



**DEIDREE Y.M.K. SAKAI**

Attorney at Law  
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**San Francisco**

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June 21, 2018

**VIA EMAIL**

Mark Allgire, CPA  
Assistant Superintendent, Business Services  
Santa Clara Unified School District  
1889 Lawrence Road  
Santa Clara, CA 95051  
Email: mallgire@scusd.net

Re: Santa Clara Unified School District  
**NJPA Contract #030117-LTS for Purchase of Shade Structures**  
Our file 7175.10218

Dear Mr. Allgire:

We have been asked to review the procurement of a contract for purchase of shade structures from PlayPower, Inc. through the National Joint Powers Alliance (NJPA). NJPA became Sourcewell on June 6, 2018.<sup>1</sup>

Short Answer

The District may utilize this contract for purchase of shade structures under the same terms made available through the Sourcewell/NJPA contract with PlayPower, Inc. without further competitive bidding, pursuant to California's Joint Powers Act, Government Code section 6500 *et seq.*

Analysis

As part of our evaluation, we reviewed the due diligence information available on Sourcewell's website and consulted with counsel from Sourcewell, who is licensed to practice law in Minnesota.

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<sup>1</sup> Membership agreements, contracts and agreements entered into with the National Joint Powers Alliance name will remain valid and continue in effect without impact. This ensures contractual continuity and safeguards against disruptions to engagement with Sourcewell or NJPA. This includes use of cooperative purchasing contracts or other binding contractual engagements.

Pursuant to the Joint Powers Act, California Government Code section 6500 *et seq.*, public agencies within the State of California may enter into Joint Powers Agreements with Sourcewell/NJPA to purchase goods and services without further competitive bidding. California Government Code section 6502 provides that:

If authorized by their legislative or other governing bodies, two or more public agencies by agreement may jointly exercise any power common to the contracting parties, ..., even though one or more of the contracting agencies may be located outside this state.

It shall not be necessary that any power common to the contracting parties be exercisable by each such contracting party with respect to the geographical area in which such power is to be jointly exercised. For purposes of this section, two or more public agencies having the power to conduct agricultural, livestock, industrial, cultural, or other fairs or exhibitions shall be deemed to have common power with respect to any such fair or exhibition conducted by any one or more of such public agencies or by an entity created pursuant to a joint powers agreement entered into by such public agencies.

Sourcewell, formerly known as NJPA, was created as a public corporation in the State of Minnesota <sup>2</sup> with the ability to engage in cooperative purchasing and may be considered a "public agency" under the Joint Powers Act. Further the State of Minnesota also has a statute that provides for joint powers<sup>3</sup>. Thus, the District has the ability to enter into a joint powers agreement with Sourcewell/NJPA and take advantage of the cost savings available through cooperative purchasing as long as the underlying contract was properly procured under the laws of the State of Minnesota.

From the enclosed letter provided by Marcus Miller, an attorney licensed to practice in the State of Minnesota, the Sourcewell/NJPA contract with PlayPower, Inc., for shade structures, NJPA Contract #030117-LTS, was procured using a competitive bid process pursuant to the Minnesota Uniform Municipal Contracting Law, Minn. Stat. Ann. §471.345. A copy of the letter from Marcus Miller is enclosed herewith. Mr. Miller's letter provides that the products and/or services solicited in NJPA Contract #030117-LTS was advertised, evaluated and awarded in accordance with Minnesota public procurement laws. Therefore, pursuant to California Government Code section 6500 *et seq.*, the District may utilize this contract for purchase of shade structures, under the same terms made available to Sourcewell/NJPA through its expiration on April 14, 2021. In addition, the District may continue to use this contract with PlayPower, Inc. for any valid extension to said contract executed by Sourcewell.

Since the District is a participating member of the NJPA program, and Sourcewell's website and counsel confirms all membership agreements with NJPA remain valid and in effect, this contract can either be brought to the Board before it was executed or be brought to the Board for

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<sup>2</sup> See Minn. Stat § 123A.21, subd. 9(b).

<sup>3</sup> See Minn. Stat § 471.59.

Mark Allgire, CPA  
Santa Clara Unified School District  
June 21, 2018  
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ratification by consent pursuant to the delegation of authority to the Superintendent and/or his delegee.

Please let me know if you have any questions regarding the information above.

Very truly yours,

DANNIS WOLIVER KELLEY



Deidree Y.M.K. Sakai

Enclosure

cc: Tammy Tea (via email only)

June 18, 2018

Rachel K. Brilliant  
Attorney at Law  
DANNIS WOLIVER KELLEY  
275 Battery Street, Suite 1150  
San Francisco, CA 94111

Re: Sourcewell Contract #030117-LTS PlayPower, Inc.

Dear Ms. Brilliant,

Per your request dated June 12, 2018, the information below details Sourcewell's conformance with the State of Minnesota's public procurement laws, specifically as it relates to Contract #030117-LTS PlayPower, Inc. (Contract).

