

INVITATION FOR BID (IFB) DOCUMENTS

SOLICITATION NO.

MO01A-071117, MO01B-071117, MO01C-071117,
MO02A-071117, MO02B-071117, MO02C-071117,
MO03A-071117, MO03B-071117, MO03C-071117

INDEFINITE QUANTITY CONSTRUCTION CONTRACT



202 12th Street NE
Staples, MN 56479

Mr. Joseph Morgan
ezIQC Contract Administrator
EZIQC@NJPACOOOP.org

June 2017

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INDEFINITE QUANTITY CONSTRUCTION CONTRACT
(IQCC)
Invitation For Bid (IFB)

<i>Solicitation Number</i>	<i>Trade</i>	<i>Geographic Area</i>	<i>Bid Due Date and Time</i>	<i>Bid Deposit</i>	<i>Estimated Annual Value</i>	<i>Maximum Term</i>
MO01A-071117	General Construction	East	4:30 PM CT 07/11/17	\$25,000	\$2,000,000	4 Years
MO01B-071117	General Construction	East	4:30 PM CT 07/11/17	\$25,000	\$2,000,000	4 Years
MO01C-071117	General Construction	East	4:30 PM CT 07/11/17	\$25,000	\$2,000,000	4 Years
MO02A-071117	General Construction	Central	4:30 PM CT 07/11/17	\$25,000	\$2,000,000	4 Years
MO02B-071117	General Construction	Central	4:30 PM CT 07/11/17	\$25,000	\$2,000,000	4 Years
MO02C-071117	General Construction	Central	4:30 PM CT 07/11/17	\$25,000	\$2,000,000	4 Years
MO03A-071117	General Construction	West	4:30 PM CT 07/11/17	\$25,000	\$2,000,000	4 Years
MO03B-071117	General Construction	West	4:30 PM CT 07/11/17	\$25,000	\$2,000,000	4 Years
MO03C-071117	General Construction	West	4:30 PM CT 07/11/17	\$25,000	\$2,000,000	4 Years

See Section Four (4) for Map and list of Geographical Area

Bids for all contracts covered by this solicitation are due by
4:30 PM CT on July 11, 2017

At the offices of the
National Joint Powers Alliance®
202 12th Street NE, P.O. Box 219, Staples, MN 56479

The National Joint Powers Alliance® (NJPA) issues this Invitation For Bid (IFB) on behalf of, and to provide Indefinite Quantity Construction Contracting (IQCC) services to, all current and potential NJPA Members including all government agencies, education agencies to include colleges and universities, and non-profit agencies in the State of Missouri. Each contract has an initial term of one (1) year and bilateral option provision for three (3) additional terms. The Estimated Annual Value is \$2,000,000. The total term of the Agreement cannot exceed four (4)

years. One additional one-year renewal-extension may be offered by NJPA to Vendor beyond the original four (4) year term if NJPA deems such action to be in the best interests of NJPA and its Members.

This IFB consist of four Books:

- Book 1: Project Information, Instructions to Bidders and Execution Documents
- Book 2: IQCC Standard Terms and Conditions; General Terms and Conditions
- Book 3: Construction Task Catalog®
- Book 4: Technical Specifications

IQCC, also known as Job Order Contracting (JOC), is a contracting procurement system that provides facility owner's access to "on-call" contractors to provide immediate construction, repair and renovation services over an extended period of time.

Intending bidders are required to attend a pre-bid seminar which shall be conducted for the purpose of discussing the IQCC procurement system, the contract documents, and bid forms. Attendance at one of the seminars is a mandatory condition of bidding.

6/20/17 9:00 a.m. Comfort Inn and Suites Kansas City
3701 Ralph Powell Rd
Lee's Summit, MO 64064

6/20/17 4:00 p.m. Comfort Inn and Suites Springfield
2815 N. Glenstone Ave
Springfield, MO 65803

6/21/17 1:00 p.m. Quality Inn and Suites Jefferson City
1716 Jefferson St
Jefferson City, MO 65109

6/22/17 9:00 a.m. Comfort Inn St Louis – Westport
12031 Lackland Rd
Saint Louis, MO 63146

Intending bidders can pre-register for the pre-bid seminar by visiting our website at www.NJPA.co/eziqc-pre-bid-registration.

An electronic (CD) copy of the IFB Documents which include the instructions for submitting a bid and the bid documents may be obtained by letter of request to Joseph Morgan, NJPA, 202 12th Street NE, Staples, MN 56479, or by visiting our website at www.njpacoop.org/eziqc-bid-document-request selecting the desired bid documents from the drop down list and completing the requested information. All requests must include; **mailing address, email address, contact name, phone number**. Bids are due by 4:30 pm CT on July 11, 2017 and will be opened at 9:00 am CT on July 12, 2017. IFB Documents will be available until July 7, 2017.

Direct questions regarding this IFB to: Joseph Morgan Eziqc@NJPACOOP.org or (218) 895-4141.

BOOK 1

Project Information, Instructions to Bidders, and Execution Documents

SOLICITATION NO.
MO01A-071117, MO01B-071117, MO01C-071117,
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INDEFINITE QUANTITY CONSTRUCTION CONTRACT



202 12th Street NE
Staples, MN 56479

Joseph Morgan
eziQC Contract Administrator
EZIQC@njpacoop.org

June 2017

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BOOK 1

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SECTION ONE - PROJECT INFORMATION

1. DEFINITIONS

- 1.1 National Joint Powers Alliance® (NJPA):** NJPA is a public agency serving as a national municipal contracting agency established under the Minnesota Legislative Statute §123A.21 with the authority to develop and offer, among other services, cooperative purchasing services to its membership. Eligible membership and participation includes states, cities, counties, all government agencies, both public and non-public educational agencies, colleges, universities and non-profit organizations.
- 1.2 Joint Exercise of Powers:** NJPA cooperatively shares those contracts with its Members nationwide through various “Joint Exercise of Powers Laws” established in Minnesota and applicable laws in other states. The Minnesota “Joint Exercise of Powers Law” is Minnesota Statute §471.59 which states “Two or more governmental units...may jointly or cooperatively exercise any power common to the contracting parties...” Similar Joint Exercise of Powers Laws exists within the laws of each State of the United States. This Minnesota Statute allows NJPA to serve Member agencies located in all other states. Municipal agencies nationally have the ability to participate in cooperative purchasing activities as a result of specific laws of their own state. These laws can be found on our website at <http://www.njpacoop.org/national-cooperative-contract-solutions/legal-authority>.
- 1.3 NJPA Members:**
- 1.3.1 Potential NJPA Members:** A Potential NJPA Member is defined as any public or private educational agencies including colleges and universities, districts or school boards, and any governmental unit including a city, county, town, political subdivision of Minnesota or another state, and any agency of the State of Minnesota or the United States, any instrumentality of a governmental unit, and any non-profit. Membership in NJPA is required to participate in any NJPA Contract. Any current or potential Member of NJPA who is in compliance with the terms and conditions of membership, shall have the option and freedom to access any of the procurement contracts of NJPA.
- 1.3.2 NJPA Member:** An NJPA Member is defined as any “Potential NJPA Member” who has completed and submitted a membership form or acknowledgement.
- 1.4 Purchase Order:** Purchase Orders for construction and services may be executed between NJPA or NJPA Members and the Contractor pursuant to this Invitation for Bid and the resulting Agreement.
- 1.4.1 Governing Law:** Purchase Orders, as identified above, shall be construed in accordance with, and governed by, the laws of a competent jurisdiction with respect to the NJPA Member. Each and every provision of law and clause required by law to be included in the Purchase Order shall be read and enforced as though it were included. If through mistake or otherwise any such provision is not included, or is not currently included, then upon application of either part the Agreement shall be physically amended to make such inclusion or correction. The venue for any litigation arising out of disputes related to Purchase Order(s) shall be a court of competent jurisdiction to the Purchaser.

- 1.4.2 Additional Terms and Conditions:** Additional terms and conditions to a Purchase Order may be proposed by NJPA, NJPA Members, or Contractors. Acceptance of these additional terms and conditions is OPTIONAL to all parties to the Purchase Order. The purpose of these additional terms and conditions is to, among other things, formerly introduce job or industry specific requirements of law such as prevailing wage legislation. Additional terms and conditions can include specific policy requirements and standard business practices of the issuing NJPA Member.
- 1.5 Adjustment Factors:** Adjustment Factors are the Contractor's competitively bid price adjustments to the Unit Prices as published in the Construction Task Catalog, Book 3. Adjustment Factors are expressed as an increase or decrease from the published Unit Prices.
- 1.6 Construction Task Catalog (CTC):** A comprehensive listing of specific construction related Tasks, together with a specific unit of measurement and a Unit Price.
- 1.7 Agreement:** the written Agreement between the Contractor and NJPA covering the Work to be performed; and other Contract Documents incorporated in or referenced in the Agreement and made part thereof as if provided therein.

2. ABOUT THE NATIONAL JOINT POWERS ALLIANCE® (NJPA)

- 2.1** The National Joint Powers Alliance® (NJPA) is a public agency serving as a national municipal contracting agency established under the Minnesota Legislative Statute §123A.21 with the authority to develop and offer, among other services, cooperative purchasing services to its membership. Eligible membership and participation includes states, cities, counties, all government agencies, both public and non-public educational agencies, colleges, universities and non-profit organizations
- 2.2** Under the authority of Minnesota state laws and enabling legislation, NJPA facilitates a competitive bidding and contracting process on behalf of the needs of itself and the needs of current and potential member agencies locally and nationally. This process results in national procurement contracts with various Vendors of products/equipment and services which NJPA Member agencies desire to procure. These procurement contracts are created in compliance with applicable Minnesota Municipal Contracting Laws. A complete listing of NJPA cooperative procurement contracts can be found at <http://www.njpacoop.org/national-cooperative-contract-solutions>.
- 2.3** NJPA is a public agency governed by publicly elected officials that serve as the NJPA Board of Directors. NJPA's Board of Directors call for all proposals, awards all Contracts, and hosts those resulting Contracts for the benefit of its own and its Members use.
- 2.3.1 Subject to Approval of the NJPA Board:** NJPA contracts are awarded by the action of the NJPA Board of Directors. This action is based on the open and competitive bidding process facilitated by NJPA. The evaluation and resulting recommendation is presented to the Board of Directors by the NJPA Bid Review Committee.
- 2.4** NJPA currently serves over 50,000 member agencies nationally. Both membership and utilization of NJPA contracts continue to expand, due in part to the increasing acceptance of Cooperative Purchasing throughout the government and education

communities nationally.

3. DEFINED GOALS OF THE IFB

- 3.1** The goal of this IFB is to establish a group of indefinite quantity construction contracts (IQCC) that NJPA and NJPA Members may access to complete repair, maintenance and minor new construction Projects at competitively bid prices. The Contractors will perform an ongoing series of individual Projects for NJPA Members at different locations primarily within the designated Geographic Area.
- 3.2** One of the major benefits to a Bidder is that one response may be prepared to receive a single award that is potentially available to and accessible by many potential buyers from government agencies, education, and non-profit agencies throughout the Geographic Area. The procurement activities of the NJPA Bid Review Committee is limited to document preparation, answering Bidder questions, advertising the solicitation, distribution of this IFB upon request, conducting an evaluation and making recommendation for possible approval to NJPA Board of Directors. Contracts awarded through NJPA are intended to meet the procurement laws of all states and NJPA will exhaust all avenues to comply with as many state laws as possible. It is the responsibility of each participating NJPA Member to ensure to their satisfaction that these laws are satisfied. An individual NJPA Member using these contracts is deemed by its own accord to be in compliance with bidding regulations. NJPA encourages the awarded Contractor to assist NJPA and the NJPA Member in this research to the benefit of all involved. After the award and contract phase, NJPA Members can issue Purchase Orders for any amount without the necessity to prepare their own IFB, or gathering of necessary quotations. This saves the NJPA Members countless hours of time and allows for more economical and efficient purchasing. State laws permit or encourage cooperative purchasing contracts with the belief that better prices and value will result.

4. IQCC OVERVIEW

- 4.1** IQCC is a competitively bid indefinite quantity construction contract awarded to Contractors to accomplish the repair, alteration, modernization, rehabilitation, and minor new construction of infrastructure, buildings, structures, or other real property. The Estimated Annual Value is based on the anticipated estimated annual use and the Agreement term is one year with bilateral option terms. The IFB Documents include a Construction Task Catalog (CTC) containing repair and construction Tasks with preset Unit Prices. All Unit Prices are based on local labor, material and equipment prices for the direct cost of construction. Once the Agreement is awarded, NJPA Members will order Work from the CTC by issuing a Purchase Order against the Agreement.
- 4.2** Bidders will offer price adjustments (Adjustment Factors) to be applied to the CTC Unit Prices. The Adjustment Factors represent either an increase to (such as 1.1000) or a decrease from (such as 0.9800) the preset Unit Prices. The amount to be paid for the Work ordered will be determined by: multiplying the preset Unit Prices by the appropriate quantities and by the appropriate Adjustment Factor. The CTC and the Contractor's Adjustment Factors will be incorporated into the awarded Agreement.
- 4.3** Under IQCC, the Contractor furnishes management, labor, materials, equipment and incidental design support needed to perform the Work.
- 4.4** As Projects are identified, the Contractor will jointly scope the Work with the NJPA

Member. The NJPA Member will prepare a Detailed Scope of Work and issue a Request for Proposal to the Contractor. The Contractor will then prepare a Proposal Package for the Project including a Price Proposal, Schedule, list of identified subcontractors, and other requested documentation such as cut sheets for materials. If the Proposal Package is found to be reasonable, the NJPA Member will issue a Purchase Order. The Purchase Order will reference the Detailed Scope of Work and set forth the Purchase Order Completion Time, and the Purchase Order Price. The Contractor shall perform the Detailed Scope of Work within the Purchase Order Completion Time for the Purchase Order Price. Extra Work, credits, and deletions will be contained in Supplemental Purchase Orders calculated in the same manner.

- 4.5** NJPA through a formal selection process awarded a professional service agreement to The Gordian Group (Gordian) for their IQCC program. The system includes Gordian’s proprietary eIQCC, eGordian and Bid Safe IQCC applications (IQCC Applications) and construction cost data (Construction Task Catalog), which shall be used by the Contractor to prepare and submit Price Proposals, subcontractor lists, and other requirements specified by NJPA and NJPA Members. The Contractor’s use, in whole or in part, of Gordian’s IQCC Applications and Construction Task Catalog and other proprietary materials provided by Gordian for any purpose other than to execute work under this Agreement for NJPA and NJPA Members is strictly prohibited unless otherwise stated in writing by Gordian. The Contractor hereby agrees to abide by the terms of the following Gordian IQCC System License:

IQCC System License

Gordian hereby grants to the Contractor, and the Contractor hereby accepts from Gordian for the term of this Agreement or Gordian’s contract with NJPA, whichever is shorter, a non-exclusive right, privilege, and license to Gordian’s proprietary IQCC System and related proprietary materials (collectively referred to as “Proprietary Information”) to be used for the sole purpose of executing Contractor’s responsibilities to NJPA and NJPA Members under this Agreement (“Limited Purpose”). The Contractor hereby agrees that Proprietary Information shall include, but is not limited to, Gordian’s IQCC Applications and support documentation, Construction Task Catalog, training materials, marketing materials and any other proprietary materials provided to Contractor by Gordian. In the event this Agreement expires or terminates as provided herein, or the Gordian’s contract with NJPA expires or terminates, this IQCC System License shall terminate and the Contractor shall return all Proprietary Information in its possession to Gordian.

