ORDINANCE NO. 2024-4396

ORDINANCE
AUTHORIZING AND APPROVING AWARD OF A CONTRACT TO
BEAR CONSTRUCTION COMPANY FOR THE REMOVAL OF THE EXISTING
ASPHALT APRON AT THE PUBIC WORKS FACILITY AND INSTALLATION OF
A REPLACEMENT CONCRETE APRON APPROACH

WHEREAS, the Village of Barrington (herein sometimes referred to as the Village"), Cook and Lake Counties in Illinois, has determined that it necessary and advisable to remove the existing deteriorating asphalt apron approach at the west entry to the Village's Public Works facility at 300 N. Raymond Avenue, Barrington, IL, and replace such apron with a concrete apron approach due to the heavy use of this access point for the Public Works garage; and

WHEREAS, through Sourcewell, a national joint purchasing governmental cooperative in which the Village is a member, the Village has received from Bear Construction Company, 1501 Rohlwing Road, Rolling Meadows, IL 60008 (Sourcewell Contract No. IL-R1-GC-122122-BEA) Work Order dated March 14, 2024 for the removal and replacement of the existing deteriorating asphalt apron approach at the west entry to the Village's Public Works facility and the installation of a 1,600 square foot concrete apron (the "Project") for the not-to-exceed contract price of $34,734.58 (the "Bear Construction Contract"); and

WHEREAS, the 2024 fiscal year budget included $31,300.00 for removal and installation of the subject concrete approach at the Village's Public Works Facility; and

WHEREAS, the Village desires to approve the Bear Construction Contract and engage the services of and enter into a contract with Bear Construction Company for the Project at the not-to-exceed contract price of $34,734.58:

NOW, THEREFORE BE IT ORDAINED, by the President and Board of Trustees of the Village of Barrington, Cook and Lake Counties, Illinois, in exercise of the authority of this Village as a Home Rule unit, as follows that:

SECTION 1: The Corporate Authorities of the Village hereby find that the facts set forth in this Ordinance are true and correct, and such recitals are incorporated herein by reference as the findings of the Corporate Authorities as if fully set forth herein.

SECTION 2: The Corporate Authorities of the Village hereby approve the Bear Construction Contract dated March 14, 2024 (the "Bear Construction Contract") as well as the related Addendum to Construction Contract between the Village and Bear Construction Company, copies of which are attached hereto as part of Group Exhibit A and thereby made a part hereof, as well as the contract documents provided by Sourcewell for the Sourcewell Contract No. IL-R1-GC-122122-BEA (the "Sourcewell Contract Documents"), copies of which are attached hereto as part of Group Exhibit A and thereby made a part hereof, for the removal and replacement of the existing deteriorating asphalt apron approach at the west entry to the Village's Public Works facility and the installation of a 1,600 square foot concrete apron at said west entry (the "Project") for the not-to-exceed contract price of $34,734.58, without advertising for or receiving competitive bids or soliciting other proposals (other than through the Sourcewell joint bidding process) and

waiving any and all requirements for competitive bidding or for soliciting other proposals otherwise required by law, and said Bear Construction Contract, the Addendum to Construction Contract, and the Sourcewell Contract Documents are hereby specifically authorized, ratified and approved by the Corporate Authorities of the Village pursuant to Section 1-6A-6 of the Barrington Village Code.

SECTION 3: The Village President is hereby authorized to execute the Bear Construction Contract dated March 14, 2024, the Addendum to Construction Contract with Bear Construction Company, as well as the Sourcewell Contract Documents, all in substantially the forms which are attached hereto as Group Exhibit A and thereby made a part hereof (the Addendum, the Bear Construction Contract, and the Sourcewell Contract Documents attached hereto and thereby made a part hereof as Group Exhibit A are collectively referred to as the "Contract Documents"), for the Project at a not-to-exceed cost of $34,734.58, and the Village Clerk is hereby authorized to attest thereto, and otherwise take all the necessary and appropriate actions to accomplish the work on the Project in accordance therewith.

SECTION 4: This Ordinance shall take effect from and after its passage and approval as provided by law.

PASSED THIS 22 DAY OF April, 2024, BY ROLL CALL VOTE AS FOLLOWS:

AYES: Trustees Johnson, Sholeen, Wondrasek, Duncan, Moran, Rigg, President Darch

NAYS: None

ABSENT: None

RECUSE: None

APPROVED THIS 22 OF April, 2024

Karen Y. Darch

Karen Darch, Village President

ATTESTED AND FILED THIS 22ND DAY OF APRIL, 2024

Tony Ciganek

Tony Ciganek, Village Clerk

Village of Barrington CORPORATE SEAL (SEAL) Cook & Lake Counties, IL

GROUP EXHIBIT A

CONTRACT DOCUMENTS

(1) Addendum to Construction Contract

(2) The Bear Construction Contract consisting of:
   (a) Work Order Signature Document #126604.00 dated March 14, 2024, which includes the Detailed Scope of Work, the Contractor Price Proposal Details-CSI, and the Contractor Price Proposal Summaries-CSI

(3) The Sourcewell Contract Documents consisting of:
   (a) The Sourcewell Indefinite Delivery-Indefinite Quantity Construction Contract, Contract Number IL-R1-GC-122122-BEA, Service Type: General Construction;
   (b) The Sourcewell Indefinite Delivery-Indefinite Quantity Construction Contract, Contract Number IL-R1-GC-122122-BEA, General Terms and Condition for Solicitation IFB #IL-122122;
   (c) The Sourcewell Agreement to Modify and Extend Sourcewell Contract IL-R1-GC-122122-BEA dated January 24, 2024

ADDENDUM TO CONSTRUCTION CONTRACT
BETWEEN THE VILLAGE OF BARRINGTON AND
BEAR CONSTRUCTION COMPANY
Re: Removal and Replacement of Apron Approach at Barrington Public Works Facility

This Addendum to Construction Contract ("Addendum") shall constitute an integral part of the "Sourcewell Contract No. IL-R1-GC-122122-BEA" between BEAR CONSTRUCTION COMPANY, 1501 Rohlwing Road, Rolling Meadows, IL 60008 ("Contractor/Vendor" or "Bear Construction") and the VILLAGE OF BARRINGTON, 200 S. Hough Street, Barrington, IL 60010 ("Village") for work to be performed by the Contractor/Vendor at the Village's Public Works Facility located at 300 N. Raymond Avenue, Barrington, IL (the "Village's Public Works Facility") consisting of furnishing all materials, supplies, tools, equipment, labor, personnel, supervision, and perform other services necessary to commence and complete the Work in connection with the removal of the existing asphalt apron at the west entry to the Village's Public Works Facility and replacement of such apron with a 1,600 square foot concrete apron at a not-to-exceed cost of $34,734.58 (hereinafter referred to as "Project", the "Work", or the "Services") in compliance with and as set forth in the Contract Documents which include but are not limited to:

(1) This Addendum;
(2) The Sourcewell Indefinite Delivery-Indefinite Quantity Construction Contract, Contract Number IL-R1-GC-122122-BEA, Service Type: General Construction;
(3) The Sourcewell Indefinite Delivery-Indefinite Quantity Construction Contract, Contract Number IL-R1-GC-122122-BEA, General Terms and Condition for Solicitation IFB #IL-122122;
(4) The Sourcewell Agreement to Modify and Extend Sourcewell Contract IL-R1-GC-122122-BEA dated January 24, 2024; and
(5) The Work Order Signature Document #126604.00 dated March 14, 2024, which includes the Detailed Scope of Work, the Contractor Price Proposal Details-CSI, and the Contractor Price Proposal Summaries-CSI;

(collectively, the "Contract Documents"), copies of each of which are attached hereto as Group Exhibit A and thereby made a part hereof. To the extent that this Addendum is inconsistent with and/or conflicts with any of the Contract Documents, the provisions of this Addendum shall supersede, prevail, and control.

WITNESSETH:

In consideration of these premises and the mutual covenants set forth herein, the Parties agree as follows:

1. Scope of Work: The Contractor/Vendor agrees to and shall timely perform and fully complete the "Scope of Work" as set forth in the Contract Documents attached hereto and made a part hereof as Group Exhibit A.

2. Payment:

   A. Not to Exceed Payment: The Village agrees to pay the Contractor/Vendor, and the Contractor/Vendor agrees to accept as compensation for all Work required by the Contract Documents a total not-to-exceed amount of $34,734.58 (the "Contract Price") as set forth in the Contract Documents.
   B. Invoices for Payments: The Contractor/Vendor agrees to and shall prepare and submit to the Village an invoice after the completion of the Project in its entirety, which the Village shall pay upon completion and approval of the Work.
   C. Village's Compliance with the Illinois Local Government Prompt Payment Act (50 ILCS 505/1, et seq.) (the "Act). Notwithstanding any provisions of any of the Contract Documents to the contrary, the Contractor/Vendor and the Village understand, acknowledge and agree that the Village complies with the Act, which states that any invoice approved by the Village for payment shall be paid within thirty (30) days after date of approval of the invoice by the Corporate Authorities of the Village, and therefore, the Contractor/Vendor shall be paid by the Village for the Work pursuant to the provisions of the Act.

Notwithstanding any other provisions of any Contract Document, the Village shall not, in any manner, be considered to have accepted the Work, or any part thereof, or to have waived any claim related to such Work by making a final payment or by making any progress payment of any amount, where the Village determines that such Work, or part thereof, is defective, deficient, or not in conformance with the Contract Documents.

D. Prevailing Wage Act Notice [Check box that applies]:

☐ The Illinois Prevailing Wage Act (820 ILCS 130/01, et seq.) does not apply to this Contract.

☒ The Illinois Prevailing Wage Act (820 ILCS 130/01, et seq.) does apply to this Contract.

