

NASPO ValuePoint
PARTICIPATING ADDENDUM



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

Master Agreement #: **CW7258**

Contractor: **Mohawk Lifts LLC**

Participating Entity: **STATE OF MONTANA**

The following products or services are included in this contract portfolio:

- All products and accessories listed on Contractor page of the NASPO ValuePoint website.

Master Agreement Terms and Conditions:

1. Scope: This addendum covers the **Vehicle Lifts and Garage Associated Equipment** led by the State of Louisiana for use by state agencies and other entities located in the State of Montana authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official.
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 State. 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:	Mohawk Lifts LLC
Address:	PO Box 110 65 Vrooman Ave Amsterdam, NY 12010
Telephone:	518-842-1431 ext:2400
Fax:	518-842-1289
Email:	sperlstein@mohawklifts.com

Participating Entity

Name:	Nolan Harris
Address:	125 N. Roberts Street, Helena, MT 59601
Telephone:	406-444-7210
Email:	coopppurchasing@mt.gov

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**4. PARTICIPATING ENTITY MODIFICATIONS OR ADDITIONS TO THE MASTER
AGREEMENT**

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

Participating Entity must check one of the boxes below.

This PA incorporates all terms and conditions of the Master Agreement as applied to the Participating Entity and Contractor, subject to the following limitations, modifications, and additions:

Any limitations, modifications, or additions specified herein apply only to the agreement and relationship between Participating Entity and Contractor and shall not amend or affect other participating addendums or the Master Agreement itself.

4.1. PAYMENT TERM

All payment terms are computed from the date of delivery of supplies or services OR receipt of a properly executed invoice, whichever is later. Unless otherwise noted in the solicitation document, the State is allowed 30 days to pay such invoices. All contractors are required to provide banking information at the time of PA execution in order to facilitate State electronic funds transfer payments.

4.2. U.S. FUNDS

All prices and payments must be in U.S. dollars.

4.3. REFERENCE TO PA

The Purchase order number MUST appear on all invoices, packing lists, packages, and correspondence pertaining to the PA contract.

4.4. STATE OF MONTANA ADMINISTRATIVE FEE

The State of Montana assesses an Administrative Fee of one and one-half percent (1.50%) for all net sales (sales less credits and returns) made under this PA. The prices paid to Contractor must include the 1.5% Administrative Fee. The Contractor shall remit this Administrative Fee concurrent with the Required Usage Reporting described below. The Administrative Fee must be submitted by ACH along with email notification to the State of Montana Contracts Officer. This Administrative Fee is effective upon execution of this PA.

4.5. REQUIRED REPORTING

Contractor shall submit quarterly reports to the Contracts Officer (CO) assigned by the State to manage this contract. Contractor shall provide CO with an electronic usage report (Excel), which must list the following information at the minimum: purchasing entity; description of items purchased; date of purchase; contract price; and the

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extended price for each transaction. These reports are due no more than 30 days after the end of the quarter.

First Quarter: July 1 through September 30
Second Quarter: October 1 through December 31
Third Quarter: January 1 through March 31
Fourth Quarter: April 1 through June 30

4.6. TAXES

4.6.1. Payment. Contractor shall pay all property and sales taxes, if any.

4.6.2. Exemption. State of Montana is exempt from Federal Excise Taxes (#81-0302402) except as otherwise provided in the federal Patient Protection and Affordable Care Act [P.L. 111- 148, 124 Stat. 119].

