

## INVITATION TO BID

*Open Market Job Order Contracting Services in the State of  
Ohio*

COG-2146**W**

## Table of Contents

<b>Section Three Part A - General Terms and Conditions for JOC .....</b>	<b>5</b>
1. Definitions.....	5
2. Scope of Work.....	7
3. Procedure for ordering work .....	9
4. Job Order Contracting Software and System License .....	13
5. Term of Contract and Purchase Orders Issued.....	14
6. Option to Bilaterally Extend Contract.....	14
7. Regions.....	15
8. Assignment of Work .....	15
9. Changes .....	15
10. Payment and Performance Bonds and Material and Workmanship Bonds.....	15
11. Prevailing Wage and Member Participation Requirements .....	15
12. Personnel .....	16
13. Supervision .....	16
14. Member's Access to the Work .....	17
15. Member's Right to Stop Work .....	17
16. Member's Right to Complete Work .....	17
17. Review of Field Conditions .....	17
18. Workmanship and Quality .....	17
19. Permits and Filings .....	17
20. Architectural and Engineering Services .....	18
21. Shop Drawings, Product Data and Samples .....	18
22. Cutting and Patching .....	19
23. Installation .....	20
24. Punch List Completion.....	20
25. Cleaning Up.....	20
26. Royalties, Patents and Copyrights .....	20
27. Indemnification .....	21
28. Subcontractors.....	21
29. Coordination with Other Contractors.....	21
30. Request for Extension of Time .....	22

<b>31. Buyer Delays .....</b>	<b>22</b>
<b>32. Construction Contract Requirement.....</b>	<b>22</b>
<b>33. Construction Schedule.....</b>	<b>22</b>
<b>34. Coordination .....</b>	<b>23</b>
<b>35. Condition and Delivery of Construction Material .....</b>	<b>23</b>
<b>36. Partial Occupancy or Use .....</b>	<b>23</b>
<b>37. Identification and Security Requirements .....</b>	<b>24</b>
<b>38. Protection of Persons and Property .....</b>	<b>24</b>
<b>39. Tests and Inspections .....</b>	<b>25</b>
<b>40. Hazardous Materials.....</b>	<b>25</b>
<b>41. Insurance.....</b>	<b>26</b>
<b>42. Certificates of Insurance.....</b>	<b>26</b>
<b>43. Commercial General Liability .....</b>	<b>27</b>
<b>44. All Builders Risk Insurance .....</b>	<b>27</b>
<b>45. Pollution Liability Insurance.....</b>	<b>27</b>
<b>46. Labor Practices.....</b>	<b>27</b>
<b>47. Liquidated Damages .....</b>	<b>28</b>
<b>48. Project Completion.....</b>	<b>28</b>
<b>49. Public Works .....</b>	<b>28</b>
<b>50. Restoration .....</b>	<b>28</b>
<b>51. Retention .....</b>	<b>28</b>
<b>52. Compliance with Laws .....</b>	<b>29</b>
<b>53. Rules Regulations and Codes .....</b>	<b>29</b>
<b>54. Severance.....</b>	<b>29</b>
<b>55. Worksite .....</b>	<b>29</b>
<b>56. Computer Software .....</b>	<b>30</b>
<b>57. Equal Employment Opportunity .....</b>	<b>30</b>
<b>58. Contract Hours And Work Safety Standards Act .....</b>	<b>30</b>
<b>59. Davis-Bacon Wage Act.....</b>	<b>30</b>
<b>60. Copeland “Anti-Kickback” Act.....</b>	<b>30</b>
<b>61. Solid Waste Disposal Act .....</b>	<b>30</b>
<b>62.Claims and Disputes .....</b>	<b>31</b>

<b>63. Audits .....</b>	<b>31</b>
<b>64. Warranty .....</b>	<b>31</b>
<b>65. Material Price Spike Adjustment .....</b>	<b>31</b>
<b>Section Three Part B - General Terms and Conditions for Master Agreement .....</b>	<b>33</b>
<b>1 RECITALS .....</b>	<b>33</b>
<b>2 TERMS AND CONDITIONS.....</b>	<b>34</b>

## Section Three Part A - General Terms and Conditions for JOC

### 1. Definitions

**Addendum or Addenda:** The additional or modified provisions of the ITB Documents issued in writing by Cooperative Council of Governments (CCOG) prior to the receipt of Bids.

**Contract:** The written agreement, also identified as the Master Agreement, between the Contractor, CCOG, and Equalis Group identifying the Products & Services which will be made available to current and future Members; the pricing for those Products & Services; and other Contract Documents incorporated in or referenced in the Contract and made part thereof as if provided therein.

**Adjustment Factors:** The Contractor's proposed price adjustment to the Unit Prices as published in the Construction Task Catalog, Section Five (Construction Task Catalog). Adjustment Factors are expressed as an increase to or decrease from the published prices.

**ITB Documents:** The Invitation to Bid Set Aside Job Order Contracting Services in the State of Ohio; Section One, Part A – Introduction, Scope and Project Information; Section One, Part B – Conditions and Other Requirements; Section One, Part C – Bid Format and Submission; Section Two, Bid Submission and Required Forms; Section Three, Part A - Terms and Conditions for JOC, Part B – Terms and Conditions for Master Agreement; Attachment A Construction Task Catalogues, Region #1 CTC, Region #2 CTC, Region #3 CTC, Region #4 CTC, Region #5 CTC, and Attachment B, Technical Specifications.

**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.

**Contract Documents:** This Contract; the ITB Documents (Section One, Part A – Introduction, Scope and Project Information; Section One, Part B – Conditions and Other Requirements; Section One, Part C – Bid Format and Submission; Section Two, Bid Submission and Required Forms; Section Three, Part A - Terms and Conditions for JOC, Part B – Terms and Conditions for Master Agreement; Attachment A Construction Task Catalogues, Region #1 CTC, Region #2 CTC, Region #3 CTC, Region #4 CTC, Region #5 CTC, and Attachment B, Technical Specifications., and Addenda thereto); 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.

**Contractor:** The legal entity named in the award letter with which CCOG and Equalis Group has contracted and is responsible for the acceptable performance of the Contract, 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 will be deemed to be a reference to Contractor.

**Days:** Calendar days.

**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.

**Holidays:** The specific days designated by CCOG Members, or the Project Labor Agreement as legal Holidays. CCOG 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.

**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.

**Lead Public Agency:** Means CCOG in its capacity as the government entity to advertise and solicit bids for a competitive procurement process, evaluate bids and award the contract according to state statutes.

**Non Pre-priced Task (NPP):** A task not included in the Construction Task Catalog but within the general scope and intent of this Contract.

**Member:** Any entity that has elected to participate in a CCOG or Equalis Group supplier Contract.

**Price Proposal:** The price proposal prepared by the Contractor using the Construction Task Catalog, Adjustment Factors and appropriate quantities.

**Procurement:** Means buying, purchasing, renting, leasing or otherwise acquiring any materials, services or construction. Procurement also includes all functions that pertain to the obtaining of any material, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of contract administration.

**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 Member may require.

**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.

**Purchase Order.** The document establishing the engagement by CCOG or the Member to the Contractor to complete a Detailed Scope of Work for the Purchase Order Price within the Purchase Order Completion Time.

**Request for Proposal:** The Member's written request for the Contractor to prepare and submit a Proposal Package for a specific Detailed Scope of Work.

**Responsive Respondent:** Means a person, company, firm, corporation, partnership or other organization who submits a proposal which conforms in all material respects to the invitation to bid or request for proposals.

**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 CCOG or the Member.

**Solicitation:** Means an invitation to bids, a request for technical offers, a request for proposals, a request for quotations or any other solicitation or request by which we invite a person to participate in a procurement.

**Specifications:** Means any description of physical or functional characteristics, or of the nature of a material, service or construction of item. Specifications may include a description or any requirement for inspecting, testing or preparing a material, service or construction item for delivery.

**State:** The State of Ohio.

**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.

**Supplemental Purchase Order:** A purchase order issued to add, delete or change Work from an existing, related Purchase Order.

**Technical Specifications:** The comprehensive listing of the Members standards for quality of workmanship and materials, and the standard for the required quality of the Work.

**Unit Price:** The price published in the Construction Task Catalog for a Task.

**Work:** The labor, material, equipment, and services necessary or convenient to the completion of Purchase Orders.

**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.

**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.

**Vendor:** Means any provider or seller of goods and/or services that has a contractual relationship with CCOG or Equalis Group.

**Winning Supplier(s).** The contractor(s) who have been awarded a contract as a result of this ITB.

## 2. Scope of Work

A Job Order Contract is an indefinite quantity contract pursuant to which the Contractor may perform an ongoing series of individual Projects at different Sites throughout the Regions. A Job Order Contract includes a Construction Task Catalog® containing construction tasks with preset Unit Prices. All Unit Prices are based on local labor, material and equipment prices and are for the direct cost of construction.

As Projects are identified the Member (or the 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 Member in developing a final scope of work. The

Member will then issue a Detailed Scope of Work and a Request for Proposals to the Contractor. The Contractor will then utilize Gordian's JOC 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 Member with Price Proposal review, and if the Price Proposal is found to be reasonable, the 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 will 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.

If the Job Order Proposal Package is found to be complete and reasonable, a Job Order and Purchase Order may be issued.

A Job Order will reference the Detailed Scope of Work and set forth the Job Order Completion Time, and the Job Order Price. The Job Order Price shall be a lump sum, fixed price for the completion of the Detailed Scope of Work. One or more Job Orders will be issued for each Project. Extra work, credits, and deletions will be contained in a Supplemental Job Order.

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 Job Order. The Contractor shall also be responsible for Site safety as well as Site preparation and cleanup during and after construction. All costs associated with the above scope of work and the preparation of proposals shall be the responsibility of the Contractor.

The Work shall be conducted by the Contractor in strict accordance with the Contract Documents. 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, and manufacturers' instructions and recommendations which are necessary and related to the Work to be performed.

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 Job Order.

All Work shall comply with any applicable standards, including those specified in the Contract Documents. If the Job Order specifies a standard which is different or more stringent, the standard used in the Job Order shall control:

- Job Order Contract Technical Specifications
  - The Technical Specifications are numbered and organized in the Construction Specification Institute's (CSI) master format. All specifications are filed in divisions per CSI guidelines.
  - The intent of these specifications is to furnish concise industry and commercial standards for construction, maintenance or repair of Member facilities.



- Reference in the Technical Specifications or the Construction Task Catalog® to a specific manufacturer, trade name, or catalog is intended to be descriptive but not restrictive and only to indicate to the prospective Proposer items that will be satisfactory.

### 3. Procedure for ordering work

**Initiation of a job order:** As the need exists, CCOG (or their designated representative) will, on behalf of a Member, notify the Contractor of a Project and schedule a Joint Scope Meeting.

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

- the general scope of the Work,
- alternatives for performing the Work and value engineering,
- access to the Site and protocol for admission,
- hours of operation,
- staging area,
- requirements for professional services, sketches, drawings, and specifications,
- requirements for catalog cuts, technical data, samples and shop drawings,
- project schedule,
- requirement for bonding
- the presence of hazardous materials, and
- date on which the Price Proposal Package is due

Upon completion of the joint scoping process, CCOG (or their designated representative), working with the 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. CCOG (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 CCOG (or their designated representative), will be the basis on which the Contractor will develop its Price Proposal and CCOG (or their designated representative) and the 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.

The Member may, at its option, include quantities in the Detailed Scope of Work if it helps to define the Detailed Scope of Work, if the actual quantities required are not known or cannot be determined at the time the Detailed Scope of Work is prepared, if the Contractor and the Member cannot agree on the quantities required, or for any other reason as determined by the Member. In all such cases, CCOG (or their designated representative) shall issue a Supplemental Job Order adjusting the quantities appearing in the Detailed Scope of Work to the actual quantities.

**Preparation of the Job Order Proposal Package:** The Contractor's Job Order Proposal Package shall include, at a minimum:

- Job Order Price Proposal;
- Required drawings or sketches;
- List of anticipated Subcontractors;
- Construction schedule;

- Other Member-requested documents.

The Job Order Price shall be the value of the approved Job Order Price Proposal.

The value of the Job Order 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.

Preparation of the Job Order Price Proposal: The Contractor will prepare Job Order Price Proposals in accordance with the following:

- **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®. The Contractor will select the appropriate Pre-priced Tasks, and enter the accurate quantity, and the appropriate Adjustment Factor.
- **Non Pre-priced Tasks:** A Non Pre-priced Task is a Task which is not in the Construction Task Catalog®.
  - Information submitted in support of Non Pre-priced Tasks shall include, but not be limited to, the following:
    - Catalog cuts, specifications, technical data, drawings, or other information as required to evaluate the task.
    - If the Contractor will perform the work with its own forces, it shall submit three independent quotes for all material to be installed and shall, to the extent possible, use Pre-priced Tasks for labor and equipment from the Construction Task Catalog®. If the work is to be subcontracted, the Contractor must submit three independent quotes from subcontractors. The Contractor shall not submit a quote or bid from any supplier or subcontractor that the Contractor is not prepared to use. The Member may require additional quotes and bids if the suppliers or subcontractors are not acceptable or if the prices are not reasonable.
  - The final price submitted for Non Pre-priced Tasks shall be according to the following formula:

**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 for a Non Pre-priced Task performed with Contractor's Own Forces =  $(A+B+C) \times \text{Non Pre-Priced Task Adjustment Factor}$

**For Work Performed by Sub-contractors:**

- D = Lowest of three Subcontractor quotes
- Total for a Non Pre-priced Task performed by Subcontractors =  $D \times \text{Non Pre-Priced Task Adjustment Factor}$

- After a Non Pre-priced Task has been approved by CCOG (or their designated representative), the Unit Price for such task will be established, and fixed as a permanent Non Pre-priced Task which will no longer require price justification.
- CCOG (or their designated representative) determination as to whether a task is a Pre-priced Task or a Non Pre-priced Task shall be final, binding and conclusive as to the Contractor.
- 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 as required (**See Section Three: General Terms and Conditions for JOC, Article 19, Permits and filings**) the Contractor shall provide incidental engineering and architectural services required in connection with a particular Job Order including drawings and information required for filing.

The Contractor's Job Order Proposal Package shall be submitted by the date indicated on the Job Order Request for Proposal. All incomplete Job Order Proposal Packages shall be rejected. The time allowed for preparation of the Contractor's Job Order Proposal Package will depend on the complexity and urgency of the Job Order but should average between seven and fourteen days. On complex Job Orders, such as Job Orders 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.