This Contract calls for the construction of a "public work", within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130/.01, et seq. ("the Act"). The Act requires contractors and subcontractors to pay laborers, workers and mechanics performing services on public works projects no less than the current "prevailing rate of wages" (hourly cash wages plus amount for fringe benefits) in the county where the work is performed. The Illinois Department of Labor ("IDOL") publishes the prevailing wage rates on its website at http://labor.illinois.gov/. The IDOL may revise the prevailing wage rates from time to time and the contractor/subcontractor has an obligation to check the IDOL's website for revisions to prevailing wage rates and comply with the most current prevailing wage rates. For information regarding current prevailing wage rates, please refer to the IDOL website. All contractors and subcontractors rendering services under this contract must comply with all requirements of the Act, including but not limited to, all wage requirements and notice and record keeping duties, including but not limited to the filing of monthly certified payrolls on IDOL forms. The Contractor/Vendor shall also pay prevailing wages at rates not less than those prevailing under Davis-Bacon Wage Act Provisions as determined by the U.S. Department of Labor to all laborers, workmen and mechanics performing work under this Contract, if such Act is applicable, and, in such event, the more restrictive (i.e., higher) prevailing wage requirements shall be applicable.

3. Contract Documents: The term "Contract Documents" means and includes, but is not limited to, the following, which are each attached hereto and thereby made a part hereof:
   (1) This Addendum;
   (2) The Sourcewell Indefinite Delivery-Indefinite Quantity Construction Contract, Contract Number IL-R1-GC-122122-BEA, Service Type: General Construction;
   (3) The Sourcewell Indefinite Delivery-Indefinite Quantity Construction Contract, Contract Number IL-R1-GC-122122-BEA, General Terms and Condition for Solicitation IFB #IL-122122;
   (4) The Sourcewell Agreement to Modify and Extend Sourcewell Contract IL-R1-GC-122122-BEA dated January 24, 2024; and
   (5) The Work Order Signature Document #126604.00 dated March 14, 2024, which includes the Detailed Scope of Work, the Contractor Price Proposal Details-CSI, and the Contractor Price Proposal Summaries-CSI.

   In the event of any conflict between this Addendum and any other Contract Documents, this Addendum shall prevail, control, and take precedence over the terms and conditions set forth in any other Contract Documents.

4. Time is of the Essence; Dates of Commencement and Completion: Time is of the essence in this Contract. The Work to be performed under the Contract Documents shall commence no later than May 1, 2024 (hereinafter the "Commencement Date"), and shall be completed no later than June 1, 2024 (hereinafter the "Completion Date"), barring only Acts of God, due to which the Completion Date may be modified in writing with the prior approval the Village. If the Contractor/Vendor fails to complete the Work by the Completion Date, the Village shall thereafter have the right to have the Work completed by another independent contractor, and in such event, the Village shall have the right to deduct the cost of such completion so incurred by the Village from payments otherwise due to the Contractor/Vendor for the Work and/or the right to recover any excess cost of completion from the Contractor/Vendor to the extent that the total cost incurred by the Village for the completion of the Work which is the subject of the Contract Documents exceeds the Contract Price.

5. Venue and Choice of Law: The parties herein agree that the venue for any and all disputes shall solely be in the county in which the Village's Village Hall is located. This Addendum and all other Contract Documents shall be construed, interpreted, and governed in accordance with the laws of the State of Illinois.

6. Nonassignability: The Contractor/Vendor shall not assign this Contract, or any part thereof, to any other person, firm, or corporation without the prior written consent of the Village, and in no case shall such consent relieve the Contractor/Vendor or its surety from the obligations herein entered into by the same or change the terms of this Contract.

7. Notices: All notices required by the Contract Documents shall be given in writing and shall be served by one party to the other party via email (effective when transmitted), facsimile (effective when transmitted), personal delivery (effective when delivered), commercial overnight delivery (effective when delivered), or by mail (effective when mailed).

8. Control and Inspection of Work or Services: Unless otherwise specified in the Contract Documents, inspection, acceptance or rejection of the Work and/or Services, including but not limited to any materials and/or equipment which are part thereof, shall be made after delivery to the Village and installation thereof by the Contractor/Vendor. Final inspection, acceptance and/or rejection of the Work and/or Services, including but not limited to any materials and/or equipment which are part thereof, shall not impose liability on the Village for Work, and/or Services not in accordance with the Contract Documents as determined solely by the Village. Payment shall not be due on rejected Work and/or Services until and unless fully corrected and/or replaced by the Contractor/Vendor as determined by the Village. All Work and/or Services performed by the Contractor/Vendor shall be done in conformance with the Contract Documents as determined solely by the Village, and this Addendum shall control.

9. Permits and Licenses: The Village shall obtain, at its own expense, all permits and licenses which may be required to complete the Project and all related Work as contemplated by the Contract Documents.

10. Timely Written Response and Written Report(s) of Resolution Relative to Certain Incident(s), Claim(s) and/or Complaint(s):

    A. All alleged incident(s), claim(s), or complaint(s) related to any alleged death, injury and/or damage to persons and/or to public or private property related to the Contractor/Vendor's work or services provided pursuant to this Contract shall be reported to the Village and resolved by the Contractor/Vendor and/or its agent in a timely manner.
    B. Within three (3) business days after receipt by Contractor/Vendor of an initial written or verbal notice of any such incident, claim, or complaint, the Contractor/Vendor shall also provide to the Village, and to any third-party making such claim or complaint, the name, telephone number, and cellular number of the Contractor/Vendor's officer or employee who will be responsible for managing the resolution thereof until its final resolution by the Contractor/Vendor and/or by the Contractor/Vendor's insurer or agent.
    C. Within ten (10) business days after the Contractor/Vendor's receipt of the first notice of an alleged incident, claim, or complaint related to any alleged death, injury, and/or damage to persons and/or to public or private property (the "incident, claim, or complaint"), the Contractor/Vendor or its agent(s) shall provide to the Village and to any third-party person making such claim or complaint an initial written response relative to such incident, claim or complaint, and the efforts and current progress of the Contractor/Vendor and/or its agents to date toward the resolution of such incident, claim or complaint.
    D. If complete resolution of the incident, claim, or complaint has not been reached within the aforesaid ten (10) business day period, the Contractor/Vendor or its agent shall continue to use all reasonable efforts to fully resolve the incident, claim, or complaint, and to that end, further updated written status reports of resolution, or progress toward resolution, as the case may be, of such incident, claim, or complaint shall

be provided to the Village by the Contractor/Vendor not less than monthly until such incident, claim, or complaint is fully resolved.

E. The Contractor/Vendor or its agents will be expected to fully resolve most incident(s), claim(s), or complaint(s) involving minor damage to public or private property within said initial ten (10) business day period after the Contractor/Vendor receives its initial verbal or written notice of such incident, claim, or complaint.

11. Insurance:

A. Prior to Commencement of Work:

(i) Prior to commencement of any Work under the Contract Documents, Contractor/Vendor shall supply to the Village certificates of insurance as specified below, provided, however, these insurance requirements shall not be applicable to any Contract which is only for the purchase of goods by the Village, but which does not include the installation thereof by the Contractor/Vendor. Contractor/Vendor shall not start the Work under the related Contract until Contractor/Vendor has obtained all insurance required under this Paragraph 12, and all such insurance coverage has been obtained and approved by the Village Manager, or his designee.

(ii) Minimum Scope of Insurance:
Coverage shall be at least as broad as Insurance Services Office ("ISO") Commercial General Liability occurrence form CG 00 01 04 13 with the "Village of Barrington and its officers, officials, employees, agents and volunteers" named as additional insureds on a primary and non-contributory basis. This primary, non-contributory additional insured coverage shall be confirmed through the following required policy endorsements: ISO Additional Insured Endorsement CG 20 10 04 13 or CG 20 26 04 13, and CG 20 01 04 13.
☐ If this box is checked, a Completed Operations Endorsement (CG 20 37 04 13) is also required.

B. Insurance Required: The Contractor/Vendor shall procure and maintain, for the duration of the Contract, insurance against claims for injuries to persons or damage to property, which may arise from or in connection with the performance of the Work hereunder by the Contractor, its employees, subcontractors, and other agents, and:

(i) Commercial General Liability:

(a) $1,000,000 combined single limit per occurrence for bodily injury, and property damage and $1,000,000 per occurrence for personal injury. The general aggregate shall be $2,000,000.

(b) The Village of Barrington, and its officers, officials, employees, agents and volunteers, are to be named and covered as additional insureds as respects: liability arising out of the Contractor's/Vendor's work, including activities performed by or on behalf of the Contractor/Vendor; products and completed operations of the Contractor/Vendor; premises owned, leased or used by the Contractor/Vendor, or automobiles owned, leased, hired or borrowed by the Contractor/Vendor. The coverage shall contain no special limitations on the scope of protection afforded to the Village of Barrington and its officers, officials, employees, agents and/or volunteers.

(c) The Contractor/Vendor's insurance coverage shall be primary and non-contributory as respects the Village of Barrington and its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the Village of Barrington and/or on behalf of its officers, officials, employees, agents and/or volunteers shall be excess of Contractor/Vendor's insurance and shall not contribute with it.

(d) Any failure to comply with reporting provisions of any applicable insurance policies shall not affect coverage provided to the Village of Barrington and/or its officers, officials, employees, agents and/or its volunteers.

(e) The Contractor/Vendor's insurance shall contain a Severability of Interests/Cross-Liability clause or language stating that Contractor/Vendor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(f) If any commercial general liability insurance is being provided under an excess or umbrella liability policy that does not "follow form", then the Contractor/Vendor shall be required to name the "Village of Barrington, and its officers, officials, employees, agents and volunteers" as additional insureds.

(g) All general liability coverages shall be provided on an occurrence policy form. Claims-made general liability policies will not be accepted.