4.6.3. All purchasers under this PA shall provide Contractor with a tax exemption certificate for all purchases.

4.7. DELIVERY

Weekends and holidays excepted, deliveries shall be F.O.B. DESTINATION, to the location shown below. The term "F.O.B. destination" as used in this clause, means free of expense to the State and delivered to the location specified. The Contractor shall:

- Pack and mark the shipment to comply with specifications or if the specifications do not contain specific packing or marking instructions, pack and mark the shipment in accordance with prevailing commercial practices and in such a manner as to ensure delivery in good condition.
- Prepare and distribute commercial bills of lading and Material Safety Data Sheets (MSDS) as appropriate;
- Deliver the shipment in good order and condition to the point of delivery specified in the ordering documents;
- Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by the State at the delivery point specified in the ordering documents;
- Furnish a delivery schedule and designate the mode of delivery carrier; and
- Pay and bear all charges to the specified points of delivery.

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4.8. WARRANTY FOR SERVICES

All services supplied under this Contract shall be fully guaranteed by Contractor for a minimum period of ninety (90) days from the date of acceptance by the Participating Entity. Any defects of design, workmanship, or delivered materials that are in non-compliance shall be fully corrected by Contractor without cost to the Participating Entity. This warranty is separate from the product warranty.

4.9. INSURANCE

Contractor shall provide the Participating Entity the same insurance as it has provided the State of Louisiana in the Master Agreement and include the Participating Entity as an additional insured on these policies as it has the State of Louisiana. Electronic delivery of certificates of insurance and any endorsements shall be sent to the Primary Contact for the Participating Entity.

Contractor warrants that it performs all services using reasonable care and skill and according to its current description (including any completion criteria) contained in this PA. State agrees to provide timely written notice of any failure to comply with this warranty so that Contractor can take corrective action.

4.10. RECORD ACCESS AND RETENTION

4.10.1. Access to Records. Contractor shall provide State, the Montana legislative auditor, or its authorized agents access to any records necessary to audit for agreement compliance. State may terminate this agreement, without incurring liability, for Contractor's refusal to allow access as required by this section. (18-1-118, MCA)

4.10.2. Retention Period. Contractor shall retain all records related to this agreement for 5 years following the termination or expiration of this agreement.

4.11. ASSIGNMENT, TRANSFER AND SUBCONTRACTING

Contractor shall not assign, transfer or subcontract any portion of this PA without the express written consent of State, which shall not unreasonably withhold consent. (Section 18-4-141, MCA.)

4.12. COMPLIANCE WITH LAWS:

4.12.1. Compliance. In performing its duties in this Agreement, Contractor shall conduct their efforts under this Agreement with all applicable federal, state, and local laws, rules, ordinances, and executive orders.

4.12.2. Patient Protection and Affordable Care Act. Contractor is the employer of its employees for the purpose of providing healthcare benefits to its employees and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.L. 111-148, 124 Stat. 119].

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4.12.3. Hiring Practices. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016, Contractor agrees:

- (a) the hiring of persons to fulfill Contractor's duties in this Agreement will be made based on merit and qualifications; and
- (b) there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Agreement.

4.12.4. Any subcontracting by Contractor obligates subcontractors to the requirements of this section.

4.13. CHOICE OF LAW AND VENUE

4.13.1. Choice of Law. Montana law applies to this Agreement without regard for any choice-of-law rules that might direct the application of the laws of any other jurisdiction.

4.13.2. Venue. Any litigation concerning this Agreement will be brought only in the Montana First Judicial District, Lewis and Clark County.

4.13.3. Costs and Attorney Fees. Each party shall pay its own costs and attorney fees, except as otherwise stated in this Agreement.

4.14. SEVERABILITY

A declaration by any court, or any other binding legal source, that any provision of the PA is illegal, and void shall not affect the legality and enforceability of any other provision of the PA, unless the provisions are mutually dependent.

5. Lease Agreements: **Reserved**

6. Subcontractors: All contactors, dealers, and resellers authorized in the State of Montana, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The contractor's dealer participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

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.

