

Contract Award Letter

January 04, 2023

Magic Roofing & Construction Co. Inc
910 Fairgrounds Rd
Farmington, NM 87401

RE: Contract Award for:
2023-05-G1193-ALL Job Order Contracting (JOC) - General Construction

Dear Procurement Partner

Cooperative Educational Services (CES) thanks you for responding to our 2023-05 solicitation. The responses have been reviewed and it is our pleasure to inform you that your company has been selected to provide the products and services indicated in your response.

The Contract, in conjunction with the Contract and RFP documents, constitute the Agreement between the parties. Please retain all documents for your records. This Indefinite Delivery and Indefinite Quantity contract, as defined in NMSA 13-1-63; beginning December 13, 2022 and expiring December 12, 2025, pursuant to 13-1-150 NMSA.

It is the vendor's responsibility to keep pricing up to date throughout the life of the contract.

Sincerely yours,

Cooperative Educational Services

A handwritten signature in blue ink that reads 'David Chavez'.

David Chavez
Executive Director, Chief Procurement Officer
Office: 505.344.5470



ACCEPTANCE OF PROPOSAL AND OFFER AND CONTRACT AWARD

RFP NUMBER: 2023-05

RFP DESCRIPTION: Job Order Contracting (JOC) - General Construction

CONTRACT NUMBER: 2023-05-G1193-ALL

CONTRACT

This contract award is being made by Cooperative Educational Services (“CES”), 10601 Research Rd. SE, Albuquerque, New Mexico 87123 effective this 13th day of December 2022, to Magic Roofing & Construction Co. Inc, with its principal office located at 910 Fairgrounds Rd, Farmington, NM 87401, pursuant to the above referenced CES conducted Request for Proposal (“RFP”) or Request for Bids (“RFB”) procurement, and Contract Holder accepts the award and enters into this contract pursuant to the following terms and conditions.

RECITALS

Cooperative Educational Services (CES) is a cooperative procurement agency created by a Joint Powers Agreement as authorized by Section 11-1-1, et. seq., N.M.S.A., 1978, and Section 13-1-135 and procures tangible personal property, services and construction services (“Products, Services and/or Construction Services”) pursuant to the New Mexico Procurement Code for the benefit of its Members and Participating Entities. The Members consist of public educational institutions in New Mexico that are signatories to a Joint Powers Agreement establishing CES as their procurement agency. The Participating Entities are governmental and 501(C) (3) organizations that have entered into Participating Entity Agreements with CES which allow them to take advantage of the procurement efforts of CES.

The undersigned (“Contract Holder”) has successfully responded to a RFP or RFB published by CES in accordance with the Procurement Code, (13-1-103, 111, 112), and Contract Holder is being awarded this RFP or RFB contract by CES which allows Contract Holder to offer Products, Services and Construction Services in accordance with the terms and conditions set forth herein and in the RFP or RFB documents and this contract award.

CONTRACT TERMS

1. The initial contract term shall be from the effective contract award date December 13, 2022 December 12, 2025. CES reserves the right to renew the Contract through a written amendment signed by all required signatories, but in any case, the Contract shall not exceed the total number of years allowed pursuant to NMSA 1978 13-1-150. CES reserves the right to offer month-to-month extensions if it is determined by CES to be in the best interest of CES Members/Participating Entities

2. Contract Holder agrees and acknowledges that the contract terms and provisions are those contained in the above referenced RFP or RFB and agrees to furnish all Products, Services and/or Construction Services in compliance with all terms, conditions, specifications of and amendments to this RFP or RFB. Contract Holder understands that his obligations under this RFP or RFB contract extend to CES Members and Participating Entities who are third party beneficiaries of this RFP or RFB procurement process. The Members/Participating Entities may negotiate with

Contract Holder certain additional terms and conditions relating to the scope of services and other performance details. However, the terms and conditions of the RFP or RFB may not be altered or amended except with the approval of CES and in accordance with the State Procurement Code.

3. Contract Holder acknowledges and agrees that CES' purpose and function is to act as a cooperative procurement agent on behalf of its Members and Participating Entities so that they may take advantage of these procurement efforts. CES does not have any subsequent responsibility relating to the quality and fitness of any Products, or the performance of any Services and Construction Services by Contract Holder. Any purchase orders placed by a CES Member or Participating Entity with Contract Holder directly or through CES and any resulting contract between the Contract Holder and a CES Member or Participating Entity do not create any additional obligations on the part of CES.

4. For transactions which involve CES transmitting purchase orders from a Member/Participating Entity to Contract Holder, CES volunteers to act as a payment facilitator to make payments to Contract Holder with funds transferred to CES by the Member/Participating Entity in accordance with Member/Participating Entity's written instructions and to provide an accounting of all monies paid or received by CES pursuant to this Agreement. CES also volunteers to provide informal mediation services between Contract Holder and Member/Participating Entity in the event any dispute arises between them.

5. Contract Holder understand and agree that upon CES' receipt of funds from the Member/Participating Entity, CES has no right or authority to thereafter apply those funds to any purpose other than as instructed by Member/Participating Entity. CES shall incur no liability to Contract Holder except for liability arising from CES' own gross negligence or willful misconduct, to the extent allowed by New Mexico law. Through this procurement process, Contract Holder is authorized to provide the described Products, Services or Construction Services. CES has no obligation or right to involve itself with the manner or method by which Contract Holder provides these Products, Services or Construction Services.