(h) The Contractor/Vendor and all subcontractors hereby agree to waive any limitation as to the amount of contribution recoverable against them by the Village of Barrington, and/or by its officers, officials, employees, agents and/or its volunteers. This specifically includes any limitation imposed by any state statute, regulation, or case law including any Workers' Compensation Act provision that applies a limitation to the amount recoverable in contribution such as Kotecki v. Cyclops Welding.

(ii) ☒ Owners and Contractors Protective Liability (OCP) Policy: The OCP Policy shall name the "Village of Barrington, and its officers, officials, employees, agents and volunteers" as insured or as additional insured and shall include coverage of $1,000,000 combined single limit per occurrence for bodily injury and property damage;
(Required for large construction projects; applicable if box is checked)

(iii) ISO Business Auto Liability coverage form number CA 00 01, Symbol 01 "Any Auto": $1,000,000 combined single limit per accident for bodily injury, and property damage and $1,000,000 per occurrence for personal injury.

(iv) Workers' Compensation insurance as required by the Workers' Compensation Act of the State of Illinois with coverage of statutory limits and Employers' Liability Insurance with limits of $500,000 per accident:

(a) The insurer shall agree to waive all rights of subrogation against the "Village of Barrington, its officers, officials, employees, agents and volunteers" for losses arising from work performed by the Contractor/Vendor for the Village.
(b) NCCI Alternate Employer Endorsement (WC 00 03 01 A) in place to insure that workers' compensation coverage applies under Contractor/Vendor's coverage rather than under the coverage of the Village of Barrington, and/or of its officers, officials, employees, agents and/or its volunteers (if the Village of Barrington, its officers, officials, employees, agents and/or its volunteers are borrowing, leasing or in day to day control of Contractor/Vendor's employee).

(v) Umbrella Policy: If the general aggregate limit for Commercial General Liability coverage provided is less than $2,000,000, pursuant to Section 11(B)(i) above, then a $1,000,000 Umbrella Policy shall also be provided, which policy shall follow all required coverages as set forth above, other than Worker's Compensation and Professional Liability.

C. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the Village of Barrington.

D. All Coverages
   (i) No Waiver. Under no circumstances shall the Village, or its officers, officials, employees, agents or volunteers be deemed to have waived any of the insurance requirements of this Contract by any act or omission, including, but not limited to:
      (a) Allowing work by Contractor/Vendor or any subcontractor to start before receipt of Certificates of Insurance and Additional Insured Endorsements.
      (b) Failure to examine, or to demand correction of any deficiency, of any Certificate of Insurance and Additional Insured Endorsement received.
   (ii) Each insurance policy required shall have the Village of Barrington expressly endorsed onto the policy as a Cancellation Notice Recipient. Should any of the policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.
   (iii) When requested by the Village Manager, or his designee, Contractor/Vendor shall promptly provide the respective original insurance policies for review and approval by the Village Manager, or his designee.

E. Acceptability of Insurers: Insurance is to be placed with insurers with a Best's rating of no less than A-, VII and licensed to do business in the State of Illinois.

F. Verification of Coverage: Contractor/Vendor shall furnish the Village of Barrington with certificates of insurance naming the "Village of Barrington, its elected and appointed officers, officials, employees, agents and volunteers", as additional insureds, and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be received and approved by the Village Manager, or his designee, before any work commences. The following additional insured endorsements may be utilized: ISO Additional Insured Endorsements CG 20 10 04 13 or CG 20 26 04 13. The Village reserves the right to request full certified copies of the insurance policies and endorsements.
   ☐ If this box is checked, a Completed Operations Endorsement (CG 20 37 04 13) is also required.

G. Subcontractors: Contractor/Vendor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

H. Assumption of Liability: Contractor/Vendor assumes liability for all injury to or death of any person or persons including employees of the Contractor/Vendor, any subcontractor, any supplier or any other person and assumes liability for all damage to property sustained by any person or persons occasioned by or in any way arising out of any work performed pursuant to this Contract.

I. Village May Rely on Its Membership in a Self-Insured Risk Pool: Notwithstanding any other provision in any contract document, the undersigned herein agree that the Village, at its own option, may satisfy its obligation to purchase any insurance required of the Village through its membership in a self-insured risk pool. The rights of the Village as a member of a governmental self-insurance pool are intended to and shall constitute full satisfaction for any of the insurance required of Contractor/Vendor to be maintained by the Village.

J. Insurance Certifications: In addition to providing Certificates of Insurance as required by the contract documents, the Contractor/Vendor shall submit to the Village a signed certification with each Request for Payment, stating that all the insurance required of the Contractor/Vendor remains in force. Failure to submit such a certification shall be grounds to withhold payment in full or in part.

K. Insurance Requirements Cannot Be Waived by Village: Under no circumstances shall the Village be deemed to have waived any of the insurance requirements of the related Contract by any act or omission, including, but not limited to: (1) allowing the Work to commence by the Contractor/Vendor or any subcontractor of any tier before receipt of Certificates of Insurance; (2) failing to review any Certificates of Insurance received; (3) failing to advise the Contractor/Vendor or any subcontractor of any tier that any Certificate of Insurance fails to contain all the required insurance provisions, or is otherwise deficient in any manner; or (4) issuing any payment without receipt of a Sworn Statement from the Contractor/Vendor and all subcontractors of any tier stating that all the required insurance is in force. The Contractor/Vendor agrees that the obligation to provide the insurance required by this Addendum or any of the contract documents is solely its responsibility and that this is a requirement which cannot be waived by any conduct, action, inaction or omission by the Village. Contractor/Vendor shall also protect the Village by specifically incorporating this Paragraph into every subcontract entered into relative to the Work contemplated herein and also requiring that every subcontractor incorporate this Paragraph into every sub-subcontract it enters into relative to the Work contemplated herein.

L. Liability of Contractor/Vendor and Subcontractor is Not Limited by Purchase of Insurance: Nothing contained in the insurance requirements of this Addendum or any Contract Documents is to be construed as limiting the liability of the Contractor/Vendor or the liability of any subcontractor of any tier, or either of their respective insurance carriers. The Village does not, in any way, represent that the coverages or limits of insurance specified is sufficient or adequate to protect the Village, the Contractor/Vendor, or any subcontractor's interest or liabilities, but are merely required minimums. The obligation of the Contractor/Vendor and every subcontractor of any tier to purchase insurance shall not, in any way, limit their obligations to the Village in the event that the Village should suffer an injury or loss in excess of the amount recoverable through insurance, or any loss or portion of the loss which is not covered by either the insurance of the Contractor/Vendor or any subcontractor's insurance.

M. Notice of Bodily Injury or Property Damage: The Contractor/Vendor shall notify the Village, in writing, of any actual or possible claim for personal injury or property damage relating to the Work, or of any occurrence which might give rise to such claim, promptly upon obtaining first knowledge of same.

N. Updated Proof Required: The Contractor/Vendor agrees that at any time upon the demand of the Village, updated proof of such insurance coverage will be submitted to the Village. There shall be no additional charge to the Village for said insurance.

O. Safety/Loss Prevention Program Requirements: The Contractor/Vendor shall provide written confirmation that a safety/loss prevention program was in place at least 90 days prior to submitting the bid proposal and is continuing. Evidence of completed employee safety training shall be provided to the Village and approved by the Village Manager, or his designee.

P. Higher and More Expansive Standard Applicable: To the extent other insurance requirements of the contract documents contradict this Paragraph 11, the more expansive and higher standard, in terms of type and amount of coverage, shall govern.

12. Indemnity:

A. To the fullest extent permitted by law, the Contractor/Vendor hereby agrees to defend, indemnify and hold harmless the Village, its elected and appointed officials, employees and agents against all injuries, deaths, loss, damages, claims, patent claims, suits, liabilities, judgments, costs and expenses, which may in anywise accrue against the Village, its elected and appointed officials, employees, and agents arising in whole or in part or in consequence of the performance of the Work by the Contractor/Vendor, its employees, or subcontractors, or which may in anywise result therefrom, except that arising out of the sole legal cause of the Village, its elected and appointed officials, employees or agents, the

Contractor/Vendor shall, at its own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith, and, if any judgment shall be rendered against the Village, its elected and appointed officials, employees or agents, in any such action, the Contractor/Vendor shall, at its own expense, satisfy and discharge the same.

B. Contractor/Vendor expressly understands and agrees that any performance bond or insurance policies required by this Contract, or otherwise provided by the Contractor/Vendor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Village, its elected and appointed officials, employees or agents as herein provided.

C. Contractor/Vendor further agrees that to the extent that money is due the Contractor/Vendor by virtue of this Contract as shall be considered necessary in the judgment of the Village, such funds may be retained by the Village to protect itself against said loss until such claims, suits, or judgments shall have been settled or discharged and/or evidence to that effect shall have been furnished to the satisfaction of the Village.

D. In the event that the Village is not immune from liability under any applicable law, and only in such event, the Village hereby agrees to indemnify and hold harmless the Contractor/Vendor, its officers, directors, employees and subcontractors (collectively, Contractor/Vendor) against all damages, liabilities or costs, including reasonable attorney's fees and defense costs, to the extent caused by the Village's negligent acts in connection with the Project and the acts of the Village, and/or any of its officers, trustees and/or employees.

E. Neither the Village nor the Contractor/Vendor shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence, or for the acts of their respective officers, trustees, employees and/or agents.

F. The provisions of this Paragraph 12 shall survive any termination of the Contract.

13. Village Confidential Information:
    A. Contractor/Vendor warrants that it shall not disclose, use, sell, rent, trade, or otherwise provide Village 1Confidential Information to any person, firm, or entity for any purpose outside of the specific purposes of the Contract Documents, except as necessary to comply with applicable State or Federal laws.
    B. The provisions of this Paragraph 13 shall survive any termination of the Contract.