In emergency situations and minor maintenance and repair Job Orders requiring immediate completion, the Job Order Proposal Package may be required quickly and the due date will be so indicated on the Job Order Request for Proposal or, as described below, the Contractor may be directed to begin work immediately with the paperwork to follow.

If the Contractor requires clarifications or additional information regarding the Detailed Scope of Work in order to prepare the Job Order Proposal Package, the request must be submitted so that the submittal of the Job Order Proposal Package is not delayed.

#### **Review of the Job Order Proposal Package.**

- CCOG (or their designated representative) will evaluate the entire Job Order Proposal Package and compare it with the Detailed Scope of Work to determine the reasonableness of approach, as well as the appropriateness of the tasks and quantities proposed.
  - The means and methods of construction shall be such as the Contractor may choose; subject however, to CCOG (or their designated representative) right to reject means and methods proposed by the Contractor that:
    - Will constitute or create a hazard to the Work, or to persons or property; or
    - Will not produce finished Work in accordance with the terms of the Contract; or
    - Unnecessarily increases the price of the Job Order when alternative means and methods are available.

- By submitting a Job Order Proposal Package, the Contractor agrees to accomplish the Detailed Scope of Work in accordance with the Job Order Request for Proposal at the lump sum price submitted. It is the Contractor's responsibility to include the necessary Pre-priced Tasks and Non Pre-priced Tasks and quantities in the Job Order Price Proposal prior to delivering it to CCOG.

**Delivery of the Job Order to the Member.**

- CCOG (or their designated representative) reaches an agreement with the Contractor on the Job Order Proposal Package and any requested revision thereto, if applicable, the CCOG (or their designated representative) will deliver the Job Order for the Member's consideration.
- Each Job Order shall reference the Detailed Scope of Work and set forth the Job Order Price and the Job Order Completion Time. All clauses of this Job Order Contract shall be applicable to each Job Order. The Purchase Order, issued by the Member and delivered to the Contractor constitutes the Member's acceptance of the Job Order.
- Once the Job Order has been submitted to the Member the Contractor is bound by its content.

**Review of the Job Order by the Member and Issuance of Purchase Order.**

- The Member will evaluate the entire Job Order and compare it with the Member's estimate of the Detailed Scope of Work to determine the reasonableness of approach, price, and other factors.
- The Member reserve the right to reject a Job Order or cancel a Project for any reason. The Member also reserves the right not to issue a Purchase Order if it is determined to be in the best interests of the Member. The Member may perform such work by other means. The Contractor shall not recover any costs arising out of or related to the development of the Job Order including but not limited to the costs to attend the Joint Scope Meeting, review the Detailed Scope of Work, prepare a Job Order Proposal Package (including incidental architectural and engineering services), Subcontractor costs, and the costs to review the Job Order Proposal Package with CCOG (or their designated representative) and the Member.
- The Member may request changes to or clarifications of any part of the Job Order. The Contractor and CCOG (or their designated representative) will work together to make any requested revisions in a timely manner and resubmit a revised Job Order.
- Upon approval by the Member, the Member may issue a Notice to Proceed, a Purchase Order, Notice of Award, or similar document accepting the Contractor's offer.
- If performance and payment bonding is required, or if a separate and /or special insurance certificate is required. The Contractor will deliver such requirements to the CCOG Member within ten (10) days of notification of the requirement.

In the event that immediate emergency response is necessary, the Contractor shall be required to follow alternative procedures as established by CCOG. The Contractor shall begin the Work for a Job Order as directed by the Member notwithstanding the absence of a fully developed Job Order Request for Proposal, Detailed Scope of Work, Job Order Proposal Package or Job Order. The Contractor shall be compensated for such Work as if the Work had been ordered under the standard procedures.

#### 4. Job Order Contracting Software and System License

**Job Order Contracting Software:** The Owner selected The Gordian Group's (Gordian) Job Order Contracting ("JOC") System for their JOC program. The Gordian JOC Solution™ includes Gordian's proprietary JOC software applications (JOC Applications) and construction cost data (Construction Task Catalog®), which shall be used by the Contractor solely for the purpose of fulfilling its obligations under this Contract, including the preparation and submission of Price Proposals, subcontractor lists, and other requirements specified by the Owner. Contractor's use, in whole or in part, of Gordian's JOC Applications, Construction Task Catalog® and other proprietary materials provided by Gordian for any purpose other than to execute work under this Contract for the Owner is strictly prohibited unless otherwise approved in writing by Gordian. The Contractor hereby agrees to abide by the terms of the following JOC System License.

**JOC System License:** Gordian hereby grants to the Contractor for the term of this Contract, a non-exclusive right, non-transferable, privilege, and license to Gordian's proprietary JOC System (comprised of the JOC software applications and support documentation, the CTC, construction cost data, Technical Specifications, training materials, marketing materials and any other proprietary materials provided to Contractor by Gordian (collectively referred to as "Proprietary Information"). The Proprietary Information will be used for the sole purpose of executing Contractor's responsibilities to CCOG and the Members under this Contract ("Limited Purpose"). In the event this Contract expires or terminates as provided herein, or the Gordian's contract with CCOG expires or terminates, this JOC System License will terminate and the Contractor will return all Proprietary Information in its possession to Gordian.

Contractor acknowledges that Gordian will 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 will 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 must 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 Contract, and must 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 Contract by Contractor will result in irreparable harm to Gordian for which monetary damages would be an inadequate remedy, and Gordian will 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 JOC System License to enforce the provisions of this Contract or to obtain redress for the breach or violation of any of its provisions, whether by

litigation, arbitration or other proceedings, the prevailing party will 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 JOC System License and any other terms and conditions of this Contract or any Order, Purchase Order or similar purchasing document (Purchase Order) issued by CCOG or a Member, this JOC System License will take precedence.

## **5. Term of Contract and Purchase Orders Issued**

This Contract has an initial term of Two (2) year from the date on contract and a bilateral option provision for one (1) additional two-year term.

A Job Order may be issued by a Member at any time during the term of this Contract Agreement even though the Work and the payments made for such Work may occur after the term ends. All the provisions of this Contract Agreement are incorporated into each Job Order issued hereunder.

## **6. Option to Bilaterally Extend Contract**

This Contract has an initial term of Two (2) year from the date on contract and a bilateral option provision for one (1) additional two-year term.

In the event the Contract Agreement expires before another bid is awarded, CCOG and the Contractor may extend the contract for an additional (1) one year term per mutual agreement.

The Construction Task Catalog issued with this solicitation will be in effect for the first year of this contract (i.e., until April 30, 2024). On the anniversary of this contract (i.e. May 1, 2024 and each May 1<sup>st</sup> thereafter during the term) a new Construction Task Catalog will be furnished to address the escalation or de-escalation of costs of materials and services. The new Construction Task Catalog will be effective for the 12-month period after the anniversary date. The Construction Task Catalog that accompanies each anniversary shall only apply to Purchase Orders issued after the effective date of that specific renewal term and shall have no impact on Purchase Orders issued prior to the effective date of that specific renewal term.

The Adjustment Factors submitted with the Contractor's Proposal shall be used for the full term of the Contract. On the annual anniversary of the Contract, CCOG shall issue the Contractor the new Construction Task Catalog. The Contractor shall use the Construction Task Catalog in effect on the date the Proposal is due. However, the Contractor cannot delay the issuance of a Proposal to take advantage of a scheduled update of the Construction Task Catalog. In that event the Contractor shall use the Construction Task Catalog that would have been in effect without delay.

CCOG's ezIQC Contract is powered by Gordian's Construction Task Catalogs which have been created exclusively for these contracts. The Construction Task Catalog is a collection of construction and construction related tasks with pre-established Unit Prices. As part of this contract new Construction Task Catalogs will be published annually by Gordians team of data analysts who monitor the escalation and de-escalation of construction material, equipment and labor costs through multiple industry standard indicators. The issuance of new Construction Tasks Catalogs will include updated unit prices as determined through research completed by Gordian's

data team. The new Construction Task Catalog will ensure competitive pricing for Members and Contractors throughout the duration of the contract.

## 7. Regions

Contractor will primarily work in the Bid Region designated. However, if both parties agree, the Contractor may work in another Bid Region at the Adjustment Factors proposed or as adjusted according to Article 5 above. If a Contractor holds multiple contracts, when performing work outside the Bid regions it will always use the contract that results in the lowest price for the Member.

Contractor shall extend all Contract terms and conditions to any new Member in the Bid Region designated, as well as any other Bid Region, throughout the Contract term.

## 8. Assignment of Work

The assignment of the Work is at the sole discretion of the Member. The Contractor's Adjustment Factors, performance history, and ability to perform the Work will be considered in determining the distribution of the Work.

## 9. Changes

Changes to the Contract Agreement may be accomplished after execution of the Contract Agreement and without invalidating the Contract, by Change Order.

**Changes to a Job Order:** The 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. The Member, without invalidating the Job Order, may order changes in the Work by issuing a Supplemental Job Order. Changes, deletions, or additions will not invalidate the Job Order nor release the surety, if any, and the Contractor agrees to perform the Work as altered.

Credits for Pre-priced and Non Pre-priced Tasks shall be calculated at the pre-set Unit Prices and multiplied by the appropriate Adjustment Factors and multiplied by the appropriate quantities. The result is that a credit for Tasks that have been deleted from the Detailed Scope of Work will be given at 100% of the value at which they were included in the original Job Order Price Proposal.

## 10. Payment and Performance Bonds and Material and Workmanship Bonds

If required by the Member for a particular Job Order, the Contractor shall deliver a Payment Bond and a Performance Bond equal to the Job Order Price of such Job Order. The bonds must be in a form, and executed by a surety, acceptable to the 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 Job 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 task in the Construction Task Catalog® rather than applying one of the Contractor's proposed Adjustment Factors.

## 11. Prevailing Wage and Member Participation Requirements

If required on a Job Order, the Contractor shall pay prevailing wages to all workers in accordance with applicable laws. The wage rates used for the Construction Task Catalog® were the prevailing

wage rates, if any; in effect at the time the ITB 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 from the effective date of such revision, however such revision shall not entitle Contractor to any increased compensation.

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 Job Order is performed in whole or in part using federal funding and Davis-Bacon Wages for that area/region apply, the Contractor shall pay Davis-Bacon Wages to all workers in accordance with applicable laws. If Davis-Bacon Wages are required on a Job Order, the requirement shall not entitle Contractor to any increased compensation.

Contractors shall meet any participation goals or requirements established by the 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 Job Order Request for Proposal or Detailed Scope of Work.

## 12. Personnel

The Contractor will 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 will represent the Contractor, and communications given to the superintendent will be as binding as if given to the Contractor. Important communications must be confirmed in writing. Other communications will be similarly confirmed on written request in each case.

## 13. Supervision

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 Member and shall not proceed with that portion of the Work without further written instructions from the Member.

The Contractor shall be responsible to the 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.

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.



#### **14. Member's Access to the Work**

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

#### **15. Member's Right to Stop Work**

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

#### **16. Member's Right to Complete Work**

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

#### **17. Review of Field Conditions**

Before submitting a Job Order Proposal Package, the Contractor shall carefully study the Detailed Scope of Work, as well as the information furnished by the 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 CCOG and the Member.

Any design errors or omissions noted by the Contractor during this review shall be reported promptly to CCOG and the Member, 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 CCOG and the Member.

#### **18. Workmanship and Quality**

The Contractor may make substitutions only with the consent of the Member.

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.

#### **19. Permits and Filings**

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. 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 reimbursable. The Contractor shall be compensated for the cost of the filings and permits through the Reimbursable Fee work task in the Construction Task Catalog®. The Contractor shall apply a 1.1000 Adjustment Factor to the Reimbursable Fee task in the Construction Task Catalog® rather than applying one of the Contractor's proposed Adjustment Factors. 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.

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.

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 CCOG and the Member in writing.

## **20. Architectural and Engineering Services**

Under this Contract it is expected that the level of Architecture and Engineering (A/E) services and design, if any, will be incidental to the Contract 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.

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 Contract and the cost thereof will be included in the Contractor's Adjustment Factors.

## **21. Shop Drawings, Product Data and Samples**

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 Member without action.

The Contractor shall review for compliance with the Contract Documents, approve and submit to the Member 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 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 Member without action.

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.

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 Member.

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 Member's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Member in writing of such deviation at the time of submittal and (1) the Member has given written approval to the specific deviation as a minor change in the Work, or (2) a Supplemental Job 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 Member's approval thereof.

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 Member on previous submittals. In the absence of such written notice the Member's approval of a resubmission shall not apply to such revisions.

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 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 Member Manager. The 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 Member has specified to the Contractor all performance and design criteria that such services must satisfy. The Member 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.

## **22. Cutting and Patching**

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.

The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the 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 Member or a separate contractor except with written consent of the Member and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not

unreasonably withhold from the Member or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

## 23. Installation

Equipment and/or product installation shall be performed in a reasonable amount of time and be scheduled directly with the public agency. Installation shall be in accordance with the manufacturer's instructions and shall be accomplished by a skilled, certified and properly licensed individual.

## 24. Punch List Completion

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 Member. The Contractor agrees to begin performance of Punch List Work immediately after receipt of the Punch List.

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.

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 (**See Section Three: General Terms and Conditions for JOC, Article 45, Liquidated Damages**) Contract General Conditions will apply.

## 25. Cleaning Up

The Contractor shall keep the Site and surrounding areas free from accumulation of waste materials or rubbish caused by operations under the Job 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.

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

## 26. 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 CCOG and the Member 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 Member. 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 Member.

## **27. Indemnification**

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 the CCOG, the Member, 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.

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.

## **28. Subcontractors**

The Contractor, as soon as practicable after award of the Job Order, shall furnish in writing to the Member 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 Member 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 Member to reply promptly shall constitute notice of no reasonable objection.

The Contractor shall not contract with a proposed Subcontractor or entity to whom the Member has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

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

## **29. Coordination with Other Contractors**

The Member reserves the right to perform construction or operations related to the Job Order with the 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.

The Member shall provide for coordination of the activities of the 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 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 Member until subsequently revised.

### **30. Request for Extension of Time**

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 Member, or of an employee of either, or of a separate contractor employed by the 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 Member determines may justify delay, then the Job Order Completion Time shall be extended for such reasonable time as the Member may determine.

The Contractor agrees to make no claim for damages for the delay in the performance of any Job Order occasioned by any act or omission to act of the Member or any of their representatives, and agrees that any such claim shall be fully compensated for by an extension of time as provided herein.