6. To the extent allowed by New Mexico law, Contract Holder agrees to hold CES harmless from all costs, expenses, attorney fees and judgments based upon claims between a Member/Participating Entity and Contract Holder in connection with the specified Products, Services or Construction Services provided by Contract Holder

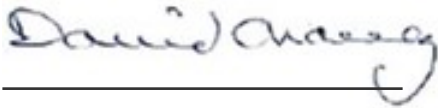
7. Contract Holder agrees that it will not assert any claim against CES in the event that a dispute arises regarding the alleged failure of Contract Holder or a Member/Participating Entity to perform as provided for in the RFP or RFB documents, any purchase order or other contract between Contract Holder and a Member/Participating Entity. This does not include claims against CES based upon the alleged gross negligence or intentional acts of CES.

8. Any liability incurred in connection with this Agreement shall be subject to the immunities and limitations of the New Mexico Tort Claims Act, §§ 41-4-1 et seq, NMSA 1978, as amended.

The Recitals are incorporated herein as contract terms.

Agreed effective the above date.

Cooperative Educational Services



Electronically Signed on 01/04/2023

Executive Director

Date: 01/04/2023

Magic Roofing & Construction Co. Inc

Kevin Lucero

Electronically Signed on 01/04/2023

President

GENERAL SCOPE OF WORK AND SPECIFICATIONS

Lot 1 – Gordian ezIQC™

PART I INTRODUCTION

A. GENERAL

The work performed under this solicitation will be set forth in each individual project's detailed specifications or detailed Scope of Work, as agreed upon by the CES Eligible Agency and the Contractor, and that is based on the **product**, services, or deliverables acquired through this solicitation. The CES General Terms and Conditions and Supplemental Construction Terms and Conditions are a part of this contract.

B. NOTICE

Indefinite delivery indefinite quantity (IDIQ) construction contracts` term and thresholds, resulting from this RFP, are pursuant to New Mexico Procurement Code, NMSA, 1978, 13-1-154.1

PART II SCOPE OF WORK AND SPECIFICATIONS

A. SCOPE OF WORK

Job Order Contracting (JOC) is an Indefinite Delivery Indefinite Quantity (IDIQ) construction delivery method that allows many projects to be completed through a single, publicly competed, competitively awarded contract. This single-solicitation process enables CES Members` projects to start faster and creates partnerships between project owners and awarded contractors, resulting in higher quality work.

CES is seeking qualified, licensed general contractor(s) in the State of New Mexico that hold a GB, BA, or GF (General Contractor's license) and who possess the qualifications, experience, and resources to provide construction services for a firm, fixed price based on this solicitation. The scope of work may include, but is not limited to, general construction services relating to the repair, alteration, renovation, modernization, rehabilitation, demolition, and construction of infrastructures, buildings, structures, or other public facilities for CES Members and Participating Entities. The Contractor will furnish all management, documentation, labor, materials, and equipment needed to perform and complete the scope of work stated for each individual project requested under this RFP. A contract awarded resulting from this solicitation is not project specific. Successful Offerors will market their CES contract to CES Members and Participating Entities for the work.

B. SPECIFICATIONS

1. Due to the nature of this Request for Proposals and the variety and level of construction products and services requested, the standard of quality and performance required in the specifications, and scope of work of individual projects, the minimum acceptable product and performance standards are those established by construction trade industry organizations, federal, state and local governmental agencies; or those of the product manufacturers specified in specific job orders, unless otherwise stated in the

project's final detailed scope of work, specifications, addendums, drawings, manufacturer industry standards or CES three-party agreement.

2. Contractor will pay for any failure to conform or for any defect. In addition, Contractor will fix any damage to CES Eligible Agency's controlled, real, or personal property when that damage is the result of Contractor's failure to conform to contract requirements; any defect in equipment, material, workmanship, or design furnished; or in failure to comply with federal, state and local laws, codes, and regulations. Contractor's warranty with respect to work done, repaired, or replaced under these conditions will run for one (1) year from the date of repair or replacement or completion.

3. If Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the CES Eligible Agency will have the right to replace or otherwise remedy the failure, defect, or damage at the Contractor's expense in accordance with New Mexico state law.

4. Assisting CES Eligible Agencies in evaluating, designing, developing, renovating existing facilities and with constructing new additions to their facilities.

5. Remodeling of individual classrooms, offices, restrooms for ADA compliance, storage, and common areas, etc. that involves and requires multiple construction trades.

6. Renovating and updating of a variety of administrative, vocational, athletic, storage, and similar facilities that involves multiple construction trades.

7. Engaging in new construction of additions, such as classrooms, administrative, athletic, storage, land development, etc. that involves and requires multiple construction trades such as plumbing, electrical, carpentry, utilities, mechanical, masonry, site work, etc.

8. Providing various types of construction-related services to CES Eligible Agencies involving maintenance and repair of existing facilities or to supplement the CES Eligible Agency's own maintenance crews in completing projects.

C. SUPPLEMENTAL REQUIREMENTS TO THE SCOPE OF WORK

These supplemental conditions are to be adhered to in addition to the CES General Terms and Conditions and CES Supplemental Terms and Conditions specified in the RFP for either Category or Lot(s) if awarded a contract.

1. Unless otherwise specified, the Contractor shall supply all labor, services, tools, and equipment necessary to complete specific job order tasks in accordance with proper construction standards and practices; and shall complete projects as implied either from the project drawings or specifications. Architectural and engineering services may be required periodically. If so, the architectural and engineering fees will be agreed upon by the CES Eligible Agency with a customary and reasonable markup for the acquiring the services and executing the work per the A/E instructions.