Contractor acknowledges that Gordian shall retain exclusive ownership of all proprietary rights to the Proprietary Information, including all U.S. and international intellectual property and other rights such as patents, trademarks, copyrights and trade secrets. Contractor shall have no right or interest in any portion of the Proprietary Information except the right to use the Proprietary Information for the Limited Purpose set forth herein. Except in furtherance of the Limited Purpose, Contractor shall not distribute, disclose, copy, reproduce, display, publish, transmit, assign, sublicense, transfer, provide access to, use or sell, directly or indirectly (including in electronic form), any portion of the Proprietary Information.

Contractor acknowledges and agrees to respect the copyrights, trademarks, trade secrets, and other proprietary rights of Gordian in the Proprietary

Information during and after the term of this Agreement, and shall at all times maintain complete confidentiality with regard to the Proprietary Information provided to Contractor, subject to federal, state and local laws related to public disclosure. Contractor further acknowledges that a breach of any of the terms of this Agreement by Contractor will result in irreparable harm to Gordian for which monetary damages would be an inadequate remedy, and Gordian shall be entitled to injunctive relief (without the necessity of posting a bond) as well as all other monetary remedies available at law or in equity. In the event that it becomes necessary for either party to this IQCC System License to enforce the provisions of this Agreement or to obtain redress for the breach or violation of any of its provisions, whether by litigation, arbitration or other proceedings, the prevailing party shall be entitled to recover from the other party all costs and expenses associated with such proceedings, including reasonable attorney's fees.

In the event of a conflict in terms and conditions between this IQCC System License and any other terms and conditions of this Agreement or any Order, Purchase Order or similar purchasing document (Purchase Order) issued by NJPA or an NJPA Member, this IQCC System License shall take precedence.

- 4.6** The NJPA Member (or the NJPA Member Designated Representative), with the assistance of Gordian, will identify Projects and develop a draft scope of the work. The Contractor and Gordian will then assist the NJPA Member in developing a final scope of work. The NJPA Member will then issue a Detailed Scope of Work and a Request for Proposal to the Contractor. The Contractor will then utilize Gordian's IQCC System to prepare a Price Proposal for the Purchase Order including a Schedule, list of identified subcontractors, and other requested documentation such as cut sheets for materials. Gordian will assist the NJPA Member with Price Proposal review, and if the Price Proposal is found to be reasonable, the NJPA Member will issue a Purchase Order to Contractor. The Purchase Order will reference the Detailed Scope of Work and set forth the Purchase Order Completion Time, and the Purchase Order Price. The Contractor shall perform the Detailed Scope of Work within the Purchase Order Completion Time for the Purchase Order Price. Extra Work, credits, and deletions will be contained in Supplemental Purchase Orders calculated in the same manner.
- 4.7** The Contractor shall, within two (2) business days of receipt of a Purchase Order from an NJPA Member, provide notification to NJPA of each Purchase Order by forwarding a copy of the Purchase Order via email to PO@ezIQ.com or via facsimile to (864) 233-9100.
- 4.8** The Contractor shall, within two (2) business days of sending an Invoice to an NJPA Member, provide notification to NJPA of each Invoice by forwarding a copy of the Invoice via email to Invoice@ezIQ.com or via facsimile to (864) 233-9100.

5. GEOGRAPHIC AREAS

NJPA solicits bids for separate Agreements for each of the various Geographic Areas as shown on Exhibit A. This solicitation is for the Geographic Areas as specified in the Invitation For Bids.

6. THE IFB DOCUMENTS

The IFB Documents consist of four Books:

Book 1: Project Information, Instructions to Bidders and Execution Documents

Book 2: IQCC Standard Terms and Conditions; General Terms and Conditions
Book 3: Construction Task Catalog
Book 4: Technical Specifications

7. QUALIFICATION OF BIDDERS

- 7.1** Bids shall be considered only from firms normally engaged in performing the type of work specified within the IFB Documents. Bidder must have adequate organization, facilities, equipment, and personnel to ensure prompt and efficient service to an NJPA Member (as solely determined by NJPA).
- 7.2** In determining a Bidder's responsibility and ability to perform the Agreement, NJPA has the right to investigate and request information concerning the financial condition, experience record, personnel, equipment, facilities, principal business location and organization of the Bidder, the Bidder's record with environmental regulations, and the claims/litigation history of the Bidder.
- 7.3** Bidder must possess documentation evidencing compliance with applicable licensing requirements.
- 7.4** Bidder must have a fully functioning office within the Geographic Area for which a bid is submitted. Bids may be submitted for one or more Geographic Areas but it is not a requirement to submit for multiple Geographic Areas.

8. AWARD

- 8.1** An Award of Contract will be made by the NJPA Board of Directors based on the recommendation of the NJPA Bid Review Committee on behalf of its current and future NJPA Members.
- 8.2** It is the intent of NJPA to award each Agreement to the lowest, responsive, responsible Bidder(s) based on the Combined Adjustment Factor as shown on Bid Form 1, provided however, no Bidder will be awarded more than one Agreement. In the event a Bidder submits the lowest bid on more than one Solicitation, NJPA will determine which Agreement will be awarded to which Bidder based on the combination of bids resulting in the lowest overall cost to the NJPA Members. NJPA shall have the right to waive any informality or irregularity in any Bidder's Response received and to accept the Bidder's Response(s), which in its judgment, is (are) in the best interests of NJPA and NJPA Members. NJPA reserves the right to reject all Bid Responses and advertise again if, in NJPA's opinion, the received bids do not meet or exceed the minimum needs and expectations of the NJPA current and qualifying members. NJPA reserves the right to award additional Agreements from this solicitation for a period of 180 Days (or longer, if mutually agreeable to both the Bidder and NJPA).
- 8.3** Additionally, the Bidder is required to submit a Management Plan, see Article 9, Section Two Instructions to Bidders. The Bidder's Management Plan will provide the NJPA information to gauge the responsibility of the Bidder.
- 8.4** A Bidder will not be awarded more than one Agreement within any Geographic Area.
- 8.6** Competitive Range Determination - if a wide margin is found in the Adjustment Factors submitted in response to the solicitation; being too high or too low, then the NJPA Bid Review Committee may establish a Competitive Range for the solicitation. If it is determined that a Bidder's Combined Adjustment Factor is too far outside the Competitive Range then the Bidder can be removed from consideration. The Bidder shall be notified that they were determined to be outside the Competitive Range after

award of the contracts.

8.7 Unbalancing of Bids – A Bid may be removed from consideration if it is determined that the Bidder has mathematically unbalanced their Bid to gain a competitive advantage. The Bid will be considered to be unbalanced if any Adjustment Factor is found to not cover the contractors reasonable actual cost. Those costs would include a reasonable prorated share of their anticipated profit, overhead cost, and other indirect costs that the bidder anticipates for the performance of the work as determined by the NJPA Bid Review Committee.

8.8 The Other Than Normal Working Hours Adjustment Factors must be higher than the Normal Working Hours Adjustment Factors.

9. ASSIGNMENT OF WORK

Each Project will be assigned to one of the appropriate Contractors based on the location of the Project. NJPA will make an effort to divide the work evenly among the Contractors in a Geographic Area. If the assigned Contractor is unable, or unwilling, to perform the Project timely, NJPA may ask the other Contractor in that Geographic Area to perform the Project. The other Contractor must accept the Project. If both Contractors in the Geographic Area are unable to perform the Project, then NJPA may ask one of the Contractors in the other Geographic Area to perform the Project, which Contractor may agree, or disagree, to perform the Project. If the Contractor agrees to perform the Project, it will do so using its competitively bid Adjustment Factors.

10. ORDER OF PRECEDENCE OF THE COMPONENTS OF THE CONTRACT DOCUMENTS

The order of precedence of the Contract Documents shall be as follows:

- Book 2 – IQCC Standard Terms and Conditions
- Book 2 – General Terms and Conditions
- Addenda, if any
- Purchase Order which may include Plans, Drawings and supplemental Technical Specifications
- Standard Specifications of the NJPA Member, the City, State or Federal Government, if any
- Book 3 – Construction Task Catalog
- Book 4 – Technical Specifications
- Book 1 – Project Information, Instructions, and Execution Documents

SECTION TWO - INSTRUCTIONS TO BIDDERS

1. GENERAL INFORMATION

- 1.1 The following instructions are given for the purpose of guiding Bidders in properly preparing their bids. Such instructions are part of the IFB Documents, and strict compliance is required with all the provisions contained in the instructions.
- 1.2 Examination of IFB Documents
- 1.2.1 It is the responsibility of each Bidder before submitting a Bid, to:
- 1.2.1.1 Examine the IFB Documents thoroughly,
 - 1.2.1.2 Take into account federal, State and local laws, regulations, ordinances, and applicable procurement codes that may affect costs, progress, performance, and furnishing of the Work, or award,
 - 1.2.1.3 Study and carefully correlate Bidder's observations with the IFB Documents, and
 - 1.2.1.4 Carefully review the IFB Documents and notify NJPA of all conflicts, errors or discrepancies in the IFB Documents of which Bidder knows or reasonably should have known.
- 1.3 The submission of a Bid shall constitute an incontrovertible representation by Bidder that Bidder has complied with the above requirements and that without exception, the Bid is premised upon performing and furnishing the Work required by the IFB Documents and that the IFB Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

2. SOLICITATION OF IFB

Sealed and properly identified bids entitled “**INDEFINITE QUANTITY CONSTRUCTION CONTRACT**” will be received by Joseph Morgan, eziQC Contract Manager, at NJPA Offices, 202 12th Street NE, Staples, MN 56479 until the deadline for receipt of, and opening of bids as specified in the Invitation For Bids. **Bids will be for the provision of Indefinite Quantity Construction Contract services for both NJPA and NJPA Members, and all government and education agencies to include colleges and universities.** A Representative from the NJPA Bid Review Committee will then read the Bidder's names aloud. A summary of the responses to this IFB will be made available for public inspection in the NJPA office in Staples, MN. The Award and resulting Agreement may be awarded within the timeframe identified in this IFB. To receive a complete copy of these IFB Documents, send or communicate all requests to the attention of Joseph Morgan 202 12th Street NE Staples, MN 56479 or visit our website at <http://www.njpacoop.org/national-cooperative-contract-solutions/eziqc-construction/eziqc-bid-document-request/>, select the desired bid documents from the drop down list and complete the requested information. All requests must include mailing address, email address, contact name, and phone number. IFB CD's will be EXPRESS mailed to the address provided. Oral, facsimile, telephone or telegraphic Bid Submissions or requests for IFB Documents are invalid and will not receive consideration. Direct questions regarding this IFB to Joseph Morgan at EziQC@njpacoop.org or 218-895-4141.

3. ADVERTISING OF SOLICITATION

3.1 AS A POLICY, NJPA SHALL ADVERTISE THIS SOLICITATION IT SHALL BE POSTED ON NJPA'S WEBSITE, POSTED TO THE WEBSITE OF NOTICETOBIDDERS.COM, AND POSTED TO OTHER THIRD PARTY WEBSITES DEEMED APPROPRIATE BY NJPA. THIS ADVERTISEMENT IS ALSO SUBMITTED FOR POSTING AT INDIVIDUAL STATE LEVELS. NJPA WILL NOT MAINTAIN OR COMMUNICATE TO A BIDDER'S LIST. ALL INTERESTED BIDDERS MUST RESPOND TO THE SOLICITATION AS A RESULT OF AN INTERNET WEB NOTICE OR HARD COPY RESEARCH OF SAID PUBLICATION. BECAUSE OF THE SCOPE OF THE POTENTIAL MEMBERS AND NATIONAL VENDORS, NJPA HAS DETERMINED THAT THIS IS THE BEST WAY TO FAIRLY SOLICIT OUR IFB REQUESTS.

3.2 IN ADDITION, NJPA SHALL ADVERTISE IN ONE OR MORE PUBLICATIONS DISTRIBUTED IN THE GEOGRAPHIC AREA, INCLUDING, BUT NOT LIMITED TO, NEWSPAPERS AND OTHER PUBLICATIONS CONSISTENT WITH STATE LAW REGARDING NOTICE OF THIS INVITATION FOR BIDS.

4. REQUEST FOR INFORMATION (RFI)

4.1 Submit all RFIs about this IFB, in writing, to Joseph Morgan, NJPA, 202 12th Street NE, Staples, MN 56479, or email at EZIQC@NJPACOOOP.org or by fax at (218) 895-4141 prior to **June 30, 2017 at 12:00 PM CT**. NJPA urges potential bidders to communicate all concerns during the response period to avoid misunderstandings.

4.2 If an RFI is deemed by NJPA to have a material impact on the IFB, the response to the RFI will become an Addendum to these IFB Documents.

4.3 If the RFI and response is deemed by NJPA to be a clarification of existing terms and conditions and does not have a material impact on the IFB, no further documentation of that RFI is required.

5. PRE-BID SEMINAR

A Pre-bid seminar and/or webinar will be held at the places and times listed in the Invitation For Bids for the purpose of discussing the IQCC procurement system, the IFB Documents and bid forms. Attendance at one of the Pre-Bid Seminar(s)/Webinar(s) is mandatory to be deemed responsive.

6. ADDENDA TO THE IFB DOCUMENTS

Addenda are written instruments issued by the NJPA that modify or interpret these IFB Documents. All Addenda issued by NJPA shall become a part of the IFB Documents. Addenda will be delivered to all potential bidders using the same method of delivery of the original IFB material or by email if appropriate. NJPA accepts no liability in connection with the delivery of said materials. Copies of Addenda will also be made available on the eziQC website at www.EZIQC.com/Prebid or the NJPA website from www.NJPACOOOP.org/national-cooperative-contract-solutions/eziqc-construction/eziqc-pending-solicitations and from the NJPA offices. No Addenda will be issued later than five (5) Days prior to the deadline for receipt of bids, except an Addendum withdrawing the request for bids or one that includes postponement of the date of receipt of bids. Each potential bidder shall ascertain prior to submitting a bid that it has received all Addenda issued, and the bidder shall acknowledge its receipt in its bid response.

7. BID DEPOSIT

- 7.1 Bid deposit shall be a bond provided by a surety company or the equivalent in a cashier's check, money order or certified check. All certified checks must be drawn on a bank doing business in the United States, and shall be made payable to the order of NJPA. **CASH IS NOT AN ACCEPTABLE FORM OF BID DEPOSIT.**
- 7.2 Bid deposits shall be in the amount shown in the IFB. After bids are opened, deposits shall be irrevocable for the period of one hundred and twenty (120) Days. If a bidder is permitted to withdraw its bid before award, no action shall be taken against the bidder or the bid deposit.
- 7.3 The bid bonds, certified checks, or cashier's checks of unsuccessful bidders will be returned as soon as practicable after the opening of the bids; however, the deposits of the three (3) lowest Bidders shall be retained until NJPA awards the Agreement , or for any reason rejects all bids.

8. BID SUBMISSION PROCESS

8.1 Preparation of the Bid Response

8.1.1 Bid package will be submitted as follows:

8.1.1.1 Two (2) original copies of Bid Forms 1, 2, 10 and 14 MUST be submitted for each **Geographic Area** that you are bidding. These **MUST** be in separate **SEALED Envelopes**. On the outside of each envelope you will include Company Name, Solicitation Number. and Geographic Area.

8.1.1.2 Bid forms 3, 4, 5, 6, 7, 8, 9, 11, 12 and 13 – only need to be submitted once for the **entire package**. As stated below you will provide One (1) Original copy of Bid Forms 3, 4, 5, 6, 7, 8, 9, 11, 12 and 13 in a Tabbed Notebook. On the outside of the Notebook you will include Company Name, Solicitation Number. and Geographic Area.