14. No Conflicts of Interest: The Contractor/Vendor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor/Vendor, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor/Vendor, any fee, commission, percentage, brokerage fee, gift(s), or any other consideration, contingent upon or resulting from the award or the making of this Contract.

15. Compliance with Laws: Contractor/Vendor shall comply with all federal, state, and local laws, ordinances, rules and regulations, and any and all orders and decrees of any court, administrative body or tribunal applicable to the performance of the Contract. Contractor/Vendor shall comply with all applicable laws, regulations, and rules promulgated by any Federal, State, County, Municipal and/or other governmental unit or regulatory body now in effect or which may be in effect during the performance of the Work. Included within the scope of the laws, regulations, and rules referred to in this paragraph, but in no way to operate as a limitation, are: Occupational Safety & Health Act ("OSHA"); Illinois Department of Labor (IDOL"), Department of Transportation, and all forms of traffic regulations; public utility, Intrastate and Interstate Commerce Commission regulations; Workers' Compensation Laws, the Employment of Illinois Workers on Public Works Act, the Social Security Act of the Federal Government and any of its titles, the Illinois Human

Rights Act, and EEOC statutory provisions and rules and regulations. Evidence of specific regulatory compliance will be provided by the Contractor/Vendor if requested by the Village.

16. Equal Employment Opportunity: The Contractor/Vendor shall be an "equal opportunity employer" as defined in United States Code Annotated. The Contractor/Vendor shall be required to comply with the President's Executive Order No. 11246, as amended, and the requirements for Bidders and Contractors under this order are explained in 41 CFR 60-4. The Contractor/Vendor shall also fully comply with the Illinois Human Rights Act.

17. Certifications: By the execution of this Addendum, the Contractor/Vendor certifies that: (1) the Contractor/Vendor is not delinquent in the payment of any tax administered by the Illinois Department of Revenue as required by 65 ILCS 5/11-42.1-1; (2) the Contractor/Vendor has a written sexual harassment policy as required by and shall otherwise comply in all respects with the Illinois Human Rights Act (775 ILCS 5/2-105(A)(4)); (3) the Contractor/Vendor shall provide a drug-free workplace as required by and shall otherwise comply with the Illinois Drug-Free Workplace Act (30 ILCS 580/1, et seq.); (4) the Contractor/Vendor has in place a written policy as required by and that it does and shall otherwise comply with the Illinois Substance Abuse Prevention on Public Works Projects Act (820 ILCS 265/1, et seq.); and (5) the Contractor/Vendor is not and/or was not barred from bidding on this contract pursuant to Section 33E-3 or 33E-4 of the Illinois Criminal Code (720 ILCS 5/33E-3 and 5/33E-4).

18. Warranty and Guarantee: In addition to any manufacturer's warranty(ies) on materials, parts and/or equipment to be supplied pursuant to the Contract Documents, the Contractor/Vendor warrants and guarantees that for a period of two (2) years from the date of completion of the Project that the completed Project shall be free from all defects and deficiencies due to faulty equipment, materials or workmanship, and/or because they do not comply with the Contract Documents, all as shall be determined solely by the Village, and the Contractor/Vendor shall promptly correct, repair, and/or replace any and all such equipment, materials and/or Work which has been determined by the Village to be defective, deficient, and/or not in compliance with the Contract Documents including, but not limited to, the repairs of any resulting damage to other parts of the Project. In the event that the Contractor/Vendor should fail to make such correction(s), repair(s), and/or replacement(s) ("remedial work") that the Village has determined to be necessary to remedy such defects, deficiencies, and/or non-compliance with the Contract Documents, the Village may do so, and the Contractor/Vendor shall be liable for all damages as provided by law, including but not limited to any costs incurred by the Village for any such remedial work. The Performance and Payment Bond, if one is applicable, shall remain in full force and effect through the warranty/guarantee period.

19. Project Documentation: Upon execution of this Addendum relative to the Project, notwithstanding anything contained in any other Contract Documents to the contrary, the Contractor/Vendor and its subcontractors agree to and shall release to the Village any and all right, title, and interest in and to any and all Project Documentation depicting, documenting, or recording the Project and/or Work, which is the subject of the Contract Documents, including but not limited to any and all drawings, plans, specifications, photos, reports, videos, and/or other recordings on any electronic media (sometimes collectively referred to as "Project Documentation"), and any and all of such Project Documentation shall become the sole property of the Village. The Contractor/Vendor and its subcontractors further warrant to the Village that they have the legal right to convey said Project Documentation to the Village. The Work contemplated by the Contract Documents shall not be considered complete until and unless legible and complete physical and electronic copies of all such Project Documentation have been delivered to the Village. The Village may reuse Project Documentation without the prior written authorization of the Contractor/Vendor, but the Village agrees to waive any claim against the Contractor/Vendor arising from any unauthorized reuse or modification of the Project Documentation.

20. Standard Specifications:

A. All Work performed by Contractor/Vendor that is associated with the fulfillment of this Addendum and/or the related Purchaser Order/Contract shall conform to the terms of the latest edition of the Illinois Department of Transportation ("IDOT") Standard Specifications for Road and Bridge Construction where this document is otherwise silent. The applicable Standard Specifications, as herein specified, shall apply to all work and materials performed under this Contract unless revised by the Specifications, also herein included as part of the Contract Documents.

B. Through the course of the Project, the Contractor/Vendor shall be responsible for the maintenance of traffic through and around the zone of work consistent with Section 648 of the IDOT Standard Specifications for Road and Bridge Construction. The cost for this activity shall be considered incidental to the cost of the improvement.

C. All traffic control measures employed during the term of this contract shall be in accordance with the applicable sections of the IDOT Standard Specifications, the Supplemental Specifications, and the "Illinois Manual Uniform Traffic Control Devices for Streets and Highways".

21. Illinois Freedom of Information Act (5 ILCS 140/1, et seq.): As a unit of local government, the Village is subject to the Illinois Freedom of Information Act (FOIA), as amended. Therefore, after award of the Contract, responses, documents, and materials submitted to the Village by the Contractor will be made available for public inspection in accordance with the FOIA, unless otherwise determined by a Village FOIA officer after award of a contract. The Village and the Contractor and any subcontractor(s) shall maintain their respective records relating to the performance of the Contract Documents in compliance with the requirements of the Local Records Act (50 ILCS 205/1, et seq.) until written approval for the disposal of such records is obtained from the Local Records Commission. All books and records required to be maintained by the Village and the Contractor and any subcontractor(s) shall be available for review by the other. The Contractor and its subcontractor(s) and the Village shall cooperate with each other (a) with all requests for records made pursuant to the Freedom of Information Act (5 ILCS 140/1, et seq.), (b) with any request for records made pursuant to any audit, and (c) by providing full access to and copying of all relevant books and records of Contractor within a time period which allows the Village to timely comply with the time limits imposed by the Freedom of Information Act (5 ILCS 140/1, et seq.). Contractor must inform the Village, in writing, of the exact materials in the Contractor's proposal which it claims are exempt from disclosure pursuant to the FOIA as proprietary or as may otherwise be protected. The obligations imposed by this section shall survive final payment and the termination of the other obligations imposed by the Contract.

22. Contractor/Vendor is an Independent Contractor: It is mutually understood and agreed that the Contractor/Vendor shall have full control of the ways and means of performing the Work referred to above and/or which is the subject of this Addendum and the related Contract and that the Contractor/Vendor or his/its employees, representatives or subcontractors are in no sense employees of the Village, it being specifically agreed that in respect to the Village, the Contractor/Vendor and any party employed by the Contractor/Vendor bears the relationship to the Village of an independent contractor.

23. Restoration of Work Site: The Contractor/Vendor shall be obligated to remove all debris from the Work site at the Contractor's/Vendor's expense. The Contractor/Vendor shall, at its sole cost and expense, as part of the Work required by this Addendum and the related Contract, replace and restore any grass, vegetation or plantings disturbed or removed by the Contractor/Vendor, to their condition before the performance of the Work, and such removal shall only occur after approval in advance in writing by the Village's designee. Without limiting the generality of the foregoing, the Contractor/Vendor shall be obligated to: (1) re-grade and re-seed the ground surface, (2) replace any damaged vegetation, other than trees and bushes removed pursuant to the authority of the Village's designee, with new plantings of good health and quality with species consistent with the recommendation of the Village's designee, and (3) repair any damage to any paved surfaces disturbed by the Work. While the Work is in progress and until all required restoration work is

completed, the Contractor/Vendor shall comply with customary and usual initial erosion practices consistent with good engineering procedures and the requirements of all applicable ordinances.

24. Right to Alter Plans and Scope Reserved: The Village reserves the right to alter the plans, extend or shorten the improvements, add to the Work as may be necessary, and increase or decrease the scope and/or quantity of the Work, including the deduction or cancellation of any one or more of the unit price items, or to cancel the Contract and the Work in its entirety for any reason.

25. Arbitration Deleted from Contract Documents; No Attorneys' Fees: Any provision in the Contract and any other Contract Documents referring to the submission of claims or disputes to arbitration shall herein be deleted. Notwithstanding anything contained in the Contract and any other Contract Documents to the contrary, it is the intent of the parties that arbitration is a remedy which shall not exist under the Contract and any other Contract Documents, and no party shall be entitled to recover attorneys' fees or court costs in any action to enforce or interpret this Addendum and the related Contract Documents.

26. Duration: This Contract shall be in effect from the date of this Contract until the completion of the Work, but the obligations of the Contractor/Vendor under the Paragraphs 11 and 13 hereof shall continue after such termination.

27. Advertisement: The Contractor/Vendor is specifically denied the right to use in any form or medium the name of the Village for public advertising unless express permission is granted by the Village.