2. At the issuance of each project or job order under this contract, the CES Eligible Agency and Contractor shall discuss the issues of access and special requirements that are to be observed during the execution of the work.
3. The Contractor shall perform the construction work in accordance with this contract, including provisions of all pricing, management, drawings, documents, labor, materials, supplies, parts, transportation, facilities, supervision, and equipment needed to complete each project.
4. Contractor shall maintain accurate and complete records, files, and documents to include state and local laws, ordinances, rules, regulations, manufacturers' instructions, and recommendations which are necessary and related to the work to be performed.
5. The Contractor will clearly identify each individual product and service and its cost in accordance with the pricing methodology as allowed in this RFP. A detailed price and cost submittal with all options that need to be considered will be submitted to the CES Eligible Agency in the format required by this RFP.
6. The Contractor shall prepare and submit required reports, maintain current record drawings, and submit required information to the CES Eligible Agency. The Contractor will provide materials lists to include model, trade names and brand names and ratings (if applicable) for all materials necessary to complete the job. If CES or the CES Eligible Agency requests any information, the records and files will be made available to them.
7. The Contractor may be required to provide minor architectural, structural, mechanical, electrical, civil, or other engineering services for small performance-based scopes of work as requested by the CES Eligible Agency or as required for filings or permits. The services shall be provided by architects or engineers registered and insured in the State of New Mexico to practice in the professional field required. Professional liability coverage shall be at least \$500,000. All documents prepared by architects, consultants, and engineers for the Contractor under this contract are subject to review by the CES Eligible Agencies and NMPSFA, when applicable.
8. The procedure for initiating a specific job order under the CES Gordian eZIQC JOC program is as follows:
 - a. The CES Eligible Agency may award an individual project to any selected Contractor. Selection of the Contractor and award of the project may be based on one or more of the following criteria:
 - a.1. Evaluation of past and current performance on projects of a similar nature and type of work, project size, construction management challenges, schedule performance, etc.
 - a.2. Owner schedule and the availability and current workload of preferred Contractor.
 - a.3. Management of project dollar volume within bonding limitations of the Contractor.
 - a.4. Price, as it relates to the CES Eligible Agency's independent cost estimate or to an offer from any other contractor.
 - a.5. Contractor's responsiveness to the CES Eligible Agency for other projects.
 - a.6. Other appropriate criteria as deemed in the best interest of the CES Eligible Agency.
9. The CES Eligible Agency, Gordian Account Manager, and the Contractor will schedule a site visit to discuss and develop a scope of work, determine the project requirement, and compile all pertinent

documents. From this meeting, the Contractor and CES Eligible Agency shall come away, at a minimum, with the following:

- a. The general scope of work
- b. Existing site conditions
- c. Definition and refinement of requirements
- d. Detailed scope of work
- e. Establishing requirements for design drawings, sketches, submittals, catalogue cuts, samples, shop drawings, etc.
- f. Tentative construction schedule (bar chart or critical path method [CPM] schedule)
- g. Preliminary quantity estimates
- h. Proposal due date
- i. Methods and alternatives for accomplishing work
- j. Access to the site and protocol for admission
- k. Staging area
- l. Presence of hazardous materials
- m. Liquidated damages.

10. Upon completion of the joint scope process, the Contractor will prepare and submit a draft of the detailed scope of work, referencing any attachments required to accurately document the work to be accomplished to the Gordian Account Manager and CES Eligible Agency to review. The CES Member to approve, amend or reject. The detailed scope of work, unless modified and agreed to by both the Contractor and the CES Eligible Agency, will be the basis on which the Contractor will develop its Price proposal and submit it to the CES Eligible Agency for its final acceptance or rejection. The Contractor does not have the right to refuse to perform any task or any work required for the successful delivery of the project.

- a. The Contractor's Proposal shall include the following:
 - a.1) Cost of the Work including Bonds (bonds shall be paid without mark-up) and NMGR
 - a.2) Required drawings or sketches
 - a.3) List of anticipated Subcontractors
 - a.4) Construction schedule
 - a.5) Calculations
 - a.6) Special insurance, if required.
 - a.7) For special equipment, a copy of the warranty document, if required.
- b. Other requested documents:
 - b.1) Catalog cuts, specifications, technical data, drawings, or other information as required to evaluate the task.
 - b.2) If the Contractor will perform the work with its own forces, or if the work is to be subcontracted, the Contractor shall not submit a quote or bid from any supplier or subcontractor that the Contractor is not prepared to use. CES Eligible Agency may require additional quotes and bids if the suppliers or subcontractors are not acceptable or if the prices are not reasonable. If three quotes or bids cannot be obtained, the Contractor will provide the reason in writing for the Owner's approval. If approved, less than three quotes or bids will be allowed.
 - b.3) The final price submitted for Non-Pre-priced Tasks shall be in accordance with the following

formula:

For Non-Pre-Priced Tasks Performed with 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 Tasks performed with Contractor's Own Forces = (A+B+C) x Non-Pre-priced Task Adjustment Factor.

For Non-Pre-Priced Tasks Performed by Subcontractors:

If the Non-Pre-priced Task is to be subcontracted, the Contractor must submit three independent quotes for the work.

D = Lowest of three Subcontractor Quotes

Total Cost for Non-Pre-priced Tasks performed by Subcontractors = D x Non-Pre-Priced Task Adjustment Factor

b.4) After a Non-Pre-priced Task has been approved by CES, 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.

b.5) The CES Eligible Agency's 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.

11. Contractor shall make the necessary arrangements for and obtain all filings and permits required for the Work, including the preparation of all drawings, sketches, calculations and other documents and information that may be required therefor. If the Contractor is required to pay an application fee for filing a project, a fee to obtain a building permit, or any other permit fee to the City, State or some other governmental or regulatory agency, then the amount of such fee paid by the Contractor for which a receipt is obtained shall be treated as a Reimbursable Task to be paid without mark-up. The cost of expediting services or equipment use fees are not reimbursable.

12. The Contractor shall provide incidental engineering and architectural services required for a Job Order including drawings and information required for filing.

