** Contractor shall submit to Purchaser's designated invoicing contact properly itemized invoices. Such invoices shall itemize the following:
- (a) Master Contract No. 05316 or other state's PA reference number
  - (b) Contractor name, address, telephone number, and email address for billing issues (i.e., Contractor Customer Service Representative)
  - (c) Contractor's Federal Tax Identification Number
  - (d) Date(s) of delivery
  - (e) Invoice amount; and
  - (f) Payment terms, including any available prompt payment discounts.
- Contractor's invoices for payment shall reflect accurate Master Contract prices. Invoices will not be processed for payment until receipt of a complete invoice as specified herein.
- 7.2. **PAYMENT.** Payment is the sole responsibility of, and will be made by, the Purchaser. Payment is due within thirty (30) days of invoice. If Purchaser fails to make timely payment(s), Contractor may invoice Purchaser in the amount of one percent (1%) per month on the amount overdue or a minimum of \$1. Payment will not be considered late if a check or warrant is mailed within the time specified.
- 7.3. **OVERPAYMENTS.** Contractor promptly shall refund to Purchaser the full amount of any erroneous payment or overpayment. Such refunds shall occur within thirty (30) days of written notice to Contractor; *Provided*, however, that Purchaser shall have the right to elect to have either direct payments or written credit memos issued. If Contractor fails to make timely payment(s) or issuance of such credit memos, Purchaser may impose a one percent (1%) per month on the amount overdue thirty (30) days after notice to the Contractor.
- 7.4. **NO ADVANCE PAYMENT.** No advance payments shall be made for any products or services furnished by Contractor pursuant to this Master Contract.



- 7.5. **NO ADDITIONAL CHARGES.** Unless otherwise specified herein, Contractor shall not include or impose any additional charges including, but not limited to, charges for shipping, handling, or payment processing.
- 7.6. **TAXES/FEEs.** Contractor promptly shall pay all applicable taxes on its operations and activities pertaining to this Master Contract. Failure to do so shall constitute breach of this Master Contract. Unless otherwise agreed, Purchaser shall pay applicable sales tax imposed by the State of Washington on purchased goods and/or services. Contractor, however, shall not make any charge for federal excise taxes and Purchaser agrees to furnish Contractor with an exemption certificate where appropriate.

**8. CONTRACT MANAGEMENT.**

- 8.1. **CONTRACT ADMINISTRATION & NOTICES.** Except for legal notices, the parties hereby designate the following contract administrators as the respective single points of contact for purposes of this Master Contract. Enterprise Services' contract administrator shall provide Master Contract oversight. Contractor's contract administrator shall be Contractor's principal contact for business activities under this Master Contract. The parties may change contractor administrators by written notice as set forth below.

Any notices required or desired shall be in writing and sent by U.S. mail, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address or email address as the parties may specify in writing:

**Enterprise Services**

Attn: Philip Saunders  
Washington Dept. of Enterprise Services  
PO Box 41411  
Olympia, WA 98504-1411  
Tel: (360) 407-7962  
Email: Philip.Saunders@des.wa.gov

**Contractor**

Attn: Steve Perlstein  
Mohawk Resources Ltd  
PO Box 110  
Amsterdam, NY 12010  
Tel: (518) 842-1431 ext 24  
Email: sperlstein@mohawklifts.com

Notices shall be deemed effective upon the earlier of receipt, if mailed, or, if emailed, upon transmission to the designated email address of said addressee.

- 8.2. **CONTRACTOR CUSTOMER SERVICE REPRESENTATIVE.** Contractor shall designate a customer service representative (and inform Enterprise Services of the same) who shall be responsible for addressing Purchaser issues pertaining to this Master Contract.
- 8.3. **LEGAL NOTICES.** Any legal notices required or desired shall be in writing and delivered by U.S. certified mail, return receipt requested, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address or email address as the parties may specify in writing:

**Enterprise Services**

Attn: Legal Services Manager  
Washington Dept. of Enterprise Services  
PO Box 41411  
Olympia, WA 98504-1411  
Email: greg.tolbert@des.wa.gov

**Contractor**

Attn: Steve Perlstein  
Mohawk Resources Ltd  
PO Box 110  
Amsterdam, NY 12010  
Email: sperlstein@mohawklifts.com

Notices shall be deemed effective upon the earlier of receipt when delivered, or, if mailed, upon return receipt, or, if emailed, upon transmission to the designated email address of said addressee.

**9. CONTRACTOR SALES REPORTING; VENDOR MANAGEMENT FEE; & CONTRACTOR REPORTS.**

**9.1. MASTER CONTRACT SALES REPORTING.** Contractor shall report total Master Contract sales quarterly to Enterprise Services, as set forth below.

- (a) **Master Contract Sales Reporting System.** Contractor shall report quarterly Master Contract sales in Enterprise Services' Master Contract Sales Reporting System. Enterprise Services will provide Contractor with a login password and a vendor number. The password and vendor number will be provided to the Sales Reporting Representative(s) listed on Contractor's Bidder Profile.
- (b) **Data.** Each sales report must identify every authorized Purchaser by name as it is known to Enterprise Services and its total combined sales amount invoiced during the reporting period (i.e., sales of an entire agency or political subdivision, not its individual subsections). The "Miscellaneous" option may be used only with prior approval by Enterprise Services. Upon request, Contractor shall provide contact information for all authorized purchasers specified herein during the term of the Master Contract. If there are no Master Contract sales during the reporting period, Contractor must report zero sales.
- (c) **Due dates for Master Contract Sales Reporting.** Quarterly Master Contract Sales Reports must be submitted electronically by the following deadlines for all sales invoiced during the applicable calendar quarter:

FOR CALENDAR QUARTER ENDING	MASTER CONTRACT SALES REPORT DUE
March 31:	April 30
June 30:	July 31
September 30:	October 31
December 31:	January 31

**9.2. VENDOR MANAGEMENT FEE.** Contractor shall pay to Enterprise Services a vendor management fee ("VMF") of 0.74 percent on the purchase price for all Master Contract sales (the purchase price is the total invoice price less applicable sales tax).

- (a) The sum owed by Contractor to Enterprise Services as a result of the VMF is calculated as follows:

Amount owed to Enterprise Services = Total Master Contract sales invoiced (not including sales tax) x .0074.

- (b) The VMF must be rolled into Contractor's current pricing. The VMF must not be shown as a separate line item on any invoice unless specifically requested and approved by Enterprise Services.
- (c) Enterprise Services will invoice Contractor quarterly based on Master Contract sales reported by Contractor. Contractors are not to remit payment until they

receive an invoice from Enterprise Services. Contractor's VMF payment to Enterprise Services must reference this Master Contract number, work request number (if applicable), the year and quarter for which the VMF is being remitted, and the Contractor's name as set forth in this Master Contract, if not already included on the face of the check.