28. Amendments: No agreement or understanding to modify the Contract or the related Contract Documents shall be binding upon the Village unless such amendment is in writing and signed by the Village's authorized agent. All specifications, drawings, and data submitted to the Contractor/Vendor with this Addendum or the related Contract Documents are hereby incorporated and made part thereof.

29. Termination: The following shall constitute events of default under this Addendum and the related Contract: a) any material misrepresentation made by the Contractor/Vendor to the Village, b) any failure by the Contractor/Vendor to perform any of its obligations under this Contract including, but not limited to, the following: (i) failure to commence performance of this Contract at the time specified in the Contract due to a reason or circumstance within the reasonable control of the Contractor/Vendor, (ii) failure to perform this Contract with sufficient personnel and equipment or with sufficient material to ensure the completion of this Contract within the specified time due (i.e., by the Completion Date) to a reason or circumstance within the Contractor's/Vendor's reasonable control, (iii) failure to perform this Contract in a manner reasonably satisfactory to the Village, (iv) failure to promptly re-do or re-perform within reasonable time the services that were rejected by the Village as erroneous or unsatisfactory, (v) failure to comply with a material term of this Contract, (vi) failure of the Contractor/Vendor to completely furnish the contracted goods or services to the Village within the time period specified by the Contract Documents; (vii) any breach or violation of Contractor/Vendor or its employees, or agents, of its obligations under the Village Confidential Information provisions of Paragraph 13 of this Addendum; and (viii) any other acts specifically and expressly stated in this Contract as constituting a basis for termination for cause. At least ten (10) days prior to the date that the Contractor/Vendor shall be declared in default of the Contract, the Village shall give written notice by certified mail to the Contractor/Vendor. This notice shall state the reasons that the Contractor/Vendor is being declared in default of the Contract. Failure by the Contractor/Vendor to correct the stated deficiencies within the notice period shall result in the Contractor/Vendor being declared in default of the Contract. Issuance of the notice by the Village shall be an indication of the intentions of the Village to take the work out of the hands of the Contractor/Vendor and to hire others to complete the defaulted work. Upon default, the Contractor/Vendor shall be liable for all damages sustained by the Village as provided by law as a result of such default, including but not limited to all costs incurred by the Village to fully complete all the work specified in the Contract Documents and all expense of every kind incurred by the Village in remedying any defect(s) and/or deficiency(ies), or failure by the Contractor/Vendor to conform to the Contract Documents

and any such costs incurred by the Village may also be paid by the Village out of such monies as otherwise may be due or otherwise may become due to said Contractor/Vendor pursuant to the Contract Documents.

30. Supersede: The terms, conditions and specifications set forth in this Addendum shall supersede, govern, and prevail over any inconsistent terms, conditions, and/or specifications on any other Contract Documents.

31. Severability: In the event any section, subsection, paragraph, sentence, clause, phrase or provision of this instrument or part thereof shall be deemed unlawful, invalid, unenforceable or ineffective by any court of competent jurisdiction, such decision shall not affect the validity, enforceability or effectiveness of the remaining portions of this instrument.

32. Facsimile or Digital Signatures: Facsimile or digital signatures shall be sufficient for purposes of executing, negotiating, and finalizing this Contract, and this Contract shall be deemed delivered as if containing original signatures if such delivery is made by emailing a PDF of a scanned copy of the original, hand-signed document, and/or by use of a qualified, established electronic security procedure mutually agreed upon by the Parties.

33. No Third Party Beneficiaries: The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto.

34. Counterparts: This Addendum may be executed in one or more counterparts, which counterparts when affixed together, shall constitute one and the same original document.

35. Entire Agreement: The Contract Documents (including all Exhibits attached thereto which by reference are made a part of the Contract) and all other written agreements signed by all of the parties hereto which by their express terms are a part of the Contract Documents, are the final expression of, and contain the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto.

IN WITNESS WHEREOF, the parties have caused this Addendum to be executed by their duly authorized officer in quadruplicate counterparts, each of which shall be considered as an original

CONTRACTOR/VENDOR:
BEAR CONSTRUCTION COMPANY

By: _____

Its _____ and Authorized Agent

VILLAGE OF BARRINGTON

By: Karen Y. Darch
Karen Darch, Village President

ATTEST: Tony Ciganek
Tony Ciganek, Village Clerk

Village of Barrington CORPORATE SEAL Cook & Lake Counties, IL

GROUP EXHIBIT A

(1) The Sourcewell Indefinite Delivery-Indefinite Quantity Construction Contract, Contract Number IL-R1-GC-122122-BEA, Service Type: General Construction;

(2) The Sourcewell Indefinite Delivery-Indefinite Quantity Construction Contract, Contract Number IL-R1-GC-122122-BEA, General Terms and Condition for Solicitation IFB #IL-122122;

(3) The Sourcewell Agreement to Modify and Extend Sourcewell Contract IL-R1-GC-122122-BEA dated January 24, 2024; and

(4) The Work Order Signature Document #126604.00 dated March 14, 2024, which includes the Detailed Scope of Work, the Contractor Price Proposal Details-CSI, and the Contractor Price Proposal Summaries-CSI

Work Order Signature Document

Contract No.:IL-R1-GC-122122-BEA

[X] **New Work Order** [ ] **Modify an Existing Work Order**

Work Order #:	126604.00	Work Order Date:	
Owner PO No:			
Title:	Village of Barrington - Concrete Apron		
Owner Name:	SOURCEWELL - ILLINOIS - Village of Barrington	Contractor Name:	BEAR Construction Company
Contact:		Contact:	Dan Zivilik
Phone:		Phone:	

Work to be Performed

Work to be performed as per the Final Detailed Scope of Work Attached and as per the terms and conditions of EZIQC Contract No IL-R1-GC-122122-BEA.

Brief Work Order Description:

Install new 1600 sq ft. concrete apron.

Work Order Firm Fixed Price: $34,734.58

Owner Purchase Order Number:

Approvals

Karen Y Nault 4/22/24

Owner Date

Contractor Date

Detailed Scope of Work

Date:	3/14/2024
Work Order #:	126604.00
Title:	Village of Barrington - Concrete Apron
Contractor:	BEAR Construction Company
Contractor Number:	IL-R1-GC-122122-BEA
Job Order Value:	$34,734.58

Location: 300 N. Raymond Ave

Brief Scope:

Install new 1600 sq ft. concrete apron.

Dear Andrew Thickpenny,

The following items detail the scope of work as discussed at the site. All requirements necessary to accomplish the items set forth below shall be considered part of this scope of work:

Detailed Scope:

- Provide project performance and payment bond.
- Saw cut perimeter of new concrete area - Roughly 40 ft x 40 ft.
- Break up and remove existing asphalt and excavate down to accommodate new 8" concrete pavement.
- Load all demo and excavated spoils into trucks provided by the Village of Barrington.
- Village will haul away and dump all spoils.
- Grade existing below grade aggregate and prep for new concrete.
- Drill and epoxy in place epoxy coated rebar dowels into existing adjacent concrete.
- Form and pour new 8" concrete pavement pitched to existing storm structure.
- Concrete to be reinforced with epoxy coated WWF.
- Break forms, clean up perimeter, and compact aggregate to leave in condition for new asphalt patching by others.
- Clean up and demobilize from jobsite.

Requirements:

Should you have any questions, please do not hesitate to contact me at 847.521.2539

Contractor Price Proposal Summaries - CSI

Date: 3/14/2024

Work Order #: 126604.00

Title: Village of Barrington - Concrete Apron

Contractor: BEAR Construction Company

Contractor Number: IL-R1-GC-122122-BEA

Job Order Value: $34,734.58

Proposal Name: Village of Barrington - Install new concrete apron

Proposal Value: $34,734.58

To: Project Manager

From: Dan Zivilik
Project Executive
BEAR Construction Company

CSI Section	LineTotal
01 - General Requirements	$1,225.26
02 - Existing Conditions	$5,769.32
03 - Concrete	$105.43
05 - Metals	$399.22
31 - Earthwork	$3,090.62
32 - Exterior Improvements	$24,144.74
Grand Total:	**$34,734.58**

This work order proposal total represents the correct total for the proposal. Any discrepancy between line totals, sub-totals and the proposal total is due to rounding of the line totals and sub-totals.

The Percent of NPP on this Proposal: 0.00

Contractor Price Proposal Details - CSI

Date: 3/14/2024

Work Order #: 126604.00

Title: Village of Barrington - Concrete Apron

Contractor: BEAR Construction Company

Contractor Number: IL-R1-GC-122122-BEA

Job Order Value: $34,734.58

Proposal Name: Village of Barrington - Install new concrete apron

Proposal Value: $34,734.58

	CSI Number	Mod	UOM	Description	LineTotal
01 - General Requirements					
1	01 22 16 00-0002		EA	Reimbursable FeesReimbursable Fees will be paid to the contractor for eligible costs as directed by Owner. Insert the appropriate quantity to adjust the base cost to the actual Reimbursable Fee. If there are multiple Reimbursable Fees, list each one separately and add a comment in the "note" block to identify the Reimbursable Fee (e.g. sidewalk closure, road cut, various permits, extended warranty, expedited shipping costs, etc.). A copy of each receipt, invoice, or proof of payment shall be submitted with the Price Proposal.	$347.00
				Qty Unit Price Factor Total Installation 347.000 X $1.00 X 1.0000 $347.00	
				Contractor Notes: *Reimbursable fee for project performance and payment bond*	
2	01 71 13 00-0002		EA	Equipment Delivery, Pickup, Mobilization And Demobilization Using A Rollback Flatbed TruckIncludes loading, tie-down of equipment, delivery of equipment, off loading on site, rigging, dismantling, loading for return and transporting away. For equipment such as trenchers, skid-steer loaders (bobcats), industrial warehouse forklifts, sweepers, scissor platform lifts, telescoping and articulating boom man lifts with up to 40' boom lengths, etc.	$878.26
				Qty Unit Price Factor Total Installation 2.000 X $448.14 X 0.9799 $878.26	
				Contractor Notes: *Mobilzie saw cutting/demo equipment and bobcat for concrete work*	
				Subtotal for 01 - General Requirements:	**$1,225.26**
02 - Existing Conditions					
3	02 41 13 13-0020		SY	>3" To 6" By Machine, Break-up And Remove Bituminous Paving	$4,011.71
				Qty Unit Price Factor Total Installation 178.000 X $23.00 X 0.9799 $4,011.71	
				Contractor Notes: *Break up and remove asphalt paving*	