13. The Contractor's Price Proposal shall be submitted by the date indicated at the Joint Scope meeting. All incomplete Price Proposals shall be rejected. The time allowed for preparation of the Contractor's Price Proposal will depend on the complexity and urgency of the project but should average between seven and fourteen days. On complex projects that may require incidental engineering/architectural drawings and approvals and permits, allowance will be made to provide adequate time for preparation and submittal of the necessary documents.

14. Under no circumstances, regardless of an emergency to include minor maintenance and repair projects requiring immediate completion, shall the Contractor proceed with the work without a Purchase Order from CES.

15. By submitting a Price Proposal to the CES Eligible Agency, the Contractor agrees to accomplish the Detailed Scope of Work in accordance with the Request for Proposal at the price submitted. It is the Contractor's responsibility to include the necessary tasks and quantities in the Price Proposal and apply the appropriate PH&P prior to delivering it to the CES Eligible Agency.
16. If the Contractor requires clarifications or additional information regarding the scope of work to prepare the Price Proposal, the request must be submitted timely so that the work is not delayed.
17. Review of the Proposal and Issuance of CES Purchase Order.
 - a. The CES Eligible Agencies representative will evaluate the Contractor's Price Proposal, and proposed tasks, and compare these with the cost estimate of the detailed scope of work to determine the reasonableness of approach, including the nature and quantity of tasks proposed.
 - b. The Contractor may choose the means and methods of construction; subject however, to CES Eligible Agency's right to reject any means and methods proposed by the Contractor that:
 - b.1) Will constitute or create a hazard to the work, or to persons or property; or
 - b.2) Will not produce finished Work in accordance with the terms of the Contract; or
 - b.3) Unnecessarily increases the price of the project when alternative means and methods are available.
18. The CES Eligible Agency reserves the right to reject a Price Proposal or cancel a Project for any reasonable reason and with written notification. CES Eligible Agency also reserves the right not to issue a Purchase Order to CES if it is determined to be in the best interests of CES Eligible Agency. CES Eligible Agency may perform such Work by other means. The Contractor shall not recover any costs arising out of or related to the development of the Price Proposal including but not limited to the costs to attend the Joint Scope Meeting, review the Detailed Scope of Work, prepare a Price Proposal (including incidental architectural and engineering services), subcontractor costs, and the costs to review the Price Proposal with CES Eligible Agency.
19. By submitting a Price Proposal to the CES Eligible Agency, the Contractor agrees to accomplish the Detailed Scope of Work at the lump sum price submitted. It is the Contractor's responsibility to include the necessary breakdown of quantities, time, materials, etc., in the Price Proposal and to delivering the final project to the CES Eligible Agency.
20. Each Project shall reference the Detailed Scope of Work and set forth the Contractor CES Contract pricing and stated completion time for the project. All clauses of this Contract shall be applicable to each Project. CES Purchase Order delivered to the Contractor constitutes CES Eligible Agency's acceptance of the Contractor's Price Proposal.
21. CES will review all information submitted and, if CES finds the Price Proposal in compliance with the terms, conditions, specifications, and Contractor Pricing, CES will issue the Contractor a CES purchase order, which is considered Contractor's notice to proceed. The Price Proposal shall include all documents relating to the identified project. The CES purchase order, signed by and delivered to the Contractor, constitutes CES and its Agency's acceptance of the Contractor's proposal. A signed copy will be provided

to the Contractor. Upon receipt of the CES Purchase Order, the Contractor shall provide the CES Eligible Agency and CES, a Certificate of Insurance naming the CES Eligible Agency as co-insured, and if applicable 100% Performance and 100% Payment Bonds for the project. Upon receipt of these documents, the Contractor may proceed with the work.

22. The Contractor will prepare and submit with each proposal a bar chart or CPM schedule setting forth the manner and sequence of the work. The Contractor shall schedule the work in accordance with the time duration set forth in the Price Proposal.

23. Changes in the work shall be dealt with by a Supplemental Price Proposal and amendments to the CES Eligible Agency and CES Purchase Orders, respectively. Additional Time will be negotiated as appropriate for the scope of work.

24. Bid Price Adjustments

- a. When a major item is increased to more than 125% or decreased below 75% of the original quantity stated in the original Job Order, the Price Proposal shall be modified by written Supplemental Job Order. Payment for major items shall be calculated by the terms of the Supplemental Job Order.
- b. 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, the Contractor may submit a request for a price modification to a Unit Price or individual Job Order. In order to initiate such a request, the 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.

25. Notice to Proceed: The Contractor will not begin work on a Project under any circumstances until CES’ purchase order is issued and all documents relating to that job order are signed by CES, its Eligible Agency and the Contractor and Notice to Proceed has been issued to the Contractor.

26. Provide Fixed Hourly Rates to be used in your Price Proposal as follows:

1) Normal Working Hours (Defined as 7:00 a.m. to 5:00 p.m. Monday-Friday) (Outside Tribal Lands).

- (a) One for work in normal hours when the total project cost (job order) more than \$60,000, requiring state wage rates.
- (b) One for work in normal hours when the total project cost (job order) is less than \$60,000 and does not require state wage rates.

2) Other Than Normal Working Hours (Defined as all hours not defined as normal hours above) (Outside Tribal Lands).

- (a) One for work in other than normal working hours when the total project cost (job order) more than \$60,000, requiring state wage rates.
- (b) One for work in other than normal working hours when the total project cost (job order) is less than \$60,000 and does not require state wage rates.

3) Project Funded by Federal Funds or on Tribal Lands Performed During Normal Working Hours (Defined as 7:00 a.m. to 5:00 p.m. Monday-Friday)

- (a) One for work in normal working hours when the total project cost (job order) is more than \$2,000, requiring federal wage rates.