### **31. Buyer Delays**

The contractor will negotiate with the Member for the recovery of damages related to expenses incurred by the contractor for a delay for which the public agency is responsible, which is unreasonable, and which was not within the contemplation of the parties to the contract between the two parties. Compensation for received goods, terms of progress payments, and a schedule of payments should be described in the contract.

### **32. Construction Contract Requirement**

Terms for acceptance by the public agency and title to work must be clearly agreed upon and described in the contract between the contractor and the Member. If any part of the construction requires the owner to assume control before the completion, this needs to be defined. Both parties must agree on the definition of what constitutes final acceptance before payment of any retained compensation. Upon completion of the project, the worksite shall be left in good condition and equal to the condition of the site prior to commencing the project.

If any work is to be performed by the Member, it must be clearly defined and agreed to by the Member and the prime contractor prior to the start of the project.

### **33. Construction Schedule**

The Member retains the right to extend the schedule of work or to suspend the work and direct the prime contractor to resume work when appropriate. The agreement must describe an equitable adjustment for added costs caused by any delay or suspension. Any increases will be invoiced as allowed in this agreement.

The schedule for performance of work that can be met without planned overtime is the responsibility of the prime contractor.

The cost for each project shall include all costs of all necessary trained personnel to complete the project on or before the completion date set forth in the contract. The Member shall not incur

additional expense for upsized crews or overtime costs, which might be necessary for the contractor to complete the project on schedule.

### **34. Coordination**

The contractor and the Member shall coordinate activities so as to avoid conflicts. The contractor will make every effort not to interrupt scheduled activities with work under this contract. The contractor will notify the public agency of any construction work that may negatively impact scheduled public agency activities.

The contractor shall employ such methods or means as will not cause any interruption of, or interference with work of any other contractor on the project site.

### **35. Condition and Delivery of Construction Material**

The contractor will deliver materials to the worksite in new, dry, unopened, and well- marked containers showing product and prime contractor's name clearly marked. Delivery of damaged or unlabeled materials will not be accepted.

The contractor will deliver materials in sufficient quantity to allow for continuity of work. Delivery will be coordinated with the public agency's designated contact person.

The contractor shall take all necessary precautions to protect materials from damage, theft and misuse. The public agency shall have no responsibility for such precautions or lack of protection.

Damaged or rejected materials shall be immediately removed from the project area.

### **36. Partial Occupancy or Use**

The 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 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 Member. 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 Member and Contractor.

Immediately prior to such partial occupancy or use, the Member and Contractor 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.

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.

### **37. Identification and Security Requirements**

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

### **38. Protection of Persons and Property**

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

- employees on the Work and other persons who may be affected thereby;
- 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
- 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.

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.

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 Member and users of adjacent sites and utilities.

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.

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 Member or anyone directly or indirectly employed by it, 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.

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's superintendent unless otherwise designated by the Contractor in writing to the Member.



The Contractor shall not permit any part of the construction or Site to be loaded so as to endanger safety.

### **39. Tests and Inspections**

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 Member, or with the appropriate public authority. The Contractor shall give the Member timely notice of when and where tests and inspections are to be made so that the Member may be present for such procedures.

If the 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 Member will instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Member, and the Contractor shall give timely notice to the Member of when and where tests and inspections are to be made so that the Member may be present for such procedures. Such costs shall be at the Member's expense.

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 shall be at the Contractor's expense.

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 Member.

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

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

### **40. Hazardous Materials**

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 Member in writing.

The 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 Member shall furnish in writing to the Contractor 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 will promptly reply to the Member in writing stating whether

or not it has reasonable objection to the persons or entities proposed by the Member. If the Contractor has an objection to a person or entity proposed by the Member, the Member shall propose another to whom the Contractor has 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 Member and Contractor. The Job Order Completion Time shall be extended appropriately.

To the fullest extent permitted by law, the Member shall indemnify and hold harmless the Contractor, and its agents and employees 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.

The 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.

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 Member shall indemnify the Contractor for all cost and expense thereby incurred.

#### 41. Insurance

The contractor at their expense and included as part of overhead will provide adequate insurance coverage meeting at a minimum the requirements of the State of Ohio or another applicable jurisdiction. The contractor, if awarded a contract, will provide within 14 days but prior to the commencement of any construction, a certificate of insurance showing that CCOG, Equalis Group and its agents have been named as additional insured. If the public agency has higher insurance than those requirements may be added as an addendum to the purchase order.

#### 42. Certificates of Insurance

Certificates of Insurance, name and address of the contractor, the limits of liability, the effective dates of each policy and policy number shall be delivered to the Member prior to commencement of work. The insurance company shall be licensed in the state in which the work is being performed under this contract. The Contractor shall give the Member a minimum of ten (10) days' notice prior to any modifications or cancellation of policies. The Contractor will add the Member as an additional insured if requested at the cost of the vendor.

##### Contractor's Liability Insurance

Employer's Worker's Compensation insurance:

Employer's liability / Bodily injury by accident Each Occurrence:

Employer's liability / Bodily injury by disease Each Employee:

Policy Limit:

##### Minimum Coverage

Statutory

\$100,000.00

\$100,000.00

\$2,000,000.00

### 43. Commercial General Liability

Includes Independent Contractor's Liability; Contingent Liability; Contractual Liability; Completed Operations and Products Liability, all on the occurrence basis, with Personal Injury Coverage, Owner's Indemnity, and broad form Property Damage without the XCU exclusions. Maintain Completed Operation Liability for at least two years after the date of final completion.

Combined limits of bodily and personal injury and property damage: Minimum Coverage

- |                        |                |
|------------------------|----------------|
| • Single limit         | \$500,000.00   |
| • Unimpaired aggregate | \$1,000,000.00 |

Comprehensive automobile liability:

Minimum Coverage

Include non-ownership and hired car coverage as well as owned vehicles.

- |                                   |                |
|-----------------------------------|----------------|
| • Bodily damage Each Person       | \$1,000,000.00 |
| • Bodily damage Each Occurrence   | \$1,000,000.00 |
| • Property damage Each Occurrence | \$1,000,000.00 |

### 44. All Builders Risk Insurance

Where specifically required in the Detailed Scope of Work, the Contractor will 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 Member. The cost of such Builders Risk Policy will be reimbursed to the Contractor as a reimbursable task.

### 45. 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 will 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.

### 46. Labor Practices

The contractor must agree to treat its labor in keeping with the labor contract agreement and to the best interest of the Member. Any overtime practices or retroactive agreements with labor unions that would be to the detriment of the Member must be limited to only those approved by the Member.

The method and manner of performance must be stated: employees of the contractor are not employees of the Member. The level of competency of the personnel will be subject to approval by the Member. The contractor must agree to comply with all local, state and federal laws. The contractor must make every effort to ensure that adjoining property owners are in no way disturbed by noise, pollutants, material hauling operations. The contractor must establish procedures to deal

with fire, theft, and storm damage. The contractor must test and establish effective methods to guarantee safety on the job site relating to the health and welfare of the Member's employees.

Member's shall have the right to require the contractor to remove from the project, any employee or representative, subcontractor or supplier that may be deemed incompetent, careless or unacceptable.

To ensure quality of workmanship, all work performed under this contract shall be performed by experienced, trained, certified and/or licensed craftsmen and laborers, and shall be under the supervision of the foremen or supervisor.

The contractor shall furnish the services of an experienced foreman or supervisor who will continually oversee work on the project. The foreman or supervisor shall provide continuous supervision, coordination and inspection of the work being performed under this contract.

#### **47. Liquidated Damages**

If provided for in the Invitation to Bid, CCOG or the Member 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, CCOG, and the Member, that time is of the essence in all matters relating to Liquidated Damages. The liquidated damages will be determined on a Purchase Order by Purchase Order basis.

#### **48. Project Completion**

Upon completion of the work, the contractor shall present the Member with all documents necessary to close out the project. Maintenance manuals, drawings, warranties on installed equipment, etc. shall be given to the Member.

If the Member discovers an unfinished job that should have been completed, even if final payments are made, the contractor will complete the work in a timely fashion at no additional cost.

#### **49. Public Works**

The contractor shall be responsible for the preservation of all public and private property included on or adjacent to the worksite. The requirement shall apply to the surface and hidden features of the property.

Construction work on public buildings shall be in compliance with all currently applicable state and local building, plumbing, electrical, fire, fire prevention and mechanical codes.

#### **50. Restoration**

The contractor shall agree to repair, rebuild or otherwise restore any property on or adjacent to the worksite that was damaged during the course of work on the project. Such restoration shall be at the contractor's expense and is not subject to reimbursement by the Member.

#### **51. Retention**

Retention payments will be governed by any applicable state and local laws in the area where work is being performed, and by any supplemental agreement made between the Member and the contractor.

If the Member and the contractor agree to a substitute security, the agreement must be in full compliance with any applicable state and local laws. If a substitute security is agreed to, the contractor must provide the Member with a signed and acknowledged waiver of any right or power of the obligor to set off any claim against the public agency.

## **52. 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.

## **53. Rules Regulations and Codes**

All work will be accomplished in conformance to OSHA safety requirements, and any additional federal, state, or local fire or safety requirements. When specifications or scope of work will result in a violation of a code or result in an unsafe condition, the contractor must inform the Member of the situation. The contractor will not construct any device or produce any condition that intentionally violates a fire or safety code or standard.

The contractor must advise the Member whenever work is expected to be hazardous to Member employees or their charges (i.e. school children, citizens, etc.).

## **54. Severance**

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

## **55. Worksite**

The condition of the site before start-up will be agreed upon between the buyer and the contractor and will be written into the contract.

Upon prior written agreement between the contractor and the Member, payment may be made for materials not incorporated in the work but delivered and suitably stored at the worksite or some other location, for installation at a later date. An inventory of the stored materials must be provided to the Member prior to payment. Such materials must be stored and protected in a secure location and be insured for their full value by the contractor against loss and damage. The contractor agrees to provide proof of coverage and/or addition of the Member as an additional insured upon the Member's request. Additionally, if stored offsite, the materials must also be clearly identified as property of the Member and be separated from other materials. The Member must be allowed reasonable opportunity to inspect and take inventory of stored materials, on or offsite, as necessary.

Until final acceptance by the Member, it shall be the contractor's responsibility to protect all materials and equipment. The contractor warrants and guarantees that title for all work, materials

and equipment shall pass to the public agency upon final acceptance. Payment for stored materials shall not constitute final acceptance of such materials.

## **56. Computer Software**

The Contractor must 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 Member. There is no separate charge to the Contractor for the software and the related software training.

## **57. Equal Employment Opportunity**

It is the contractor's responsibility for any federally assisted contracts that may result from this ITB or at the Member's request to comply with 41 CFR 60-1.4(b) which is incorporated in this contract by reference: <https://www.gpo.gov/fdsys/pkg/CFR-2011-title41-vol1/pdf/CFR-2011-title41-vol1-sec60-1-4.pdf>. It is the Member's responsibility to inform the vendor before work begins if a project is federally assisted.

## **58. Contract Hours And Work Safety Standards Act**

It is the contractor's responsibility for any federally assisted contracts that may result from this ITB or at the Member's request to comply with 40 U.S.C. 3701-3708 which is incorporated in this contract by reference: <https://www.gpo.gov/fdsys/pkg/USCODE-2011-title40/pdf/USCODE-2011-title40-subtitleII-partA-chap37.pdf>. It is the Member's responsibility to inform the vendor before work begins if a project is federally assisted.

## **59. Davis-Bacon Wage Act**

It is the contractor's responsibility for any federally assisted contracts that may result from this ITB or at the Member's request to comply with 40 U.S.C. 3141-3148 which is incorporated in this contract by reference: <https://www.gpo.gov/fdsys/pkg/USCODE-2003-title40/pdf/USCODE-2003-title40-subtitleII-partA-chap31-subchapIV.pdf>. It is the Member's responsibility to inform the vendor before work begins if a project is federally assisted. The Member must provide Davis-Bacon or local wage rates to the contractor before work begins if they are to be used.

## **60. Copeland "Anti-Kickback" Act**

It is the contractor's responsibility for any federally assisted contracts that may result from this ITB or at the Member's request to comply with 40 U.S.C. 3145 which is incorporated in this contract by the reference above in #41. It is the Member's responsibility to inform the vendor before work begins if a project is federally assisted.

## **61. Solid Waste Disposal Act**

It is the contractor's responsibility for any federally assisted contracts that may result from this ITB or at the Member's request to comply with section 6002 of the Solid Waste Disposal Act which is incorporated in this contract by the reference:

<https://www3.epa.gov/wastes/conserve/tools/cpg/pdf/rcra-6002.pdf>. It is the Member's responsibility to inform the vendor before work begins if a project is federally assisted.

## **62. Claims and Disputes**

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

## **63. Audits**

CCOG and Equalis, whether directly or through an independent auditor or accounting firm, shall have the right to perform audits, including inspection of books, records, and computer data relevant to Winning Supplier's provision of Products & Services to Program Participants pursuant to this Master Agreement, to ensure that pricing, inventory, quality, process, and business controls are maintained; provided, however, that such inspections and audits will be conducted upon reasonable notice to Winning Supplier and so as not to unreasonably interfere with Winning Supplier's business or operations.

## **64. Warranty**

Contractor must guarantee items to be free from manufacturer's defects and that defective items will be replaced. Contractor must guarantee standard commercial warranty be provided on all materials and labor. In the event of failure, the Contractor agrees to repair or replace such units at no cost to the CCOG Members.

During the warranty period, neither the final payment nor any provision of the Contract Documents shall relieve the contractor of responsibility for faulty materials, design, workmanship, manufacture, assembly or installation. If after due notice Contractor fails to comply with warranty provisions, Members may, at their option, have the defects corrected or items replaced from the best available source and the Contractor shall be liable for all related expenses incurred by the Member.

All Work furnished under this Contract 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.

## **65. Material Price Spike Adjustment**

Material price spike adjustment: For the purpose of this clause, a "major spike" is defined as a spike in a specific material cost of more than 25% above what the cost of that material was on the date the Construction Task Catalog® was issued.

In the event a major spike occurs in a specific material cost, CONTRACTOR may submit a request for a price modification to a Unit Price or individual Job Order. In order to initiate such a request, CONTRACTOR shall,

1. Identify the specific material that has experienced a major spike,
2. Identify Pre-priced Task(s) or Job Orders that require the material experiencing a major spike,

and

3. Demonstrate that the spike exists by submitting a minimum of three quotes on material supplier letterhead to show that the current price meets the “major spike” definition above.