	CSI Number	Mod	UOM	Description	LineTotal
02 - Existing Conditions					
4	02 41 19 13-0071		EA	Saw Cut Minimum ChargeFor projects where the total saw cutting charge is less than the minimum charge, use this task exclusively. This task should not be used in conjunction with any other tasks in this section.	$1,124.59
				Qty Unit Price Factor Total	
				Installation 1.000 X $1,147.66 X 0.9799 $1,124.59	
				Contractor Notes: *Saw cutting minimum charge*	
5	02 41 19 13-0282		IN	5/8" Diameter Drilling In Concrete Per Inch Of Depth	$633.02
				Qty Unit Price Factor Total	
				Installation 200.000 X $3.23 X 0.9799 $633.02	
				Contractor Notes: *Drill into existing adjacent concrete to install rebar dowels*	
				Subtotal for 02 - Existing Conditions:	**$5,769.32**
03 - Concrete					
6	03 21 16 00-0171		EA	1/2" Diameter x 24" Long, Epoxy Coated Deformed Straight Dowel	$112.49
				Qty Unit Price Factor Total	
				Installation 20.000 X $5.74 X 0.9799 $112.49	
				Contractor Notes: *Rebar dowels*	
7	03 21 16 00-0171	0022	MOD	For >12" To <24" Length, Deduct	($7.06)
				Qty Unit Price Factor Total	
				Installation 20.000 X ($0.36) X 0.9799 ($7.06)	
				Subtotal for 03 - Concrete:	**$105.43**
05 - Metals					
8	05 05 19 00-0185		EA	1/2" Chemical Adhesive For Bolt, Dowel Or Threaded Rod	$419.01
				Qty Unit Price Factor Total	
				Installation 20.000 X $21.38 X 0.9799 $419.01	
				Contractor Notes: *Epoxy dowels in place*	
9	05 05 19 00-0185	0198	MOD	For >10 To 50, Deduct	($19.79)
				Qty Unit Price Factor Total	
				Installation 20.000 X ($1.01) X 0.9799 ($19.79)	
				Subtotal for 05 - Metals:	**$399.22**
31 - Earthwork					
10	31 23 16 13-0016		CY	Load Excess Material by Machine for Removal from Excavation for Trenching	$301.81
				Qty Unit Price Factor Total	
				Installation 40.000 X $7.70 X 0.9799 $301.81	
				Contractor Notes: *Loading of all removed spoils into Village trucks for haul off. 1600 sf x .66 / 27 = approx 40 CY*	
11	31 23 16 13-0016	0076	MOD	For >20 To 50, Add	$226.55
				Qty Unit Price Factor Total	
				Installation 40.000 X $5.78 X 0.9799 $226.55	

	CSI Number	Mod	UOM	Description					LineTotal
31 - Earthwork									
12	31 23 16 36-0026		SY	Finish Grading For Building Foundations And Other Structures by Hand					$2,562.26
					Qty		Unit Price	Factor	Total
				Installation	178.000	X	$14.69	X 0.9799	$2,562.26
			Contractor Notes:	*Fine grade existing aggregate prior to concrete pour*					
								Subtotal for 31 - Earthwork:	**$3,090.62**
32 - Exterior Improvements									
13	32 16 23 00-0006		SF	8" Cast In Place Concrete Sidewalk					$24,034.99
					Qty		Unit Price	Factor	Total
				Installation	1,600.00 0	X	$15.33	X 0.9799	$24,034.99
			Contractor Notes:	*New 8" cast in place concrete*					
14	32 16 23 00-0006	0098	MOD	For >1,000 To 5,000, Deduct					($1,599.20)
					Qty		Unit Price	Factor	Total
				Installation	1,600.00 0	X	($1.02)	X 0.9799	($1,599.20)
15	32 16 23 00-0006	0100	MOD	For Welded Wire Reinforcement, Add					$1,708.95
					Qty		Unit Price	Factor	Total
				Installation	1,600.00 0	X	$1.09	X 0.9799	$1,708.95
								Subtotal for 32 - Exterior Improvements:	**$24,144.74**
								Grand Total:	**$34,734.58**

This work order proposal total represents the correct total for the proposal. Any discrepancy between line totals, sub-totals and the proposal total is due to rounding of the line totals and sub-totals.

The Percent of NPP on this Proposal: **0.00**

DocuSign Envelope ID: D8EEE492-AF60-4EC2-B81D-B4592BE6726C

AGREEMENT TO
MODIFY AND EXTEND
SOURCEWELL CONTRACT #IL-R1-GC-122122-BEA

THIS AGREEMENT TO MODIFY AND EXTEND, Sourcewell Contract #IL-R1-GC-122122-BEA, is effective upon the date of the last signature below.

Sourcewell and BEAR Construction Company ("Contractor") have entered into an Indefinite Quantity Construction Contract, Contract Number **IL-R1-GC-122122-BEA**, with an initial term ending January 24, 2024, and three bilateral options to extend for an additional one-year term ("Contract"). The parties agree to modify and extend the Contract as stated below.

CONTRACT MODIFICATION

The following is adopted as the new CTC for the Contract effective January 25, 2024:

Region 1 Northern Illinois

Pursuant to the Contract, Contractor's Adjustment Factors remain fixed for the duration of the contract term and are unaffected by this modification.

EXERCISE OF OPTION: EXTENSION

Contractor and Sourcewell hereby desire and agree to extend the Contract, with the above modification, for the period of January 25, 2024 through January 24, 2025.

Sourcewell

DocuSigned by:
Jeremy Schwartz
C0FD2A139D06489...

By: _____
Jeremy Schwartz

Title: Chief Procurement Officer

Date: 1/24/2024 | 3:14 PM CST

BEAR Construction Company

DocuSigned by:
James Wienold
B39A19C34E31472...

By: _____
James Wienold

Title: President

Date: 1/24/2024 | 12:43 PM PST

DocuSign Envelope ID: 7A71E108-575D-450F-99C1-50DA2ABF72BE

Sourcewell

Indefinite Delivery-Indefinite Quantity Construction Contract

Contract Number: IL-R1-GC-122122-BEA

Service Type: General Construction

This Indefinite Delivery-Indefinite Quantity Construction Contract (Contract) is between **Sourcewell**, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 and **BEAR Construction Company,** 1501 Rohlwing Rd, Rolling Meadows, IL 60008 (Contractor).

Sourcewell is a State of Minnesota local government agency and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to federal, state and municipal governmental entities, K-12 and higher education entities, nonprofit entities, tribal governments, and other public entities located within the United States.

The Contractor desires to contract with Sourcewell to provide construction services to entities that access Sourcewell's indefinite delivery-indefinite quantity (IDIQ) construction contracts within the Service Region.

I. TERM OF CONTRACT

A. EFFECTIVE DATE. This Contract, including the General Terms and Conditions incorporated by reference, is effective upon the later of January 25, 2023 or the date of the final signature below.

B. EXPIRATION DATE AND EXTENSION. This Contract expires **January 24, 2024**, unless it is terminated sooner pursuant to Article XX of the General Terms and Conditions, which are incorporated into this Contract by reference. This Contract may be extended up to three additional one-year periods upon request of Sourcewell and with written agreement by the Contractor, not to exceed a total of five years.

II. REGION AND SERVICES

The Contractor's Region is: Region 1. The Contractor's IDIQ construction service type is: General Construction. The Contractor has agreed to perform work outside the Region.

III. ADJUSTMENT FACTORS

The Contractor will perform any or all Tasks in the Construction Task Catalog for the Unit Price appearing therein multiplied by the following Adjustment Factors. See the General Terms and Conditions for additional information.

A. **Normal Working Hours Projects**: Work performed from 7:00 a.m. until 4:00 p.m. Monday to Friday, except Holidays. The Contractor will perform Tasks during Normal Working Hours for the Unit Price set forth in the CTC multiplied by the Adjustment Factor of: **0.9799**.

B. **Other Than Normal Working Hours Projects**: Work performed from 4:00 p.m. to 7:00 a.m. Monday to Friday, and any time Saturday, Sunday, and Holidays. The Contractor will perform Tasks during Other

Than Normal Working Hours for the Unit Price set forth in the CTC multiplied by the Adjustment Factor of: **0.9849**.

C. **Non pre-priced Adjustment Factor**: To be applied to Work determined not to be included in the CTC but within the general scope of the work: **1.2007**.

VI. AUTHORIZED REPRESENTATIVE

A. Sourcewell's Authorized Representative is its Chief Procurement Officer.

B. The Contractor's Authorized Representative is James Wienold. If the Contractor's Authorized Representative changes at any time during this Contract, Contractor must promptly notify Sourcewell in writing.

Sourcewell

DocuSigned by:
Jeremy Schwartz
C0FD2A139D06489...

By: _____

Jeremy Schwartz

Title: Chief Procurement Officer

Date: 1/23/2023 | 1:56 PM CST

BEAR Construction Company

DocuSigned by:
JAMES WIENOLD
B39A19C34E31472...

By: _____

James Wienold

Title: President

Date: 1/23/2023 | 11:22 AM PST

Sourcewell

Indefinite Delivery-Indefinite Quantity Construction Contract
General Terms and Conditions
for
Solicitation: IFB #IL-122122

I. DEFINITIONS

The following definitions apply to all articles of the Contract and General Terms and Conditions.