- (d) Failure to accurately report total net sales, to submit a timely usage report, or remit timely payment of the VMF, may be cause for Master Contract termination or the exercise of other remedies provided by law. Without limiting any other available remedies, the Parties agree that Contractor's failure to remit to Enterprise Services timely payment of the VMF shall obligate Contractor to pay to Enterprise Services, to offset the administrative and transaction costs incurred by the State to identify, process, and collect such sums. the sum of \$200.00 or twenty-five percent (25%) of the outstanding amount, whichever is greater, or the maximum allowed by law, if less.
  - (e) Enterprise Services reserves the right, upon thirty (30) days advance written notice, to increase, reduce, or eliminate the VMF for subsequent purchases, and reserves the right to renegotiate Master Contract pricing with Contractor when any subsequent adjustment of the VMF might justify a change in pricing.
- 9.3. **ANNUAL MASTER CONTRACT SALES REPORT.** Contractor shall provide to Enterprise Services a detailed annual Master Contract sales report. Such report shall include, at a minimum: Product description, part number or other Product identifier, per unit quantities sold, and Master Contract price. This report must be provided in an electronic format that can be read by MS Excel.
- 9.4. **SMALL BUSINESS INCLUSION.** Upon Request by Enterprise Services, Contractor shall provide, within thirty (30) days, an Affidavit of Amounts Paid. Such Affidavit of Amounts Paid either shall state, if applicable, that Contractor still maintains its MWBE certification or state that its subcontractor(s) still maintain(s) its/their MWBE certification(s) and specify the amounts paid to each certified MWBE subcontractor under this Master Contract. Contractor shall maintain records supporting the Affidavit of Amounts Paid in accordance with this Master Contract's records retention requirements.

#### **10. RECORDS RETENTION & AUDITS.**

- 10.1. **RECORDS RETENTION.** Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Contract and orders placed by Purchasers under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. Contractor shall retain such records for a period of six (6) years following expiration or termination of this Master Contract or final payment for any order placed by a Purchaser against this Master Contract, whichever is later; *Provided*, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.
- 10.2. **AUDIT.** Enterprise Services reserves the right to audit, or have a designated third party audit, applicable records to ensure that Contractor has properly invoiced Purchasers and that Contractor has paid all applicable contract management fees. Accordingly, Contractor shall permit Enterprise Services, any Purchaser, and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's

books, documents, papers and records directly pertinent to this Master Contract or orders placed by a Purchaser under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of six (6) years following expiration or termination of this Master Contract or final payment for any order placed by a Purchaser against this Master Contract, whichever is later; *Provided*, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.

- 10.3. OVERPAYMENT OF PURCHASES OR UNDERPAYMENT OF FEES. Without limiting any other remedy available to any Purchaser, Contractor shall (a) reimburse Purchasers for any overpayments inconsistent with the terms of this Master Contract or orders, at a rate of 125% of such overpayments, found as a result of the examination of the Contractor's records; and (b) reimburse Enterprise Services for any underpayment of fees, at a rate of 125% of such fees found as a result of the examination of the Contractor's records (e.g., if Contractor underpays the Vendor Management Fee by \$500, Contractor would be required to pay to Enterprise Services  $\$500 \times 1.25 = \$625$ ).

## 11. INSURANCE.

- 11.1. REQUIRED INSURANCE. During the Term of this Master Contract, Contractor, at its expense, shall maintain in full force and effect the insurance coverages set forth in *Exhibit C – Insurance Requirements*.
- 11.2. WORKERS COMPENSATION. Contractor shall comply with applicable workers compensation statutes and regulations (e.g., RCW Title 51, Industrial Insurance). If Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, Enterprise Services may terminate this Master Contract. This provision does not waive any of the Washington State Department of Labor and Industries (L&I) rights to collect from Contractor. In addition, Contractor waives its immunity under RCW Title 51 to the extent it is required to indemnify, defend, and hold harmless the State of Washington and its agencies, officials, agents, or employees.

## 12. CLAIMS.

- 12.1. ASSUMPTION OF RISKS; CLAIMS BETWEEN THE PARTIES. Contractor assumes sole responsibility and all risks of personal injury or property damage to itself and its employees, agents, and Contractors in connection with Contractor's operations under this Master Contract. Enterprise Services has made no representations regarding any factor affecting Contractor's risks. Contractor shall pay for all damage to any Purchaser's property resulting directly or indirectly from its acts or omissions under this Master Contract, even if not attributable to negligence by Contractor or its agents.
- 12.2. THIRD-PARTY CLAIMS; INDEMNITY. To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless Enterprise Services and any Purchaser and their employees and agents from and against all claims, demands, judgments, assessments, damages, penalties, fines, costs, liabilities or losses including, without limitation, sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees (collectively "claims") arising from any act or omission of Contractor or its successors, agents, and subcontractors under this Master Contract, except claims caused solely by Enterprise Services or any Purchasers' negligence. Contractor shall take all steps needed to keep

Purchaser's property free of liens arising from Contractor's activities, and promptly obtain or bond the release of any such liens that may be filed.

**13. DISPUTE RESOLUTION.** The parties shall cooperate to resolve any dispute pertaining to this Master Contract efficiently, as timely as practicable, and at the lowest possible level with authority to resolve such dispute. If, however, a dispute persists and cannot be resolved, it may be escalated within each organization. In such situation, upon notice by either party, each party, within five (5) business days shall reduce its description of the dispute to writing and deliver it to the other party. The receiving party then shall have three (3) business days to review and respond in writing. In the event that the parties cannot then agree on a resolution of the dispute, the parties shall schedule a conference between the respective senior manager of each organization to attempt to resolve the dispute. In the event the parties cannot agree, either party may resort to court to resolve the dispute.

**14. SUSPENSION & TERMINATION; REMEDIES.**

**14.1. SUSPENSION & TERMINATION FOR DEFAULT.** Enterprise Services may suspend Contractor's operations under this Master Contract immediately by written cure notice of any default. Suspension shall continue until the default is remedied to Enterprise Services' reasonable satisfaction; *Provided*, however, that, if after thirty (30) days from such a suspension notice, Contractor remains in default, Enterprise Services may terminate Contractor's rights under this Master Contract. All of Contractor's obligations to Enterprise Services and Purchasers survive termination of Contractor's rights under this Master Contract, until such obligations have been fulfilled.

**14.2. DEFAULT.** Each of the following events shall constitute default of this Master Contract by Contractor:

- (a) Contractor fails to perform or comply with any of the terms or conditions of this Master Contract including, but not limited to, Contractor's obligation to pay contract management fees when due;
- (b) Contractor breaches any representation or warranty provided herein; or
- (c) Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary.

**14.3. REMEDIES FOR DEFAULT.**

- (a) Enterprise Services' rights to suspend and terminate Contractor's rights under this Master Contract are in addition to all other available remedies.
- (b) In the event of termination for default, Enterprise Services may exercise any remedy provided by law including, without limitation, the right to procure for all Purchasers replacement goods and/or services. In such event, Contractor shall be liable to Enterprise Services for damages as authorized by law including, but not limited to, any price difference between the Master Contract price and the replacement or cover price as well as any administrative and/or transaction costs directly related to such replacement procurement – e.g., the cost of the competitive procurement.