CCOG or it’s Member, after review of a request, may elect to adjust the Unit Price or Job Order by considering it a Non-Pre-Priced item. The adjustment will be for the difference between the material cost at the time the Construction Task Catalog® was issued times the quantity stated in the Job Order. The adjustment will not include any other markup, and the Non-Pre-Priced adjustment factor will not apply.

CCOG or it’s Member, at its option, may also determine that a drastic decrease in a material cost warrants the same Non-Pre-Priced adjustment downward in the Unit Price or a Job Order.

***(The rest of this page is intentionally left blank)***



## Section Three Part B - General Terms and Conditions for Master Agreement

THIS MASTER COOPERATIVE PURCHASING AGREEMENT (this "**Master Agreement**") is entered into by and between The Cooperative Council of Governments, Inc., the Winning Supplier, And Equalis. Throughout this Master Agreement, CCOG, Winning Supplier, and Equalis are referred to interchangeably as in the singular "**Party**" or in the plural "**Parties**."

### 1 RECITALS

- A. CCOG is a Council of Governments formed under Chapter 167 of the Ohio Revised Code and serves as a lead agency (a "**Lead Public Agency**") for Equalis Group ("**Equalis Group**"), a national cooperative purchasing organization, by publicly procuring Master Agreements for products and services to be made available to current and prospective Equalis Group members ("**Equalis Group Member**" or "**Member**").
- B. Equalis is the third-party procurement administrator for and duly authorized agent of CCOG, and in that role manages the procurement, contract management, marketing, sales, reporting, and financial activities of, for, and on behalf of CCOG at the direction and with the authorization of the CCOG Board of Directors.
- C. To the extent that the laws of a state, region, territory, and/or country permit, any public sector entity may join Equalis Group as a Member. The term "**Public Sector Entities**" includes, but is not limited to, political subdivisions, municipal corporations, counties, townships, villages, school districts, special districts, public institutions of higher education or training, units of government, state/regional/territorial agencies, state/regional/territorial governments, federal/national agencies, federal/national governments, and other entities receiving financial support from tax monies and/or public funds.
- D. Any organization that is exempt from federal income tax under Section 501(c)(3) of the IRS Code, and any other entity if permitted under the IRS Code and other applicable law, including for-profit companies, may also join Equalis Group as a Member.

E. Equalis Group makes its Master Agreements available through groups and associations (“**Association Partners**”) that contract with Equalis for the purpose of providing additional benefits to the members of such Association Partners.

F. Members, Association Partners, and Association Partners’ members are referred to throughout this Master Agreement as Equalis Group participants (“**Equalis Group Participants**”).

G. CCOG issued this Invitation for Bid (“IFB”) on behalf of Equalis Group Participants and awarded a contract to Winning Supplier as a lowest responsive and responsible bidder. The products and services made available in this contract are defined by the contents of the Winning Supplier’s Cost Proposal submission (“**Products & Services**”). CCOG and Equalis agree to make the Products & Services from Winning Supplier available to Equalis Group Participants and Winning Supplier agrees to provide the same to Equalis Group Participants who purchase Products & Services (“**Program Participants**”) subject to the terms of this Master Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree to the following terms and conditions:

## 2 TERMS AND CONDITIONS

2.1 **Personnel & Equipment.** The Parties agree that the number and types of any subcontractors, dealers, distributors, personnel, or specialized equipment which may be required to furnish Products & Services to Program Participants will be determined by Winning Supplier. Winning Supplier agrees to engage the number and types of subcontractors, personnel, and/or specialized equipment necessary to furnish the types of Products & Services as specified in **Appendix B** to all Program Participants throughout the Term, as defined in **Appendix A**, of this Master Agreement and any Customer Agreement.

2.2 **Supplemental Agreements.** Winning Supplier may enter into separate supplemental agreements with an Equalis Group Participant to further define the terms and conditions of purchasing Products & Services as defined in **Appendix B** (“**Customer Agreement**”). Any Customer Agreement entered into as a result of this contract is exclusively between the Program Participant and Winning Supplier. Neither CCOG, Equalis Group, its agents, Member and employees shall be made party to any claim for breach of such agreement. Notwithstanding the foregoing, by ordering products or services under this Master Agreement, all terms and conditions of this Master Agreement will be incorporated into a resulting Customer Agreement unless the Customer Agreement as mutually agreed between Winning Supplier and the Program Participant states otherwise. Any Customer Agreement entered into as a result of this contract is exclusively between the Program

Participant and Winning Supplier. Neither CCOG, Equalis Group, its agents, Member and employees shall be made party to any claim for breach of such agreement.

**2.3 Rates & Charges.** The rates, fees, and charges to be charged to and paid by Program Participants for Products & Services are set forth in **Appendix B**. Winning Supplier agrees that there are no other applicable rates, fees, charges, or other monetary incentives for Products & Services except those set forth in Winning Supplier's cost proposal.

**2.4 The Term.** This Master Agreement and the Appendices attached hereto will become effective as of effective date identified in the **Master Agreement Signature Form** (the "**Effective Date**"). This Master Agreement will remain in effect for two (2) years and will expire on the date identified in the **Master Agreement Signature Form** (the "**Termination Date**") unless extended, terminated, or cancelled as set forth in the Master Agreement (the "**Initial Term**"). This Master Agreement may be renewed for one (1) additional two (2) year period by mutual consent (a "**Renewal Term**") unless this Master Agreement is terminated as set forth herein. The Initial Term together with all Renewal Terms exercised are hereinafter collectively referred to as the "**Term**."

In the event the Master Agreement expires before another bid is awarded, CCOG, Equalis Group, and the Winning Supplier may extend the contract for an additional (1) one year term per mutual agreement.

## **2.5 Formation of Contract**

- a. **Bidder Contract Documents.** CCOG and Equalis Group will review proposed Bidder contract documents. Bidder's contract document shall not become part of CCOG and Equalis Groups' contract with Bidder unless and until an authorized representative of CCOG and Equalis Group reviews and approves it.
- b. **Entire Agreement.** This Master Agreement, including its Recitals, together with all components of the IFB, attachments, appendices, and exhibits hereto, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral or written representations and agreements with regard to the same subject matter. The Parties acknowledge that this Master Agreement has been negotiated and incorporates their collective agreement as to the provisions to be contained herein. Therefore, no presumption will arise giving benefit of interpretation by virtue of authorship of any provision of this Master Agreement, and any ambiguity may not be construed for or against any Party. Winning Supplier's complete and final IFB response is hereby incorporated into and made part of this Master Agreement.
- c. **Modification.** No release, discharge, abandonment, waiver, alteration, or modification of any of the provisions of this Master Agreement, or any of the Appendices incorporated herein, shall be binding upon any Party unless set forth in a writing signed by authorized representatives of the Parties.

- d. **Assignment.** This Master Agreement and the rights and obligations hereunder may not be assignable by any Party hereto without the prior written consent of the other Parties, which consent shall not be unreasonably withheld, conditioned, or delayed, provided, however, that Winning Supplier and Equalis may assign their respective rights and obligations under this Master Agreement without the consent of the other Parties in the event either Winning Supplier or Equalis shall hereafter effect a corporate reorganization, consolidation, merger, merge into, sale to, or a transfer of all or substantially all of its properties or assets to another entity. Subject to the preceding sentence, this Master Agreement will be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and assigns. Any instrument purporting to make an assignment in violation of this section shall be null and void. This Master Agreement may be extended to additional entities affiliated with the Parties upon the mutual agreement of the Parties. No such extension will relieve the extending Party of its rights and obligations under this Master Agreement.

## 2.6 **Confidentiality.**

- e. **Obligation.** The nature and details of the business relationship established by this Master Agreement, and the business information regarding the other Party(ies) (the “**Disclosing Party**”) to which a Party(ies) (the “**Receiving Party**”) may become privy during the Term of this Master Agreement (collectively, the “**Information**”) constitute confidential and proprietary information, the disclosure, copying, or distribution of which could result in competitive harm to the Disclosing Party. Each Party agrees to maintain the other Parties’ Information in the strictest confidence and agrees not to disclose, copy, or distribute the other Parties’ Information, whether orally or in writing, directly or indirectly, in whole or in part, except to those of the Receiving Party’s employees, agents, subcontractors, and suppliers with a need to know the Information. The foregoing will not limit a Receiving Party, for purposes of marketing, from informing actual or potential Equalis Group Participants of the existence of a contractual relationship between the Parties. The Parties further agree that they will require that all of their employees, agents, subcontractors, and suppliers abide by the terms of these confidentiality obligations. The confidentiality obligations set forth in this section will continue in effect for the Term of this Master Agreement and for a period of two (2) years after the date this Master Agreement is terminated or expires.
- f. **Exceptions.** Nothing herein will apply to any information (a) which is or becomes generally available to the public other than as a result of a disclosure by a Receiving Party or its representatives, (b) which was available on a non-confidential basis prior to its disclosure by the Disclosing Party or its representatives, (c) which becomes available to a Receiving Party on a non-confidential basis from a source other than the Disclosing Party or its representatives, provided that such source is not known to be subject to any prohibition against transmitting the information, (d) which is disclosed pursuant to an order of court; provided that in the event that proprietary information is disclosed or threatened to be disclosed pursuant to this clause (d), the Receiving Party will give the

original Disclosing Party prompt, written Notice, as hereinafter defined, of such threatened disclosure and the right to defend against such disclosure, at Disclosing Party's expense, and provided further that the original Receiving Party will cooperate reasonably in such defense, or (e) which is subject to a Freedom of Information Act Request or other public records request to which a Party is, or may be, required to respond by applicable law.

**2.7 Indemnification.** Winning Supplier shall protect, indemnify, and hold harmless both CCOG and Equalis Group and its Members, administrators, employees and agents against all claims, damages, losses and expenses arising out of or resulting from the actions of Winning Supplier, Winning Supplier employees or subcontractors in the preparation of the solicitation and the later execution of the contract, including any supplemental agreements with Members ("Losses").

**2.8 Notice & Opportunity to Defend; Limitations & Thresholds.**

**g. Notice; Opportunity.** If any Losses are asserted against an Indemnified Party, such Indemnified Party shall notify the Indemnifying Party as promptly as practicable and give it an opportunity to defend the same. The Indemnified Party shall reasonably cooperate with the Indemnifying Party in connection with such defense. In the event that the Indemnifying Party in connection with such claim fails to defend against the claim within thirty (30) days after Notice of such claim, the Indemnified Party shall be entitled to assume the defense thereof, and the Indemnifying Party shall be liable to repay the Indemnified Party entitled to indemnification for all its expenses reasonably incurred in connection with said defense (including reasonable attorneys' fees and settlement payments) until the Indemnifying Party assumes such defense. The attorneys prosecuting such defense on behalf of a Party must be acceptable to the Indemnified Party, which acceptance shall not be unreasonably withheld.

**h. Liability.** Notwithstanding any other provision of this Master Agreement, indemnity obligations entered into hereunder shall be due only to the extent of the Losses actually suffered by an Indemnified Party (i.e., reduced by any offsetting or related asset or service received and any recovery from any third party). The Indemnifying Party's insurance shall obtain all rights of the Indemnified Party against any third party with respect to any claim for which indemnity was paid.

**2.9 Winning Supplier Insurance.** During the Term of this Master Agreement, and for two (2) years following expiration or termination of this Master Agreement, Winning Supplier, at its own expense, shall maintain and shall require that its agents, subcontractors, and suppliers engaged in Winning Supplier's performance of its duties under this Master Agreement maintain general liability insurance, property insurance, and automobile insurance (at a minimum, in the amount of \$1,000,000 per occurrence/\$5,000,000 annual aggregate) applicable to any claims, liabilities, damages, costs, or expenses arising out of its performance under this Master Agreement, or any Appendix, and with respect to, or arising out of, Winning Supplier's provision of Products & Services to Program Participants. CCOG, Equalis, and their respective officers, directors, employees, and agents will be named as certificate holders on Winning Supplier's related

insurance policies. All such insurance policies shall incorporate a provision requiring the giving of written Notice to CCOG and Equalis at least thirty (30) days prior to the cancellation, nonrenewal, and/or material modification of any such policies. Winning Supplier shall submit to Equalis within ten (10) calendar days after the Effective Date of this Master Agreement, and prior to furnishing Products & Services to any Program Participants, valid certificates evidencing the effectiveness of the foregoing insurance policies. Winning Supplier shall provide such valid certificates on an annual basis until the terms of this section are no longer applicable.

**2.10 Termination Rights.** The Parties shall have the termination rights set forth below.

- i. **Insolvency.** If a petition in bankruptcy is filed by any Party, or if any Party is adjudicated as bankrupt, or if any Party makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of the insolvency of any Party, then the other Parties, without prejudice to any other right or remedy, may terminate this Master Agreement upon giving at least five (5) business days prior written Notice of such termination.
- j. **Mutual Consent.** This Master Agreement, or any Appendix, may be terminated at any time by the mutual written consent of the Parties.
- k. **Breach.** In the event that any Party commits a material breach of its obligations under this Master Agreement, except for a payment obligation, the non-breaching Party(ies) may provide written Notice describing the material breach to the breaching Party. The breaching Party will have thirty (30) calendar days to cure such breach or provide acceptable reassurance to the non-breaching Party(ies), or, if the Parties agree that a cure or reassurance is not feasible within thirty calendar (30) days, such period of time for cure or satisfactory reassurance as the Parties may agree in writing. If the breach is not cured within such period or if satisfactory reassurance is not accepted by the non-breaching Party(ies) in such period, then the Party(ies) not in breach may terminate this Master Agreement upon ten (10) business days written Notice at the Addresses for Notices set forth in Appendix A.

**2.11 Effects of Termination.** Upon termination of this Agreement for any reason, all Customer Agreements entered into with Program Participants shall immediately terminate. Winning Supplier shall immediately cease any sales of Products & Services to any Program Participant under and through the terms of this Master Agreement. Following the date of termination, Winning Supplier shall not be precluded from selling its products and services to individuals, businesses, and entities that were Program Participants when this Master Agreement was in effect either directly or through some other contract vehicle. Following the date of termination, CCOG and Equalis shall not be precluded from transitioning individuals, businesses, and entities that were Program Participants when this Master Agreement was in effect to another agreement or Equalis Group supplier partner.

**2.12 Audit of Winning Supplier.** CCOG and Equalis, whether directly or through an independent auditor or accounting firm, shall have the right to perform audits, including inspection of books, records, and computer data relevant to Winning Supplier's provision of Products & Services to

Program Participants pursuant to this Master Agreement, to ensure that pricing, inventory, quality, process, and business controls are maintained; provided, however, that such inspections and audits will be conducted upon reasonable notice to Winning Supplier and so as not to unreasonably interfere with Winning Supplier's business or operations.