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Federal Terms and Conditions (Non-Construction)

Nondiscrimination

Contractor agrees that no person shall be denied benefits of, or otherwise be subjected to discrimination in connection with Contractor's performance under this contract, on the ground of race, religion, color, national origin, sex or handicap. Accordingly and to the extent applicable, Contractor agrees to comply with the following national policies prohibiting discrimination:

- a. On the basis of race, color or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.) as implemented by DoD regulations at 32 CFR part 195.
- b. On the basis of race, color, religion, sex, or national origin, in Executive Order 11246 {3 CFR, 1964-1965 Comp. pg. 339}, as implemented by Department of Labor regulations at 41 CFR part 60.
- c. On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), as implemented by DoD regulations at 32 CFR part 196.
- d. On the basis of age, in The Age Discrimination Act of 1975 (42 U.S.C. Section 6101 et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90.
- e. On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR part 41 and DoD regulations at 32 CFR part 56.

Lobbying

Contractor agrees that it will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; and, the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

The Final Rule, New Restrictions on Lobbying, issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 28) to implement the provisions of Section 319 of Public Law 101-121 (31 U.S.C.

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Section 1352) is incorporated by reference and the State agrees to comply with all the provisions thereof, including any amendments to the Interim Final Rule that may hereafter be issued.

Drug-Free Work Place

Contractor agrees to comply with the requirements regarding drug-free workplace requirements in Subpart B of 32 CFR part 26, which implements sec. 5151-5160 of the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701, et seq.).

Environmental Protection

- a. Contractor agrees that its performance under this Agreement shall comply with:
 - 1) The requirements of Section 114 of the Clean Air Act (42 U.S.C. Section 7414);
 - 2) Section 308 of the Federal Water Pollution Control Act (33 U.S.C. Section 1318), that relates generally to inspection, monitoring, entry reports, and information, and with all regulations and guidelines issued thereunder;
 - 3) The Resources Conservation and Recovery Act (RCRA);
 - 4) The Comprehensive Environmental Response, Compensation and Liabilities Act (CERCLA);
 - 5) The National Environmental Policy Act (NEPA);
 - 6) The Solid Waste Disposal Act (SWDA);
 - 7) The applicable provisions of the Clean Air Act (42 U.S.C. 7401, et seq.) and Clean Water Act (33 U.S.C. 1251, et seq.), as implemented by Executive Order 11738 and Environmental Protection Agency (EPA) rules at 40 CFR Part 31;
 - 8) To identify any impact this contract may have on the quality of the human environment and provide help as needed to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C. 4321, et seq.) and any applicable federal, state or local environmental regulation.
- b. In accordance with the EPA rules, the parties further agree that Contractor/Vendor shall also identify to State any impact this Agreement may have on:
 - 1) The quality of the human environment and provide help the agency may need to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C 4321, et seq.) and to prepare Environment Impact Statements or other required environmental documentation. In such cases, the recipient agrees to take no action that will have an adverse environmental impact (e.g., physical disturbance of a site such as breaking of ground) until the agency provides written notification of compliance with the environmental impact analysis process.
 - 2) Flood-prone areas, and provide help the agency may need to comply with the National Flood Insurance Act of 1968 and Flood Disaster Protection

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Act of 1973 (42 U.S.C. 4001, et seq.), which require flood insurance, when available, for federally assisted construction or acquisition in flood-prone areas.

- 3) Coastal zones, and provide help the agency may need to comply with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.), concerning protection of U.S. coastal resources.
- 4) Coastal barriers, and provide help the agency may need to comply with the Coastal Barriers Resource Act (16 U.S.C. 3501 et seq.), concerning preservation of barrier resources.
- 5) Any existing or proposed component of the National Wild and Scenic Rivers System, and provide help the agency may need to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.).
- 6) Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source, and provide help the agency may need to comply with the Safe Drinking Water Act (42 U.S.C 300H-3).

Use of United States Flag Vessels

Contactoer agrees that travel under this contract shall use U.S.-flag air carriers (air carriers holding certificates under 49 U.S.C. 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) and the inter-operative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.