Non-Pre-Priced Tasks

- a. One for tasks that may not be found within the Construction Task Catalogue (CTC)

27. Calculate Overhead and Profit to include the following:

- a. All general cost (General Conditions) such as home office overhead; all types of insurance, fringe benefits, payroll taxes, worker's compensation etc.; site visits; project meetings and owner support services; project development; project office staff, supplies, equipment and paperwork; inspection and testing fees; training; supervision; JOC System License Fee; project mobilization and close-out and other related costs.

- b. Plan Checking and Permit Fees: Include as part of the response any plan checking fee as charged by any municipality, county or state government (or any other applicable entity or agency with jurisdiction over the project) for checking contract documents prior to obtaining a building permit. Include in your response all costs incurred for permits relating to this requirement.

Note: Offerors and Subcontractors whose home location is in one region and the project is in another must build into their adjustment factor the above costs associated for doing projects in other regions. No general conditions relating to the above items will be allowed in a project's proposal unless it is submitted and approved in advance by the CES Eligible Agency CES.

D. QUOTES AND PROPOSALS

All proposals submitted to a CES Eligible Agency under this RFP will be based on the pricing methodology described and stipulated within each Category and Lot of this RFP specific to the Contractor's response and awarded contract.

- 1. Contractor will adhere to the CES Business Office process to provide the required construction paperwork before CES will issue the first Payment to Contractor to include the following:

Project that exceeds \$25,000 → 100% Performance and Payment bond

Project that exceeds \$60,000 → State Wage Decision

Note: Federal Wage Decision (Davis Bacon) required for projects starting at \$2000 when federal funds are being used. Please ask the CES Eligible Agency before preparing your quote if there are any federal dollars being used on the project.

- Subcontractor Listing Form → ½ of 1% of Project or \$5,000, whichever is greater
- Subcontractor Bond to GC for the Work that exceeds \$125,000 → Provide CES with a copy of Subcontractor Bonds

Notification of Award – Must provide estimated start/end dates of project if not using a formal industry standard agreement between the Owner and Contractor, such as AIA, PSFA, or CES Three-Party Agreement.

- Statement of Intent to Pay Prevailing Wages (SOI*)
- Affidavit of Wages Paid (AWP) Needed at time of FINAL Payment*
- Architect Stamp – for any Roofing Project

*SOI and AWP are needed from the General Contractor and all Subcontractors. Every Subcontractor must be registered with NM Workforce Solutions at the time they are awarded the project, or they are NOT ELIGIBLE to be used on the project.

E. PURCHASES BY CES ELIGIBLE AGENCIES

a. CES Eligible Agencies may purchase construction services from the Contractor utilizing this Contract. **If the Contract is utilized by CES Eligible Agencies, the Contractor agrees to pay direct to Gordian a 6.00% JOC System License Fee (License Fee) and pay CES the CES 1.25% Administration Fee. The Gordian License Fee payment is due payable within five (5) days from the date the Contractor receives payment due from CES Eligible Agency.** License Fees not paid by Contractor to Gordian by the specified deadline shall bear an interest rate of 1½% per month until paid. **The Contractor shall include the License Fee and the CES 1.25% Administration Fee in its Adjustment Factors.** Gordian and the Contractor shall mutually utilize Gordian ezIQC® to track utilization, fees, and payments. The Contractor shall have no claim or right to any portion of the License Fees. Failure to pay License Fees in a timely manner shall be considered a material breach of this Contract and, at CES’s sole discretion, may be deemed grounds for termination of this Contract.

b. CES and Gordian authorize the Contractor the use of CES` and Gordian’s names, logos, trademarks, and CES’ and Gordian provided materials solely for the presentation and promotion of the availability and use of this Contract by CES Eligible Agencies. The Contractor authorizes CES and Gordian the use of the Contractor's name, logos, trademarks, and Contractor provided materials in the presentation and promotion of the availability and use of this Contract by CES Eligible Agencies.

c. CES and Gordian shall not be liable or responsible for any obligation, including, but not limited to, payments due under a Job Order, Purchase Order or similar purchasing document issued to the Contractor by the Entity (“Purchase Order”)

d. Remittance of License Fees: The Contractor shall remit License Fees as follows:

Payments Made Payable to: The Gordian Group, Inc.

Mail Checks to: The Gordian Group, Inc.

PO Box 79341

Baltimore, MD 21279-0341

e. The Contractor shall, within two (2) business days of receipt of a Purchase Order from an Entity, provide notification to CES and Gordian of each Purchase Order by forwarding a copy of the Purchase Order via email to Jenny Ramirez, Gordian Area Manager at j.ramirez@gordian.com.

f. The Contractor shall, within two (2) business days of sending an invoice to an Entity, provide notification to CES and Gordian of each invoice by forwarding a copy of the invoice via email to Invoice@ezIQC.com or via facsimile to (864) 233-9100

g. CES and Gordian may request records from the Contractor for all cooperative purchasing through this Contract and payment of all License Fees. The Contractor hereby agrees and authorizes CES Eligible Agencies to provide a copy of each Purchase Order issued to Gordian. If discrepancies exist between cooperative purchasing activity and License Fees paid, CES or Gordian will provide written notification to the Contractor of discrepancies and allow the Contractor ten (10) days from the date of notification to resolve the discrepancy. In the event the Contractor does not resolve the discrepancy to the satisfaction of CES and/or Gordian, CES and/or Gordian reserve the right to engage a third party to conduct an independent audit of the Contractor's records and, in the event, Contractor is not in compliance with this Contract, Contractor shall reimburse the appropriate party for the cost and expense related to such audit.

Note: The Adjustment Factors for Other than Normal Working Hours must be equal to or greater than the respective Adjustment Factors for Normal Working Hours.