**2.13 Force Majeure.** This Master Agreement will be temporarily suspended during any period to the extent that any Party during that period is unable to carry out its obligations under this Master Agreement or the Appendices by reason of an Act of God or the public enemy, act of terrorism, epidemic or pandemic, fire, flood, labor disorder not caused by Winning Supplier, civil commotion, closing of the public highways not caused by Winning Supplier, government interference, government regulations, or any other event or occurrence beyond the reasonable control of the affected Party ("**Event of Force Majeure**"). No Party will have any liability to the other Party(ies) for a delay in performance nor failure to perform to the extent this Master Agreement or any Appendix is so temporarily suspended; provided that nothing contained herein shall apply to payment obligations with respect to obligations which have already been performed under this Master Agreement. If the provision of Products & Services are impeded due to an Event of Force Majeure, then Winning Supplier may apportion the provision of Products & Services among its present and future customers on a fair and reasonable basis after consulting with Equalis and the Program Participants potentially affected and in a manner that would not reasonably be expected to disproportionately affect Program Participants.

**2.14 Notices.** All notices, claims, certificates, requests, demands, and other communications required or permitted hereunder ("**Notice**") must be in writing and will be deemed given to the Addresses for Notices (a) when delivered personally to the recipient, (b) upon delivery by reputable overnight courier service (charges prepaid), or (c) upon delivery or refusal of delivery by certified or registered mail, return receipt requested, and addressed to the intended recipient. The Parties agree that the day-to-day business communications, including notification of a change of address, pricing updates, or revisions to any Appendix, may be made via electronic communication.

a. **Addresses for Notices.** Written notices for the Winning Supplier will be sent to the remittance address provided the Winning Supplier's proposal.

i. If to **CCOG**:

The Cooperative Council of Governments, Inc.  
Attn: Board President  
6001 Cochran Road, Suite 333  
Cleveland, Ohio 44139  
Facsimile: 440.337.0002

ii. If to **EQUALIS**:

Equalis Group, LLC.  
Attn: Eric Merkle, SVP  
5550 Granite Parkway, Suite 298  
Plano, Texas 75024

**2.15 Waiver.** Other than the rights and obligations with respect to payment provided by this Master Agreement, waiver by any Party(ies) of or the failure of any Party(ies) hereto to enforce at any

time its rights with regard to any breach or failure to comply with any provision of this Master Agreement by the other Party(ies) may not be construed as, or constitute, a continuing waiver of such provision, or a waiver of any other future breach of or failure to comply with the same provision or any other provision of this Master Agreement.

**2.16 Governing Law; Invalidity.** This Master Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of Ohio without regard to rules of conflict of laws. If any provision of this Master Agreement is declared unlawful or unenforceable by judicial determination or performance, then the remainder of this Master Agreement shall continue in force as if the invalidated provision did not exist. Any suits filed by any Party pursuant to this Master Agreement shall be brought in a court of competent jurisdiction located in Cuyahoga County, Ohio. In the event any Party initiates a suit and that suit is adjudicated by a court of competent jurisdiction, the prevailing Party shall be entitled to reasonable attorney's fees and costs from the non-prevailing Party in addition to any other relief to which the court determines the prevailing Party is entitled or awarded.

**2.17 No Third-Party Beneficiaries; Survival of Representations.** This Master Agreement is made solely for the benefit of the Parties to it, and no other persons will acquire or have any right under or by virtue of this Master Agreement. Except as otherwise provided herein, all representations, warranties, covenants, and agreements of the Parties shall remain in full force and effect regardless of any termination of this Master Agreement, in whole or in part.

**2.18 Execution in Counterparts.** This Master Agreement may be executed in one or more counterparts, each of which will be deemed an original. For purposes of this Master Agreement, a facsimile, scanned, or electronic signature will be deemed an original signature.

**2.19 Nondiscrimination & Intimidation.**

- a. Winning Supplier expressly agrees that in the hiring of employees for the performance of work or services under this Master Agreement or any subcontract that takes place in the State of Ohio, Winning Supplier, its subcontractors, or any person acting on a Winning Supplier's or its subcontractor's behalf shall not discriminate in the hiring of employees by reason of race, creed, sex, disability as defined in **Section 4112.01** of the Ohio Revised Code nor shall it discriminate against any citizen of the State of Ohio in the employment of labor or workers who are qualified and available to perform the Work to which the employment relates.
- b. Winning Supplier expressly agrees that Winning Supplier, any of its subcontractors, or any person on behalf of Winning Supplier or its subcontractors in any manner shall not discriminate against or intimidate any employee hired for the performance of work or services under this Master Agreement on account of race, creed, sex, disability as defined in **Section 4112.01** of the Ohio Revised Code, or color.



- c. Winning Supplier expressly agrees to include principally similar provisions of this section in each of its written subcontractor agreements for the Products & Services subject to this Master Agreement.

## BID FORM 3: COMPANY PROFILE INFORMATION/QUESTIONNAIRE

1. Provide your company's official registered name/legal name?

*-Next Generation Construction, LLC*

*Next Generation Construction tax ID#: 27-0387434*

*Next Generation Service Group tax ID#: 85-3092832 - Plumbing Contractor*

2. Provide your corporate address, and if different provide your bidder remittance address:

*Corporate Address: 4317 Chester Ave*

*Cleveland, Ohio 44103*

*Remittance Address:*

3. Provide information below on your company's representative/contact person authorized to answer questions regarding your submitted bid response:

*Name: Shakorie Davis*

*Title: President*

*Office Phone #: 216-862-1727*

*Cell Phone #: 216-376-0523*

*Email: nexqenl60@gmail.com*

4. *Provide information on your company's representative/contact person authorized to address contractual issues, including the authority to execute a contract and to whom legal notices regarding contract termination or breach should be sent:*

Name: Mike Leonette

Title: Operations Manager

Office Phone #: \_\_\_\_\_

Cell Phone #: 443-759-0634

Email: mleonette@nxtqc.com

5. *Please provide a brief history of your company, including the year it was established:*

*-Next Generation Construction LLC, is a multi-faceted construction company established in 2009 by President Shakorie Davis that specializes in carpentry. Next Generation Construction takes pride in staying on the cutting edge of industry standard and trends, while keeping staff development at its' core. Whether providing Construction Management Services, Design Build, General Contracting, Pre-construction, Scheduling or Direct Carpentry Services.*

6. *What was your annual construction volume over last three (3) years?*

*-Next Generation's Average volume over past 3 years is \$15 million*

7. *What are your overall public sector sales, excluding Federal Government, for last three (3) years?*

*-Next Generations' Public sales over past 3 years equal approximately \$4.8 million*

8. *What is your strategy to increase market share in the public sector?*

Next Generations' strategy will look to increase our visibility in the public sector and make the sector aware of our talented team through effective advertising and outreach. We will look to convey we have a team of seasoned professional capable of implementing the JOC program

9. *What differentiates your company from competitors in the public sector?*

*Next Generation has a unique company make up comprised of subject matter experts in mechanical, electrical, plumbing and general trades. Along with the ability to self-perform allows us to streamline processes. Next Generation is able to self-perform General trades along with*

*Plumbing scopes of work. Next Generation has the ability to take on and complete any project type presented.*

10. Diversity program - Do you currently have a diversity program or any diversity partners that you do business with?

☒ Yes

☐ No

- a. If the answer is yes, do you plan to offer your program or partnership through Equalis Group?

☒ Yes

☐ No

10. Provide your safety record, safety rating, EMR and worker's compensation rate where available.

EMR-

2020-1

2021-0.98

2022-0.5

## BID FORM 4: DIVERSITY VENDOR CERTIFICATION PARTICIPATION

Diversity Vendor Certification Participation - It is the policy of some Members participating in Equalis Group to involve minority and women business enterprises (M/WBE), small and/or disadvantaged business enterprises, disabled veterans business enterprises, historically utilized businesses (HUB) and other diversity recognized businesses in the purchase of goods and services. Respondents shall indicate below whether or not they hold certification in any of the classified areas and include proof of such certification with their response.

a. Minority Women Business Enterprise

Respondent certifies that this firm is an MWBE

☒ Yes ☐ No

List certifying agency: \_\_\_\_\_ Ohio, city of Cleveland \_\_\_\_\_

b. Small Business Enterprise (SBE) or Disadvantaged Business Enterprise (DBE)

Respondent certifies that this firm is a SBE or DBE

☒ Yes ☐ No

List certifying agency: \_\_\_\_\_ Ohio, city of Cleveland \_\_\_\_\_

c. Disabled Veterans Business Enterprise (DVBE)

Respondent certifies that this firm is an DVBE

☐ Yes ☒ No

List certifying agency: \_\_\_\_\_

d. Historically Underutilized Businesses (HUB)

Respondent certifies that this firm is an HUB

☐ Yes ☒ No

List certifying agency: \_\_\_\_\_

e. Historically Underutilized Business Zone Enterprise (HUBZone)

Respondent certifies that this firm is an HUBZone

☐ Yes ☒ No

List certifying agency: \_\_\_\_\_

f. Other

Respondent certifies that this firm is a recognized diversity certificate holder

☐ Yes ☒ No

List certifying agency: \_\_\_\_\_

## BID FORM 5: BONDING CAPACITY 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.



---

March 27, 2023

Next Generation Construction  
4317 Chester Avenue  
Cleveland, OH 44103

RE: Bonding Capacity

To Whom It May Concern:

Please allow this letter to confirm that Next Generation Construction is a valued customer of AssuredPartners. We have a bonding program established on their behalf through Nationwide Mutual Insurance Company ("Nationwide") that supports single projects up to \$7,500,000 and \$15,000,000 aggregate.

Nationwide is licensed in all states, including Ohio and is also on the U.S. Treasury Department's list of approved surety companies (Federal Register, Circular 570). Nationwide is rated "A+" (Superior) XV by the A.M. Best Co. rating agency. Nationwide has been their agent for over four years.

They have successfully built a wide variety of projects for many satisfied owners. Based on our relationship with its principal, we highly recommend Next Generation Construction for consideration.

Please note that the decision to issue performance and payment bonds is a matter between Next Generation Construction and Nationwide Mutual Insurance Company and will be subject to their standard underwriting at the time of any bond request, which will include but not be limited to the acceptability of the contract documents, bond forms and financing. We assume no liability to third parties or to you if for any reason we do not execute said bonds.

Please do not hesitate to call me if we can be of any further assistance.

Sincerely,  
  
Krista Heinrich  
Surety Account Representative  
440-895-6326

---

INSURANCE      SURETY      EMPLOYEE BENEFITS

1000 Kinnon Lakes Pkwy, Suite 300 • Kalamazoo, MI 49006 • (440) 355-9000 • Fax (440) 350-2120 • (800) 600-0000

[www.AssuredPartners.com](http://www.AssuredPartners.com)

## BID FORM 6: MANAGEMENT PERSONNEL

Please provide contact information and resumes for the person(s) who will be responsible for the following areas.

### Executive Contact

Contact Person: \_\_\_\_\_ John Yazvac \_\_\_\_\_  
Title: \_\_\_\_\_ Vice President \_\_\_\_\_  
Company: \_\_\_\_\_ Next Generation Construction \_\_\_\_\_  
Address: \_\_\_\_\_ 4317 Chester Ave. \_\_\_\_\_  
City: \_\_\_\_\_ Cleveland \_\_\_\_\_ State: \_\_\_\_\_ Ohio \_\_\_\_\_ Zip: \_\_\_\_\_ 4103 \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_ jyazvac@nxtgc.com \_\_\_\_\_

 <p><b>Education</b> Civil Engineering Technology Lakeland Community College</p> <p><b>Training and Certifications</b> OSHA 30 Certificate ICRA 8 hour Certified Project Management/Preconstruction Software (Bluebeam, PlanSwift, PlanGrid, Total Bid, Arbid, Gordian, Textura) Subcontractor Communication Construction Contracts Scheduling Reading Blueprints</p>	 <p><b>John Yazvac</b> Vice President/ Project Executive</p> <p><b>Bio</b> John started his construction career as a co-op student back in 2001 at Mid Continent Construction. John worked at Mid Continent Construction for 20 years before joining Next Generation in March of 2021. He started as a co-op student working as submittal coordinator. Through the years, he was constantly promoted and became a Project Manager/Estimator. John has worked on all types and sizes of projects over his career but his main focus was in the healthcare industry. Healthcare requires a strong attention to detail and high-level personnel management skills. John demonstrated these qualities early on and is continually striving to perfect them. He is well respected in the industry for his knowledge and commitment to his clients.</p> <p><b>Professional Experience</b> Next Generation Construction Operations manager/ Project Manager: 2021-Present Mid Continent Construction Project Manager/Estimator: 2001-2021</p> <p><b>Project Highlights</b> UM Suburban renovations-Project Executive - \$8million Rocket Mortgage Field House - Family Suites-PM - \$300K Cleveland Clinic- 10' Decant Multiple projects to move employees out of P building - Project Executive- \$1.7 Million University Hospital - Ahuja Medical Center Phase 2-PM- \$4 million University Hospital - MSC Renovation - Project Executive- \$8 Million Cleveland Clinic- AOC Projects -Renovations (various locations)- PM- \$20K-300K Cleveland Clinic - W Building Children's Hospital -Carpentry Package - Project executive- \$1.5million</p>
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## Account Manager / Sales Lead

Contact Person: \_\_\_\_\_ Marcel Clopton \_\_\_\_\_  
Title: \_\_\_\_\_ Chief Pre-construction Officer \_\_\_\_\_  
Company: \_\_\_\_\_ Next Generation Construction \_\_\_\_\_  
Address: \_\_\_\_\_ 4317 Chester Ave \_\_\_\_\_  
City: \_\_\_\_\_ Cleveland \_\_\_\_\_ State: \_\_\_\_\_ Ohio \_\_\_\_\_ Zip: \_\_\_\_\_ 44103 \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_ mclopton@nxtg.com \_\_\_\_\_



### Education

Bachelor of Science,  
Construction Management  
Kent State University

### Affiliations & Recognition

GAC 3D for the Future Award Recipient  
Board Member, Humane Society of Summit  
County  
Vice President of Administration of the Kent  
Junior Chamber of Commerce  
Rebuilding Together/Adopt a Highway/Habitat  
for Humanity Volunteer  
Wrestlers in Business Organization  
Kent State Construction Management  
Organization  
YPN (Young Professionals Network)  
Assistant Wrestling Coach at Shaker Heights High  
School  
MAC Award Winner  
Youth Wrestling Counselor

### Training and Certifications

OSHA 30 Certificate  
Project Management /Preconstruction Software-  
(Proest, Blue Beam, Planswift, PlanGrid, Total  
Bid, Ariba, CP bid, Lucerne, Gordian, Monday)  
Builders Exchange, Blue Book, Building  
connected  
Coursework in Principles of Management and  
Microeconomics  
Subcontractor Communication Construction  
Contracts  
Scheduling  
Reading Blueprints



**Marcel Clopton**  
Preconstruction Manager

### Bio

Marcel's interest in the construction industry began his sophomore year at Shaker Heights High School while taking architecture classes. Marcel often helped labor for his uncle's home improvement company. As a state finalist and All-American wrestler, he landed at Kent State University to wrestle and pursue a degree in construction management. Upon finishing his degree, he worked for Kent State managing the painting of resident related buildings. Next, as he worked his way into the commercial construction industry which makes up the majority of his 15 years of experience starting as an assistant superintendent/project manager on an 12 Million dollar historic renovation and quickly rose to project manager/estimator and then on to Chief Estimator and head of Safety. Currently he is serving as Preconstruction manager for Next Generation. Marcel has a long history of keeping projects on budget and on time. He has been involved in a wide range of projects including retail, civic, nonprofit, industrial and financial. Marcel looks to work with his clients as team members with the same goals and is willing to do whatever it takes to accomplish those goals.