A. ADJUSTMENT FACTORS. The Contractor's competitively bid price adjustment to the Unit Prices that are published in the Construction Task Catalog. Adjustment Factors are expressed as an increase to or decrease from the Construction Task Catalog's published prices and may be modified periodically during the term of this Contract, through written amendment.

B. BID SAFE. A proprietary software product of Gordian that offers a secure, online construction procurement process. This software may not be applicable in a particular region or project.

C. CONSTRUCTION TASK CATALOG (CTC). The CTC is Gordian's proprietary comprehensive listing of specific construction-related tasks created and customized for the solicitation under which this Contract was awarded. Each task has an assigned specific unit of measurement and Unit Price using current local labor, material, and equipment costs. The CTC, which is incorporated by reference into this Contract, and may be amended periodically during the term of this Contract, upon mutual agreement of the parties.

D. CONTRACT DOCUMENTS. The following documents comprise the Contract Documents in the following order of precedence:

1. Participating Entity's Purchase Order which may include plans, drawings, and supplemental technical specifications
2. Standard specifications of the Participating Entity (if any)
3. This Contract, which also includes the General Terms and Conditions
4. Construction Task Catalog
5. Technical Specifications

E. DAYS. Calendar days, unless specifically stated otherwise.

F. DETAILED SCOPE OF WORK. A document created by the Participating Entity, in conjunction with the Gordian and the Contractor, following a Joint Scope Meeting that details the work the Contractor will perform for a particular Purchase Order.

G. THE GORDIAN GROUP, INC. OR GORDIAN. Sourcewell's designated representative and contract administrator for this Contract. Gordian's support includes preparing Construct Task Catalogs and related technical specifications, providing information management systems, training to contractors, administering fee collection, and assisting with proposal or work order development.

H. HOLIDAYS. Specific days designated as legal holidays of Participating Entity, including those designated holidays under its Project Labor Agreement, and those days that Sourcewell designates as Holidays: New Year's Day (January 1), Memorial Day, Independence Day (July 4), Labor Day, Thanksgiving Day, Friday after Thanksgiving, Christmas Eve Day (December 24), and Christmas Day (December 25); when a holiday falls on a Saturday, the preceding Friday will be observed as a holiday and when it falls on a Sunday, the following Monday will be observed as a holiday.

I. JOINT SCOPE MEETING. The Contractor, Participating Entity representative, and Gordian representative assemble at the Site to discuss the Project and Scope of Work. The Participating Entity will present the Project in detail, with a job site visit by the Contractor, prior to preparing and submitting a Detailed Scope of Work.

J. NON-PRE-PRICED TASK (NPP). A task not included in the Construction Task Catalog, but that is within the general scope and intent of this Contract.

K. PARTICIPATING ENTITY. An entity accessing this Contract in order to accomplish the work with the Contractor. Participating entities include state and local government, education, nonprofit, tribal government, and other public agencies located within the Service Region described in the Contract.

L. PRICE PROPOSAL. The proposed pricing document prepared for the Participating Entity by the Contractor using the Construction Task Catalog, Adjustment Factors, and appropriate quantities.

M. PROJECT. 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.

N. PROJECT MANAGER. The person or firm designated by a Participating Entity and authorized to represent the Participating Entity in connection with a signed Purchase Order.

O. 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 Participating Entity may require.

P. PURCHASE ORDER. The document establishing the engagement by the Participating Entity to the Contractor to complete a Detailed Scope of Work for the Purchase Order Price within the Purchase Order Completion Time. The Purchase Order may consist of a notice to proceed, signed work order, or other Participating Entity required documentation.

Q. PURCHASE ORDER COMPLETION TIME. The period of time set forth in the Purchase Order by which the Contractor must complete the Detailed Scope of Work.

R. PURCHASE ORDER PRICE. The value of the approved Price Proposal and not to exceed price to be paid to the Contractor by the Participating Entity for completing the Detailed Scope of Work within the Purchase Order Completion Time.

S. REQUEST FOR PROPOSAL. The Participating Entity's written request for a contractor to prepare and submit a Proposal Package for a specific Detailed Scope of Work. A request for proposal is not a guarantee of work.

T. 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 the Participating Entity.

U. SUBCONTRACTOR. Any person, firm, or corporation, other than employees of the Contractor, that 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.

V. SUPPLEMENTAL PURCHASE ORDER. A purchase order issued to add, delete, or change work from an existing related Purchase Order.

W. TECHNICAL SPECIFICATIONS. The comprehensive listing of standards for quality of workmanship and materials, and the standard for the required quality of the work. 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. Except when substitutions are clearly impermissible, all references in the Technical Specifications or the CTC to a specific manufacturer, trade name, or catalog is intended to be descriptive but not restrictive and only to indicate to the Contractor those items that will be satisfactory.

X. UNIT PRICE. The price published in the Construction Task Catalog for a task.

Y. WORK. The labor, material, equipment, and services necessary or convenient to the completion of Purchase Order(s).

II. PARTICIPATING ENTITY CONTRACT ACCESS

The benefits of this Contract should be available to all Participating Entities that can legally access the Scope of Work of this Contract. Any entity accessing the benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. The Contractor understands that a Participating Entity's use of this Contract is at the Participating Entity's sole

convenience and that each Participating Entity reserves the right to obtain construction services from any other source.

III. GENERAL CONDITIONS FOR PERFORMING WORK

A. COMPLIANCE.

1. *Legal and Contractual*. The work will be conducted by the Contractor in strict compliance with this Contract and all applicable federal, state, and local laws, regulations, codes, directives, standards, and specifications; this includes, but is not limited to city building codes, the specific Detailed Scope of Work, and Technical Specifications of a Purchase Order. If the Purchase Order specifies a standard that is different or more stringent that a particular law, code, or regulation, the standard set forth in the Purchase Order will control.

2. *Licenses*. The Contractor must maintain valid and current federal, state, and local licenses, bonds, and permits required for the operation of the business that the Contractor conducts with Sourcewell and Participating Entities. The Contractor will keep these documents properly posted at the Site at all times during the performance of the work.

3. *Permits and Filings*. The Contractor will 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 will be treated as a reimbursable task to be paid a mark-up of 10%. The Contractor will submit a copy of the receipt for payment of such fees. The 10% mark-up will cover all costs over and above the filing and permit fees, including expeditor fees.

B. PUBLIC FACILITIES, IDENTIFICATION, AND SECURITY REQUIREMENTS. The Contractor's employees may be required to perform work at government-owned facilities, including schools. The Contractor's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with the applicable Participating Entity's policies and procedures, and all applicable laws. The Contractor will comply with all identification and security requirements that the Participating Entity may establish.

In the event the Contractor is required to work within a secured facility where labor, material, and equipment must be inspected to pass through a secured perimeter, and all work must be constantly monitored by facility personnel (such as a department of corrections prison) the Contractor will be paid for the labor time lost as a result of such perimeter inspection, as well as any loss of time resulting from a temporary shut down of the work site required by the facility (such as a temporary shut down to move prisoners).

C. CONTRACTOR RECORDS AND REPORTS. The Contractor will maintain accurate and complete records, files and libraries of documents to demonstrate compliance with federal, state, and local regulations, codes, applicable laws listed herein; including manufacturers' instructions and recommendations which are necessary and related to the work to be performed.

The Contractor will prepare and submit required reports, maintain current record drawings, and submit required information to Gordian and/or the Participating Entity, as applicable. The Contractor will provide: materials lists that include trade names and brand names, and model materials lists that include trade names, brand names, model number, and ratings (if appropriate) for all materials necessary to complete the Purchase Order. Upon full payment for the Project, the documents created by Contractor for the Participating Entity that are specific to the Project will become the property of the Participating Entity; including all applicable intellectual property rights.

D. GORDIAN IQCC SYSTEM. Gordian's proprietary IQCC system called ezIQC, is comprised of the eGordian and Bid Safe applications, the CTC, and Technical Specifications. The Contractor will be furnished access to eGordian software to generate the Participating Entity's required Price Proposal using the applicable CTC. Gordian will not charge the Contractor for access to the software or any related software training. The Contractor is granted the following license:

IQCC 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 IQCC 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 Sourcewell and the Participating Entities under this Contract ("Limited Purpose"). In the event this Contract expires or terminates as provided herein, or the Gordian's contract with Sourcewell expires or terminates, this IQCC 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 IQCC 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 IQCC System License and any other terms and conditions of this Contract or any Order, Purchase Order or similar purchasing document (Purchase Order) issued by Sourcewell or a Participating Entity, this IQCC System License will take precedence.

E. REVIEW OF FIELD CONDITIONS. Before submitting a Price Proposal, the Contractor must: carefully study the Detailed Scope of Work, as well as the information furnished by the Participating Entity; take field measurements of any existing conditions related to the work; and observe any conditions at the Site affecting the Price Proposal. Any design errors or omissions, other errors, inconsistencies, or omissions discovered by the Contractor must be reported promptly to the Project Manager. 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 must be reported promptly to the Project Manager.

F. 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.

G. SUPERVISION. The Contractor must enforce strict discipline and good order among the Contractor's employees and other persons carrying out the work. The Contractor will supervise and direct the performance of the Detailed Scope of Work, using the Contractor's best skill and attention. The Contractor will 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 will evaluate the Site safety thereof and, except as stated below, will 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 will give timely written notice to the Project Manager and will not proceed with that portion of the work without further written instructions from the Project Manager.

The Contractor will be responsible to the Participating Entity 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 will be responsible for inspection of portions of work already performed to determine that such portions are in proper condition to receive subsequent work.

H. WORKMANSHIP AND QUALITY. The Contractor may make substitutions only with the written consent of the Project Manager. The Contractor will not permit employment of unfit persons or persons not skilled in the portions of the work assigned to them.