8.1.2 Additionally, submit one (1) electronic copy (CD-ROM's or USB Flash Drives) of the bid documents (Bid Forms 1-13) and scanned copies of signature pages with original signatures The CD's or USB Flash Drive must be labeled with; Solicitation No., Date, and Company Name.

8.1.3 All bids shall be on the forms provided. Telegraphic, electronic mail or fax machine bids cannot be considered.

8.1.4 The bid documents must be submitted with original ink signatures by the person authorized to sign the bid. The person signing the bid must initial erasures, interlineations or other modifications in the bid document. Failure to properly sign the bid documents or to make other notations as indicated may result in rejection of the bid and cause the bid to be deemed non-responsive.

8.1.5 Mistakes may be corrected prior to bid opening, but shall be initialed by the person signing the bid documents. Corrections and/or modifications received after the opening time will not be accepted, except as authorized by applicable rule, regulation or statute and NJPA.

- 8.1.6** It is the responsibility of all Bidders to examine the entire IFB package, to seek clarification of any item or requirement that may not be clear and to check all responses for accuracy before submitting a bid. Negligence in preparing a bid confers no right of withdrawal after the deadline for submission of bids.

9. CONTRACTOR'S MANAGEMENT PLAN

- 9.1** The Bidder is required to submit its plan for management of the contract. The title of the submittal shall be "**MANAGEMENT PLAN FOR EXECUTION OF IQCC.**" The Contractor's Management Plan **must be** submitted as part of the Bidder's bid documents.
- 9.2** In addition to the bid documents and other required submittals, the Contractor's Management Plan **will be used** by the NJPA to determine the responsibility of the Bidder to perform the contract. Therefore the Bidder should take great care in the preparation of the Management Plan.
- 9.3** The Bidder may be determined non-responsive for failure to submit the Management Plan and/or declared non-responsible for failure to adequately address the issues below to the satisfaction of the NJPA.
- 9.4** The Management Plan shall include as a minimum the following information and organized specifically as shown below:
1. State the number of years your company has been in the construction industry, the type of work your company self-performs, and the type of work your company typically subcontracts.
 2. List the five (5) largest construction contracts your firm has been awarded in the last five (5) years that were/are similar to the Work on which you are bidding. **Submit Bid Form 12 for each contract.**
 - a. *Contract title.*
 - b. *Contract number.*
 - c. *Geographic location.*
 - d. *Owner name and contact (title, address, email and phone number).*
 - e. *Contract amount.*
 - f. *Contract duration, start and finish dates.*
 - g. *Actual Contract duration, start and finish dates.*
 - i. *Identify the approximate dollar amount of Work completed.*
 - h. *Provide a general description of the Scope of Work.*

The awarded Contractor must have the capacity and capability to perform multiple projects at multiple locations simultaneously. Demonstrate this capacity and capability by providing ten (10) projects that meet the following information for each project between \$25,000 to \$500,000 completed in the last three (3) years: **Submit Bid Form 13 for each Project.**

- a. Project title.
- b. Project number.
- c. Geographic location.
- d. Owner name and contact (title, address, email and phone number).
- e. Project amount.

- f. Project duration, start and finish dates.
 - g. Actual Project duration, start and finish dates.
 - h. Project size in \$.
 - i. Provide a brief description of the Scope of Work.
3. Provide a narrative description of how you propose to execute the Work assigned under this contract, including but not limited to:
- a. Your general understanding of the IQCC procurement system including your assessment of any of the articles of the General Conditions you deem critical to the operations and management of the contract.
 - b. The Contractor is expected to participate in the development and documentation of the Detail Scope of Work for each Purchase Order. Explain in detail your proposed participation and the specific qualities of your personnel that will add benefit to this process.
 - c. Provide your approach to the expeditious close out of Projects, correction of unacceptable Work, and punch list procedures.
 - d. The Contractor is expected to assist NJPA in the marketing of the IQCC services under the ezIQC brand. **Please provide a specific sales and marketing plan including your strategy for sales and marketing, the personnel and their qualifications for sales and marketing, and the frequency and duration of the efforts. Additionally, the Contractor is expected to market to potential NJPA members. Please describe your plan to accomplish this.**
 - e. **If you held a previous ezIQC Contract please describe how you marketed and sold the contract and list your accomplishments. Failure to provide this information may be grounds for disqualification.**
 - f. All Work has a minimum warranty period of one (1) year. Please describe your process for tracking and performing warranty work.
 - g. If within the past five (5) years, the Bidder has been lawfully precluded from participating in any public procurement activity with a federal, state or local government, then the Bidder must provide a letter with its response setting forth the name and address of the public procurement unit, the effective date of the suspension or debarment, the duration of the suspension or debarment and the relevant circumstances relating to the suspension or debarment. If applicable the Bidder should describe steps taken to improve and ensure these issues do not continue to be a burden. If the Bidder has held an NJPA ezIQC Contract and has requested that the contract be terminated, then the Bidder must provide the reason for the request. Please describe on a separate document and if applicable describe steps taken to improve and ensure these issues do not continue to be a burden. Failure to provide this information may be grounds for disqualification.
4. Management Team
- a. Provide an organizational chart.
 - b. Describe the responsibilities and duties of each position by indicating who will manage the overall contract, attend Joint Scope Meetings, prepare Proposal Packages, negotiate with Subcontractors, supervise construction,

and perform administration tasks.

- c. Provide resumes for your **key** personnel you intend to assign to this contract.
- d. Provide a current list of the number and classification of your full time employees.

10. BID PRICING

10.1 Each Bidder must submit Five (5) Adjustment Factors to be applied to every task in the CTC. The bid shall be an adjustment “decrease from” (e.g. 0.9800) or “increase to” (e.g. 1.1000 the Unit Prices listed in the CTC. **Bidders who submit separate Adjustment Factors for separate line items will be considered non-responsive and their bids will be rejected.**

10.2 The Bidder's Adjustment Factors shall include all of the Bidder's direct and indirect costs including, but not limited to, its costs for overhead, profit, bid deposit, bond premiums above the reimbursable amount, insurance, mobilization, Purchase Order Proposal development, and all contingencies in connection therewith. See pages 00-1 – 00-6 of Book 3 – the CTC for a complete explanation of what is included in the Unit Prices and what is not.

10.3 The first Adjustment Factor is to be applied to Work to be accomplished during Normal Working Hours and performed on Projects that require prevailing wage rates.

10.4 The second Adjustment Factor is to be applied to Work to be accomplished during Other Than Normal Working Hours on Projects that require prevailing wage rates.

10.5 The third Adjustment Factor is to be applied to Work to be accomplished during Normal Working Hours and performed on Projects that do not require prevailing wage rates.

10.6 The fourth Adjustment Factor is to be applied to Work to be accomplished during Other Than Normal Working Hours and performed on Projects that do not require prevailing wage rates.

10.7 The fifth Adjustment Factor is for work tasks not identified in the Construction Task Catalog. IQCC includes a provision for establishing of prices for Work requirements which are within the general scope of IQCC but were not included in the CTC at the time of Contract award, see Book 2 Section One, Article 10. These Tasks are referred to as "Non Pre-priced Tasks (NPP)". NPP Tasks may require new specifications and drawings and may subsequently be incorporated into the CTC. The bidders will offer an Adjustment Factor to be applied to the actual material, equipment, and labor cost for NPP work Tasks. **The NPP Adjustment Factor shall not be less than 1.0500 and not higher than 1.2000, excluding Administrative Fees.**

10.8 Adjustment Factors must be specified to the fourth decimal place. For example:

1	.	1	0	0	0
---	---	---	---	---	---

Or

0	.	9	8	0	0
---	---	---	---	---	---

10.9 For bid evaluation purposes only, the following weighting of the Adjustment factors shall be used to determine the Combined Adjustment Factor:

NORMAL WORKING HOURS- PREVAILING WAGE RATE PROJECTS	60%
OTHER THAN NORMAL WORKING HOURS- PREVAILING WAGE RATE PROJECTS	10%
NORMAL WORKING HOURS- NON-PREVAILING WAGE RATE PROJECTS	10%
OTHER THAN NORMAL WORKING HOURS- NON- PREVAILING WAGE RATE PROJECTS	10%
NON PRE-PRICED	10%

11. BID DOCUMENT CHECKLIST

The following documents must be submitted with the bid:

- Bid Form 1: The Adjustment Factors
- Bid Form 2: Calculation of the Combined Adjustment Factor
- Bid Form 3: Bid Deposit
- Bid Form 4: Bidder Assurance of Compliance
- Bid Form 5: Management Plan
- Bid Form 6: Certificate of Good Standing¹
- Bid Form 7: Certificate of Secretary²
- Bid Form 8: Bonding Company Statement of Bond Capacity and Availability³
- Bid Form 9: Financial Statement⁴
 1. Provide a Certificate of Good Standing for your business from the state in which you are organized.
 2. Provide a certificate of Secretary for your business identifying an authorized signer for the Agreement.
 3. Provide a letter from your bonding company setting forth your company's available bonding capacity and availability and confirming that, if required, your company could provide labor and material payment bonds and performance bonds for certain projects up to the bonding capacity.
 4. Provide the most current financial statement for your company as prepared by a CPA.
- Bid Form 10: Form of Agreement (signed)
- Bid Form 11: Agreement to work in all Areas in the State (signed)
- Bid Form 12: IQC/JOC Contract Experience (5 Contracts)
- Bid Form 13: IQC/JOC Project Experience (10 Projects)
- Bid Form 14: Existing Full-Service Office Location Affidavit

12. BID TRANSMITTAL

12.1 It is the responsibility of the Bidder to be certain that the bid is in the physical possession of NJPA on or prior to the deadline for submission of bids.

12.2 Bids must be submitted in a sealed envelope or box properly addressed to NJPA and with the following information clearly marked on the outside of the envelope or box:

- Solicitation number
- Name of Solicitation
- Geographic Area
- Deadline for bid submission
- Bidder's name and address.

12.3 NJPA is not responsible for late receipt of bids. Bids received by the correct deadline for bid submission will be opened and the name of each Bidder and other appropriate information will be publicly read.

13. MODIFICATION OR WITHDRAWAL OF A SUBMITTED BID

A submitted bid may not be modified, withdrawn or cancelled by the Bidder for a period of one hundred and eight (180) Days following the time and date designated for the receipt of bids. Prior to the deadline for submission of bids, any bid submitted may be modified or withdrawn by notice to the NJPA Coordinator of Bids and Contracts. Such notice shall be submitted in writing and include the signature of the Bidder and shall be delivered to NJPA prior to the deadline for submission of bids and it shall be so worded as not to reveal the content of the original bid. However, the original bid shall not be physically returned to the Bidder until after the official bid opening. Withdrawn bids may be resubmitted up to the time designated for the receipt of the bids if they are then fully in conformance with the Instructions to Bidders.

14. BIDDER RESPONSIVENESS AND RESPONSIBILITY

14.1 In accordance with accepted standards of competitive sealed bid awards as set forth in the State's Procurement Code, competitive sealed bids/awards will be made to responsive and responsible Bidders whose bids are determined in writing to be the most advantageous to NJPA and its current or future NJPA Members. To qualify for evaluation, a bid must be responsive which means it shall have been submitted on time and materially satisfy all mandatory requirements identified in this document. A bid must reasonably and substantially conform to all the terms and conditions in the solicitation to be considered responsive. Deviations or exceptions stipulated in Bidder's response, while possibly necessary in the view of the Bidder, may result in disqualification. Language to the effect that the Bidder does not consider this solicitation to be part of a contractual obligation will result in that bid being disqualified by NJPA.

15. CERTIFICATION

By signing this bid, the Bidder certifies:

15.1 The submission of the offer did not involve collusion or any other anti-competitive practices;

15.2 The Bidder/Contractor shall not discriminate against any employee or applicant for

employment in violation of Federal and State Laws (see Federal Executive Order 11246);

15.3 The Bidder has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the submitted offer (see Gratuities); and

15.4 The Bidder agrees to promote and offer to NJPA Members only those products and/or services as previously stated, allowed and deemed a resultant of the Agreement(s) as NJPA Contract items or services. This clause shall include any future product or service additions as allowed through contract additions.

16. PROTESTS

16.1 Protests shall be filed with the NJPA's Executive Director and shall be resolved in accordance with appropriate state statutes of Minnesota. Protests will only be accepted from Bidders. A protest must be in writing and filed with NJPA. A protest of an award or proposed award must be filed within ten (10) calendar days after the public notice or announcement of the award. No protest shall lie for a claim that the selected Bidder is not a responsible Bidder. A protest must include:

1. The name, address and telephone number of the protester;
2. The original signature of the protester or its representative (you must document the authority of the Representative);
3. Identification of the Solicitation by solicitation number;
4. Identification of the statute or procedure that is alleged to have been violated;
5. A precise statement of the relevant facts;
6. Identification of the issues to be resolved;
7. The aggrieved party's argument and supporting documentation;
8. The aggrieved party's statement of potential financial damages;
9. A protest bond in the name of NJPA and in the amount of 10% of the aggrieved party's statement of potential financial damages.

17. PUBLIC RECORD

All bids submitted to this invitation shall become the property of the NJPA and will become a matter of public record, available for review subsequent to the award notification. Bids may be viewed by appointment at the NJPA offices Monday through Friday from 8:30 a.m. to 3:30 p.m. CT.

18. PREVAILING WAGE RATES AND PARTICIPATION REQUIREMENTS

18.1 This clause is applicable to States in which prevailing wage rates are established by law. The Contractor shall pay prevailing wages to all workers in accordance with the applicable laws. The wage rates used for the CTC were the prevailing wage rates, if any; in effect at the time these IFB Documents were issued. In the performance of the Work, however, Contractor shall be fully responsible for paying the generally prevailing hourly rate of wages in effect, as determined by the State Department of Labor, at the time the Work is performed. If the State Department of Labor revises the prevailing rate of hourly wages to be paid for the Work prior to completion of the Project, the revised rate shall apply to this Agreement from the effective date of such revision, however such revision shall not entitle Contractor to any increased compensation under the terms of the Agreement. The wage rates are available at <https://labor.mo.gov/DLS/PrevailingWage>,

18.2 If other wage rates are required by law, the Contractor shall pay such wages to all workers in accordance with the applicable laws. If the Purchase Order is performed in whole or in part using federal funding, then the Davis Bacon Wages for that area will apply.

18.3 Contractors shall meet any goals or requirements established by the NJPA Member ordering the Work, and/or satisfy the intent of said goals or requirements, with regard to Small, Local, Minority, Women, Veteran or Disadvantaged Business Enterprises. Additional participation goals may be incorporated into the Request for Proposal or Detailed Scope of Work.

19. MARKETING REQUIREMENT

Bidder must express a willingness and ability to take ownership and promote the services to be provided. Your sales force must agree to work in cooperation with NJPA to develop a marketing strategy and provide avenues to equally market and drive sales through the Agreement and program to all NJPA Members and Potential NJPA Members. Bidder agrees to actively market in cooperation with NJPA all available services to current NJPA Members, as well as Potential NJPA Members.

If you are awarded a contract based on this solicitation your sales force will be a primary driver of everyone's success. Your sales force needs to be aware that:

- The use of NJPA Contract will save their customer (NJPA's Member) the time and effort of bringing a new individual Invitations for Bid (IFB);
- The use of the NJPA Contract will save your sales force the time and effort of responding to individual Invitations for Bid (IFB);
- The use of the NJPA Contract will guaranty that NJPA Members have the ability to choose you.