**14.4. LIMITATION ON DAMAGES.** Notwithstanding any provision to the contrary, the parties agree that in no event shall any party or Purchaser be liable to the other for exemplary or punitive damages.

**14.5. GOVERNMENTAL TERMINATION.**

- (a) Termination for Withdrawal of Authority. Enterprise Services may suspend or terminate this Master Contract if, during the term hereof, Enterprise Services' procurement authority is withdrawn, reduced, or limited such that Enterprise Services, in its judgment, would lack authority to enter into this Master Contract; *Provided*, however, that such suspension or termination for withdrawal of authority shall only be effective upon twenty (20) days prior written notice; and *Provided further*, that such suspension or termination for withdrawal of authority shall not relieve any Purchaser from payment for goods and/or services already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such suspension or termination for withdrawal of authority, neither Enterprise Services nor any Purchaser shall have any obligation or liability to Contractor.
- (b) Termination for Convenience. Enterprise Services, for convenience, may terminate this Master Contract; *Provided*, however, that such termination for convenience must, in Enterprise Services' judgment, be in the best interest of the State of Washington; and *Provided further*, that such termination for convenience shall only be effective upon sixty (60) days prior written notice; and *Provided further*, that such termination for convenience shall not relieve any Purchaser from payment for goods and/or services already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such termination for convenience, neither Enterprise Services nor any Purchaser shall have any obligation or liability to Contractor.

- 14.6. TERMINATION PROCEDURE. Regardless of basis, in the event of suspension or termination (in full or in part), the parties shall cooperate to ensure an orderly and efficient suspension or termination. Accordingly, Contractor shall deliver to Purchasers all goods and/or services that are complete (or with approval from Enterprise Services, substantially complete) and Purchasers shall inspect, accept, and pay for the same in accordance with this Master Contract and the applicable Purchase Order. Unless directed by Enterprise Services to the contrary, Contractor shall not process any orders after notice of suspension or termination inconsistent therewith.

**15. GENERAL PROVISIONS.**

- 15.1. TIME IS OF THE ESSENCE. Time is of the essence for each and every provision of this Master Contract.
- 15.2. COMPLIANCE WITH LAW. Contractor shall comply with all applicable law.
- 15.3. INTEGRATED AGREEMENT. This Master Contract constitutes the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior negotiations, representations, and understandings between them. There are no representations or understandings of any kind not set forth herein.
- 15.4. AMENDMENT OR MODIFICATION. Except as set forth herein, this Master Contract may not be amended or modified except in writing and signed by a duly authorized representative of each party hereto.
- 15.5. AUTHORITY. Each party to this Master Contract, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Master Contract and that its execution, delivery, and performance of this

Master Contract has been fully authorized and approved, and that no further approvals or consents are required to bind such party.

- 15.6. **NO AGENCY.** The parties agree that no agency, partnership, or joint venture of any kind shall be or is intended to be created by or under this Master Contract. Neither party is an agent of the other party nor authorized to obligate it.
- 15.7. **ASSIGNMENTS.** Contractor may not assign its rights under this Master Contract without Enterprise Services' prior written consent and Enterprise Services may consider any attempted assignment without such consent to be void; *Provided*, however, that, if Contractor provides written notice to Enterprise Services within thirty (30) days, Contractor may assign its rights under this Master Contract in full to any parent, subsidiary, or affiliate of Contractor that controls or is controlled by or under common control with Contractor, is merged or consolidated with Contractor, or purchases a majority or controlling interest in the ownership or assets of Contractor. Unless otherwise agreed, Contractor guarantees prompt performance of all obligations under this Master Contract notwithstanding any prior assignment of its rights.
- 15.8. **BINDING EFFECT; SUCCESSORS & ASSIGNS.** This Master Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
- 15.9. **PUBLIC INFORMATION.** This Master Contract and all related documents are subject to public disclosure as required by Washington's Public Records Act, RCW chapter 42.56.
- 15.10. **ASSIGNMENT OF ANTITRUST RIGHTS REGARDING PURCHASED GOODS/SERVICES.** Contractor irrevocably assigns to Enterprise Services, on behalf of the State of Washington, any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws in connection with any goods and/or services provided in Washington for the purpose of carrying out the Contractor's obligations under this Master Contract, including, at Enterprise Services' option, the right to control any such litigation on such claim for relief or cause of action.
- 15.11. **FEDERAL FUNDS.** To the extent that any Purchaser uses federal funds to purchase goods and/or services pursuant to this Master Contract, such Purchaser shall specify, with its order, any applicable requirement or certification that must be satisfied by Contractor at the time the order is placed or upon delivery.
- 15.12. **SEVERABILITY.** If any provision of this Master Contract is held to be invalid or unenforceable, such provision shall not affect or invalidate the remainder of this Master Contract, and to this end the provisions of this Master Contract are declared to be severable. If such invalidity becomes known or apparent to the parties, the parties agree to negotiate promptly in good faith in an attempt to amend such provision as nearly as possible to be consistent with the intent of this Master Contract.
- 15.13. **WAIVER.** Failure of either party to insist upon the strict performance of any of the terms and conditions hereof, or failure to exercise any rights or remedies provided herein or by law, or to notify the other party in the event of breach, shall not release the other party of any of its obligations under this Master Contract, nor shall any purported oral modification or rescission of this Master Contract by either party operate as a waiver of any of the terms hereof. No waiver by either party of any breach, default, or violation of any term, warranty, representation, contract, covenant, right, condition, or provision hereof shall constitute

waiver of any subsequent breach, default, or violation of the same or other term, warranty, representation, contract, covenant, right, condition, or provision.

- 15.14. **SURVIVAL.** All representations, warranties, covenants, agreements, and indemnities set forth in or otherwise made pursuant to this Master Contract shall survive and remain in effect following the expiration or termination of this Master Contract, *Provided*, however, that nothing herein is intended to extend the survival beyond any applicable statute of limitations periods.
- 15.15. **GOVERNING LAW.** The validity, construction, performance, and enforcement of this Master Contract shall be governed by and construed in accordance with the laws of the State of Washington, without regard to its choice of law rules.
- 15.16. **JURISDICTION & VENUE.** In the event that any action is brought to enforce any provision of this Master Contract, the parties agree to submit to exclusive in personam jurisdiction in Thurston County Superior Court for the State of Washington and agree that in any such action venue shall lie exclusively at Olympia, Washington.
- 15.17. **ATTORNEYS' FEES.** Should any legal action or proceeding be commenced by either party in order to enforce this Master Contract or any provision hereof, or in connection with any alleged dispute, breach, default, or misrepresentation in connection with any provision herein contained, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs incurred in connection with such action or proceeding, including costs of pursuing or defending any legal action, including, without limitation, any appeal, discovery, or negotiation and preparation of settlement arrangements, in addition to such other relief as may be granted.
- 15.18. **FAIR CONSTRUCTION & INTERPRETATION.** The provisions of this Master Contract shall be construed as a whole according to their common meaning and not strictly for or against any party and consistent with the provisions contained herein in order to achieve the objectives and purposes of this Master Contract. Each party hereto and its counsel has reviewed and revised this Master Contract and agrees that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be construed in the interpretation of this Master Contract. Each term and provision of this Master Contract to be performed by either party shall be construed to be both a covenant and a condition.
- 15.19. **FURTHER ASSURANCES.** In addition to the actions specifically mentioned in this Master Contract, the parties shall each do whatever may reasonably be necessary to accomplish the transactions contemplated in this Master Contract including, without limitation, executing any additional documents reasonably necessary to effectuate the provisions and purposes of this Master Contract.
- 15.20. **EXHIBITS.** All exhibits referred to herein are deemed to be incorporated in this Master Contract in their entirety.
- 15.21. **CAPTIONS & HEADINGS.** The captions and headings in this Master Contract are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this Master Contract nor the meaning of any provisions hereof.
- 15.22. **ELECTRONIC SIGNATURES.** A signed copy of this Master Contract or any other ancillary agreement transmitted by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Master Contract or such other ancillary agreement for all purposes.