PART III GORDIAN ezIQC - CATEGORICAL SCOPE OF WORK

Upon request by a CES Eligible Agency and at no cost to CES or the CES Eligible Agency, the Contractor will arrange a meeting with the Agency to review the scope of construction products and services to be provided, project's location, conditions and timelines, the CES Agency's requirements and expectations to gather the information required to prepare the necessary paperwork and cost proposal to enable the Agency to make a decision whether or not to proceed with the proposed project.

- A. As part of the joint scope of work meeting, the Contractor will perform a preliminary investigation to develop the project's detailed scope of work. The Contractor shall determine if the project is being funded in part or in whole by the CES Agency, the Federal Government or NMPSFA. The Contractor shall communicate with all parties that have been identified as co- owner's representatives.
- B. Based on the information obtained from the owner's designated representative(s), and the Contractor's evaluation and review of the project's documentation and detailed scope of work, the Contractor will prepare a detailed cost proposal covering the services, materials, equipment and other related items needed to initiate and complete the proposed project's detailed scope of work. This will include, but is not limited to, the estimated timelines, terms, conditions and specifications of performance, warranties, etc., with their associated costs.
- C. The Contractor will clearly identify each individual product and service and its cost in accordance with the pricing methodology as allowed under Gordian ezIQC. A detailed price and cost submittal with all options that need to be considered will be submitted to the CES Eligible Agency in the format required by this RFP.

- D. The Contractor will clearly identify which of the proposed products and services will be provided by its employees and which items it intends to subcontract. The Contractor will provide a list of all subcontractors with their contact information, NMCID license information, type of products and services provided and dollar value of work to be performed. If applicable, include the subcontractors NMDWS registration number.
- E. The CES Eligible Agency reserves the right to accept or reject any project proposal submitted by Contractor.
- F. The Contractor may be asked by the CES Eligible Agency to work with them to modify the proposal to meet their needs or available resources. Any changes should be clearly identified in writing so the CES Eligible Agency clearly understands the impact such changes may have on the project outcome or overall quality of the project.
- G. On the acceptance of the project proposal, the Contractor and the CES Eligible Agency will need to create and file all required documents with CES, with all appropriate state and local governing authorities, and acquire permits and authorization. If required, the Contractor will complete and sign a CES or CES/NMPSFA third-party agreement between the buyer, Contractor, and owner. If an additional contract is completed between the Contractor and CES Eligible Agency, the Contractor will submit a copy of the signed contract along with its project and cost proposal to CES. CES will verify the pricing to be in accordance with the RFP pricing and will issue a CES purchase order to the Contractor.
- H. The Contractor must provide the owner a complete scope of work which includes a description of the work to be performed by the Contractor, the subcontractor, and the owner prior to the issuance of a purchase order.
- I. In any contract between the Contractor and an owner based on this RFP, all CES General Terms and Conditions, CES Supplemental Terms and Conditions for Construction, Federal Terms and Conditions when applicable, and all the Categorical Scope of Work requirements will prevail.
- J. The Contractor, upon receipt of the CES purchase order, will provide CES with a copy of any applicable performance and payment bonds for the Contractor and any subcontractors, finalized project timelines, schedules of values, the NMDWS paperwork and additional required documents.
- K. Any Supplemental Job Orders or modifications to the project will occur only with written approval of CES, the CES Eligible Agency and the Contractor.

L. Gordian ezIQC Individual Project - Price Proposal Preparation

When preparing a Job Order Proposal for this Lot, the Contractor shall utilize the following Adjustment Factors to prepare their Job Order Price Proposals for individual job order projects.

1. All Unit Prices listed in the Construction Task Catalog® are priced at a net value of 1.0000. The Adjustment Factors shall be an increase or decrease to all the Unit Prices listed in the Construction Task Catalog®. For example, 1.1000 would be a 10% increase to the Unit Prices and 0.9500 would be a 5% decrease to the Unit Prices. Bidders who submit separate Adjustment Factors for separate Unit Prices will be considered non-responsive and their bid will be rejected.
2. **Gordian ezIQC Adjustment Factor:** The Contractor's competitively bid price adjustment to the unit

prices as published in the Construction Task Catalog®. Contractors must bid nine (9) adjustment factors as follows:

- 1) Normal Working Hours (Defined as 7:00 a.m. to 5:00 p.m. Monday-Friday) (Outside Tribal Lands).**
 - (a) One for work in normal hours when the total project cost (job order) more than \$60,000, requiring state wage rates.
 - (b) One for work in normal hours when the total project cost (job order) is less than \$60,000 and does not require state wage rates.

 - 2) Other Than Normal Working Hours (Defined as all hours not defined as normal hours above) (Outside Tribal Lands).**
 - (a) One for work in normal hours when the total project cost (job order) more than \$60,000, requiring state wage rates.
 - (b) One for work in normal hours when the total project cost (job order) is less than \$60,000 and does not require state wage rates.

 - 3) Project Funded by Federal Funds or on Tribal Lands Performed During Normal Working Hours (Defined as 7:00 a.m. to 5:00 p.m. Monday-Friday)**
 - (a) One for work in normal working hours when the total project cost (job order) is in excess of \$2,000, requiring federal wage rates.
 - (b) One for work in normal working hours when the total project cost (job order) is less than \$2,000 and does not require federal wage rates.