An award of Contract resulting from this IFB is an opportunity for the awarded contactor to pursue commerce with, and deliver value to NJPA and NJPA Members. An award of Contract is not an opportunity to see how much business NJPA can drive to an awarded Contractor's door. **As such the Bidder will demonstrate in the Management Plan specific marketing strategies, personnel and the qualifications of those personnel to market IQCC and the frequency and duration of marketing efforts.** NJPA reserves the right to deem a Bidder non-responsive or to waive an award based on a Bidder's unwillingness to participate in such a marketing effort or by submitting an unsatisfactory marketing strategy as part of the overall management plan. Further marketing requirements will be found in Book Two Section 9 of this IFB.

20. MEMBER SIGN-UP PROCEDURE

Bidder agrees to cooperate and participate in the NJPA Membership process as part of connecting NJPA Members to NJPA contracts. The process to sign up new NJPA Members to purchase under this Agreement will be defined during the award phase.

21. FEES

21.1 The Contractor shall include the NJPA Administrative Fee in calculating the Contractor's Adjustment Factors.

21.2 The NJPA Administrative Fee will be calculated at the rate of 7.5% of the total Purchase Order Price charged to the NJPA Member.

21.3 The NJPA Administrative Fee shall be remitted by the Contractor to NJPA, or its

designated contract administrator, within thirty (30) days of the submission of an invoice to an NJPA Member by Contractor. The Contractor shall be assessed a one percent (1%) per month late fee for any Administrative Fees not paid by the due date set forth herein.

- 21.4** NJPA designates The Gordian Group, Inc., (Gordian) through its subsidiary eziQC, LLC, as their contract administrator. The NJPA Administrative Fee payments shall be made payable to eziQC, LLC and sent to the following address:

EziQC, LLC
Attn: Accounts Receivable
30 Patewood Drive, Suite 350
Greenville, SC 29615

- 21.5** NJPA or Gordian may request records from the Contractor for all purchases through this Agreement and payment of all Administrative Fees. If a discrepancy exists between the purchasing activity and the Administrative Fees paid, NJPA or Gordian will provide written notification to the Contractor of the discrepancy and allow the Contractor ten (10) days from the date of notification to resolve the discrepancy. In the event the Contractor does not resolve the discrepancy to the satisfaction of NJPA or Gordian, NJPA or Gordian reserve the right to engage a third party to conduct an independent audit of the Contractor's records and, in the event Contractor is not in compliance with this Contract, Contractor shall, in addition to any Administrative Fees due, reimburse the appropriate party for the cost and expense related to such audit.
- 21.6** NJPA and Contractor hereby acknowledge that The Gordian Group, Inc., as the designated contract administrator, is a third-party beneficiary of Section 20, including all subsections therein. In the event any court action is brought to enforce payment of the Administrative Fees set forth above by any party or third-party beneficiary of this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and collection costs.

22. TAXES

The Contractor shall pay all sales, consumer, use and other similar taxes required by Law for which an exemption does not exist. If the Contractor is required to pay sales tax on non-exempt material, equipment, services or other items purchased in connection with a Purchase Order, the Member will reimburse the Contractor for such tax, without mark-up, provided the Contractor submits the appropriate documentation therefor.

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SECTION THREE - BID FORMS

BID FORM 1: THE ADJUSTMENT FACTORS

SOLICITATION NO: _____

CONTRACTOR NAME: _____

GEOGRAPHIC AREA: _____

The Contractor shall perform the Tasks and pay all Administrative Fees required by each individual Purchase Order issued pursuant to this using the following Adjustment Factors:

1. Normal Working Hours Prevailing Wage: 7:00am to 4:00pm Monday to Friday, except holidays. Contractor shall perform Tasks during Normal Working Hours for the Unit Price set forth in the CTC multiplied by the Adjustment Factor of:

1.A Adjustment Factor Without
Administrative Fees:

	.				
--	---	--	--	--	--

(Specify to four decimal places)

1.B Adjustment Factor With
Administrative Fees (1.A / 0.925):

	.				
--	---	--	--	--	--

(Specify to four decimal places)

2. Other Than Normal Working Hours Prevailing Wage: 4:00pm to 7:00am Monday to Friday, and any time Saturday, Sunday and Holidays. Contractor shall perform Tasks during Other Than Normal Working Hours for the Unit Price set forth in the CTC multiplied by the Adjustment Factor of:

2.A Adjustment Factor Without
Administrative Fees:

	.				
--	---	--	--	--	--

(Specify to four decimal places)

2.B Adjustment Factor With
Administrative Fees (2.A / 0.925):

	.				
--	---	--	--	--	--

(Specify to four decimal places)

3. Normal Working Hours Non-Prevailing Wage: 7:00am to 4:00pm Monday to Friday, except holidays. Contractor shall perform Tasks during Normal Working Hours for the Unit Price set forth in the CTC multiplied by the Adjustment Factor of:

3.A Adjustment Factor Without
Administrative Fees:

	.				
--	---	--	--	--	--

(Specify to four decimal places)

3.B Adjustment Factor With
Administrative Fees (3.A / 0.925):

	.				
--	---	--	--	--	--

(Specify to four decimal places)

4. Other Than Normal Working Hours Non-Prevailing Wage: 4:00pm to 7:00am Monday to Friday, and any time Saturday, Sunday and Holidays. Contractor shall perform Tasks during Other Than Normal Working Hours for the Unit Price set forth in the CTC multiplied by the Adjustment Factor of:

4.A Adjustment Factor Without Administrative Fees:

	.				
--	---	--	--	--	--

(Specify to four decimal places)

4.B Adjustment Factor With Administrative Fees (4.A / 0.925):

	.				
--	---	--	--	--	--

(Specify to four decimal places)

5. Non Pre-priced Adjustment Factor: To be applied to Work deemed not to be included in the CTC but within the general scope of the work:

5.A Adjustment Factor Without Administrative Fees:

	.				
--	---	--	--	--	--

(Specify to four decimal places)

5.B Adjustment Factor With Administrative Fees (5.A / 0.925):

	.				
--	---	--	--	--	--

(Specify to four decimal places)

6. Combined Adjustment Factor: (From Line 11 Bid Form 2)

	.				
--	---	--	--	--	--

(See Bid Form 2 for calculation procedure)

NOTICE - The attention of Bidders is particularly called to the fact that, unless the Bid is made in strict conformity with the directions given, it may be considered non-responsive and may be rejected. The Bidder must fill in all boxes and blanks.

Before submitting this bid, the Bidder is directed to the Construction Task Catalog to review the explanation of the costs included in the Unit Prices and in the Adjustment Factors. Except for a Non Pre-priced Task, the only compensation to be paid to a Contractor will be the total of the Unit Prices multiplied by the quantities multiplied by the Adjustment Factor. No additional payments of any kind whatsoever will be made. All costs not included in the Unit Prices must be part of the Adjustment Factors.

- **The Other Than Normal Working Hours Adjustment Factors must be higher than the Normal Working Hours Adjustment Factors.**
- **The Non Pre-priced Adjustment Factor Without Administrative Fees on Bid Form 1 must be between 1.0500 and 1.2000**

NJPA RESERVES THE RIGHT TO REVISE ALL ARITHMETIC ERRORS IN CALCULATIONS FOR CORRECTNESS.

BID FORM 2: CALCULATION OF THE COMBINED ADJUSTMENT FACTOR

SOLICITATION NO: _____

CONTRACTOR NAME: _____

GEOGRAPHICAL AREA: _____

The following formula has been developed for the sole purpose of evaluating bids and awarding .

Each Bidder must complete the following calculation.

Line 1. Normal Working Hours Prevailing Wage (1.B) _____

Line 2. Multiply Line 1 by .60 _____

Line 3. Other Than Normal Working Hours Prevailing Wage (2.B) _____

Line 4. Multiply Line 3 by .10 _____

Line 5. Normal Working Hours Non-Prevailing Wage (3.B) _____

Line 6. Multiply Line 5 by .10 _____

Line 7. Other Than Normal Working Hours Non-Prevailing Wage (4.B) _____

Line 8. Multiply Line 7 by .10 _____

Line 9: Adjustment Factor for Non Pre-priced Tasks (5.B) _____

Line 10: Multiply Line 9 by .10 _____

Line 11: Summation of lines 2, 4, 6, 8 and 10
(Combined Adjustment Factor) _____

Transfer the number on line 11 to the space provided for the Combined Adjustment Factor on Bid Form 1.

Instructions To Bidder: Specify lines 1 through 11 to four (4) decimal places. Use conventional rounding methodology (i.e., if the number in the 5th decimal place is 0-4, the number in the 4th decimal remains unchanged; if the number in the 5th decimal place is 5-9, the number in the 4th decimal is rounded upward).

Note To Bidder: The weights in lines 2, 4, 6, 8 and 10 above are for the purpose of calculating a Combined Adjustment Factor only. No assurances are made by NJPA that Work will be ordered under the Agreement in a distribution consistent with the weighted percentages above. The Combined Adjustment Factor is only used for the purpose of determining the lowest Bidder.

When submitting Price Proposals related to specific Purchase Orders, the Bidder shall utilize one or more of the Adjustment Factors applicable to the Work being performed provided in lines 1, 3, 5, 7 or 9 as applicable, on the Bid Form 2 above.

BID FORM 3: BID DEPOSIT

(insert bid deposit here)

BID FORM 4: BIDDER ASSURANCE OF COMPLIANCE

AFFIDAVIT

The undersigned, representing the persons, firms and corporations joining in the submission of the foregoing bid (such persons, firms and corporations hereinafter being referred to as the "Bidder"), being duly sworn on his/her oath, states to the best of his/her belief and knowledge:

1. I am authorized to act on behalf of the Bidder, and
2. To the best of my knowledge, no Bidder or Potential Bidder, nor any person duly representing the same, has directly or indirectly entered into any agreement or arrangement with any other Bidders, Potential Bidders, any official or employee of NJPA, or any person, firm or corporation under contract with NJPA in an effort to influence either the offering or non-offering of certain prices, terms, and conditions relating to this IFB which tends to, or does, lessen or destroy free competition in the letting of the Agreement sought for by this IFB, and
3. Bidder, or any person on Bidder's behalf, has not agreed, connived or colluded to produce a deceptive show of competition in the manner of the bidding or award of the referenced Agreement, and
4. Neither I, Bidder, nor, any officer, director, partner, member or associate of Bidder, nor any of its employees directly involved in obtaining contracts with NJPA or any subdivision of NJPA, has been convicted of false pretenses, attempted false pretenses or conspiracy to commit false pretenses, bribery, attempted bribery or conspiracy to bribe under the laws of any state or federal government for acts or omissions after January 1, 1985, and
5. Bidder has examined and understands all the terms and conditions contained in the IFB and it has no exceptions to such terms and conditions, and
6. If awarded a contract, Bidder will provide the services to qualifying NJPA Members in accordance with the terms and conditions of this IFB, and
7. Bidder has carefully checked the accuracy of all the information and prices provided in this bid, and
8. Bidder understands that NJPA reserves the right to reject any or all bids and that this bid may not be withdrawn during a period of 120 days from the time of the opening date, and
9. Bidder certifies that in performing this Agreement it will comply with all applicable provisions of the federal, State, and local laws, regulations, rules, and orders.
10. If applicable, Bidder confirms receipt and acknowledgement of the following addendums:

Addendum Number 1: _____

Addendum Number 2: _____

Addendum Number 3: _____

Signature

NATIONAL JOINT POWERS ALLIANCE®
Book 1 – Project Information, Instructions to Bidders and Execution Documents

Company Name: _____

Contact Person for Questions: _____

Phone: _____

(Must be individual who is responsible for filling out this Bidder's Response form)

Mailing Address: _____

City/State/Zip: _____

Telephone Number: _____ Fax: Number: _____

E-mail Address: _____

Authorized Signature: _____

Print Name: _____

Title: _____

Date: _____

Notarized

Subscribed and sworn to before me this _____ day of _____,
20____

Notary Public in and for the County of _____

State of _____

My commission expires: _____

Signature: _____

BID FORM 5: MANAGEMENT PLAN

(insert management plan here)

BID FORM 6: CERTIFICATE OF GOOD STANDING

Provide a Certificate of Good Standing for your business from the state in which you are organized.

(insert certificate of good standing here)

BID FORM 7: CERTIFICATE OF SECRETARY

Provide a certificate of Secretary for your business identifying an authorized signer for the Agreement.

(insert certificate of secretary here)

BID FORM 8: BONDING COMPANY STATEMENT

Provide a letter from your bonding company setting forth your company's available bonding capacity and availability and confirming that, if required, your company could provide labor and material payment bonds and performance bonds for certain projects up to the bonding capacity.

(insert bonding company statement here)

BID FORM 9: FINANCIAL STATEMENT

(insert financial statement here)

BID FORM 10: INDEFINITE QUANTITY CONSTRUCTION AGREEMENT

IMMEDIATELY FOLLOWS



INDEFINITE QUANTITY CONSTRUCTION AGREEMENT

IFB NUMBER: _____

GEOGRAPHIC AREA _____

This Agreement dated _____, by and between the National Joint Powers Alliance, hereinafter referred to as NJPA and _____ at the following address _____

hereinafter referred to as the CONTRACTOR.

WITNESSETH: NJPA and CONTRACTOR for the consideration hereafter agree as follows:

ARTICLE 1. CONTRACT DOCUMENTS

- A. Contract Documents: This Agreement; the IFB Documents; (Book 1 - Project Information, Instructions to Bidders and Execution Documents; Book 2 - IQCC Standard Terms and Conditions and General Conditions; Book 3 - Construction Task Catalog (CTC), Book 4 - Technical Specifications) and Addenda thereto, the Bid Deposit, all payment and performance bonds (if any), material and workmanship bonds (if any); wage rate decisions and certified payroll records (if any); Notice of Award; all modifications issued thereto, including Supplemental Purchase Orders/Change Orders and written interpretations and all Purchase Orders and accompanying documents (Requests for Proposals, Detailed Scopes of Work, Purchase Order Proposals, etc.) issued hereunder.
- B. The terms and conditions of a Purchase Order issued by an NJPA Member in connection with any Project, including supplemental technical specifications referenced therein, shall govern.
- C. The Contractor shall, within two (2) business days of receipt of a Purchase Order from an NJPA Member, provide notification to NJPA or their designated representative of each Purchase Order by forwarding a copy of the Purchase Order via email to PO@EZIQ.com or via facsimile to (864) 233-9100.
- D. The Contractor shall, within two (2) business days of sending an Invoice to an NJPA Member, provide notification to NJPA or their designated representative of each Invoice by forwarding a copy of the Invoice via email to invoice@EZIQ.com or via facsimile to (864) 233-9100.

ARTICLE 2. SCOPE OF WORK

- A. The Contractor shall provide the services required to develop each Purchase Order in accordance with the procedures for developing Purchase Orders set forth in the IQCC Standard Terms and Conditions and the Contract Documents.
- B. Each Purchase Order developed in accordance with this Agreement will be issued by an individual NJPA Member. The Purchase Order will require the Contractor to perform the Detailed Scope of Work within the Purchase Order Completion Time for the Purchase Order Price.
- C. It is anticipated that the Contractor will perform Work primarily in the Geographic Area set forth above. However, the parties may agree that the Contractor can perform Work in a different Geographic Area at its current Adjustment Factors.