15.23. COUNTERPARTS. This Master Contract may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Master Contract at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Master Contract.

EXECUTED as of the date and year first above written.

STATE OF WASHINGTON  
Department of Enterprise Services

By:   
Philip Saunders  
Its: Contract Specialist

*Procurement  
Supervisor  
2/10/17*

MOHAWK RESOURCES LTD

By:   
Steve Perlstein  
Its: President

**INCLUDED GOODS/SERVICES**



**PRICES FOR GOODS/SERVICES**

[www.mohawklifts.com/gov](http://www.mohawklifts.com/gov) or [www.govlifts.com](http://www.govlifts.com)

1. **CATALOG PRICING AVAILABILITY.** Contractor shall provide Catalog/price lists in both hard copy list and electronic (web-based).
2. **NEW TECHNOLOGY AND NEW PRODUCTS.** Should Contractors want to offer new technology lifts that are not specifically called for on a Vehicle Lift or Garage Associated Equipment category, contractors must submit to the Contract Administrator for review. All additional items must meet contract specifications, terms and conditions. For each additional item, fully identify power, modifications, payload, option restrictions and added delivery time. After award, new, improved, or updated products may become available. Bidders will be allowed to request to substitute items, within their awarded categories. Substituted items must beat contract specifications, terms and conditions. Substitutions and pricing will be at the sole discretion of the Contract Administrator and through written mutual agreement.
3. Several NASPO ValuePoint Participating Entities currently maintain separate SciQuest eMarketplaces, these Participating Entities do enable certain NASPO ValuePoint Cooperative Contracts. In the event one of these entities elects to use this NASPO ValuePoint Cooperative Contract (available through the eMarket Center) but publish to their own eMarketplace, the Contractor agrees to work in good faith with the entity and NASPO ValuePoint to implement the catalog. NASPO ValuePoint does not anticipate that this will require substantial additional efforts by the Contractor; however, the supplier agrees to take commercially reasonable efforts to enable such separate SciQuest catalogs.

**INSURANCE REQUIREMENTS**

1. **INSURANCE OBLIGATION.** During the Term of this Master Contract, Contractor obtain and maintain in full force and effect, at Contractor's sole expense, the following insurance coverages:
  - a. **COMMERCIAL GENERAL LIABILITY INSURANCE.** Commercial General Liability Insurance (and, if necessary, commercial umbrella liability insurance) covering Bodily Injury and Property Damage on an 'occurrence form' in the amount of not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate. This coverage shall include Contractual Liability insurance for the indemnity provided under this Master Contract.

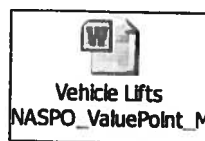
The limits of all insurance required to be provided by Contractor shall be no less than the minimum amounts specified. Coverage in the amounts of these minimum limits, however, shall not be construed to relieve Contractor from liability in excess of such limits.

A cross-liability clause or separation of insured condition shall be included in all general liability, professional liability, pollution, and errors and omissions policies required by this Master Contract.

2. **INSURANCE CARRIER RATING.** Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable to the State of Washington's Office of Risk Management. Insurance coverage shall be provided by companies authorized to do business within the State of Washington and rated A- Class VII or better in the most recently published edition of Best's Insurance Rating. Enterprise Services reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
3. **ADDITIONAL INSURED.** Except for Works' Compensation, Professional Liability, Personal Automobile Liability, and Pollution Liability Insurance, all required insurance shall include the State of Washington and all authorized Purchasers (and their agents, officers, and employees) as an Additional Insureds evidenced by copy of the Additional Insured Endorsement attached to the Certificate of Insurance on such insurance policies.
4. **CERTIFICATE OF INSURANCE.** Upon request by Enterprise Services, Contractor shall furnish to Enterprise Services, as evidence of the insurance coverage required by this Master Contract, a certificate of insurance satisfactory to Enterprise Services that insurance, in the above-stated kinds and minimum amounts, has been secured. A renewal certificate shall be delivered to Enterprise Services no less than ten (10) days prior to coverage expiration. Failure to provide proof of insurance, as required, will result in contract cancellation. All policies and certificates of insurance shall include the Master Contract number stated on the cover of this Master Contract.
5. **PRIMARY COVERAGE.** Contractor's insurance shall apply as primary and shall not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above including, at a minimum, the State of Washington and/or any Purchaser. All insurance or self-insurance of the State of Washington and/or Purchasers shall be excess of any insurance provided by Contractor or subcontractors.

6. **SUBCONTRACTORS.** Contractor shall include all subcontractors as insureds under all required insurance policies, or shall furnish separate Certificates of Insurance and endorsements for each subcontractor. Each subcontractor must comply fully with all insurance requirements stated herein. Failure of any subcontractor to comply with insurance requirements does not limit Contractor's liability or responsibility.
7. **WAIVER OF SUBROGATION.** Contractor waives all rights of subrogation against the State of Washington and any Purchaser for the recovery of damages to the extent such damages are or would be covered by the insurance specified herein.
8. **NOTICE OF CHANGE OR CANCELLATION.** There shall be no cancellation, material change, exhaustion of aggregate limits, or intent not to renew insurance coverage, either in whole or in part, without at least sixty (60) days prior written Legal Notice by Contractor to Enterprise Services. Failure to provide such notice, as required, shall constitute default by Contractor. Any such written notice shall include the Master Contract number stated on the cover of this Master Contract.