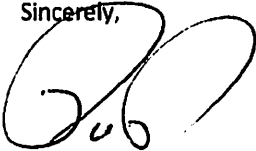
Sourcewell is a public agency created under Minnesota statutes that offers cooperative purchasing solutions to members. Sourcewell creates contracts based on a competitive solicitation process outlined in the Minnesota Uniform Municipal Contracting Law, Minnesota Statutes Section 471.345. With regard to the Contract, Sourcewell conformed to the above cited law, as well as Sourcewell's procurement policy, by following these process steps:

- **Public Advertising:** Sourcewell provides broad public notice of solicitation availability in several national publications.
  - Sourcewell published formal public notice of the solicitation for Recreation and Playground Equipment, Accessories, and Supplies on January 12, 2017, in the following locations:
    - NJPA website
    - *USA Today*,
    - PublicPurchase.com
    - Biddingo.com
    - Merx.com
    - *Daily Journal of Commerce* (Washington)
    - *The State* (South Carolina)
    - *The Salt Lake Tribune*
- **Secure Solicitation Closing:** Sourcewell date and time stamps all proposals to ensure compliance with each proposal's timeliness.
  - This RFP closed on March 1, 2017, at 4:30 p.m., Central time, and all proposals were time stamped.
- **Public Opening:** Sourcewell offers a public opening of all timely proposals where the name of each responder is read aloud.
  - The public opening for this solicitation was held on March 2, 2107, at 8:30 a.m., Central time. Sourcewell received a total of 32 proposals, all of which arrived prior to solicitation closing. A complete list of proposers can be found on the resources page listed below.
- **Fair Evaluation and Contract Award:** Sourcewell only evaluates responsive proposals that meet the specified requirements listed in the solicitation. Compliant proposals are reviewed by an evaluation committee with scoring based on the criteria outlined in the solicitation.
  - This contract complied with all laws and policies. A complete list of procurement documents, including the Contract's evaluation documents and all of the awarded contracts can be found at:  
<https://www.sourcewell-mn.gov/cooperative-purchasing/030117-lts-2#tab-contract-documents>.
- **Board Approval:** Sourcewell's publicly elected Board of Directors approves the release of each contract. The Sourcewell Board of Directors authorized the solicitation for Recreation and Playground Equipment, Accessories, and Supplies on May 16, 2017.

Please note that the Contract was executed on April 17, 2017, with National Joint Powers Alliance, also known as NJPA; however, on June 6, 2018, NJPA formally changed its name to Sourcewell. There were no other changes to the operation of the organization, this includes the solicitation process followed to procure contracts.

If you have any questions, please feel free to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read 'MM', with a large, stylized loop at the end.

Marcus Miller  
Director of Government Relations & General Counsel  
Office: 218-895-4112

mm/hp

**FORM E**  
**CONTRACT ACCEPTANCE AND AWARD**



(Top portion of this form will be completed by NJPA if the vendor is awarded a contract. The vendor should complete the vendor authorized signatures as part of the RFP response.)

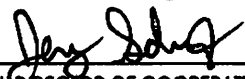
NJPA Contract #: 030117-LTS

Proposer's full legal name: PlayPower, Inc.

Based on NJPA's evaluation of your proposal, you have been awarded a contract. As an awarded vendor, you agree to provide the products and services contained in your proposal and to meet all of the terms and conditions set forth in this RFP, in any amendments to this RFP, and in any exceptions that are accepted by NJPA.

The effective date of the Contract will be April 14, 2017 and will expire on April 14, 2021 (no later than the later of four years from the expiration date of the currently awarded contract or four years from the date that the NJPA Chief Procurement Officer awards the Contract). This Contract may be extended for a fifth year at NJPA's discretion.

**NJPA Authorized Signatures:**

  
\_\_\_\_\_  
NJPA DIRECTOR OF COOPERATIVE CONTRACTS  
AND PROCUREMENT/CPO SIGNATURE

Jeremy Schwartz  
(NAME PRINTED OR TYPED)

  
\_\_\_\_\_  
NJPA EXECUTIVE DIRECTOR/CEO SIGNATURE

Chad Coaueffs  
(NAME PRINTED OR TYPED)

Awarded on April 14, 2017

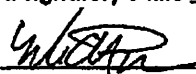
NJPA Contract # 030117-LTS

**Vendor Authorized Signatures:**

The Vendor hereby accepts this Contract award, including all accepted exceptions and amendments.

Vendor Name PLAYPOWER, INC.

Authorized Signatory's Title Chief Financial Officer

  
\_\_\_\_\_  
VENDOR AUTHORIZED SIGNATURE

MICHAEL A. PRUSS  
\_\_\_\_\_  
(NAME PRINTED OR TYPED)

Executed on April 17, 2017

NJPA Contract # 030117-LTS