ARTICLE 3. THE AGREEMENT PRICE

- A. This Agreement is an indefinite-quantity contract for construction work and services. The Estimated Annual Value of this Agreement is \$ 2,000,000. This is only an estimate and may increase or decrease at the discretion of NJPA.
- B. The Contractor shall perform any or all Tasks in the Construction Task Catalog for the Unit Price appearing therein multiplied by the following Adjustment Factors:

TO BE ENTERED BY NJPA:

- a. Normal Working Hours Prevailing Wage: Work performed from 7:00am until 4:00pm Monday to Friday, except holidays. Contractor shall perform Tasks during Normal Working Hours for the Unit Price set forth in the CTC multiplied by the Adjustment Factor of:

_____.
(Specify to four (4) decimal places)

- b. Other Than Normal Working Hours Prevailing Wage: Work performed from 4:00pm to 7:00am Monday to Friday, and any time Saturday, Sunday and Holidays. Contractor shall perform Tasks during Other Than Normal Working Hours for the Unit Price set forth in the CTC multiplied by the Adjustment Factor of:

_____.
(Specify to four (4) decimal places)

- c. Normal Working Hours Non Prevailing Wage: Work performed from 7:00am until 4:00pm Monday to Friday, except holidays. Contractor shall perform Tasks during Normal Working Hours for the Unit Price set forth in the CTC multiplied by the Adjustment Factor of:

_____.
(Specify to four (4) decimal places)

- d. Other Than Normal Working Hours Non Prevailing Wage: Work performed from 4:00pm to 7:00am Monday to Friday, and any time Saturday, Sunday and Holidays. Contractor shall perform Tasks during Other Than Normal Working Hours for the Unit Price set forth in the CTC multiplied by the Adjustment Factor of:

_____.
(Specify to four (4) decimal places)

- e. Non Pre-priced Adjustment Factor: To be applied to Work deemed not to be included in the CTC but within the general scope of the work:

1. _____.
(Specify to four (4) decimal places)

ARTICLE 4. TERM OF THE AGREEMENT

- A. This Agreement has an initial term of one (1) year and a bilateral option provision for three (3) additional terms. The total term of the Agreement cannot exceed four (4) years. One additional one-year renewal-extension may be offered by NJPA to Contractor beyond the original four-year term if NJPA deems such action to be in the best interests of NJPA and its Members. The Contractor may withdraw from the Agreement on each anniversary of the award, provided that the Contractor gives 60 Days written notice of its intent to withdraw. NJPA may, for any reason, terminate this Agreement at any time.
- B. All Purchase Orders issued during a term of this Agreement shall be valid and in effect notwithstanding that the Detailed Scope of Work may be performed, payments may be made, and the guarantee period may continue, after such term has expired. All terms and conditions of the Agreement apply to each Purchase Order.

ARTICLE 5. SOFTWARE LICENSING

- A. NJPA selected The Gordian Group's (Gordian) software, data and services (IQCC System) for their IQCC program. The system includes Gordian's proprietary ezIQCC, eGordian and Bid Safe IQCC applications (IQCC Applications) and construction cost data (Construction Task Catalog), which shall be used by the Contractor to prepare and submit Price Proposals, subcontractor lists, and other requirements specified by NJPA and NJPA Members. The Contractor's use, in whole or in part, of Gordian's IQCC Applications and Construction Task Catalog and other proprietary materials provided by Gordian for any purpose other than to execute work under this Agreement for NJPA and NJPA Members is strictly prohibited unless otherwise stated in writing by Gordian. The Contractor hereby agrees to abide by the terms of the following IQCC System License:

ARTICLE 6. IQCC SYSTEM LICENSE

- A. Gordian hereby grants to the Contractor, and the Contractor hereby accepts from Gordian for the term of this Agreement or Gordian's contract with NJPA, whichever is shorter, a non-exclusive right, privilege, and license to Gordian's proprietary IQCC System and related proprietary materials (collectively referred to as "Proprietary Information") to be used for the sole purpose of executing Contractor's responsibilities to NJPA and NJPA Members under this Agreement ("Limited Purpose"). The Contractor hereby agrees that Proprietary Information shall include, but is not limited to, Gordian's IQCC Applications and support documentation, Construction Task Catalog, training materials, marketing materials and any other proprietary materials provided to Contractor by Gordian. In the event this Agreement expires or terminates as provided herein, or the Gordian's contract with NJPA expires or terminates, this IQCC System License shall terminate and the Contractor shall return all Proprietary Information in its possession to Gordian.
- B. Contractor acknowledges that Gordian shall retain exclusive ownership of all proprietary rights to the Proprietary Information, including all U.S. and international intellectual property and other rights such as patents, trademarks, copyrights and trade secrets.

Contractor shall have no right or interest in any portion of the Proprietary Information except the right to use the Proprietary Information for the Limited Purpose set forth herein. Except in furtherance of the Limited Purpose, Contractor shall not distribute, disclose, copy, reproduce, display, publish, transmit, assign, sublicense, transfer, provide access to, use or sell, directly or indirectly (including in electronic form), any portion of the Proprietary Information.

- C. Contractor acknowledges and agrees to respect the copyrights, trademarks, trade secrets, and other proprietary rights of Gordian in the Proprietary Information during and after the term of this Agreement, and shall at all times maintain complete confidentiality with regard to the Proprietary Information provided to Contractor, subject to federal, state and local laws related to public disclosure. Contractor further acknowledges that a breach of any of the terms of this Agreement by Contractor will result in irreparable harm to Gordian for which monetary damages would be an inadequate remedy, and Gordian shall be entitled to injunctive relief (without the necessity of posting a bond) as well as all other monetary remedies available at law or in equity. In the event that it becomes necessary for either party to this IQCC System License to enforce the provisions of this Agreement or to obtain redress for the breach or violation of any of its provisions, whether by litigation, arbitration or other proceedings, the prevailing party shall be entitled to recover from the other party all costs and expenses associated with such proceedings, including reasonable attorney's fees.
- D. In the event of a conflict in terms and conditions between this IQCC System License and any other terms and conditions of this Agreement or any Purchase Order, Order or similar purchasing document (Purchase Order) issued by NJPA or an NJPA Member, this IQCC System License shall take precedence.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

By: _____ National Joint Powers Alliance

Authorized Signature

Print Name

Contractor

Authorized Signature

Print Name

Contract Number: _____ (assigned by NJPA)

BID FORM 11: AGREEMENT TO WORK OUTSIDE THE GEOGRAPHIC AREA

There are times that a Contractor may need to perform work for certain NJPA Members that have facilities in areas outside of the Geographic Area. By acknowledging your acceptance below you are saying that you will consider performing work in such areas in the State or other States. The Contractor will have the option to decline Projects outside of the Geographic Area.

Please circle your intention below:

Yes We agree to consider working in areas outside of the Geographic Area.

No We will NOT consider working outside of the Geographic Area.

Signature

The Bidder shall acknowledge this bid by signing and completing the spaces provided below:

Name of Bidder: _____

City/State/Zip: _____

Telephone No.: _____

If a partnership, names and addresses of partners:

Notarized

Subscribed and sworn to before me this _____ day of _____, 20____

Notary Public in and for the County of _____

State of _____

My commission expires: _____

Signature: _____

BID FORM 12: IQCC/JOC CONTRACT EXPERIENCE (Fill-out 1 per Contract)

Contract Title: _____

Contract Number: _____

Geographic Location: _____

Owner Contact Information

Name: _____

Title: _____

Address: _____

Email: _____

Phone No: _____

Contract Amount (Value of Contract): _____

Contract Amount To-Date: \$ _____

Contract award date: _____

Contract completion date: _____

Description of Contract Work Performed; Describe project completed (i.e., Plumbing, Electrical, Paving, Site Work and approximate dollar value). Attach an additional sheet if necessary: _____

BID FORM 14: EXISTING FULL SERVICE OFFICE LOCATION AFFIDAVIT

STATE OF _____

Before me, the undersigned authority, personally appeared _____, who after being duly sworn, deposes and says:

As a prospective Bidder, Contractor acknowledges the provisions set forth in the IQCC IFB Documents, Instructions to Bidders Article 21, regarding the requirement for an existing full-service office location within the Geographic Area at the time of Bid.

Contractor warrants compliance with such provisions and has established and maintains, at or before the time of Bid, a physical full-service office within the Geographic Area located at the address provided below; and the existing office is fully functioning with an established storefront, office-based staffing capable of providing all the professional services required to be delivered under this Contract, adequate material and equipment, and any and all other necessary operational resources.

Office Physical Address: _____

Office Phone Number: _____

Office Fax Number: _____

Contractor is aware that failure to comply with the requirements set forth in the IQCC IFB Documents, Instructions to Bidders Article 23, may cause the Contractor to be considered non-responsive as a Bidder, and may therefore disqualify the Contractor from potential Contract award. Furthermore, if it is found that the Contractor does not maintain a fully staffed and functioning office during the term of this contract NJPA may declare the Contractor in default and initiate termination of the Agreement, according to Article 34 of the Agreement General Conditions.

This Affidavit is given in connection with the Contractor's Bid for IQCC contract number _____.

(Affiant)

STATE OF _____

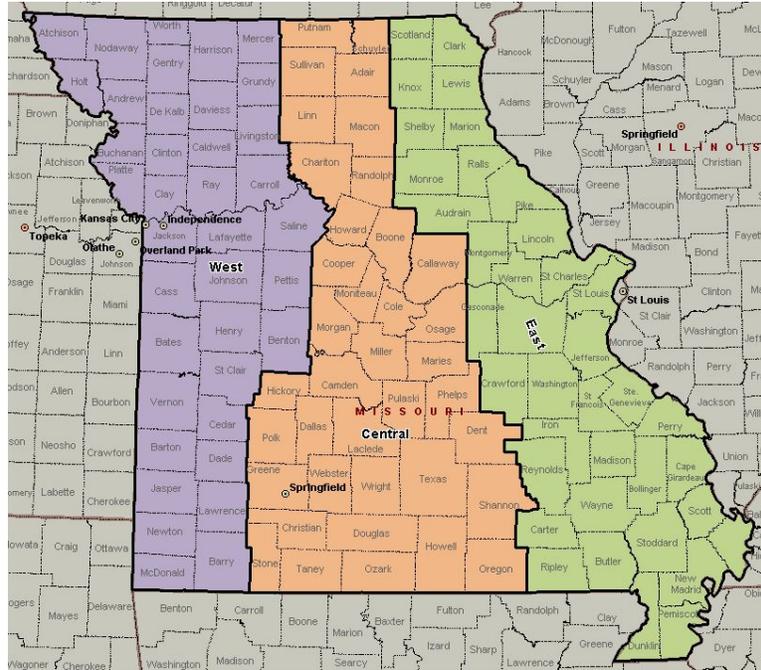
The forgoing instrument was acknowledged before me this _____ day of _____, 20_____ by _____ who is personally known to me and/or has produced _____ as identification.

Signature of Person Taking Acknowledgment

Name of Acknowledger Typed, Printed, or Stamped

SECTION FOUR - EXHIBITS

EXHIBIT A: GEOGRAPHIC MAP OF NJPA CONTRACT AREAS



County	Geographic Area
Atchison	West
Mercer	West
Worth	West
Nodaway	West
Andrew	West
Gentry	West
Harrison	West
Grundy	West
Daviess	West
Livingston	West
Carroll	West
Caldwell	West
De Kalb	West
Buchanan	West
Holt	West
Platte	West
Clinton	West
Ray	West
Lafayette	West
Saline	West

Johnson	West
Jackson	West
Clay	West
Cass	West
Pettis	West
Henry	West
Bates	West
Vernon	West
St Clair	West
Benton	West
Cedar	West
Barton	West
Jasper	West
Dade	West
Lawrence	West
Newton	West
McDonald	West
Barry	West
Putnam	Central
Schuyler	Central
Adair	Central
Linn	Central
Sullivan	Central
Chariton	Central
Macon	Central
Randolph	Central
Howard	Central
Cooper	Central
Boone	Central
Callaway	Central
Moniteau	Central
Morgan	Central
Cole	Central
Osage	Central
Dent	Central
Maries	Central
Miller	Central
Camden	Central
Hickory	Central
Polk	Central
Dallas	Central
Greene	Central
Webster	Central
Laclede	Central
Pulaski	Central
Phelps	Central
Texas	Central
Shannon	Central

Oregon	Central
Wright	Central
Christian	Central
Taney	Central
Douglas	Central
Howell	Central
Ozark	Central
Stone	Central
Ste. Genevieve	East
Perry	East
Bollinger	East
Cape Girardeau	East
Stoddard	East
Dunklin	East
Mississippi	East
Scott	East
Pemiscot	East
New Madrid	East
Scotland	East
Knox	East
Clark	East
Lewis	East
Marion	East
Shelby	East
Monroe	East
Ralls	East
Pike	East
Lincoln	East
Audrain	East
Montgomery	East
Warren	East
St Charles	East
St Louis	East
St Francois	East
Jefferson	East
Washington	East
Franklin	East
Gasconade	East
Crawford	East
Iron	East
Madison	East
Wayne	East
Reynolds	East
Carter	East
Butler	East
Ripley	East

BOOK 2

IQCC STANDARD TERMS AND CONDITIONS AND CONTRACT GENERAL CONDITIONS

SOLICITATION NO.

**MO01A-071117, MO01B-071117, MO01C-071117,
MO02A-071117, MO02B-071117, MO02C-071117,
MO03A-071117, MO03B-071117, MO03C-071117**

INDEFINITE QUANTITY CONSTRUCTION CONTRACT



202 12th Street NE
Staples, MN 56479

Joseph Morgan
eziQC Contract Administrator
EZIQC@NJPACOOB.org

June 2017

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BOOK 2

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BOOK 2:

SECTION ONE - IQCC STANDARD TERMS AND CONDITIONS

1. DEFINITIONS

- 1.1 Addendum or Addenda: the additional Bidding Document provisions issued in writing by NJPA prior to the receipt of Bids.
- 1.2 Agreement: the written Agreement between the Contractor and NJPA covering the Work to be performed; and other Contract Documents incorporated in or referenced in the Agreement and made part thereof as if provided therein.
- 1.3 Adjustment Factors: the Contractor's competitively bid price adjustment to the Unit Prices as published in the Construction Task Catalog, Book 3. Adjustment Factors are expressed as an increase to or decrease from the published prices.
- 1.4 IFB Documents: The Invitation For Bids; Book 1 - Project Information, Instructions to Bidders, and Execution Documents; Book 2 - IQCC Standard Terms and Conditions and Contract General Conditions; Book 3 - The Construction Task Catalog; and Book 4 - Technical Specifications.
- 1.5 Construction Task Catalog (CTC): A comprehensive listing of specific construction related Tasks, together with a specific unit of measurement and a Unit Price. Construction Task Catalog is a registered trademark of The Gordian Group, Inc.
- 1.6 Contract Documents: This Agreement; the IFB Documents; (Book 1 - Project Information, Instructions to Bidders and Execution Documents; Book 2 - IQCC Standard Terms and Conditions and General Conditions; Book 3 - Construction Task Catalog (CTC), Book 4 - Technical Specifications) and Addenda thereto, the Bid Deposit, all payment and performance bonds (if any), material and workmanship bonds (if any); wage rate decisions and certified payroll records (if any); Notice of Award; all modifications issued thereto, including Supplemental Purchase Orders/Change Orders and written interpretations and all Purchase Orders and accompanying documents (Requests for Proposals, Detailed Scopes of Work, Proposal Packages, etc.) issued hereunder.
- 1.7 Contractor: The individual, firm, partnership, corporation, joint venture, or other legal entity or combination thereof with whom NJPA has contracted and who is responsible for the acceptable performance of the Agreement and for the payment of all legal debts pertaining to the Work. All references in the Contract Documents to third parties under contract or control of Contractor shall be deemed to be a reference to Contractor.
- 1.8 Days: Calendar days, unless otherwise stated.
- 1.9 Detailed Scope of Work: A document prepared following a Joint Scope Meeting which describes in detail the Work the Contractor will perform for a particular Purchase Order.
- 1.10 Holidays: the specific days designated by NJPA, NJPA Members or the Project Labor Agreement as legal Holidays. NJPA designates the following days as Holidays: New Year's Day, Martin Luther King Jr.'s Birthday, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day and the following day, and Christmas Day.
- 1.11 Joint Scope Meeting: a meeting, normally at the Site, to discuss the Work with the

Contractor to assist in the development of the Detailed Scope of Work.