**NASPO VALUEPOINT TERMS AND CONDITIONS**



**INTENT TO PARTICIPATE & STATE SPECIFIC TERMS AND CONDITIONS**



**VEHICLE LIFTS AND GARAGE ASSOCIATED EQUIPMENT**

Led by the State of Washington

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Master Agreement #: **05316**

Contractor: **MOHAWK RESOURCES LTD**

Participating Entity: **STATE OF OKLAHOMA**

THIS PARTICIPATING ADDENDUM (this "Addendum") is entered into effective as of date of the last signature below, by and between the State of Oklahoma by and through the Office of Management and Enterprise Services (the "State of Oklahoma" or Participating State/Entity") and Mohawk Resources LTD. ("Contractor"). The term of the Addendum shall be date of signature through February 10, 2019, which may be extended upon mutual agreement, with optional one-year terms in the event the Master Agreement is extended for the additional thirty-six (36) months, but shall not exceed February 10, 2022 (the Effective Date through February 9, 2019, is referred to herein as the "Effective Period"). Protracted contract negotiations may, at the State's sole discretion, result in fewer optional terms. The State of Oklahoma and Contractor are sometimes collectively referred to herein as the "Parties." Capitalized terms used but not defined herein have the meanings ascribed to such terms in that certain Master Agreement Award among the State of Washington ("Lead State"), Contractor and those states entering into a Participating Addendum thereto (the "Master Agreement").

WHEREAS, the Master Agreement is further identified as Master Agreement NO. 05316, and is effective February 10, 2017 through February 10, 2019 with the option to extend the contract for an additional thirty-six (36) months. This Participating Addendum will be coterminous with the Master Agreement and any extensions of the Master Agreement, unless terminated pursuant to the terms of this addendum or the terms of the Master Agreement.

WHEREAS, the Master Agreement contemplates that all authorized entities in any state are welcome to use the Master Agreement through NASPO ValuePoint Cooperative Procurement Program (NASPO ValuePoint) with such state's chief procurement official and provides that any such state reserves the right to add state-specific terms and conditions and modify the scope of the contract in such state's Participating Addendum as allowed by the Master Agreement; and

WHEREAS, this Addendum is the State of Oklahoma's Participating Addendum contemplated by the Master Agreement;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**Master Agreement Terms and Conditions:**

1. Scope: This addendum covers the Vehicle Lifts and Garage Associated Equipment led by the State of Washington 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.



**PARTICIPATING ADDENDUM****VEHICLE LIFTS AND GARAGE ASSOCIATED EQUIPMENT**

Led by the State of Washington

2. **Participation:** This NASPO ValuePoint Master Agreement may be used by all state agencies, institutions of higher institution, political subdivisions and other entities authorized to use statewide contracts in the State of *Oklahoma*. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

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

Contractor

Name:	Steve Perlstein
Address:	PO Box 110, Amsterdam, NY 12010
Telephone:	(518) 842-1431 ext. 24
Fax:	518-842-1289
Email:	sperlstein@mohawkklifts.com

Participating Entity

Name:	Theresa Johnson
Address:	5005 N. Lincoln Blvd., Suite 300, Oklahoma City, OK 73105
Telephone:	405-521-2289
Fax:	405-521-4475
Email:	theresa.johnson@omes.ok.gov

#### **4. PARTICIPATING STATE MODIFICATIONS OR ADDITIONS TO THE MASTER AGREEMENT**

These modifications or additions apply only to actions and relationships within the Participating Entity. The following changes are modifying or supplementing the Master Agreement terms and conditions.

**A. DEFINITIONS**

**Master Agreement Terms and Conditions, NASPO ValuePoint Master Agreement Terms and Conditions, Section 2., Definitions is modified to add the following provisions.**

Purchasing Entity means The term ("Purchasing Entity") shall include the State of Oklahoma (the "State") and (a) any board, commission, committee, department or

**VEHICLE LIFTS AND GARAGE ASSOCIATED EQUIPMENT**

Led by the State of Washington

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other instrumentality or entity designated to act on behalf of the State of Oklahoma or a political subdivision thereof; (b) any governmental entity specified as a political subdivision of the State of Oklahoma pursuant to the Governmental Tort Claims Act, including, without limitation, (i) any associated institution, instrumentality, board, commission, committee department, or other entity designated to act on behalf of the political subdivision; and (ii) a county or local governmental entity; and (c) entities authorized to utilize contracts awarded by the State of Oklahoma via a multistate or multi-governmental contract.

**B. PRICE AND RATE GUARANTEE PERIOD**

**Master Agreement Terms and Conditions, NASPO ValuePoint Master Agreement Terms and Conditions Section 6., Price and Rate Guarantee Period is modified to add the following provision.**

Pursuant to 68 O.S. § 1404, 68 O.S. § 1352, and 68 O.S. § 1356, Purchasing Entities under the Master Agreement that are Oklahoma state agencies are exempt from the assessment of State sales, use, and excise taxes. Further, such Purchasing Entities and Purchasing Entities that are political subdivisions of the State of Oklahoma are exempt from Federal Excise Taxes pursuant to Title 26 of the United States Code. Purchasing Entities will provide Contractor with a tax exemption certificate upon request. Any taxes of any nature whatsoever payable by the Contractor shall not be reimbursed by the Purchasing Entity.

**C. CANCELLATION**

**Master Agreement Terms and Conditions, NASPO ValuePoint Master Agreement Terms and Conditions Section 7., Cancellation is modified to add the following provision.**

With respect to all Oklahoma-based transactions and all Oklahoma-based Purchasing Entities, Participating State may terminate any order if funds sufficient to pay its obligations under the Participating Addendum are not appropriated by the applicable state legislature, federal government or other appropriate government entity or received from an intended third party funding source. In the event of such insufficiency, Participating State shall provide ten (10) calendar days' written notice of intent to terminate. Notwithstanding the foregoing, if a Purchasing Entity issues an order and has accepted the products and/or services under such order, the Purchasing Entity shall be obligated to pay for such products and/or services. In the event of termination of an order as provided in the foregoing, Participating State shall not be considered to be in default or breach under the Participating Addendum nor under the Master Agreement, nor shall it be liable for any further payments ordinarily due under, with respect to, related to, or arising out of such order, nor

**VEHICLE LIFTS AND GARAGE ASSOCIATED EQUIPMENT**

Led by the State of Washington

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shall it be liable for any damages or any other amounts which are caused by or associated with such termination.

With respect to all Oklahoma-based transactions and all Oklahoma-based Purchasing entities, Participating State may terminate the Participating Addendum in whole or in part immediately without a thirty (30) day written notice to Contractor, only if Contractor's material breach is reasonably determined (i) to be an impediment to the function of the State and detrimental to the State or (ii) when conditions preclude the thirty (30) day notice.

**D. RIGHT TO PUBLISH**

**Master Agreement Terms and Conditions, NASPO ValuePoint Master Agreement Terms and Conditions Section 9., Right to Publish is modified to add the following provision.**

Contractor acknowledges and agrees that the existence of the Master Agreement, this Participating Addendum or any acquisition thereunder is not in any way an endorsement by the State of Oklahoma or any Oklahoma Purchasing Entity of Contractor, the Products or the Services and shall not be so construed by Contractor in any advertising or publicity materials. Contractor agrees to submit to the State of Oklahoma all advertising, sales, promotion, and other publicity matters relating to the Master Agreement or this Participating Addendum wherein the name of the State of Oklahoma or any Oklahoma Purchasing Entity is mentioned or language used from which the connection of the State of Oklahoma or any Oklahoma Purchasing Entity therewith may, in the State's judgment, be inferred or implied as an endorsement. Contractor further agrees not to publish or use such advertising, sales promotion, or publicity matter or release any informational pamphlets, notices, press releases, research reports, or similar public notices without obtaining the prior written approval of the State of Oklahoma.