 - 4) Project Funded by Federal Funds or on Tribal Lands Performed Outside Normal Working Hours (Defined as all hours not defined as normal hours above)**
 - (a) One for work in other than normal working hours when the total project cost (job order) is in excess of \$2,000, requiring federal wage rates.
 - (b) One for work in other than normal working hours when the total project cost (job order) is less than \$2,000 and does not require federal wage rates.
- Note: Adjustment factors (3) and (4) are utilized for projects funded by federal funds and require Davis Bacon Wage Rates or for projects located on tribal lands.
- 5) Non-Pre-Priced Tasks**
 - 6) One for tasks that may not be found within the Construction Task Catalogue (CTC)**

Note: The adjustment factors for Other than Normal Working Hours must be equal to or greater than the respective Adjustment Factors for Normal Working Hours AND the adjustment factor for non-pre-priced tasks must be equal to or greater than 1.0000.
 - 7) Performance & Payment Bond Cost**

This % represents the cost the vendor incurs to provide a Performance and Payment bond to the CES Eligible Agency for an individual project when it is required. The cost of the performance and payment bonds shall be a line item in the Construction Task Catalog®.

8) Offeror Support for CES Pricing

The % discount placed here is the same discount offered in the RFP mandatory documents. The amount offered here will be assigned points for evaluation purposes.

- (a) All adjustment factors are expressed as an increase or decrease from the published prices.
- (b) When offering an adjustment factor, the Offeror must include in its factor:
 - i. All general cost (General Conditions) such as home office overhead; all types of insurance, fringe benefits, payroll taxes, worker's compensation etc.; site visits; project meetings and owner support services; project development; project office staff, supplies, equipment, and paperwork; inspection and testing fees; training; supervision; JOC System License Fee; the CES Administration Fee; project mobilization and close-out and other related costs.
 - ii. Plan Checking and Permit Fees: Include as part of the response any plan checking fee as charged by any municipality, county, or state government (or any other applicable entity or agency with jurisdiction over the project) for checking contract documents prior to obtaining a building permit. Include in your response all costs incurred for permits relating to this requirement.
 - iii. The Contractor cost for Payment and Performance Bonds shall be listed as a line item in the Construction Task Catalog.

Note: Offerors and Subcontractors whose home location is in one region and the project is in another must build into their adjustment factor the above costs associated for doing projects in other regions. No general conditions relating to the above items will be allowed in a project's proposal unless it is submitted and approved in advance by Gordian and CES.

9) Annual Update to the Construction Task Catalog®:

- a. The Construction Task Catalog® issued as part of the bid documents will be in effect for the first year of the Contract.
 - 1) Prior to each anniversary of the effective date of the Contract, an updated Construction Task Catalog® will be provided to Contractor for review. Once finalized, the updated Construction Task Catalog® will be effective for one year and will only be used for Job Orders issued during that year.
 - 2) The Adjustment Factors bid will remain in effect for the duration of the Contract.
 - 3) The Contractor shall use the Construction Task Catalog® in effect on the date the Price Proposal is due.
 - 4) The Contractor cannot delay submitting a Price 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 the delay.

CATEGORICAL DEFINITIONS

ADAAG: Americans with Disabilities Act Architectural Guidelines, <http://www.access-board.gov/adaag/html/adaag.htm>

ADA: Americans with Disabilities Act, <http://www.ada.gov>

Adjustment Factor: The competitively bid adjustment to be applied to the unit prices listed in the Construction Task Catalog® utilized by the Gordian pricing methodology.

A/E: Architectural and Engineering

Builders Work: Work done in conjunction with and subsidiary to work performed by mechanical, electrical, or other trades such as installations requiring cutting and patching of others work.

CCI: Construction Cost Index

CFR: Code of Federal Regulations, www.gpoaccess.gov/cfr/index.html

CID: Construction Industries Division

Construction Task Catalog®: A comprehensive listing of construction related tasks together with a specific unit of measure and a published Unit Price. (also, referred to as the “Unit Price Book” or “UPB”) utilized by the Gordian pricing methodology.

Consumables: Items used, worn, or consumed such as fuel and lubricants, and parts of tools such as saw blades.

Detailed Scope of Work: A written description setting forth the work the Contractor is obligated to complete for a Job Order/project.

Factory-Built Building: A residential or nonresidential building including a dwelling unit or habitable room thereof which is either wholly or in substantial part manufactured at an off-site location to be assembled on-site.

Federal Regulations and Codes – Title 29: Hazardous materials handling, removal, and disposal; respiratory protection and monitoring; employee exposure to hazardous materials; employee exposure and medical records; construction involving hazardous materials and hazardous communications.

Federal Regulations and Codes – Title 40: National emission standards for hazardous materials and asbestos abatement projects, worker protection, asbestos-containing materials in schools.

HVAC System: An EPA approved vacuum system. HVAC is the abbreviation for heating, ventilation, and air conditioning systems, used in building design and construction.

ISO: International Standards Organization, www.iso.ch

ISO 9000/9001: International Standards Organization Quality Standards

Job Order: A written order requiring the Contractor to complete the detailed scope of work in the job order completion time for the job order amount. The CES Member will be responsible for the development of the job order, as well as the supervision and acceptance of the work contained in the job order description. Each job order will include a detailed scope of work, a lump sum, firm fixed price proposal from the Contractor, with New Mexico Gross Receipts Tax (NMGRT) shown as a separate line item, time duration for the completion of the work and any special conditions that might apply to that specific job order.

Job Order Amount: The value of the approved Job Order Price Proposal and the amount the Contractor will be paid for completing a Job Order.

Job Order Contract (JOC): A job order contract is an indefinite quantity contract in which the Contractor will perform an ongoing series of individual small to medium, multi-traded maintenance, repair and

minor new construction projects at different locations throughout the identified CES regions.

Job Order Completion Time: The time within which the Contractor must complete the Detailed Scope of Work.

Job Order Price Proposal: A price proposal prepared by the Contractor that includes the pre-priced tasks, non-pre-priced tasks, quantities and appropriate adjustment factors required to complete the detailed scope of work in accordance with the Gordian pricing methodology.