- 1.12 Non Pre-priced Task (NPP): a task not included in the Construction Task Catalog but within the general scope and intent of this the Agreement.
- 1.13 Price Proposal: The price proposal prepared by the Contractor using the Construction Task Catalog, Adjustment Factors and appropriate quantities.
- 1.14 Proposal Package: A group of documents and files consisting of the Price Proposal; incidental drawings, sketches, or specification information; quantity take-offs supporting all material quantities; catalog cuts providing information on materials or products, as specifically requested; list of known Subcontractors, construction schedule, back-up for any Non Pre-Priced Tasks, warranty information on special equipment or materials and or other such documentation as the NJPA Member may require.
- 1.15 Project: collectively, the Work to be accomplished by the Contractor in satisfaction of a requirement or group of related requirements pursuant to one or more Purchase Orders.
- 1.16 Purchase Order. The document establishing the engagement by NJPA or the NJPA Member to the Contractor to complete a Detailed Scope of Work for the Purchase Order Price within the Purchase Order Completion Time.
- 1.17 Request for Proposal: The NJPA Member's written request for the Contractor to prepare and submit a Proposal Package for a specific Detailed Scope of Work.
- 1.18 Site: The area upon or in which the Contractor performs the Detailed Scope of Work and such other areas adjacent thereto as may be designated by NJPA or the NJPA Member.
- 1.19 State: The state of Missouri.
- 1.20 Subcontractor: Any person, firm or corporation, other than employees of the Contractor, who or which contracts with the Contractor or its Subcontractors to furnish, or actually furnishes labor, or labor and materials, or labor and equipment, at the Site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor.
- 1.21 Supplemental Purchase Order: A purchase order issued to add, delete or change Work from an existing, related Purchase Order.
- 1.22 Technical Specifications: The comprehensive listing of the NJPA Members standards for quality of workmanship and materials, and the standard for the required quality of the Work.
- 1.23 Unit Price: The price published in the Construction Task Catalog for a Task.
- 1.24 Work: The labor, material, equipment and services necessary or convenient to the completion of Purchase Orders.
- 1.25 Purchase Order Completion Time: The period of time set forth in the Purchase Order within which the Contractor must complete the Detailed Scope of Work.
- 1.26 Purchase Order Price: The value of the approved Price Proposal and the lump sum price to be paid to the Contractor for completing the Detailed Scope of Work within the Purchase Order Completion Time.

2. SCOPE OF WORK AND PROCEDURE FOR ORDERING WORK

2.1 Scope of Work

- 2.1.1 This is an indefinite quantity contract for the supplies or services specified, and effective for the period stated in the IFB Documents.
- 2.1.2 Job or performance shall be made only as authorized by Purchase Orders issued in accordance with these IQCC Standard Terms and Conditions.
- 2.1.3 The Scope of Work of this Agreement shall be determined by individual Purchase Orders issued hereunder. The Contractor shall provide all pricing, management, incidental drawings, shop drawings, samples, documents, Work, materials, supplies, parts (to include system components), transportation, plant, supervision, labor, and equipment needed to complete each Purchase Order. The Contractor shall also be responsible for Site safety as well as Site preparation and cleanup during and after construction.
- 2.1.4 The Work shall be conducted by the Contractor in strict accordance with the Agreement and all applicable laws, regulations, codes, or directives including Federal, State, County and City.
- 2.1.5 The Contractor shall maintain accurate and complete records, files and libraries of documents to demonstrate compliance with Federal, State, and local regulations, codes, applicable laws listed herein, and manufacturers' instructions and recommendations which are necessary and related to the Work to be performed.
- 2.1.6 The Contractor shall prepare and submit required reports, maintain current record drawings, and submit required information. The Contractor shall provide: materials lists to include trade names and brand names, and model materials lists to include trade names, brand names, model number, and ratings (if appropriate) for all materials necessary to complete the Purchase Order.
- 2.1.7 In addition to the Tasks in the CTC, Book 3, NJPA may, from time to time, require Non Pre-priced Tasks.
- 2.1.8 All Work shall comply with any applicable standards, including those specified in the following documents. If the Purchase Order specifies a standard which is different or more stringent, the standard used in the Purchase Order shall control:
 - 2.1.8.1 City Building Codes
 - 2.1.8.2 The specific Detailed Scope of Work
 - 2.1.8.3 Technical Specifications – Book 4
 - 2.1.8.3.1 The Technical Specifications, Book 4, are numbered and organized in the Construction Specification Institute's (CSI) master format. All specifications are filed in divisions per CSI guidelines.
 - 2.1.8.3.2 The intent of these Technical Specifications is to furnish concise industry and commercial standards for construction, maintenance or repair of NJPA Member facilities.
 - 2.1.8.3.3 Reference in the Technical Specifications or the CTC to a

specific manufacturer, trade name, or catalog is intended to be descriptive but not restrictive and only to indicate to the prospective Bidder items that will be satisfactory.

3. ARCHITECTURAL AND ENGINEERING SERVICES

- 3.1 Under this Agreement it is expected that the level of A/E services and design, if any, will be incidental to the Agreement and therefore any cost associated with this is to be included in the Contractor's Adjustment Factors. If the level of A/E services for a Purchase Order requires that the Contractor provide stamped drawings and plans, the Contractor will be reimbursed according to the appropriate Task in the CTC. The Contractor will be required, as on any construction project, to provide shop drawings, as-built drawings, project layout drawings and sketches as required.
- 3.2 The preparation of incidental drawings/plans, specifications, shop drawings, product data and samples, as-builts and all other documentation required herein by the Contractor as required by individual Purchase Orders is part of the Scope of Work of this Agreement and the cost there of shall be included in the Contractor's Adjustment Factors.

4. TERM OF AGREEMENT

- 4.1 This Agreement is for term shown on the IFB. The Contractor may withdraw from the Agreement on each anniversary of the award, provided that the Contractor provides 60 Days written notice of its intent to withdraw. NJPA may, for any reason, terminate this Agreement at any time.
- 4.2 A NJPA Member may issue a Purchase Order at any time during the term of this Agreement. All Purchase Orders issued during a term of this Agreement shall be valid and in effect notwithstanding that the Detailed Scope of Work may be performed, payments may be made, and the guarantee period may continue, after such term has expired.

5. GEOGRAPHIC AREA

Contractor will primarily work in the Geographic Area designated. However, if both parties agree, the Contractor may work in another area at the Adjustment Factors bid

6. ESTIMATED ANNUAL VALUE

The Estimated Annual Value of the Agreement is as specified in the IFB. The Contractor is not guaranteed to receive any Purchase Orders under this Agreement. The Estimated Annual Value is not a limit on the total value of Purchase Orders that could be issued to the Contractor in any one year.

7. OPTION TO BILATERALLY EXTEND CONTRACT

- 7.1 This Agreement has an initial term of one (1) year and three (3) bilateral option provisions for three (3) additional terms. The total term of the Agreement cannot exceed four (4) years. One additional one-year renewal-extension may be offered by NJPA to Contractor beyond the total term if NJPA deems such action to be in the best interests of NJPA and its Members.
- 7.2 The Construction Task Catalog issued with this Solicitation will be in effect for the entire duration of this contract.
- 7.3 Economic Price Adjustment: The Adjustment Factors may be updated on each

anniversary of the award date to account for changes in construction costs. If NJPA fails to issue the Economic Price Adjustment by the anniversary date, it is the Contractor's responsibility to request the Economic Price Adjustment. Thereafter, the Contractor's Adjustment Factors will be adjusted according to the following:

7.3.1. The Contractor's Adjustment Factors will be adjusted according to the following:

7.3.1.1. A Base Year Index shall be calculated by averaging the 12 month Construction Cost Indices (CCI) for the average of the twenty cities published in the Engineering News Record (ENR) for the 12 months immediately prior to the month of the Solicitation (e.g. April Solicitation, Base Year Index is April of the prior year to March of the Solicitation year).

7.3.1.2. A Current Year Index shall be calculated by averaging the 12 month Construction Cost Indices (CCI) for the average of the twenty cities published in the Engineering News Record (ENR) for the 12 months beginning with the month of anniversary of the Solicitation (e.g. April Solicitation, Current Year Index is April of the prior year to March of the current year).

7.3.1.3. The Economic Price Adjustment shall be calculated by dividing the Current Year Index by the Base Year Index.

7.3.1.4. The Contractor's original Adjustment Factors shall be multiplied by the Economic Price Adjustment to obtain the Contractor's new Adjustment Factors effective for the next 12 months.

7.3.1.5. Averages shall be obtained by summing the 12 month indices and dividing by 12.

7.3.1.6. All calculations in this article shall be carried to the fifth decimal place and rounded to the fourth decimal place. The following rules shall be used for rounding:

7.3.1.7. The fourth decimal place shall be rounded up when the fifth decimal place is five (5) or greater.

7.3.1.8. The fourth decimal place shall remain unchanged when the fifth decimal place is less than five (5).

7.3.2. ENR occasionally revises indices. ENR CCIs used in the calculations described above shall be those currently published at the time the Economic Price Adjustment calculation is performed. No retroactive adjustments will be made as a result of an ENR revision. Revised CCI indices, if any, shall be used in subsequent calculations.

7.4. Under all circumstances, should the Contractor submit a Proposal Package with inaccurate Adjustment Factors, the act of submission by the Contractor is a waiver

of all rights to any further compensation above the Purchase Order Price submitted in the Proposal Package.

- 7.5. The Contractor cannot delay submission of the Proposal Package past the due date to take advantage of a scheduled update of the Adjustment Factors. In that event, the Contractor shall use the Adjustment Factors that would have been in effect without the delay.

8. PROCEDURE FOR ORDERING WORK

8.1 Initiation of a Purchase Order

8.1.1 As the need exists, NJPA (or their designated representative) will, on behalf of an NJPA Member, notify the Contractor of a Project and schedule a Joint Scope Meeting.

8.1.2 The Contractor shall attend the Joint Scope Meeting to discuss, at a minimum:

- a. the general scope of the Work,
- b. alternatives for performing the Work and value engineering,
- c. access to the Site and protocol for admission,
- d. hours of operation,
- e. staging area,
- f. requirements for professional services, sketches, drawings, and specifications,
- g. construction schedule,
- h. requirement for bonding
- i. the presence of hazardous materials, and
- j. date on which the Proposal Package is due.

8.1.3 Upon completion of the joint scoping process, NJPA (or their designated representative), working with the NJPA Member and the Contractor, will prepare a Detailed Scope of Work referencing any sketches, drawings, photographs, and specifications required to document accurately the work to be accomplished. NJPA (or their designated representative) will issue a Request for Proposal that will require the Contractor to prepare a Proposal Package. The Detailed Scope of Work, unless modified by both the Contractor and NJPA (or their designated representative), will be the basis on which the Contractor will develop its Price Proposal and NJPA (or their designated representative) and the NJPA Member will evaluate the same. The Contractor does not have the right to refuse to perform any Task or any work in connection with a particular Project.

8.2 **Preparation of the Price Proposal:** The Contractor will prepare Price Proposals in accordance with the following:

8.2.1 **Pre-priced Tasks:** A Pre-priced Task is a Task described and for which a Unit Price is set forth in the Construction Task Catalog. For Pre-priced Tasks the Contractor shall identify the Task from the Construction Task Catalog and the quantities required.

8.2.2 **Non Pre-priced Tasks:** A Non Pre-priced Task is a Task which is not in the Construction Task Catalog.

- 8.2.2.1 If the Contractor will perform the Non Pre-priced Task with its own forces, it shall submit three independent quotes for all materials to be installed and shall provide a breakdown of the labor and equipment costs.
- 8.2.2.2 If the Non Pre-priced Task is to be subcontracted, the Contractor must submit three independent bids from Subcontractors. The Contractor shall not submit a quote or bid from any supplier or Subcontractor that the Contractor is not prepared to use. NJPA may require additional quotes and bids if the suppliers or Subcontractors are not acceptable or if the prices are not deemed reasonable by NJPA or its designated representative.
- 8.2.2.3 **Pricing Non Pre-priced Tasks:** The final price submitted for Non Pre-priced Tasks shall be according to the following formula. Each Non Pre-priced Task must be supported with the necessary back-up documents including the calculation below:

For Work Performed with the Contractor's Own Forces:

- A. The hourly rate for each trade classification not in the Construction Task Catalog multiplied by the quantity;
- B. The rate for each piece of Equipment not in the Construction Task Catalog multiplied by the quantity;
- C. Lowest of three independent quotes for all materials

Total Cost for self-perform work = (A+B+C) x NPP Adjustment Factor

For Work Performed by Sub-contractors: If the Work is to be subcontracted, the Contractor must submit three independent quotes from Subcontractors for the Work. If three quotes or bids can not be obtained, the Contractor will provide the reason in writing for NJPA Member's approval why three quotes cannot be submitted.

D = Lowest of three Subcontractor quotes

Total Cost of Subcontracted Non Pre-priced Task = D x NPP Adjustment Factor

- 8.2.2.4 At the discretion of the NJPA (or their designated representative), Non Pre-priced Tasks, as well as other Tasks, may be added to the CTC during the course of the Agreement. Unit prices will be established based on actual quotes from material suppliers and installers and fixed as a permanent Pre-priced Task in the CTC.
- 8.2.2.5 NJPA (or their designated representative) determination as to whether an item is a Pre-priced Task or a Non Pre-priced Task shall be final, binding and conclusive as to the Contractor.
- 8.2.2.6 The means and methods of construction shall be such as the Contractor may choose; subject however, to NJPA's right to reject means and methods proposed by the Contractor that:
- 8.2.2.6.1 Will not produce finished Work in accordance with the terms of the Contract; or
 - 8.2.2.6.2 Unnecessarily increases the price of the Purchase Order when

alternative means and methods are available.

- 8.2.3 In the event the Contractor is required to work within a secured facility where labor, material, and equipment must be inspected to pass through a secured perimeter, and all work must be constantly monitored by facility personnel, such as a Department of Corrections prison, the Contractor will be paid for the labor time lost as a result of such perimeter inspection, as well as any loss of time resulting from a temporary shut down of the work site required by the facility, such as a temporary shut down to move prisoners.
- 8.2.4 The value of the Price Proposal shall be calculated by summing the total of the calculations for each Pre-priced Tasks (Unit Price x quantity x Adjustment Factor) plus the value of all Non Pre-priced Tasks.
- 8.2.5 The Contractor shall submit a complete Proposal Package, which includes:
- a. any incidental drawings or sketches, calculations and or specification information,
 - b. the Price Proposal, and a quantity take-off summary supporting all material quantities contained in the Price Proposal
 - c. catalog cuts providing information on materials or products, as specifically requested,
 - d. back-up for any Non Pre-priced Tasks,
 - e. identification of known Subcontractors and material suppliers,
 - f. a construction schedule,
 - g. for special equipment or materials , warranty information,
- 8.2.6 By submitting a Price Proposal to NJPA, the Contractor agrees to accomplish the Detailed Scope of Work in accordance with the Request for Proposal at the price submitted. It is the Contractor's responsibility to include the necessary tasks and quantities in the Price Proposal and apply the appropriate Adjustment Factor(s) prior to delivering it to NJPA.
- 8.2.7 Whenever, because of trade jurisdiction rules or small quantities, the cost of a minor task in the Price Proposal is less than the cost of the actual labor and material to perform such task, the NJPA Member may permit the Contractor to be paid for such task as a Non-Prepriced Task, or use Prepriced labor tasks and material component pricing to cover the actual costs incurred. Provided, however, that there is no other work for that trade on the Project or other work for that trade cannot be scheduled at the same time and the final charge does not exceed \$5,000.