**E. INDEMNIFICATION**

**Master Agreement Terms and Conditions, NASPO ValuePoint Master Agreement Terms and Conditions Section 14., Indemnification is modified to add the following provision.**

In connection with indemnification under the contract, when an Oklahoma state agency is a named defendant in any filed or threatened lawsuit, the defense of the Oklahoma state agency shall be coordinated by the Attorney General of Oklahoma or, in the alternative, the Attorney General of Oklahoma may authorize the Vendor to control the defense and any related settlement negotiations; provided, however, Contractor shall not agree to any settlement of claims against the Oklahoma state agency without obtaining advance written concurrence from the State Attorney General. If the Attorney General of

**VEHICLE LIFTS AND GARAGE ASSOCIATED EQUIPMENT**

Led by the State of Washington

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Oklahoma does not authorize sole control of the defense and settlement negotiations to Contractor, Contractor shall have authorization to equally participate in any proceeding related to the indemnity obligation under the contract and shall remain responsible to indemnify the Oklahoma state agency.

**F. INSURANCE**

**Master Agreement Terms and Conditions, NASPO ValuePoint Master Agreement Terms and Conditions Section 17.(d.) Insurance is hereby deleted in its entirety and replaced with the following provision.**

Prior to commencement of performance, Contractor shall provide to the Participating State a written endorsement to the Contractor's general liability insurance policy or other documentary evidence acceptable to the Participating State that (1) provides that no material alteration, cancellation, non-renewal, or expiration of the coverage contained in such policy shall have effect unless the named Participating State has been given at least thirty (30) days prior written notice, and (2) provides that the Contractor's liability insurance policy shall be primary.

**G. LAWS AND REGULATIONS**

**Master Agreement Terms and Conditions, NASPO ValuePoint Master Agreement Terms and Conditions Section 18., Laws and Regulations is modified to add the following provision.**

For Oklahoma-based transactions and Purchasing Entities, in connection with its performance of obligations under the terms of the Participating Addendum and this Master Agreement, the Contractor shall comply with all applicable federal, state, and local laws, rules, regulations, ordinances and orders, as amended, that are, by their terms, expressly applicable to Contractor's delivery of products and/or services under the Participating Addendum and this Master Agreement and impose obligations upon Contractor in its role as an information technology products and services provider, including, but not limited to, the following:

Drug-Free Workplace Act of 1988 set forth at 41 U.S.C. § 81.

Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations which prohibit the use of facilities included on the EPA List of Violating Facilities under nonexempt federal contracts, grants or loans;

**VEHICLE LIFTS AND GARAGE ASSOCIATED EQUIPMENT**

Led by the State of Washington

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Prospective participant requirements set at 45 C.F.R. part 76 in connection with debarment, suspension and other responsibility matters;

1964 Civil Rights Act, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, and Executive Orders 11246 and 11375;

Anti-Lobbying Law set forth at 31 U.S.C. § 1325 and as implemented at 45 C.F.R. part 93;

Obtaining certified independent audits conducted in accordance with Government Auditing Standards and Office of Management and Budget Circular A-133 with approval and work paper examination rights of the applicable procuring entity;

Be compliant with the Oklahoma Taxpayer and Citizen Protection Act of 2007, 25 O.S. § 1312, and be registered and participate in the Status Verification System. The Status Verification System is defined at 25 O.S. § 1312, includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security, and is available at [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify); and

Be registered as a business entity licensed to do business in the State, have obtained a sales tax permit, and be current on franchise tax payments to the State, as applicable.

The Contractor shall maintain all applicable licenses and permits required in association with its obligations under the Contract.

The Contractor shall inform its employees, agents, and proposed subcontractors, if applicable, who provide Products or perform Services under the Contract of the Contractor's obligations under the Contract and shall require compliance accordingly. At the request of the State, Contractor shall promptly provide adequate evidence that such persons are its employees, agents or approved subcontractors and have been informed of their obligations under the Contract.

**VEHICLE LIFTS AND GARAGE ASSOCIATED EQUIPMENT**Led by the State of Washington

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As applicable, Contractor agrees to comply with Governor's Executive Order 2012-01, effective August 06, 2012, which prohibits the use of any tobacco product on any and all properties owned, leased, or contracted for use by the State, including but not limited to all buildings, land and vehicles owned, leased, or contracted for use by agencies or instrumentalities of the State.

**H. PAYMENT**

**Master Agreement Terms and Conditions, NASPO ValuePoint Master Terms and Conditions, Section 23., Payment is modified to add the following provision.**

As applicable, Oklahoma Participating Entities and/or Purchasing Entities and Contractor shall comply with applicable Oklahoma law with respect to invoicing and making payments hereunder. Invoices are to be paid in arrears after products have been delivered and accepted or services provided and accepted pursuant to 74 O.S. § 85.44(B). Payment by Oklahoma Participating Entities and/or Purchasing Entities shall be due NET 45 days after a proper invoice is received and the goods have been delivered and accepted or services provided and accepted. Any applicable late fees or interest incurred after forty-five (45) days of nonpayment shall be paid only in accordance with 62 O.S. § 34.72. Invoices shall contain the purchase order number. Failure to provide a proper invoice may result in delay of processing the invoice for payment.

Prompt pay discounts will be offered to the Participating Entity and/or Purchasing Entity with the first discount being offered when payment is made no less than ten (10) days after the receipt of invoice. Additional discounts will be offered when payment is made at different five (5) day increments, e.g. payment made fifteen (15), twenty (20), twenty-five (25), etc. days after receipt of invoice.

**I. PUBLIC INFORMATION**

**Master Agreement Terms and Conditions, NASPO ValuePoint Master Terms and Conditions, Section 24, Public Information is modified to add the following provision.**

Contractor acknowledges that Purchasing Entities are subject to the Oklahoma Open Records Act. Contractor also acknowledges that such Purchasing Entity will comply with the Oklahoma Open Records Act and with all opinions of the Oklahoma Attorney General concerning this Act. Except for a provision of the Contract specifically designated as confidential in a writing executed by both parties or a provision protected

## **VEHICLE LIFTS AND GARAGE ASSOCIATED EQUIPMENT**

Led by the State of Washington

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from disclosure in the Open Records Act, no Contract provision is confidential information and, therefore, any provision is subject to disclosure under the Open Records Act.

### **J. RECORDS ADMINISTRATION AND AUDIT**

**Master Agreement Terms and Conditions, NASPO ValuePoint Master Terms and Conditions, Section 25, Records Administration Audit is modified to add the following provision.**

For Oklahoma-based transactions, as used in this clause, "records" includes invoices, statements of work, purchase order records, and such other relevant documents, regardless of whether such items are in written form, in the form of computer data, or in any other form. By accepting any purchase order from any Purchasing Entity hereunder, Contractor acknowledges and agrees that any pertinent state or federal agency shall have the right to examine and audit all records relevant to execution and performance of this Participating Addendum.