### Professional Experience

Next Generation Construction  
Chief Estimator/ Safety Consultant: 2022-Present  
Metro Construction Services  
Chief Estimator/ Safety Consultant: 2019-2022  
Lead Estimator/ Safety Consultant: 2017-2018  
Kent State University  
Adjunct Professor-Estimating: 2018-2019  
Shaker Heights High School  
Assistant Wrestling Coach: 2014-Present  
Kent State University  
Supervisor/Manager of Painting: 2012

### Project Highlights

Chase Bank- Multiple Path of travel projects -Renovations - \$10K-250K  
Chase Bank- Multiple Bank refresh projects - Renovations - \$20K-300K  
CMHA(Gordian)- Multiple refresh projects -Renovations - \$20K-80K  
Acorn Alley Complex - Multiple Facility projects -renovations - \$10K-50K  
Akron First Energy Complex - Multiple Facility projects -renovations - \$10K-50K



**Contract Management (if different than the Sales Lead)**

Contact Person: \_\_\_\_\_ Mike Leonette \_\_\_\_\_  
Title: \_\_\_\_\_ Operations Manager \_\_\_\_\_  
Company: \_\_\_\_\_ Next Generation Construction \_\_\_\_\_  
Address: \_\_\_\_\_ 4317 Chester Ave \_\_\_\_\_  
City: \_\_\_\_\_ Cleveland \_\_\_\_\_ State: \_\_\_\_\_ Ohio \_\_\_\_\_ Zip: \_\_\_\_\_ 44103 \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_ mleonette@nxtgc.com \_\_\_\_\_



**Education**

Bachelor of Science,  
General Sciences  
University of Dayton

Master of Business Administration  
Indiana Wesleyan University

**Associate:**

Construction Engineering  
University of Akron

**Training and Certifications**

OSHA 30 Certificate  
Primavera P3 & P6  
Timberline  
ProContractor  
SharePoint  
AutoCAD  
Microsoft Office Suite  
Bluebeam  
ViewPoint  
ProCore  
Destini Profiler & Data Manager  
Destini Estimator  
Contracts  
Scheduling  
Reading Blueprints



**MICHAEL J. LEONETTE**

Operations Manager

**Bio**

Mike with 25 years of experience has a in-depth knowledge of engineering and architecture development and concepts, product costing and management, and business procurement practices. He is a focused and highly skilled team worker with excellent communication, organizational, and customer services skills, along with a broad knowledge of computer systems, designs, and analytical projects. Mike Has been involved in all aspects of construction from business development to preconstruction to project management. Furthermore, he has project experience ranging from industrial to commercial and site utility upgrade.

**Professional Experience**

Next Generation Construction  
Operations Manager: 2021-Present  
The Austin Company  
Project Manager: 2018-2023  
Preconstruction Manager: 2016-2018  
Purchasing Manager: 2012-2016  
The Haven Group  
Senior Project Manager: 2011-2011  
Hawkeye Construction  
Project Manager: 2010-2011  
Evysson Enterprises, Inc.  
Account Manager: 2006-2009

**Project Highlights**

American Electric Power (AEP) Technical Support Center  
Florida Power & Light (FPL) Flagler Service Center Storm Hardening Project  
Florida Power & Light (FPL) Service Center Field Office  
Florida Power & Light (FPL) Distribution South Campus (DSC)  
Mitsubishi Power Systems Savannah Machinery Works  
Bimbo Bakeries - Lehigh Valley, PA  
Cheryl's Cookies - Westerville, OH

### **Billing & Reporting/Accounts Payable**

Contact Person: \_\_\_\_\_ Brandie Bailey \_\_\_\_\_

Title: \_\_\_\_\_ Controller \_\_\_\_\_

Company: \_\_\_\_\_ Next Generation Construction \_\_\_\_\_

Address: \_\_\_\_\_ 4317 Chester Ave \_\_\_\_\_

City: \_\_\_\_\_ Cleveland \_\_\_\_\_ State: \_\_\_\_\_ Ohio \_\_\_\_\_ Zip: \_\_\_\_\_ 44103 \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_ bbailey@nxtgc.com \_\_\_\_\_



Education  
Accounting Studies  
David N. Mayer University

Affiliations & Recognition  
WHO'S WHO OF BLACK CLEVELAND

Training and Certifications  
SWPPP Certified  
Foundation, ADP Workforce Now, MS Office,  
RetailPro, BusinessWorks, BlackBoard,  
PeopleSoft, Timberline, QuickBooks, Viewpoint  
B2Gnow, LCPTracker, Sharepoint, OAKS, SAP  
Procore



**Brandie Bailey**  
Controller

#### Bio

With more than 20 Years of construction experience. Brandie is serving as the Controller for Next Generation. She has been involved with construction since 2003 when she served as a property manager for Wakeforest Homes. Brandie calls Northeast Ohio home along with her husband and son. She is a proud CMSD graduate with a love for construction as she took on the complete interior remodel of her own home. Brandie provides structure and organization for Next Generation and subcontractors contractors alike. Typically, if a problem exists Brandie can fix it.

#### Professional Experience

Next Generation Construction  
Controller: 2022-Present  
Pondco Construction Company  
Project Accountant: 2016-2022  
THE AXA TEAM JV TURNER/AGENCY/AXA  
Project Engineer/Assistant Superintendent: 2015-2016  
Fashion World, INC.  
Chief Accountant: 2010-2015

Contact Person: \_\_\_\_\_ Kurt Kaufman \_\_\_\_\_

Title: \_\_\_\_\_ Asst. Operations Manager \_\_\_\_\_

Company: \_\_\_\_\_ Next Generation Construction \_\_\_\_\_

Address: \_\_\_\_\_ 4317 Chester Ave \_\_\_\_\_

City: \_\_\_\_\_ Cleveland \_\_\_\_\_ State: \_\_\_\_\_ Ohio \_\_\_\_\_ Zip: \_\_\_\_\_ 44103 \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_ kkaufman@nxtgc.com \_\_\_\_\_

 <p><b>Education</b> Bachelor of Fine Arts, Illustration Cleveland Institute of Art Associates (did not graduate) IT Networking Software Cuyahoga Community College</p> <hr/> <p><b>Strengths</b> Operations Management Process Improvement Company / Product Launches HR Leadership Team Leadership IT Management Logistics Management Expense / Budget Management Facilities / Maintenance</p> <hr/> <p><b>Training and Certifications</b> Project Management /Operations Software- (Procore, Microsoft Office Suite Software, Google Drive, Dropbox, WordPress, Adobe Creative Suite) Cyber Security Certification First Aid/ CPR/AED Certification Powered Industrial Trucks - Class IV Certification MHWP/Aerial Lift Certification Fall Protection Certification Contracts Scheduling</p> <hr/> <p><b>Community Volunteer Work</b> Safe House Liaison and Meal Provision Volunteer, Rahab Ministries Global / Local Humanitarian Meal Needs Volunteer, Akron Canton Regional Foodbank Community Support Representative, Saint John Newman</p>	 <p><b>Kurt D. Kaufman</b> Assist. Operations Manager   Project Engineer</p> <hr/> <p><b>Bio</b> Kurt joined Next Generation Construction in 2023 and serves as Asst. Operations Manager   Project Engineer. He is an experienced business leader with a history of driving sales increases, cost reductions, new company/product launches, and customer satisfaction with operational programs/practices. Kurt is a versatile professional helping to scale Next Generation with his with diverse operational experience in IT, HR, operations, maintenance/facilities, and customer experience areas. He is an accomplished leader who turns around group performance, develops high-performing teams, and streamlines operations across a wide range of industries in his history of operations management. In his free time, he enjoys photography and hiking with his wife Olessya, his two stepchildren Vlad, and Sophia, and their dogs Charlie, and Ben.</p> <hr/> <p><b>Professional Experience</b> Next Generation Construction Asst. Operations Manager   Project Engineer, 2023-Present Tobler Building Company Operations Manager, 2020-2023 Buco di Beppo General Manager, 2019-2020 Strategic Real Estate Coach Operations Manager   Director of Live Events, 2013-2019 Asst. Operations Manager, 2018-2019 Freeland Ventures Operations Manager   Director of Live Events, 2017-2019 Buco di Beppo &amp; Planet Hollywood General Manager   Corporate Events, 2009-2014</p> <hr/> <p><b>Selected Accomplishments</b> Designed phase codes for Procore with reduced \$100K+ in errors. Developed and enforced an OSHA standard safety training program. Developed and implemented employee career development pathway. Implemented structural setup and training of company software, and policies. Created and developed standard operating procedures for company university. Created/implemented SOPs and forms which saved hundreds of manager hours. Built an inventory management tool that saved the company thousands in lost tools. Coordinated lodging and logistics for remote work management and setup for multiple projects. Streamlined the management of licenses and memberships which produced substantial savings.</p>
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## BID FORM 7: REFERENCES AND EXPERIENCE QUESTIONNAIRE

Provide a minimum of five (5) customer references for product and/or services of similar scope dating within the past 3 years. Please try to provide references for K12, Higher Education, City/County and State entities. Provide the following information for each reference:

1.

- a) Entity Name -Cuyahoga County
- b) Contact Name and Title- Eric Mack, Project manager.
- c) City and State- Cleveland Ohio
- d) Phone Number- 216-215-6292
- e) Years Serviced- 1 year.
- f) Description of Services -COVID Construction Services for compliance
- g) Annual Volume -600k

2.

- a) Entity Name- Metro Health Hospital
- b) Contact Name and Title- Margaret Hewitt, Project Manager
- c) City and State- Cleveland Ohio
- d) Phone Number- 216-778-5871
- e) Years Serviced- 1 year.
- f) Description of Services- Construction Renovation Services
- g) Annual Volume- 50k

3.

- a) Entity Name- Metro Health Hospital
- b) Contact Name and Title- Earl Baumgartner, Project Manager
- c) City and State- Cleveland Ohio
- d) Phone Number-216-780-6903
- e) Years Serviced- 1 year.
- f) Description of Services- Renovation to existing Millwork
- g) Annual Volume- 5k

4.

- a) Entity Name- University Hospital
- b) Contact Name and Title- Lori Alberino, Sr. Project Manager
- c) City and State- Cleveland(various locations) Ohio
- d) Phone Number- 216-308-1433
- e) Years Serviced -7 Years
- f) Description of Services- Construction Renovation Services
- g) Annual Volume- 5 Million

5.

- a) Entity Name- Gilbane Via Cuyahoga Community College
- b) Contact Name and Title- Todd Gerber, Project Manager
- c) City and State- Cleveland Ohio
- d) Phone Number- 216-857-3507
- e) Years Serviced- 2 years.
- f) Description of Services- General Trade construction Services
- g) Annual Volume- 1.5 Million

### Questions:

1. Identify any contracts with other cooperative or government group purchasing organizations of which your company is currently a part of:

Cooperative/GPO Name

Contract Number

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None

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2. Provide a copy of all current licenses, registrations and certifications issued by federal, state and local agencies, and any other licenses, registrations or certifications from any other governmental entity with jurisdiction, allowing Respondent to perform the covered services including, but not limited to licenses, registrations or certifications. M/WBE, HUB, DVBE, small and disadvantaged business certifications and other diverse business certifications, as well as manufacturer certifications for sales and service must be included if applicable.



Dear Shakorie Davis:

The Ohio Department of Development, Minority Business Development Division (MBDD) has reviewed your business's application to obtain certification as a Minority Business Enterprise (MBE) in Ohio. The Ohio Department of Development, Minority Business Development Division is pleased to inform you that Next Generation Construction, LLC has been certified by MBDD as a MBE Business Enterprise.

The Ohio Department of Development, Minority Business Development Division has determined that Next Generation Construction, LLC satisfactorily meets the requirements set forth in Section 123:2-14 of Administrative Code as is required for participation in the MBE program. This certification letter shall serve as the state's official certification.

This letter also acknowledges that Next Generation Construction, LLC has been categorized under the Construction category for MBE program participation and has demonstrated capability for a period of at least one-year in the following UNSPS code(s):

- |     |          |   |
|-----|----------|---|
| 1.  | 30162400 | Partition walls   |
| 2.  | 30171500 | Doors   |
| 3.  | 30171800 | Skylights   |
| 4.  | 30172100 | Garage doors and operators                                |
| 5.  | 46171500 | Locks and security hardware and accessories               |
| 6.  | 47131700 | Restroom supplies   |
| 7.  | 56101900 | General furniture parts and accessories                   |
| 8.  | 72121100 | Commercial and office building construction services      |
| 9.  | 72121400 | Specialized public building construction services         |
| 10. | 72141400 | Detention facility construction and repair services       |
| 11. | 72152000 | Plastering and drywall services                           |
| 12. | 72152400 | Window and door installation and erection services        |
| 13. | 72153600 | Interior finishing and furnishing and remodeling services |

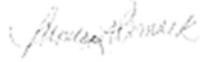
NOTE: Next Generation Construction, LLC is required to inform MBDD in writing (letter or email) within 30 days of the occurrence of any material change(s). A material change is defined as: any change in circumstances affecting the business or the at least 51 percent eligible owner(s); including but not limited to current contact information, changes in ownership, business structure, independence, managerial and/or operational control, or any material change in the information provided in its application including changes in management responsibility among owner(s) of the certified business. Similar notification must be provided to MBDD of any changes to the company's name, business address, Email address, telephone numbers, principal products/service or other basic contact and commercial activity information. For additional information, please refer to Ohio Administrative Code 123:2-14.01, 123:2-14.02, and 123:2-14.07.