Job Order Proposal: A set of documents including at least: (a) Job Order Price Proposal; (b) required drawings or sketches; (c) list of anticipated Subcontractors; (d) Construction schedule; and (e) other requested documents.

Joint Scope Meeting: A site meeting to discuss the work before the detailed scope of work is finalized.

Modular/Pre-Engineered Building: A factory-built building where the different components are constructed at the manufacturer's facilities and then transported to the project site where they are assembled, erected, or constructed to make a complete building. Additional construction services may be needed to finish and install other components.

NEC: NFPA 70: National Electrical Code, <http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp>

NFPA 54: Liquid Petroleum Gas Code for installation of piping and appliances for both residential and commercial applications.

NFPA 58: Liquid Petroleum Gas Code, for gas piping materials and components, gas piping installations, and inspection, testing, and purging of gas piping systems.

NMAC 14.7.2: 2009 New Mexico Commercial Building Code

NMPSFA: New Mexico Public School Facilities Authority, www.nmpsfa.org

Non-Pre-Priced Tasks: An item of work required by the detailed scope of work, but not included in the Construction Task Catalog®. Architectural and engineering services may be required periodically during the life of this contract. If architectural and engineering services are required, they will be priced as a non-pre-priced task. Any architectural and engineering fees will be negotiated with the Contractor. Such work requirements will be incorporated into and made a part of this contract for the job order to which they pertain, and can be incorporated into the Construction Task Catalog, if determined appropriate by CES, at the base price determined in this contract. Non-pre-priced tasks will be separately identified and submitted in the job order proposal; utilized by the Gordian pricing methodology.

Owner's Representative: A CES Member's employee or contracted consultant who has been designated by the Member to coordinate, supervise, manage, make decisions and act on the Member's behalf during a procurement transaction or construction project.

Portable/Relocatable Building: A factory-built building which is completely constructed at the manufacturer's facilities and then is transported to the designated project site. The only services performed on the project site relates to setting the building in place and connecting the utilities.

Pre-Priced Task: An item of work included in the Construction Task Catalog® for which a unit price is given; utilized by the Gordian pricing methodology.

Project: The collective improvements to be constructed by the Contractor pursuant to a Job Order, or a series of related Job Orders.

Subassembly: A prefabricated wall, floor, ceiling, roof, or similar combination of components.

Supplemental Job Order: A secondary Job Order developed after the initial Job Order has been issued for the purpose of changing, deleting, or adding work to the initial Detailed Scope of Work, or change the Job Order Completion Time.

Third Party Contractor: A Contractor selected and named by the Owner in specifications or in a designer's instructions to the Contractor who is not a party to the contract in question, but who also has

a construction contract with the same Owner for providing the specialized, individual building component or system the Owner has chosen to incorporate into the project, therefore, creating a need for coordination and cooperation among the Owner's engaged contractors on the same project, provided neither Contractor raises no reasonable objections.

Unit Price: The price published in the Gordian Construction Task Catalog® / RSMeans Construction Procurement Catalog for a specific construction or construction-related task. Each unit price is comprised of the labor, equipment, and material costs to accomplish that specific task. Unit price is also the price for a single unit of measure, such as the price for a product in a catalog or on a retail price list.

For purposes of CES` 2023 JOC RFPs, these are the links provided by Gordian / RSMeans to access, for a limited time and at no charge, the pricing books (Construction Task Catalogs or CTCs) to help Offerors derive to their Adjustment Factor (coefficient or multiplier).

ATTACHMENT B
TO
ACCEPTANCE OF PROPOSAL AND OFFER
AND CONTRACT AWARD

PRICING

All pricing including updates/changes must be uploaded through the vendor portal in the eProcurement System for review and approval by CES.

A Price List/Pricing: The Offeror will upload through the vendor portal electronic copies of or provide electronic access to the approved current price list(s) for products and services offered under this solicitation (RFP) upon execution of this contract. The Offeror must keep current all pricing for any contract issued as a result of this solicitation. Should the Offeror fail to update pricing with CES, the Offeror shall honor their pricing on file with CES at the time of their quote submittal to the CES Member/Participating Entity. Discounts off the current price list are permitted and must remain firm throughout the life of the contract. Discount off list price must be clearly noted in the price quote to the member. All pricing must include the CES administration fee.

B New Technology and Products: New products or related services announced by manufacturer and/or Contractor may be added to this existing contract. Pricing shall be equivalent to the percentage discount of other product(s); is substantially superior to the original product(s) offered; is discounted in a similar or to a greater degree; and if the product(s) meet the requirements of the original RFP. No products may be added to avoid competitive procurement procedures. CES is responsible for approving any product, service or technology for this contract. CES can reject any approved additions, any new product, service or technology for this contract, without cause.

C Price Quote/Proposal: When preparing a quote/proposal under a CES awarded contract, the Offeror must clearly identify and break out quantities, descriptions, supplies, materials, equipment and services into individual line items as they appear on the Offeror's awarded price schedule or pricing methodology. At a minimum all quotes or proposals shall include the following: description, "hourly labor rate or the list/catalog unit price", "the per cent discount offered" and the final "CES price". All stated prices must include the CES one point two five percent (1.25%) administrative fee. Shipping/Freight costs and the New Mexico Gross Receipts Tax as applicable must be stated in separate lines.

D Price Reduction, Promotional and Special Pricing: A price reduction can be offered at any time and will become effective upon approval by CES. CES reserves the right to approve or disapprove such requests.

E Price Increases: Anytime during the life of the contract, pricing can be updated (increased/decreased) with proper justification letter from the manufacturer or distributor thereof and will become effective upon approval by CES. CES reserves the right to approve or disapprove

such requests.

F Price Surcharges: Depending on current market conditions, surcharges may apply as approved by CES.