Contractor is required to retain records relative to the Participating Addendum for the duration of the Participating Addendum and for a period of seven (7) years following completion and/or termination of this Participating Addendum. If an audit, litigation, or other action involving such records is started before the end of such seven-year period, the records are required to be maintained for two (2) years from the date that all issues relating to or arising out of the action are resolved, or until the end of such seven (7) year retention period, whichever is later.

Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse Purchasing Entities for any overpayments inconsistent with the terms of the contract or orders or underpayment of fees found as a result of the examination of the Contractor's records.

### **K. ADMINISTRATIVE FEES**

**Master Agreement Terms and Conditions, NASPO ValuePoint Master Terms and Conditions, Section 26., Administrative Fees is modified to add the following provision.**

For Oklahoma Based Purchasing Entities, the State of Oklahoma assesses an administrative fee in the sum of one percent (1%) on all sales transacted by any entity under this Participating Addendum.

Failure to remit the fee quarterly may result in cancellation of the Participating Addendum. Administrative Fees shall not be reflected as a separate line item in Contractor's billing to participating State Agencies and Authorized Users.

**VEHICLE LIFTS AND GARAGE ASSOCIATED EQUIPMENT**

Led by the State of Washington

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Payment shall be made by via Company Check payable to OMES Procurement within 45 calendar days from the completion of the quarterly reporting period stated under the section titled "Contract Usage Reporting.

Contractor agrees to notify OMES Procurement 24 hour in advance prior to submitting payment.

To ensure payment is properly credited, the Contractor must identify payment in the Contract Usage Report as an "Administrative Fee" and include the following information: the Applicable State Contract Number, Administrative Fee amount (s) paid and the reporting period covered

Administrative Fees should be mailed to:

Office of Management and Enterprise Services  
Attention: Accounts Receivable  
5005 N. Lincoln Blvd. #200  
Oklahoma City, Oklahoma 73105

**L. NASPO ValuePoint Summary and Detailed Usage Reports**

**Master Agreement Terms and Conditions, NASPO ValuePoint Master Terms and Conditions, Section 27., NASPO ValuePoint Summary and Detailed Usage Reports is modified to add the following provision.**

For Oklahoma based Purchasing Entities, Contractor agrees to submit a Contract Usage Report and said report shall be submitted on a quarterly basis. "Contract Usage Report" shall include the following: the Applicable State Contract Number, report amount(s), and reporting period covered and the State agency name. Reports shall include usage of this Contract by any other Government Entities (i.e. county, city, etc). Continuous failure to submit quarterly usage report may result in termination of the Contract.

Contract usage report shall meet the following criteria:

- a) Must be submitted electronically in Excel format
- b) Reports shall be submitted quarterly regardless of quantity
- c) Submitted within forty five (45) - calendar days upon performance completion
- d) Contract quarterly reporting periods shall be as prescribed:  
January 01 through March 31  
April 01 through June 30  
July 01 through September 30  
October 01 through December 31

All Contract Usage Reports shall be delivered electronically (format: .xls) to:



**VEHICLE LIFTS AND GARAGE ASSOCIATED EQUIPMENT**

Led by the State of Washington

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E-mail: [strategic.sourcing@omes.ok.gov](mailto:strategic.sourcing@omes.ok.gov)

**M. GOVERNING LAW AND VENUE**

**Master Agreement Terms and Conditions, NASPO ValuePoint Master Terms and Conditions, Section 35., Governing Law and Venue is modified to add the following provisions.**

Any claim, dispute, or litigation relating to the execution, interpretation, performance, or enforcement of this Participating Addendum shall be governed by the laws of the State of Oklahoma without regard to application of choice of law principles.

Venue for any action, claim, dispute, or litigation relating in any way to the execution, interpretation, performance, or enforcement of this Participating Addendum shall be in Oklahoma County, Oklahoma.

If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the Western District of Oklahoma.

Further, notwithstanding any provision in the Master Agreement, the State does not waive the doctrine of sovereign immunity and immunity from suit to the extent authorized by the Constitution and laws of the State of Oklahoma nor any other right or defense available to the State.

**N. SUPPLIER REGISTRATION**

In order to receive payments from the State of Oklahoma, suppliers must be registered. The vendor registration process can be completed electronically through the OMES website at the following link: <https://www.ok.gov/dcs/vendors/index.php>.


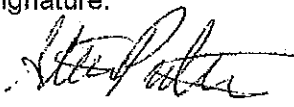
5. Partner Utilization: Each state represented by NASPO ValuePoint participating in the Master Agreement independently has the option of utilizing partners. Only partners approved by this Participating State/ Entity may be deployed. The Participating State will define the process to add and remove partners and may define the partner's role in this Participating Addendum. The Contractor's partners' participation will be in accordance with the terms and conditions set forth in the Master Agreement. Approved partners are only upon written approval from the State of Oklahoma.
6. Terms: The Participating State/Entity agrees to the terms and conditions of the Master Agreement only to the extent the terms and conditions are not in conflict with this Addendum, applicable law, or both.

**VEHICLE LIFTS AND GARAGE ASSOCIATED EQUIPMENT**

Led by the State of Washington

7. 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.
8. Leasing: The Parties acknowledge and agree that (i) the Master Agreement provides that Participating State/Entity may enter into lease agreements if it has the authority to do so; and (ii) Participating State/Entity reserves the right, but has no obligation, to lease equipment under this Addendum and the Master Agreement upon terms and conditions mutually acceptable to the Parties.
9. Counterparts: This Addendum may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Addendum. Delivery of an executed counterpart of this Addendum by electronic means, including, without limitation, by facsimile transaction or by electronic delivery in portable document format (".pdf") or tagged image file format (".tiff"), shall be equally effective as delivery of a manually executed counterpart thereof.