8.3 Time for Submittal of the Proposal Package

- 8.3.1 The Proposal Package shall be submitted by the date indicated on the Request for Proposal. All incomplete Proposal Packages shall be rejected. The time allowed for preparation of the Proposal Package will depend on the complexity and urgency of the Project but should average between seven and fourteen days. On complex Projects, such as those requiring incidental engineering/architectural drawings and approvals and permits, allowance will be made to provide adequate time for preparation and submittal of the necessary documents.
- 8.3.2 In emergency situations and for Projects requiring immediate completion, the Proposal Package may be required quickly and the due date will be so

indicated on the Request for Proposal or, the Contractor may begin work immediately, with the paperwork to follow.

- 8.3.3 If the Contractor fails to meet the deadline for submittal of the Proposal Package, this may be reason to suspend issuance of this particular Purchase Order.
- 8.3.4 If the Contractor requires clarifications or additional information regarding the Detailed Scope of Work in order to prepare the Proposal Package, the request must be submitted so that the submittal of the Proposal Package is not delayed.

8.4 **Review of the Proposal Package**

- 8.4.1 NJPA (or their designated representative) and/or the NJPA Member (or their designated representative) will evaluate the Price Proposal by evaluating the nature and number of Tasks proposed against the agreed upon Detail Scope of Work and will determine the reasonableness of approach. Furthermore NJPA (or their designated representative) or the NJPA Member (or their designated representative) may compare the Price Proposal to the NJPA Member cost estimate for the Detailed Scope of Work. NJPA (or their designated representative) or the NJPA Member(or their designated representative) reserves the right to reject a Price Proposal based on unjustifiable/unsupported (with take off details) quantities and/or Tasks, schedule, inadequate documentation, or for any other reason.
- 8.4.2 If NJPA (or their designated representative) and/or the NJPA Member (or their designated representative) finds any part of the Price Proposal unacceptable, NJPA (or their designated representative) or the NJPA Member (or their designated representative) may request the Contractor to re-submit its Price Proposal or cancel the Project. The Contractor is expected to submit correct Price Proposals the first time. However NJPA recognizes that some adjustments might have to be made to the Price Proposal after review by NJPA (or their designated representative) and the NJPA Member (or their designated representative). Therefore, NJPA (or their designated representative) will allow the Contractor to submit the first Price Proposal and a second Price Proposal for each Purchase Order.
- 8.4.3 Additionally, NJPA (or their designated representative) and/or the NJPA Member (or their designated representative) will evaluate all other components of the Proposal Package and may request revisions thereto.
- 8.4.4 **Requested revisions to any and all of the Proposal Package components should be made by the Contractor and resubmitted in three (3) working days or less.** If after the second review by NJPA (or their designated representative) and/or the NJPA Member (or their designated representative), NJPA (or their designated representative) and/or the NJPA Member (or their designated representative) finds requested revisions to the Proposal Package that were not made, this may be reason to suspend that particular Purchase Order.
- 8.4.5 Failure by the Contractor to submit Proposal Packages, and revisions thereto, in a timely manner (within time frames described above) is grounds for suspension of all future Purchase Orders.

8.4.6 NJPA reserves the right to obtain Price Proposals from any or all of the Contractors awarded an IQCC Contract.

8.4.7 If the Contractor continues to submit Price Proposals which are rejected by NJPA (or their designated representative), NJPA may declare the Contractor in default and initiate termination of the Agreement, according to Article 34 of the Agreement General Conditions.

8.5 Delivery of the Proposal Package

8.5.1 After NJPA (or their designated representative) reaches an agreement with the Contractor on the Proposal Package and any requested revision thereto, if applicable, NJPA (or their designated representative) will assemble and deliver the Proposal Package for the NJPA Member's consideration.

8.6 Review of the Proposal Package By the NJPA Member and Issuance of Purchase Order

8.6.1 The NJPA Member will evaluate the entire Proposal Package.

8.6.2 The NJPA Member may reject a Proposal Package for any reason

8.6.3 The NJPA Member may request changes to or clarifications of any part of the Proposal Package, may require certificates of insurance, and may require a Labor and Material Payment Bond and Performance Bond. The Contractor and NJPA (or their designated representative) will work together to make any requested revisions in a timely manner and resubmit a revised Proposal Package.

8.6.4 Upon approval of the Proposal Package by NJPA (or their designated representative) and the NJPA Member, the NJPA Member may issue a signed Purchase Order, Notice of Award, or similar document accepting the Contractor's offer. The document will include:

- a. Reference to the Detail Scope of Work
- b. The Purchase Order Price
- c. Start date, Purchase Order Completion Time (duration) and completion date
- d. Whether liquidated damages will apply

8.6.5 When the Work Order Package is accepted, the NJPA Member may send to the Contractor a Purchase Order, or a notice of intent to award a Purchase Order (sometimes used if bonding is required) or a similar document.

8.6.6 Once a Contractor has accepted the Purchase Order then the Contractor may not refuse to perform the work. Such actions may be grounds for termination of this Contract or other disciplinary action at the option of NJPA

8.6.7 If performance and payment bonding is required, or if a separate and /or special insurance certificate is required, the Contractor will deliver such requirement to the NJPA member within ten (10) days of notification of the requirement.

9. CHANGES

9.1 The NJPA Member reserves the right to make, in writing, at any time during the Work, changes in the Detailed Scope of Work as are necessary to satisfactorily complete the Project, and to delete in whole or in part, or to add to, the Detailed Scope of Work.

Such changes, deletions, or additions will not invalidate the Agreement or the Purchase Order nor release the surety, if any, and the Contractor agrees to perform the Work as altered.

- 9.2 All changes, deletions, and additions to the Detailed Scope of Work will be reflected in a Supplemental Purchase Order developed and priced in accordance with the procedure for developing and approving all Price Proposals.

10. MARKETING REQUIREMENTS

- 10.1 The Contractor shall be proactive about selling and marketing this Agreement to public agencies and non-profit organizations. Failure to do so may be grounds for termination of this Agreement or other disciplinary action at the option of NJPA.
- 10.2 NJPA selected its Indefinite Quantity Construction Contracting system based on their research of what provides their Members with the best value and most cost effective results. The Contractor shall avoid all conflicts of interest with the promotion of other IQCC systems to any agency eligible to purchase under this Contract. The promotion of other IQCC systems to any agency eligible to purchase under this Agreement may be grounds for termination of this Contract.
- 10.3 The Contractor must adhere to the following when preparing marketing materials and web sites, and in the use of trademarks and service marks:
- 10.3.1 The Contractor shall include the NJPA logo and website address on all marketing materials and web sites that mention this Agreement or have anything to do with this Contract.
- 10.3.2 The Contractor shall include the ezIQCC logo, website address (www.ezIQCC.com), and ezIQCC® telephone number (888-993-9472) on all marketing materials and web sites that mention this Agreement or have anything to do with this Contract.
- 10.3.3 The Contractor shall be authorized to use NJPA's and Gordian's names, logos, trademarks, service marks and NJPA and Gordian provided materials solely for the presentation and promotion of the availability and use of this Agreement by NJPA Members and Potential NJPA Members, and agrees that all uses of the trademarks and service marks belonging to NJPA and Gordian shall include the appropriate trademark and service mark symbols (® or ™) at all times
- 10.3.4 The Contractor shall not collect information from an NJPA Member or Potential NJPA Member on Contractor provided forms or web sites. The Contractor shall advise the NJPA Members or Potential NJPA Members to enter all information at the ezIQCC® website or the Contractor may input project information on the ezIQCC web site on behalf of an NJPA Member or Potential NJPA Member.
- 10.3.4 Under no circumstance may copy or branding images of NJPA or Gordian be altered in any way without the express written approval of NJPA or Gordian.
- 10.3.5 All marketing materials shall be coordinated with and approved by NJPA and Gordian.

11. PUNCH LIST COMPLETION

- 11.1 The Contractor understands and agrees that time is of the essence in closing out the Work of this Contract. Upon Substantial Completion of the Work, the Punch List will be transmitted to the Contractor from the NJPA Member. The Contractor agrees to

begin performance of Punch List Work immediately after receipt of the Punch List.

11.2 Failure of the Contractor or its Subcontractors to begin the Punch List Work within three (3) business days after receipt of the Punch List will be construed as failure to prosecute the Work of the Contract.

11.3 Punch List Work will be continuously prosecuted once begun and completed within thirty (30) Days from the receipt of the Punch List. Should the Contractor fail to complete the Punch List within this period of time, the liquidated damages as identified in Article 26 of the Contract General Conditions will apply.

12. PAYMENT AND PERFORMANCE BONDS AND MATERIAL AND WORKMANSHIP BONDS

If required by the NJPA Member for a particular Work Order, the Contractor shall deliver a Labor and Material Payment Bond and a Performance Bond in the amount of such Work Order. If required by the NJPA Member for a particular Work Order, the Contractor shall deliver Material and Workmanship Bonds in the amount required by the NJPA Member. The bonds must be in a form, and executed by a surety, acceptable to the NJPA Member. The bonds must be received before the Notice to Proceed will be issued. The Contractor shall be compensated for the cost of the bonds up to 2% of the Work Order Price through the Reimbursable Fee work task in the Construction Task Catalog. The Contractor shall apply a 1.1000 Adjustment Factor to the Reimbursable Fee work task rather than applying the Contractor's competitively bid Adjustment Factor.

13. COMPUTER SOFTWARE

The Contractor shall maintain at its office for its use a computer with an internet connection. The Contractor will be furnished with a copy of the internet based eGordian® software which will allow the Contractor to generate Price Proposals. This software program contains an electronic copy of the Construction Task Catalog and allows the Contractor to select items and quantities for use in a particular Price Proposal. The software generates a Price Proposal in a preset format acceptable to the NJPA Member. There is no separate charge to the Contractor for the software and the related software training.

14. PREPAYMENT OPTION

An NJPA Member may elect to deposit the funds for any Project or Purchase Order in a special account established by NJPA for the purpose of paying the Contractors for work to be performed. Funds shall be transferred into and out of such account in strict accordance with the rules and procedures established therefor.

SECTION TWO – CONTRACT GENERAL CONDITIONS

1. PROJECT MANAGER

Project Manager: the person or firm designated by an NJPA Member and authorized to represent the NJPA Member in connection with a signed Purchase Order.

2. NJPA MEMBER'S RIGHT TO STOP WORK

The NJPA Member may order the Contractor to stop the Work on any Purchase Order, or any portion thereof, at any time for any reason.

3. NJPA MEMBER'S RIGHT TO COMPLETE WORK

If the Contractor has been ordered to stop the Work, the NJPA Member may, without prejudice to other remedies, have the Work completed by any available means.

4. REVIEW OF FIELD CONDITIONS

4.1 Before submitting a Price Proposal, the Contractor shall carefully study the Detailed Scope of Work, as well as the information furnished by the NJPA Member, shall take field measurements of any existing conditions related to the Work and shall observe any conditions at the Site affecting it. Any errors, inconsistencies or omissions discovered by the Contractor shall be reported promptly to the Project Manager.

4.2 Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the Project Manager, but it is recognized that the Contractor's review is made in the Contractor's capacity as a Contractor and not as a licensed design professional. The Contractor is not required to ascertain that the Detailed Scope of Work is in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However any nonconformity discovered by or made known to the Contractor shall be reported promptly to the Project Manager.

5. SUPERVISION

5.1 The Contractor shall supervise and direct the performance of the Detailed Scope of Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work. If the Detailed Scope of Work gives specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the Site safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Project Manager and shall not proceed with that portion of the Work without further written instructions from the Project Manager.

5.2 The Contractor shall be responsible to the NJPA Member for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the work for or on behalf of the Contractor or any of its Subcontractors.

5.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

- 5.4 Effective July 18, 2008, in addition to the existing prevailing wage rate law, Labor Law §220, section 220-h, all laborers, workers, and mechanics working on the site of public work projects of at least \$250,000 are required to be certified as having successfully completed the OSHA 10-hour Construction Safety and Health Course S1537-A..

6. WORKMANSHIP AND QUALITY

- 6.1 The Contractor may make substitutions only with the consent of the Project Manager.
- 6.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not skilled in the portions of the Work assigned to them.

7. WARRANTY

- 7.1 All Work furnished under this Agreement shall be guaranteed against defective materials and workmanship, improper performance and non-compliance with the Contract Documents for a period of one year after final acceptance of the Work, except as otherwise specified in other parts of the Contract Documents, or within such longer period of time as may be prescribed by law or provided by the manufacturer.
- 7.2 During the guarantee period, the Contractor shall repair and replace at Contractor's own expense, all Work that may develop defects whether such defects may be inherent in the equipment or materials, in the functioning of the piece of equipment, or in the functioning and operation of pieces of equipment operating together as a functional unit. Any equipment or material which is repaired or replaced shall have the guarantee period extended for a period of one year from the date of the last repair or replacement.
- 7.3 If the Contractor fails to repair, replace, rebuild or restore such defective or damaged Work promptly after receiving such notice, the NJPA Member shall have the right to have the Work done by others and to deduct the cost thereof from the monies owed to the Contractor. If the amount owed is insufficient to cover such costs, the Contractor shall be liable to pay such deficiency on demand.
- 7.4 The Project Manager's certificate setting forth the fair and reasonable cost of repairing, replacing, rebuilding or restoring any damaged or defective Work when performed by one other than the Contractor shall be binding and conclusive as the amount thereof upon the Contractor.
- 7.5 The Contractor shall obtain all manufacturer's warranties and guarantees of all equipment and materials required by this Agreement in the name of the NJPA Member.

8. PERMITS, FILING

- 8.1 Contractor shall make the necessary arrangements for and obtain all filings and permits required for the Work, including the preparation of all drawings, sketches, calculations and other documents and information that may be required therefor. If the Contractor is required to pay an application fee for filing a project, a fee to obtain a building permit, or any other permit fee to the City, State or some other governmental or regulatory agency, then the amount of such fee paid by the Contractor for which a receipt is obtained shall be treated as a Reimbursable Task to be paid a mark-up of 10% on the fees paid to a governmental entity to obtain filings and permits. Contractor shall submit written documentation of such fees. The 10% mark-up shall cover all costs over and above the filing and permit fees, including expeditor fees.

- 8.2 The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities applicable to performance of the Work.
- 8.3 It is not the Contractor's responsibility to ascertain that the Detailed Scope of Work is in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes that any portion of the Detailed Scope of Work is at variance therewith, the Contractor shall promptly notify the Project Manager in writing.

9. PERSONNEL

The Contractor shall employ competent personnel for the development of the Project's Detailed Scope of Work, the preparation of the Price Proposal and the execution of the Work. During the performance of the Work, the superintendent assigned to the Project shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case.

10. SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

- 10.1 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Detailed Scope of Work for which submittals are required by the Contract Documents the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Detailed Scope of Work. Submittals which are not required by the Contract Documents may be returned by the Project Manager without action.
- 10.2 The Contractor shall review for compliance with the Contract Documents, approve and submit to the Project Manager Shop Drawings, Product Data, Samples and similar submittals required with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the NJPA Member or of separate contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Project Manager without action.
- 10.3 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Detailed Scope of Work and of the Contract Documents.
- 10.4 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Project Manager.
- 10.5 The Work shall be performed in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Project Manager's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Project Manager in writing of such deviation at the time of submittal and (1) the Project Manager has given written approval to the specific deviation as a minor change in the Work, or (2) a Supplemental Purchase Order or written notice has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility

for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Project Manager's approval thereof.