The Contactor/Vendor agrees that it will comply with the Cargo Preference Act of 1954 (46 U.S.C. Chapter 553), as implemented by Department of Transportation regulation at 46 CFR 381.7, and 46 CFR 381.7(b).

Debarment and Suspension.

Contractor is subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR Part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

Contractor agrees to comply with the DOD implementation of 2 CFR part 180 (at 2 CFR 1125) by checking the Excluded Parties List System (EPLS) at the current OMB website to verify (sub)contractor eligibility to receive contracts and subcontracts resulting from this Agreement. Contractor shall not solicit offers from, nor award contracts to contractors listed in EPLS. This verification shall be documented in Contractors contract files and shall be subject to audit by Federal

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and State audit agencies.

Buy American Act.

Contractor agrees that it will not expend any funds appropriated by Congress without complying with The Buy American Act (41 U.S.C. 10a et seq). The Buy American Act gives preference to domestic end products and domestic construction material. In addition, the Memorandum of Understanding between the United States of America, and the European Economic Community (EEC) on Government Procurement, and the North American Free Trade Agreement (NAFTA), provide that EEC and NAFTA end products and construction materials are exempted from application of the Buy American Act. Agency shall notify the authorized Contractor dealer on any order that requires compliance with The Buy American Act.

Uniform Relocation Assistance and real Property Acquisition Policies

Contractor agrees that it will comply with CFR 49 part 24, which implements the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq.) and provides for fair and equitable treatment of persons displaced by federally assisted programs or persons whose property is acquired as a result of such programs.

Copeland "Anti-Kickback" Act

Contractor agrees that it will comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). As applied to this contract, the Copeland "Anti-Kickback" Act makes it unlawful to induce, by force, intimidation, threat or procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment.

Contract Work Hours and Safety Standards Act

Contractor agrees that it will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) as supplemented by Department of Labor regulations (29 CFR Part 5). As applied to this agreement, the Contract Work Hours and Safety Standards Act specifies that no laborer or mechanic doing any part of the work contemplated by this agreement shall be required or permitted to work more than 40 hours in any workweek unless paid for all additional hours at not less than 1.5 times the basic rate of pay.

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Rights to Inventions Made Under a Contract or Agreement.

Any discovery or invention that arises during the course of the contract shall be reported to the non-Federal entity. Contractor/Vendor must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended

Any Contract or subcontract in excess of \$150,000 must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the State who in turn will report to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)

Contractors that bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

System For Award Management and Unique Entity Identification Number Requirements.

Contractor agrees to comply with the System for Award Management (Sam.gov) maintained by the General Services Administration. Contractor shall provide a Unique Entity ID assigned to it.

Procurement of recovered materials.

Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the

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highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

2 C.F.R. 200.326, Appendix II, Required Contract Clauses

2 C.F.R. 200.326, Appendix II, Required Contract Clauses are incorporated by reference as if set forth in full text and are made part of this agreement as applicable. Contractor shall comply with all applicable contract clauses and provide the same clauses in any subcontracts or purchase orders issued in support of this Agreement with State.

Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment




Contractor agrees it will not provide or use covered telecommunications equipment or services in the performance of this contract in compliance with 2 CFR 200.216. Covered telecommunications equipment or services has the meaning provided in Public Law 115-232, section 889.

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

Participating Entity: State of Montana State Procurement Bureau	Contractor: Mohawk Lifts LLC
Signature: DocuSigned by:  5FBAABB9738647B...	Signature: 
Name: Cheryl Grey	Name: Steve Perlstein
Title: SFSD Administrator	Title: President
Date: 10/17/2023	Date: 9/21/2023
Legal Counsel: DocuSigned by:  3C947276DF8E49A...	
Date: 10/17/2023	

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Portfolio Manager:	Joel E. Atkinson
Telephone:	850-848-1250
Email:	jatkinson@naspo.org

[Please email fully executed PDF copy of this document to

PA@naspovaluepoint.org

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