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

Participating State: <i>Oklahoma</i>	Contractor: <i>METALWORK RESOURCES LTD.</i>
Signature: 	Signature: 
Name: Ferris J. Barger	Name: <i>STEVEN PETZOLD</i>
Title: State Purchasing Director	Title: <i>PRESIDENT</i>
Date: <i>5/23/17</i>	Date: <i>5/8/17</i>

**VEHICLE LIFTS AND GARAGE ASSOCIATED EQUIPMENT**

Led by the State of Washington

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For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Development Coordinator:

Ted Fosket

Telephone:

907 723-3360

Email:

[tfosket@naspovaluepoint.org](mailto:tfosket@naspovaluepoint.org)

***Please email fully executed PDF copy of this document  
to***

***[PA@naspovaluepoint.org](mailto:PA@naspovaluepoint.org)***

***to support documentation of participation and posting  
in appropriate data bases.***



# CONTRACT

## State of Oklahoma

Dispatch via Print

**Supplier** 0000286637  
MOHAWK RESOURCES LTD  
PO BOX 110  
AMSTERDAM NY 12010-0110  
USA

<b>Contract ID</b> 0000000000000000000000004826			Page 1 of 3	
<b>Contract Dates</b> 05/25/2017 to 02/10/2019		<b>Currency</b> USD	<b>Rate Type</b> CRRNT	<b>Rate Date</b> PO Date
<b>Description:</b>			<b>Contract Maximum</b> 0.00	
<b>TYPE: STATEWIDE</b>				

Tax Exempt? Y Tax Exempt ID:736017987

### Contract Lines:

Line #	Cat CD / Item ID / Item Desc	UOM	Minimum Order Qty	Amt	Maximum / Open Qty	Amt
1	24101604 / VEHICLE LIFT: Two-Post Surface Mounted, 10,000 lb. capacity Percentage Discount off MSRP - 16.6316% Model: System IA	EA	1.00	0.00	0.00	0.00
	Contract Base Pricing		1.00000	EA		0001
2	24101604 / VEHICLE LIFT: Two-Post Surface Mounted, 12,000 lb. capacity Percentage Discount off MSRP - 16.6316% Model: LC-12	EA	1.00	0.00	0.00	0.00
	Contract Base Pricing		1.00000	EA		0001
3	24101604 / VEHICLE LIFT: Two-Post Surface Mounted, 18,000 lb. capacity Percentage Discount off MSRP - 16.6316% Model: TP-18	EA	1.00	0.00	0.00	0.00
	Contract Base Pricing		1.00000	EA		0001
4	24101604 / VEHICLE LIFT: Two-Post Surface Mounted, 20,000 lb. capacity Percentage Discount off MSRP - 16.6316% Model: TP-20	EA	1.00	0.00	0.00	0.00
	Contract Base Pricing		1.00000	EA		0001
5	24101604 / VEHICLE LIFT: Two-Post Surface Mounted, 30,000 lb. capacity Percentage Discount off MSRP - 16.6316% Model: TP-30	EA	1.00	0.00	0.00	0.00
	Contract Base Pricing		1.00000	EA		0001
6	24101604 / VEHICLE LIFT: Multi-Post Runway, 50,000 lb. capacity	EA	1.00	0.00	0.00	0.00

Final = The price is final after adjustments  
Hard = Apply adjustments regardless of other adjustments  
Skip = Skip adjustments if any other adjustments have been applied

Authorized Signature



# CONTRACT

State of Oklahoma

Dispatch via Print

Supplier 0000286637  
 MOHAWK RESOURCES LTD  
 PO BOX 110  
 AMSTERDAM NY 12010-0110  
 USA

Contract ID 0000000000000000000000004826			Page 2 of 3	
Contract Dates 05/25/2017 to 02/10/2019		Currency USD	Rate Type CRRNT	Rate Date PO Date
Description:			Contract Maximum 0.00	
TYPE: STATEWIDE				

Tax Exempt? Y Tax Exempt ID:736017987

## Contract Lines:

Line #	Cat CD / Item ID / Item Desc	UOM	Minimum Order Qty	Amt	Maximum / Open Qty	Amt
	Percentage Discount off MSRP - 16.6316% Model: TR-50					
	Contract Base Pricing	1.00000	EA	0001		
7	24101604 / VEHICLE LIFT: Multi-Post Runway, 70,000 lb. capacity Percentage Discount off MSRP - 16.6316% Model: TR-75	EA	1.00	0.00	0.00	0.00
	Contract Base Pricing	1.00000	EA	0001		
8	24101604 / VEHICLE LIFT: Drive On Parallelogram, 50,000 lb. capacity, 26' long Percentage Discount off MSRP - 16.6316%	EA	1.00	0.00	0.00	0.00
	Contract Base Pricing	1.00000	EA	0001		
9	24101604 / VEHICLE LIFT: Drive On Parallelogram, 70,000 - 75,000 lb. capacity, 30' Long Percentage Discount off MSRP - 16.6316%	EA	1.00	0.00	0.00	0.00
	Contract Base Pricing	1.00000	EA	0001		
10	24101604 / VEHICLE LIFT: Moveable Wheel Engaging (per pair) 12" x 15" Forks, 36,000 lb. capacity Percentage Discount off MSRP - 16.6316% Model: MP-18	EA	1.00	0.00	0.00	0.00
	Contract Base Pricing	1.00000	EA	0001		
11	24101604 / GARAGE RELATED EQUIPMENT: Tire Changers, 10" - 26" Wheel Percentage Discount off MSRP - 22.8070% - Light Duty Equipment Model: TCX50	EA	1.00	0.00	0.00	0.00
	Contract Base Pricing	1.00000	EA	0001		

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Authorized Signature



# CONTRACT

## State of Oklahoma

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**Supplier** 0000286637  
MOHAWK RESOURCES LTD  
PO BOX 110  
AMSTERDAM NY 12010-0110  
USA

<b>Contract ID</b> 0000000000000000000000004826			Page 3 of 3	
<b>Contract Dates</b> 05/25/2017 to 02/10/2019		<b>Currency</b> USD	<b>Rate Type</b> CRRNT	<b>Rate Date</b> PO Date
<b>Description:</b>			<b>Contract Maximum</b> 0.00	
<b>TYPE: STATEWIDE</b>				

Tax Exempt? Y Tax Exempt ID:736017987

### Contract Lines:

Line #	Cat CD / Item ID / Item Desc	UOM	Minimum Order Qty	Amt	Maximum / Open Qty	Amt
12	24101604 / GARAGE RELATED EQUIPMENT: Tire Changers, 10" - 30" Wheel Percentage Discount off MSRP - 11.7794% - Heavy Duty Equipment Model: TCX625HD Manufacturer: Hunter Engineering Corp	EA	1.00	0.00	0.00	0.00
	Contract Base Pricing		1.00000	EA		0001
13	24101604 / GARAGE RELATED EQUIPMENT: Wheel Balancers, up to 175 lbs. (passenger vehicle wheel assembly) Percentage Discount off MSRP - 22.8070% - Light Duty Equipment Model: DS05 Manufacturer: Hunter Engineering Corp	EA	0.00	0.00	0.00	0.00
14	24101604 / GARAGE RELATED EQUIPMENT: Wheel Balancers, 175 to 500 lbs. (heavy duty truck/bus wheel assembly) Percentage Discount off MSRP - 11.7794% - Heavy Duty Equipment Model: FM00 Manufacturer: Hunter Engineering Corp	EA	1.00	0.00	0.00	0.00
	Contract Base Pricing		1.00000	EA		0001
15	24101604 / GARAGE RELATED EQUIPMENT: Free Standing Brake Lathes, Light Duty Lathe w/1" Arbor (min. 150 lb. capable) Percentage Discount off MSRP - 22.8070% - Light Duty Equipment Model: QCLH Manufacturer: Hunter Engineering Corp	EA	1.00	0.00	0.00	0.00
	Contract Base Pricing		1.00000	EA		0001

COMMENTS:

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Authorized Signature