Re-certification Note: one month prior to the expiration date of this certification, your business is required to submit a completed Re-certification Application for MBDD's review relative to the Next Generation Construction, LLC's eligibility for continued participation in the MBE program.

If you need any assistance or have questions about the MBE program, please contact MBDD at 614-466-8380.

Sincerely,



Monica L. Womack  
Interim Chief  
Minority Business Development Division





 **CITY OF CLEVELAND**  
Department of Building and Housing  
Division of Construction Permitting

RENEWCR23005011

**Certificate of Registration**

General Contractor

This Will Certify that **SHAKORIE DAVIS** representing **NEXT GENERATION CONSTRUCTION, LLC.** doing business at **4317 CHESTER AVE., CLEVELAND, OH 44103** has qualified as required by law, is dully registered and is hereby authorized to engage in the business as a **General Contractor** within the corporate limits of the City of Cleveland pursuant with the provision and regulations of the Codified Ordinance of the City of Cleveland.

This Certificate Expires 12/31/2023

RENEWCR23005011

*[Signature]*  
Director of Building and Housing





3. If applicable describe your company's past experience with Job Order Contracting and include specific examples of other cooperatives and public agencies where you have performed these services.

-Next Generation is currently part of the JOC programs in partnership with Cleveland Clinic and CMHA (Cuyahoga Metropolitan Housing Authority). Next Generation has employees with Years of experience in the JOC programs.

4. Provide information regarding whether your firm, either presently or in the past, has been involved in any litigation, bankruptcy, or reorganization.

-N/A

5. Felony Conviction Notice – Please check applicable box:

- ☐ A publicly held corporation; therefore, this reporting requirement is not applicable
- ☐ Is not owned or operated by anyone who has been convicted of a felony.
- ☒ Is owned or operated by the following individual(s) who has/have been convicted of a felony.

\*If the 3<sup>rd</sup> box is checked a detailed explanation of the names and convictions must be attached.

3/28/2023

To whom it may concern:

Please read below for details regarding my background:

10/11/1996 – Attempted Robbery

I was still in high school and two days after my 18<sup>th</sup> birthday, I was involved in a fight at South Highschool and during the fight I snatched a guy's necklace. I was arrested immediately after the altercation and eventually given probation. The Judge for my case was Nancy Russo and I will never forget the words she said to me in court. I was a good student and she stated that she wished that I did not plead guilty. I did not know how a felony conviction would have affected me in my future. At that time, I knew I would do what I had to do to be back home with my parents.

2/16/1999 – Drug Possession

I was standing on a street corner peddling crack cocaine, and I was arrested and sent to jail for 15 months.

12/07/2001 – Drug Possession

I was standing on a street corner peddling crack cocaine, and I was arrested and sent to jail for 26 months.

For the past 21 years, I have been an upstanding member of my community, husband of 20 years and the father of 4 children, all currently in college. I have made it my mission to be a positive leader and build back the same communities that unfortunately I contributed to tearing down in my younger years. I volunteer in underserved communities; I am a board member of the CEA and Cleveland Builds a non-profit that is dedicated to connecting people with successful and fulfilling jobs in the building trades. I also serve as a board member of the Northern Association of Minority Contractors and the Union – Miles Development Corporation.

In closing, I would hope that my poor decisions and immaturity of my youth do not overshadow my accomplishments of the present.

Thank you for your time,

Shakorie Davis

## BID FORM 8: AGREEMENT TO WORK IN ALL REGIONS IN THE STATE

There are times that a Contractor may need to perform work for certain Members that have facilities in areas outside of the Geographic Region. 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 use the awarded CTC and adjustment factor proposed. If a contractor holds multiple contracts when performing work outside an awarded Region the contractor will use the contract that results in the lowest price for the Member. The Contractor will have the option to decline Projects outside of the Geographic Region.

Please circle your intention below:

☒ **Yes** We agree to consider working in areas outside of the Geographic Region.

☐ **No** We will NOT consider working outside of the Geographic Region.

### Signature

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

Name of Proposer: Next Generation Construction \_\_\_\_\_

City/State/Zip: Cleveland/Ohio/44103 \_\_\_\_\_  
\_\_\_\_\_

Telephone No.: 216 269 9196 \_\_\_\_\_

If a partnership, names and addresses of partners:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### **Notarized**

Subscribed and sworn to before me this 28<sup>th</sup> day of March, 20 23

Notary Public in and for the County of Cuyahoga

State of Ohio

My commission expires: 9-3-2023

Signature: \_\_\_\_\_



STEVEN C. SZY  
Notary Public, State of Ohio  
My Commission Expires  
September 3, 2023

# BID FORM 9: FEDERAL FUNDS CERIFICATION FORM

When a participating agency seeks to procure goods and services using funds under a federal grant or contract, specific federal laws, regulations, and requirements may apply in addition to those under state law. This includes, but is not limited to, the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR 200 (sometimes referred to as the “Uniform Guidance” or “EDGAR” requirements).

All bidders submitting proposals must complete this Federal Funds Certification Form regarding bidder’s willingness and ability to comply with certain requirements which may be applicable to specific participating agency purchases using federal grant funds. This completed form will be made available to Members for their use while considering their purchasing options when using federal grant funds. Members may also require Supplier Partners to enter into ancillary agreements, in addition to the contract’s general terms and conditions, to address the member’s specific contractual needs, including contract requirements for a procurement using federal grants or contracts.

**For each of the items below, respondent should certify their agreement and ability to comply, where applicable, by having respondents authorized representative complete and initial the applicable lines after each section and sign the acknowledgment at the end of this form.** If a Bidder fails to complete any item in this form, CCOG will consider the respondent’s response to be that they are unable or unwilling to comply. A negative response to any of the items may, if applicable, impact the ability of a participating agency to purchase from the Supplier Partner using federal funds.

## **1. *Supplier Partner Violation or Breach of Contract Terms***

Contracts for more than the simplified acquisition threshold currently set at one hundred fifty thousand dollars (\$150,000), which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 USC 1908, must address administrative, contractual, or legal remedies in instances where Supplier Partners violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Any contract award will be subject to Terms and Conditions of the Master Agreement, as well as any additional terms and conditions in any purchase order, participating agency ancillary contract, or Member construction contract agreed upon by Supplier Partner and the participating agency which must be consistent with and protect the participating agency at least to the same extent as the CCOG Terms and Conditions.

The remedies under the contract are in addition to any other remedies that may be available under law or in equity. By submitting a proposal, you agree to these Supplier Partner violation and breach of contract terms.

Does Bidder agree? YES

(Initials of Authorized Representative)

## **2. *Termination for Cause or Convenience***

When a participating agency expends federal funds, the participating agency reserves the right to immediately terminate any agreement in excess of ten thousand dollars (\$10,000) resulting from this procurement process in the event of a breach or default of the agreement by Offeror in the event Offeror fails to: (1) meet schedules, deadlines, and/or delivery dates within the time specified in the procurement solicitation, contract, and/or a purchase order; (2) make any payments owed; or (3) otherwise perform in accordance with the contract and/or the procurement solicitation. Participating agency also reserves the right to terminate the contract immediately, with written notice to offeror, for convenience, if participating agency believes, in its sole discretion that it is in the best interest of participating agency to do so. Bidder will be compensated for work performed and accepted and goods accepted by participating agency as of the termination date if the contract is terminated for convenience of participating agency. Any award under this procurement process is not exclusive and

participating agency reserves the right to purchase goods and services from other offerors when it is in participating agency's best interest.

Does Bidder agree? YES  
(Initials of Authorized Representative)

### **3. Equal Employment Opportunity**

Except as otherwise provided under 41 CFR Part 60, all participating agency purchases or contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 shall be deemed to include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

The equal opportunity clause provided under 41 CFR 60-1.4(b) is hereby incorporated by reference. Supplier Partner agrees that such provision applies to any participating agency purchase or contract that meets the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 and Supplier Partner agrees that it shall comply with such provision.

Does Bidder agree? YES  
(Initials of Authorized Representative)

### **4. Davis-Bacon Act**

When required by Federal program legislation, Supplier Partner agrees that, for all participating agency prime construction contracts/purchases in excess of two thousand dollars (\$2,000), Supplier Partner shall comply with the Davis-Bacon Act (40 USC 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, Supplier Partner is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determinate made by the Secretary of Labor. In addition, Supplier Partner shall pay wages not less than once a week.

Current prevailing wage determinations issued by the Department of Labor are available at [www.wdol.gov](http://www.wdol.gov). Supplier Partner agrees that, for any purchase to which this requirement applies, the award of the purchase to the Supplier Partner is conditioned upon Supplier Partner's acceptance of the wage determination.

Supplier Partner further agrees that it shall also comply with the Copeland "Anti-Kickback" Act (40 USC 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States". The Act provides that each Supplier Partner or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

Does Bidder agree? YES  
(Initials of Authorized Representative)

### **5. Contract Work Hours and Safety Standards Act**

Where applicable, for all participating agency contracts or purchases in excess of one hundred thousand dollars (\$100,000) that involve the employment of mechanics or laborers, Supplier Partner agrees to comply with 40 USC 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 USC 3702 of the Act, Supplier Partner is required to compute the wages of every mechanic and laborer on the basis of a standard work week of forty (40) hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of forty (40) hours in the work week. The requirements of 40 USC 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Does Bidder agree? YES

(Initials of Authorized Representative)

#### **6. *Right to Inventions Made Under a Contract or Agreement***

If the participating agency's Federal award meets the definition of "funding agreement" under 37 CFR 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance or experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Supplier Partner agrees to comply with the above requirements when applicable.

Does Bidder agree? YES

(Initials of Authorized Representative)

#### **7. *Clean Air Act and Federal Water Pollution Control Act***

Clean Air Act (42 USC 7401-7671q.) and the Federal Water Pollution Control Act (33 USC 1251-1387), as amended – Contracts and subgrants of amounts in excess of one hundred fifty thousand dollars (\$150,000) must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 USC 7401-7671q.) and the Federal Water Pollution Control Act, as amended (33 USC 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

When required, Supplier Partner agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act.

Does Bidder agree? YES

(Initials of Authorized Representative)

#### **8. *Debarment and Suspension***

Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1966 Comp. p. 189) and 12689 (3 CFR Part 1989 Comp. p. 235),

“Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Supplier Partner certifies that Supplier Partner is not currently listed on the government-wide exclusions in SAM, is not debarred, suspended, or otherwise excluded by agencies or declared ineligible under statutory or regulatory authority other than Executive Order 12549. Supplier Partner further agrees to immediately notify the Cooperative and all Members with pending purchases or seeking to purchase from Supplier Partner if Supplier Partner is later listed on the government-wide exclusions in SAM, or is debarred, suspended, or otherwise excluded by agencies or declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Does Bidder agree? YES  
(Initials of Authorized Representative)

#### **9. *Byrd Anti-Lobbying Amendment***

Byrd Anti-Lobbying Amendment (31 USC 1352) – Supplier Partners that apply or bid for an award exceeding one hundred thousand dollars (\$100,000) must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. As applicable, Supplier Partner agrees to file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 USC 1352).

Does Bidder agree? YES  
(Initials of Authorized Representative)

#### **10. *Procurement of Recovered Materials***

For participating agency purchases utilizing Federal funds, Supplier Partner agrees to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act where applicable and provide such information and certifications as a participating agency maybe required to confirm estimates and otherwise comply. The requirements of Section 6002 includes procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds ten thousand dollars (\$10,000) or the value of the quantity acquired during the preceding fiscal year exceeded ten thousand dollars (\$10,000); procuring solid waste management services in a manner that maximizes energy and resource recovery, and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Does Bidder agree? YES  
(Initials of Authorized Representative)

#### **11. *Profit as a Separate Element of Price***

For purchases using federal funds in excess of one hundred fifty thousand dollars (\$150,000), a participating agency may be required to negotiate profit as a separate element of the price. See, 2 CFR 200.324(b). When required by a participating agency, Supplier Partner agrees to provide information and negotiate with the participating agency regarding profit as a separate element of the

price for a particular purchase. However, Supplier Partner agrees that the total price, including profit, charged by Supplier Partner to the participating agency shall not exceed the awarded pricing, including any applicable discount, under Supplier Partner's Group Purchasing Agreement.

Does Bidder agree? YES

(Initials of Authorized Representative)

#### **12. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment**

Vendor agrees that recipients and subrecipients are prohibited from obligating or expending loan or grant funds to procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system from companies described in Public Law 115-232, section 889. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country are also prohibited.

Does Bidder agree? YES

(Initials of Authorized Representative)

#### **13. Domestic preferences for procurements**

For participating agency purchases utilizing Federal funds, Bidder agrees to provide proof, where applicable, that the materials, including but not limited to, iron, aluminum, steel, cement, and other manufactured products are produced in the United States.

"Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

"Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Does Bidder agree? YES

(Initials of Authorized Representative)

#### **14. General Compliance and Cooperation with Members**

In addition to the foregoing specific requirements, Vendor agrees, in accepting any purchase order from a Member, it shall make a good faith effort to work with Members to provide such information and to satisfy such requirements as may apply to a particular participating agency purchase or purchases including, but not limited to, applicable recordkeeping and record retention requirements.

Does Bidder agree? YES

(Initials of Authorized Representative)

#### **15. Applicability to Subcontractors**

Offeror agrees that all contracts it awards pursuant to the Contract shall be bound by the foregoing terms and conditions.

Does Bidder agree? MC



(Initials of Authorized Representative)

By signature below, I certify that the information in this form is true, complete, and accurate and that I am authorized by my company to make this certification and all consents and agreements contained herein.

Authorized  
signature:

  
\_\_\_\_\_

Printed Name:

Marcel Clopton

Company Name:

Next Generation Construction

Mailing Address:

4317 Chester Ave., Cleveland OH 44103

Job Title:

Chief Pre-construction Officer

## BID FORM 10: REQUIRED LICENSE AND CERTIFICATIONS



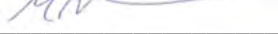
## BID FORM 11: DEBARMENT NOTICE

I, the Vendor, certify that my company has not been debarred, suspended or otherwise ineligible for participation in Federal Assistance programs under Executive Order 12549, "Debarment and Suspension", as described in the Federal Register and Rules and Regulations.