- 10.6 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Project Manager on previous submittals. In the absence of such written notice the Project Manager's approval of a resubmission shall not apply to such revisions.
- 10.7 The Contractor shall not be required to provide professional services which constitute the practice of architecture or engineering unless such services are specifically required by the Detailed Scope of Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Detailed Scope of Work, the NJPA Member will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Project Manager. The NJPA Member shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided the NJPA Member has specified to the Contractor all performance and design criteria that such services must satisfy. The Project Manager will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Detailed Scope of Work. The Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Detailed Scope of Work.

11. CUTTING AND PATCHING

- 11.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Detailed Scope of Work or to make its parts fit together properly.
- 11.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the NJPA Member or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the NJPA Member or a separate contractor except with written consent of the NJPA Member and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the NJPA Member or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

12. CLEANING UP

- 12.1 The Contractor shall keep the Site and surrounding areas free from accumulation of waste materials or rubbish caused by operations under the Purchase Order. At completion of the Work, the Contractor shall remove from and about the Site all waste materials, rubbish, the Contractor's tools, construction equipment, machinery and

surplus materials.

12.2 If the Contractor fails to clean up, the NJPA Member may do so and the cost thereof shall be charged to the Contractor.

13. ACCESS TO THE WORK

The Contractor shall provide the Project Manager access to the Work at all times.

14. ROYALTIES, PATENTS AND COPYRIGHTS

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the NJPA Member and Project Manager harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the NJPA Member or Project Manager. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Project Manager.

15. INDEMNIFICATION

15.1 To the fullest extent permitted by law and to the extent claims, damages, losses or expenses are not covered by insurance purchased by the Contractor, the Contractor shall indemnify and hold harmless NJPA, the NJPA Member, Project Manager, consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph.

15.2 In claims against any person or entity indemnified under this Paragraph by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

16. SUBCONTRACTORS

16.1 The Contractor, as soon as practicable after award of the Purchase Order, shall furnish in writing to the Project Manager the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each portion of the Work. The Project Manager will promptly reply to the Contractor in writing stating whether or not, after due investigation, Contractor has reasonable objection to any such proposed person or entity. Failure of the Project Manager to reply promptly shall constitute notice of no reasonable objection.

16.2 The Contractor shall not contract with a proposed person or entity to whom the NJPA

Member or Project Manager has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

- 16.3 If the NJPA Member or Project Manager has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the NJPA Member or Project Manager has no reasonable objection.

17. COORDINATION WITH OTHER CONTRACTORS

- 17.1 The NJPA Member reserves the right to perform construction or operations related to the Purchase Order with the NJPA Member's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the Site.
- 17.2 The NJPA Member shall provide for coordination of the activities of the NJPA Member's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the NJPA Member in reviewing their construction schedules when directed to do so. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the NJPA Member until subsequently revised.

18. REQUEST FOR EXTENSION OF TIME

- 18.1 If the Contractor is delayed at any time in the commencement or progress of the Detailed Scope of Work by an act or neglect of the NJPA Member or Project Manager, or of an employee of either, or of a separate contractor employed by the NJPA Member, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, or by other causes which the Project Manager determines may justify delay, then the Purchase Order Completion Time shall be extended for such reasonable time as the Project Manager may determine.
- 18.2 The Contractor agrees to make no claim for damages for the delay in the performance of any Purchase Order occasioned by any act or omission to act of the NJPA Member, Project Manager or any of their representatives, and agrees that any such claim shall be fully compensated for by an extension of time as provided herein.

19. PARTIAL PAYMENTS

- 19.1 The Contractor may submit a monthly Application for Payment for Work completed to date. The Contractor shall submit Certified Payroll Records, and such other supporting documentation as may be required by the Project Manager. The Contractor may be required to submit Certified Payroll Records online. The Project Manager will inspect the work within a reasonable time and the NJPA Member shall make partial payments to the Contractor based on the approved value of completed Work.
- 19.2 The NJPA Member may withhold up to 5% of each payment until final completion of the Purchase Order.
- 19.3 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the NJPA Member, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's portion of the Work. The Contractor shall, by

appropriate agreement with each Subcontractor, require each Subcontractor to make payments to its Sub-Subcontractors in a similar manner.

20. FINAL PAYMENTS

- 20.1 The Contractor shall notify the Project Manager when the Detailed Scope of Work is complete and ready for final inspection. The Project Manager will promptly make such inspection. If the Project Manager finds the Detailed Scope of Work complete and all final documentation submitted, the Project Manager will notify the Contractor that a final Application for Payment may be submitted.
- 20.2 The Contractor may then submit a final Application for Payment. The Contractor shall submit Certified Payroll Records and such supporting documentation as may be required by the Project Manager. The NJPA Member shall make final payment to the Contractor.
- 20.3 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

21. PARTIAL OCCUPANCY OR USE

- 21.1 The NJPA Member may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the NJPA Member and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Project Manager. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the NJPA Member and Contractor.
- 21.2 Immediately prior to such partial occupancy or use, the NJPA Member, Contractor and Project Manager shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.
- 21.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

22. IDENTIFICATION AND SECURITY REQUIREMENTS

The Contractor shall comply with all identification and security requirements that the NJPA Member may establish.

23. PROTECTION OF PERSONS AND PROPERTY

- 23.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- 23.1.1 employees on the Work and other persons who may be affected thereby;
 - 23.1.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
 - 23.1.3 other property at the Site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
- 23.2 The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.
- 23.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Detailed Scope of Work, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying NJPA Member and users of adjacent sites and utilities.
- 23.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.
- 23.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible, except damage or loss attributable to acts or omissions of the NJPA Member or Project Manager or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's other obligations included herein.
- 23.6 The Contractor shall designate a responsible member of the Contractor's organization at the Site whose duty shall be the prevention of accidents. This person shall be the Contractor' superintendent unless otherwise designated by the Contractor in writing to the Project Manager.
- 23.7 The Contractor shall not load or permit any part of the construction or Site to be loaded so as to endanger its safety.

24. HAZARDOUS MATERIALS

- 24.1 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to lead based paint, asbestos or polychlorinated biphenyl (PCB), encountered on the Site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop the Work in the affected area and report the condition to the Project Manager in writing.
- 24.2 The NJPA Member shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless. Unless otherwise required by the Contract Documents, the NJPA

Member shall furnish in writing to the Contractor and Project Manager the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the Task of removal or safe containment of such material or substance. The Contractor and the Project Manager will promptly reply to the NJPA Member in writing stating whether or not either has reasonable objection to the persons or entities proposed by the NJPA Member. If either the Contractor or Project Manager has an objection to a person or entity proposed by the NJPA Member, the NJPA Member shall propose another to whom the Contractor and the Project Manager have no reasonable objection. When the material or substance has been rendered harmless, the Work in the affected area shall resume upon written agreement of the NJPA Member and Contractor. The Purchase Order Completion Time shall be extended appropriately.

- 24.3 To the fullest extent permitted by law, the NJPA Member shall indemnify and hold harmless the Contractor, Subcontractors, Project Manager, Project Manager's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described herein and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) and provided that such damage, loss or expense is not due to the sole negligence of a party seeking indemnity.
- 24.4 The NJPA Member shall not be responsible for materials and substances brought to the Site by the Contractor unless such materials or substances were required by the Detailed Scope of Work.
- 24.5 If, without negligence on the part of the Contractor, the Contractor is held liable for the cost of remediation of a hazardous material or substance solely by reason of performing the Work as required by the Contract Documents, the NJPA Member shall indemnify the Contractor for all cost and expense thereby incurred.

25. INSURANCE REQUIREMENTS

- 25.1 The Contractor shall procure and maintain, at its own cost and expense, until final acceptance of all the Work covered by this Agreement, the following kinds of insurance:
- 25.1.1 **Workers' Compensation Insurance.** A policy complying with the requirements of the laws of the State in which the Project is located.
- 25.1.2 **General Liability and Property Damage Insurance.** A standard general comprehensive liability insurance policy or a commercial general liability insurance policy issued to and covering the liability of the Contractor for all Work and operations under this Agreement, including, but not limited to, contractual and completed operations coverage. The coverage under such policy shall not be less than the following limits: Bodily Injury and Property Damage Liability, \$ 2,000,000 Each Occurrence, 2,000,000 Aggregate.
- 25.1.3 **Automobile Liability and Property Damage Insurance.** A policy covering the use in connection with the Work covered by the Contract Documents of all owned, non-owned and hired vehicles bearing, or, under the circumstances under which they are being used, required by the Motor Vehicle Laws of the State in which the Project is located. The coverage under such policy shall

not be less than the following limit: Bodily Injury and Property Damage Liability, \$2,000,000 Each Occurrence.

- 25.1.4 All Risk Builders Risk Insurance. Where specifically required in the Detailed Scope of Work, the Contractor shall provide, before the Purchase Order is issued, Builders' Risk Insurance in an amount at least equal to the Purchase Order Price in a form and by a carrier acceptable to the NJPA Member. The cost of such Builders Risk Policy shall be reimbursed to the Contractor as a reimbursable task.
- 25.1.5 Pollution Liability Insurance. If a Project involves asbestos abatement encapsulation or other activities involving hazardous materials, the Contractor, Subcontractor or other party responsible for such Work shall procure and maintain a liability insurance policy issued to and covering the liability, of the Contractor, Subcontractor or other party engaged in the removal, or handling of hazardous materials, for bodily injury, illness, sickness or property damage caused by exposure in an amount not less than \$2,000,000 per occurrence and \$2,000,000 aggregate. The cost of Pollution Liability Insurance is included in the Unit Prices and will not be reimbursed separately.
- 25.2 The Contractor shall provide certificates of insurance. Such certificates shall be on a form prescribed by NJPA, shall list the various coverages and shall contain, in addition to any provisions hereinbefore required, a provision that the policy shall not be changed or cancelled and that it will be automatically renewed upon expiration and continued in force until final acceptance by NJPA, or NJPA Member, of all the work covered by the Agreement, unless NJPA is given fifteen (15) days' written notice to the contrary. Upon request, the Contractor shall furnish NJPA or any NJPA Member with a certified copy of each policy.
- 25.3 All insurance required to be procured and maintained as aforesaid must be procured from insurance companies approved by NJPA.
- 25.4 If at any time any of the above-required insurance policies should be cancelled, terminated or modified so that insurance is not in effect as above required, then, if NJPA shall so direct, the Contractor shall suspend performance of the work. If the said work is so suspended, no extension of time shall be due on account thereof. If said work is not suspended, then NJPA may, at its option, obtain insurance affording coverage equal to that above required, the cost of such insurance to be payable by the Contractor.
- 25.5 Should the awarded Contractor retain a Subcontractor to perform any of the services mentioned herein, it is the Contractor's responsibility to insure that the Subcontractor(s) maintains the same types of insurance coverage in accordance with the requirements and amounts indicated herein.
- 25.6 NJPA, its officers, and employees must be included as a named insured. Any NJPA Member, its officials, officers, and employees must be included as a named insured when so requested by the NJPA Member.

26. LIQUIDATED DAMAGES

- 26.1 If provided for in the Request for Proposal, NJPA may assess liquidated damages for each day after the Purchase Order Completion Time that the Detailed Scope of Work

is not complete. It is understood and agreed by and between Contractor, NJPA and the NJPA Member, that time is of the essence in all matters relating to Liquidated Damages.

26.2 The liquidated damages shall be determined on a Purchase Order by Purchase Order basis.

27. TESTS AND INSPECTIONS

27.1 Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the NJPA Member, or with the appropriate public authority. The Contractor shall give the Project Manager timely notice of when and where tests and inspections are to be made so that the Project Manager may be present for such procedures.

27.2 If the Project Manager, NJPA Member or public authorities having jurisdiction determine that portions of the Work require, through no fault of the Contractor, additional testing, inspection or approval, the Project Manager will instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the NJPA Member, and the Contractor shall give timely notice to the Project Manager of when and where tests and inspections are to be made so that the Project Manager may be present for such procedures. Such costs shall be at the NJPA Member's expense.

27.3 If such procedures for testing, inspection or approval reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures and compensation for the Project Manager's services and expenses shall be at the Contractor's expense.

27.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Project Manager.

27.5 If the Project Manager is to observe tests, inspections or approvals required by the Contract Documents, the Project Manager will do so promptly and, where practicable, at the normal place of testing.

27.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

28. GOVERNING LAW

28.1 The Agreement shall be governed by the law of the place where the Project is located.

28.2 NJPA's liability shall be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes, Section 3.736, and other applicable law.

28.3 All claims and controversies between NJPA and Contractor shall be subject to the laws of the State of Minnesota and are to be resolved in Todd County Minnesota.

29. COMPLIANCE WITH LAWS

In connection with the performance of this Agreement, the Contractor shall comply with all applicable laws, rules and regulations. The parties hereto agree that every provision of law

required to be inserted herein be deemed a part hereof. It is further agreed that if any such provision is not inserted or is incorrectly inserted, through mistake or otherwise, this Agreement shall be deemed amended so as to comply strictly with the law.

30. SEVERANCE

If the Contract Documents contains any unlawful provision not an essential part of the Contract Documents and which shall not appear to have been a controlling or material inducement to the making thereof, the same shall be deemed of no effect and shall, upon notice by either party, be deemed stricken without affecting the binding force of the remainder.

31. LICENSE

Contractor shall obtain all licenses required from all public agencies with jurisdiction over the Work and shall keep these documents properly posted at the Site at all times during the performance of the Work.

32. ASSIGNMENT

No right or interest in this Agreement shall be assigned or transferred by the Contractor without prior written consent of NJPA. No delegation of any duty of the Contractor shall be made without prior written consent of NJPA.

33. CLAIMS AND DISPUTES

All claims or disputes between the NJPA Member and Contractor shall be resolved by NJPA Member's representative.

34. TERMINATION BY NJPA FOR CAUSE

34.1 NJPA may terminate the Agreement if the Contractor:

- 34.1.1 persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- 34.1.2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- 34.1.3 persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or
- 34.1.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

34.2 If an unpaid balance of one or more Purchase Orders exceeds the costs of finishing the Work, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to NJPA.

34.3 The NJPA Member may not terminate this Agreement between the NJPA and the Contractor.

35. NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AMERICANS WITH DISABILITIES ACT

35.1 The Contractor shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, age, color, sex or National origin, sexual orientation, marital status, political affiliation, or physical or mental disability if qualified.

The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during their employment without regard to their race, religion, color, sex or National origin, sexual orientation, marital status, political affiliation, or physical or mental disability. Such actions shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection of training, including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

- 35.2 The Contractor shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability. In addition, the Contractor shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

36. AUDITS

NJPA may, at any time after reasonable notice, audit Contractor's records to establish total compliance and to verify the prices charged are in accordance with the Agreement. Contractor agrees to provide verifiable documentation and tracking in a timely manner.

37. GRATUITIES

NJPA may cancel this Agreement if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any employee of NJPA, are deemed to be excessive with a view toward securing a contract or with respect to the performance of this contract. However, paying the expenses of normal business meals or travel to meetings as described and allowed by law, which are generally made available to all eligible school and government employees, shall not be prohibited by this paragraph. Samples of software, equipment, or hardware provided to NJPA for demonstration, evaluation or loan purposes are not considered gratuities.

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