Potential Vendor: \_\_\_\_\_ Next Generation Construction \_\_\_\_\_

Title of Authorized Representative: \_\_\_\_\_ Chief Pre-construction Officer \_\_\_\_\_

Mailing Address: \_\_\_\_\_ 4317 Chester Ave., Cleveland, OH 44103 \_\_\_\_\_

Signature:  \_\_\_\_\_

## BID FORM 12: LOBBYING AND BOYCOTT CERTIFICATION

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by Section 1352, Title 31, U.S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies, to the best of his/her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all sub-recipients shall certify and disclose accordingly.

\_\_\_\_\_  
Signature of Respondent

\_\_\_\_\_  
Date

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### Boycott Certification

Bidder must certify that during the term of any Agreement, it does not boycott Israel and will not boycott Israel. "Boycott" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

\_\_\_\_\_  
Signature of Respondent

\_\_\_\_\_  
Date

## BID FORM 13: MANDATORY SUPPLIER CERTIFICATIONS

CCOG may not enter into contracts with any suppliers who have been found to be ineligible for state contracts under specific federal or Ohio statutes or regulations. Bidders responding to any CCOG ITB MUST certify that they are NOT ineligible by signing each of the four statements below. **Failure to provide proper affirming signature on any of these statements will result in a Bidder's submission being deemed nonresponsive to this ITB.**

I, Marcel Clopton , hereby certify and affirm that \_\_\_\_\_ Next Generation Construction \_\_\_\_\_ has not been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in transactions by the United States Department of Labor, the United States Department of Health and Human Services, or any other federal department or agency as set forth in 29 CFR Part 98, or 45 CFR Part 76, or other applicable statutes.

**AND**

I, Marcel Clopton , hereby certify and affirm that \_\_\_\_\_ Next Generation Construction \_\_\_\_\_, is in compliance with all federal, state, and local laws, rules, and regulations, including but not limited to the Occupational Safety and Health Act and the Ohio Bureau of Employment Services and the following:

- Not penalized or debarred from any public contracts or falsified certified payroll records or any other violation of the Fair Labor Standards Act in the last three (3) years;
- Not found to have violated any worker's compensation law within the last three (3) years;
- Not violated any employee discrimination law within the last three (3) years;
- Not have been found to have committed more than one (1) willful or repeated OSHA violation of a safety standard (*as opposed to a record keeping or administrative standard*) in the last three (3) years;
- Not have an Experience Modification Rating of greater than 1.5 (a penalty-rated employer) with respect to the Bureau of Workers' Compensation risk assessment rating; and
- Not have failed to file any required tax returns or failed to pay any required taxes to any governmental entity within the past three (3) years.

**AND**

I \_\_\_\_\_ Marcel Clopton , hereby certify and affirm that \_\_\_\_\_ Next Generation Construction \_\_\_\_\_, not on the list established by the Ohio Secretary of State, pursuant to ORC Section 121.23, which identifies persons and businesses with more than one unfair labor practice contempt of court finding against them.

**AND**

I \_Marcel Clopton , hereby certify and affirm that \_\_\_\_\_ Next Generation Construction \_\_\_\_\_, either is not subject to a finding for recovery under ORC Section 9.24, or has taken appropriate

remedial steps required under that statute to resolve any findings for recovery, or otherwise qualifies under that section to enter into contracts with CCOG.

## BID FORM 14: CONTRACTOR CERTIFICATION REQUIREMENTS

### **16. Contractor's Employment Eligibility**

By entering the contract, Contractor warrants compliance with the Federal Immigration and Nationality Act (FINA), and all other federal and state immigration laws and regulations. The Contractor further warrants that it is in compliance with the various state statutes of the states it will operate this contract in.

Participating Government Entities including School Districts may request verification of compliance from any Contractor or subcontractor performing work under this Contract. These Entities reserve the right to confirm compliance in accordance with applicable laws.

Should the Participating Entities suspect or find that the Contractor or any of its subcontractors are not in compliance, they may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

The Respondent complies and maintains compliance with the appropriate statutes which requires compliance with federal immigration laws by State employers, State contractors and State subcontractors in accordance with the E-Verify Employee Eligibility Verification Program.

Contractor shall comply with governing board policy of the CCOG Participating entities in which work is being performed.

### **17. Fingerprint & Criminal Background Checks**

If required to provide services on school district property at least five (5) times during a month, contractor shall submit a full set of fingerprints to the school district if requested of each person or employee who may provide such service. Alternately, the school district may fingerprint those persons or employees. An exception to this requirement may be made as authorized in Governing Board policy. The district shall conduct a fingerprint check in accordance with the appropriate state and federal laws of all contractors, subcontractors or vendors and their employees for which fingerprints are submitted to the district. Contractor, subcontractors, vendors and their employees shall not provide services on school district properties until authorized by the District.

The Respondent shall comply with fingerprinting requirements in accordance with appropriate statutes in the state in which the work is being performed unless otherwise exempted.

Contractor shall comply with governing board policy in the school district or Participating Entity in which work is being performed.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



3/28/23

## BID FORM 15: UNRESOLVED FINDINGS FOR RECOVERY

**O.R.C. Chapter 9.24** prohibits CCOG from awarding a contract to any entity against whom the Auditor of State has issued a finding for recovery, if such finding for recovery is “unresolved” at the time of award. By submitting a proposal, a Bidder warrants that it is not now, and will not become, subject to an “unresolved” finding for recovery under **O.R.C. Chapter 9.24** prior to the award of any contract arising out of this RFP, without notifying CCOG of such finding. The Proposal Review Team will not evaluate a proposal from any Bidder whose name, or the name of any of the subcontractors proposed by the Bidder, appears on the website of the Auditor of the State of Ohio as having an “unresolved” finding for recovery.

Is your company the subject of any unresolved findings for recoveries?

- ☐ Yes
- ☒ No



## BID FORM 16: MANDATORY DISCLOSURES

### **1. *Mandatory Contract Performance Disclosure.***

Disclose whether your company's performance and/or the performance of any of the proposed subcontractor(s) under contracts for the provision of products and services that are the same or similar to those to be provided for the Program which is the subject of this RFP has resulted in any formal claims for breach of those contracts. For purposes of this disclosure, "**formal claims**" means any claims for breach that have been filed as a lawsuit in any court, submitted for arbitration (whether voluntary or involuntary, binding or not), or assigned to mediation. For any such claims disclosed, fully explain the details of those claims, including the allegations regarding all alleged breaches, any written or legal action resulting from those allegations, and the results of any litigation, arbitration, or mediation regarding those claims, including terms of any settlement. While disclosure of any formal claims will not automatically disqualify a Bidder from consideration, at the sole discretion of Equalis Group, such claims and a review of the background details may result in a rejection of a Bidder's proposal. Equalis Group will make this decision based on the Proposal Review Team's determination of the seriousness of the claims, the potential impact that the behavior that led to the claims could have on the Bidder's performance of the work, and the best interests of Members.

Provide statement here. N/A

### **2. *Mandatory Disclosure of Governmental Investigations.***


Indicate whether your company and/or any of the proposed subcontractor(s) has been the subject of any adverse regulatory or adverse administrative governmental action (federal, state, or local) with respect to your company's performance of services similar to those described in this RFP. If any such instances are disclosed, Bidders must fully explain, in detail, the nature of the governmental action, the allegations that led to the governmental action, and the results of the governmental action including any legal action that was taken against the Bidder by the governmental agency. While disclosure of any governmental action will not automatically disqualify a Bidder from consideration, such governmental action and a review of the background details may result in a rejection of the Bidder's proposal at Group's sole discretion. Equalis Group will make this decision based on the Proposal Review Team's determination of the seriousness of the claims, the potential impact that the behavior that led to the claims could have on the Bidder's performance of the work, and the best interests of Members.

Provide statement here. N/A

# BID FORM 17: MASTER AGREEMENT SIGNATURE FORM

**BIDDERS MUST SUBMIT THIS FORM COMPLETED AND SIGNED WITH THEIR RESPONSE TO BE CONSIDERED FOR AWARD.**

The undersigned hereby proposes and agrees to furnish Products & Services in strict compliance with the terms, specifications, and conditions contained within this RFP and the Master Agreement at the prices proposed within the submitted proposal unless noted in writing. The undersigned further certifies that he/she is an officer of the company and has authority to negotiate and bind the company named below and has not prepared this proposal in collusion with any other Bidder and that the contents of this proposal as to prices, terms or conditions of said proposal have not been communicated by the undersigned nor by any employee or agent to any person engaged in this type of business prior to the official opening of this proposal.

Company Name	Next Generation Construction
Address	4317 Chester Ave
City/State/Zip	Cleveland, Ohio 44103
Phone Number	216 269 9196
Email Address	mclopton@nxtgc.com
Printed Name	Marcel Clopton
Job Title	Chief Pre-construction Officer
Authorized Signature	


## Initial Term of the Master Agreement


Contract Effective Date:	June 1, 2023
Contract Expiration Date:	May 31, 2025
Contract Number:	COG-2146W

*(Note: Contract Number will be applied prior to CCOG and Equalis Group countersigning.)*

The Cooperative Council of Governments, Inc.  
6001 Cochran Road, Suite 333  
Cleveland, Ohio 44139

Equalis Group, LLC.  
5550 Granite Parkway, Suite 298  
Plano, Texas 75024

By:	
Name:	Franklyn A. Corlett
As:	CCOG Board President
Date:	Jun 26, 2023

By:	
Name:	Eric Merkle
As:	EVP, Procurement & Operations
Date:	Jun 26, 2023

# APPENDIX A: PRODUCTS & SERVICES; PRICING

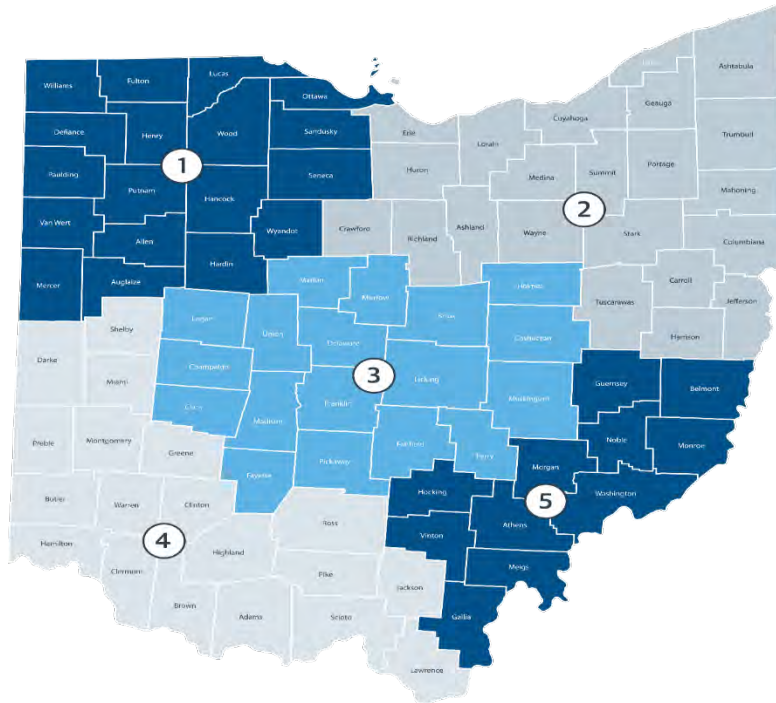
The following terms and conditions will apply to any purchase or utilization of the Products & Services from Contractor. This Appendix may be modified at any time with the mutual written consent of the Contractor and Equalis.

## 1. Products & Services

Contractor is contracted to provide Members any and all tasks associated with the appropriate Construction Task Catalog (the "CTC") for the region in Ohio the Contractor is authorized to perform through the applicable Job Order Contracting Contracts ("JOC Contract"). The table below provides a summary of the scope of services Contractor was awarded. These JOC Contracts define the Products & Services Contractor is making available to Members and in which geographic regions ("Region").

JOC Contracts	Product & Services	Region
COG-2146-GC2-L	General Construction	2
COG-2146-PC2-C	Plumbing	2

- (a) **Map of Geographic Regions.** The geographic reach of each contract's Region is identified in the following map.



- (b) **Ohio County Listings by Region**. The geographic reach of each contract's Region is identified by the following county listing by region.

Region #1

Williams	Fulton	Lucas	Defiance	Henry	Wood
Ottawa	Sandusky	Paulding	Putnam	Hancock	Seneca
Van Wert	Allen	Mercer	Auglaize	Hardin	Wyandot

Region #2

Erie	Lorain	Cuyahoga	Lake	Ashtabula	Huron
Medina	Summit	Geauga	Trumbull	Crawford	Richland
Ashland	Wayne	Stark	Portage	Mahoning	Columbiana
Tuscarawas	Carroll	Jefferson	Harrison		

Region #3

Marion	Morrow	Knox	Holmes	Logan	Union
Delaware	Licking	Coshocton	Champaign	Clark	Madison
Franklin	Fayette	Pickaway	Fairfield	Perry	Muskingum

Region #4

Dark	Shelby	Miami	Preble	Montgomery	Greene
Butler	Warren	Clinton	Hamilton	Clermont	Brown
Highland	Adams	Ross	Pike	Scioto	Jackson
Lawrence					

Region #5

Guernsey	Belmont	Noble	Monroe	Morgan	Washington
Hocking	Athens	Vinton	Meigs	Gallia	

The definition of Products & Services may be amended from time to time upon the mutual written agreement of Contractor and Equalis.

## 2. Pricing for Products & Services

Pricing is made available to Members on a per unit basis for the tasks outlined in the CTC ("Per Unit Pricing"). Contractor's Per Unit Pricing is determined by multiplying the appropriate Per Unit Price appearing in the appropriate regional CTC by the Contractor's appropriate Adjustment Factor in the corresponding geographic region ("Regional Adjustment Factor"). The Adjustment Factors made available in each Region for Services are included in the following table.

Contract #	Trade	Normal Working Hours Prevailing Wage	Other than Normal Working Hours Prevailing Wage	Normal Working Hours Non-Prevailing Wage	Other than Normal Working Hours Non-Prevailing Wage	Non Pre-Priced Adjustment Factor
COG-2146-GC2-L	General Construction	1.2450	1.2680	1.2450	1.2680	1.1880
COG-2146-PC2-C	Plumbing	1.2750	1.2900	1.2750	1.2900	1.2150

Each JOC Contract awarded to the Contractor may contain different Adjustment Factors based on geographic cost factors.