I. SHOP DRAWINGS, PRDUCT DATA, AND SAMPLES.

1. Shop drawings, product data, samples, and similar submittals are not considered as 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 that are not required by the Contract Documents may be returned by the Project Manager without action.

2. The Contractor must review for compliance with the Contract Documents, approve and submit to the Project Manager shop drawings, product data, samples and similar submittals required with reasonable promptness and in such sequence as to cause no delay in the work or in the activities of the Participating Entity or of separate contractors. Submittals that are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Project Manager without action.

3. By approving and submitting shop drawings, product data, samples and similar submittals, the Contractor represents that it 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.

4. The Contractor must perform no portion of the work for which the Contract Documents require submittal and review of shop drawings, product data, samples, or similar submittals until the respective submittal has been approved by the Project Manager.

5. The work will be performed in accordance with approved submittals except that the Contractor will not be relieved of responsibility for deviations from requirements of the Contract Documents by the Project Manager's approval of shop drawings, product data, samples or similar submittals unless the Contractor has specifically informed the Project Manager in writing of such deviation at the time of submittal and a) the Project Manager has given written approval to the specific deviation as a minor change in the work, or b) a Supplemental Purchase Order or written notice has been issued authorizing the deviation. The Contractor will not be relieved of responsibility for errors or omissions in shop drawings, product data, samples or similar submittals by the Project Manager's approval thereof.

6. The Contractor will direct specific attention, in writing or on resubmitted in shop drawings, product data, samples or similar submittals, to revisions other than those

requested by the Project Manager on previous submittals. In the absence of such written notice the Project Manager's approval of a resubmission will not apply to such revisions.

7. All costs for normal submittal information (shop drawings, cut sheets, performance information, installation or erection drawings, etc.) are included in the CTC line item costs.

8. The Contractor will not be required to provide professional services which constitute the practice of architecture or engineering unless such services are specifically requested by the Participating Entity and 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, and such services are approved by the Participating Entity. The Contractor will 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 Participating Entity will specify all performance and design criteria that such services must satisfy, and the costs associated with such services will be represented by including the appropriate tasks from the CTC. The Contractor will cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal must 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, will bear such professional's written approval when submitted to the Project Manager. The Participating Entity will be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided the Participating Entity has specified to the Contractor all performance and design criteria that such services must satisfy. The Project Manager will review, approve, or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Detailed Scope of Work. The Contractor will not be responsible for the adequacy of the performance or design criteria required by the Detailed Scope of Work. The Participating Entity will have the right to provide, or designate a representative to provide, any architectural or engineering services necessary for completion of the Work.

J. CUTTING AND PATCHING.

1. The Contractor will be responsible for cutting, fitting, or patching required to complete the Detailed Scope of Work or to make its parts fit together properly.

2. The Contractor will not damage or endanger a portion of the work, or fully or partially completed construction of the Participating Entity or separate contractors, by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor will not cut or otherwise alter such construction by the Participating Entity or a separate contractor except with written consent of the Participating Entity and of such separate contractor. The Contractor will not unreasonably withhold from the Participating Entity

or a separate contractor the Contractor's consent to cutting or otherwise altering the work.

K. CLEAN UP.

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

2. If the Contractor fails to clean up, the Participating Entity may do so, and the cost thereof will be charged to the Contractor.

L. ACCESS TO THE WORK. The Contractor will provide the Project Manager access to the work at all times.

M. SUBCONTRACTORS.

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

2. The Contractor will not subcontract with a proposed person or entity with whom the Participating Entity or Project Manager has made reasonable and timely objection. Similarly, the Contractor will not be required to subcontract with anyone with whom the Contractor has made reasonable objection.

3. If the Participating Entity or Project Manager has reasonable objection to a subcontractor proposed by the Contractor, the Contractor will propose another to whom the Participating Entity or Project Manager has no reasonable objection.

N. COORDINATION WITH OTHER CONTRACTORS.

1. The Participating Entity reserves the right to perform construction or operations related to the Purchase Order with the Participating Entity's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the Site.

2. The Participating Entity will provide for coordination of the activities of the Participating Entity's own forces and of each separate contractor with the work of the Contractor, who will cooperate with them. The Contractor will participate with other separate contractors and the Participating Entity in reviewing their construction schedules when directed to do so. The Contractor will make any revisions to the construction schedule

deemed necessary after a joint review and mutual agreement. The construction schedules will then constitute the schedules to be used by the Contractor, separate contractors, and the Participating Entity until subsequently revised.

O. PROPRIETARY RIGHTS, PATENT AND COPYRIGHT INFRINGEMENT.

1. Contractor will defend any action or proceeding brought against Sourcewell or any Participating Entity based on any assertion or claim that the Work, or any part thereof, or the operation thereof or use of the Work or any part thereof, constitutes infringement of any third party proprietary rights, trademark, patent or copyright, now or hereafter issued "Proprietary Rights." Contractor will defend, indemnify and hold harmless Sourcewell or any Participating Entity from and against all damages and costs, including attorney's fees, awarded against Sourcewell or Participating Entity or Contractor in any such action or proceeding. Contractor further agrees to keep Sourcewell and any Participating Entity informed of all developments in the defense of such actions or proceedings.

2. In the event a Participating Entity is enjoined from the completion of the Work, or any part thereof in connection with any claim of infringed proprietary rights, Contractor will at it sole expense take reasonable steps to procure the right or license to operate or use the Work. If Contractor cannot so procure the aforesaid right within a reasonable time, Contractor will then, promptly at Contractor's option and Contractor's expense and in consultation with the Participating Entity, (a) modify the Work so to avoid infringement of any Proprietary Rights; or (b) replace said Work with Work that does not infringe or violate any such Proprietary Rights.

3. Sections 1 and 2 above will not be applicable to any action or proceeding based on infringement or violation of a Proprietary Right (a) relating solely to a particular process or the product of a particular manufacturer specified by the Participating Entity and such processes or products are something other than that which has been offered or recommended by Contractor to the Participating Entity; or (b) arising from modifications to the Work by the Participating Entity or its agents after acceptance of the Work.

P. REQUESTS OF EXTENSION OF TIME.

1. The Purchase Order Completion Time will be extended for such reasonable time as the Project Manager may determine, 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 Participating Entity or its Project Manager, their employees, or agents
    - A separate contractor employed by the Participating Entity
    - Changes ordered in the work by the Participating Entity
    - Labor disputes or civil unrest
    - Fire
    - Unusual delay in deliveries
    - Unavoidable casualties or other causes beyond the Contractor's control
    - Other causes for which the Project Manager may determine justify a delay

2. The Contractor will not make any claim for damages for the delay in the performance of any Purchase Order occasioned by any act or omission of the Participating Entity, Project Manager, or any of their representatives; and agrees that any such claim will be fully compensated for by an extension of time as provided herein.

Q. PARTIAL OCCUPANCY OF TIME.

1. The Participating Entity may occupy or use any completed or partially completed portion of the work at any stage when it is consented to by the authorized public authorities having jurisdiction over the work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Participating Entity and the Contractor agree in writing to the conditions of such use, including payment and any other required terms. Consent of the Contractor to partial occupancy or use will not be unreasonably withheld.

2. Immediately prior to such partial occupancy or use, the Participating Entity, the Contractor and Project Manager will 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.

3. Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the work will not constitute acceptance of work that does not comply with the requirements of the Contract Documents.

R. PROTECTION OF PERSONS AND PROPERTY. The Contractor must take reasonable precautions for safety of, and will provide reasonable protection to prevent damage, injury, or loss to:

1. Employees on the work and other persons who may be affected thereby;

2. The work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or sub-subcontractors; and

3. Other property at the Site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

The Contractor will 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 will 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 Participating Entity 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 will exercise utmost care and carry on such activities under supervision of properly qualified personnel.

The Contractor will 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 Participating Entity or Project Manager or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's other obligations included herein.

The Contractor will designate a responsible member of the Contractor's organization at the Site whose duty will be the prevention of accidents. This person will be the Contractor' superintendent unless otherwise designated by the Contractor in writing to the Project Manager.

The Contractor will not permit any part of the construction or Site to be loaded in a manner that endangers safety.

S. HAZARDOUS MATERIALS.

1. If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to lead based paint, asbestos or polychlorinated biphenyl (PCB), encountered on the Site by the Contractor, the Contractor will, upon recognizing the condition, immediately stop the work in the affected area and report the condition to the Project Manager in writing.

2. The Participating Entity will 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 Participating Entity will furnish in writing to the Contractor and Project Manager the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the Task of removal or safe containment of such material or substance. The Contractor and the Project Manager will promptly reply to the Participating Entity in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Participating Entity. If either the Contractor or Project Manager has an objection to a person or entity proposed by the Participating Entity, the Participating Entity will propose another to whom the Contractor and the Project Manager have no reasonable objection. When the material or substance has been rendered harmless, the work in the

affected area will resume upon written agreement of the Participating Entity and Contractor. The Purchase Order Completion Time will be extended appropriately.

3. The Participating Entity will 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.

T. TESTS AND INSPECTIONS.

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

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

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

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

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

6. Tests or inspections conducted pursuant to the Contract Documents will be made promptly to avoid unreasonable delay in the work.

U. PARTICIPATING ENTITY'S RIGHT TO STOP WORK AND COMPLETE WORK. A Participating Entity may order the Contractor to stop the work on any Purchase Order, or any portion thereof, at any time for any reason. If the Contractor has been ordered to stop the work, the

Participating Entity may, without prejudice to other remedies, have the work completed by any available means.

V. SURVIVAL OF WORK. Any Purchase Order issued prior to the expiration of this Contract may survive after the expiration of this Contract. This means work may continue to be performed, payments may be made, and the guarantee period may continue.

W. WARRANTY. All work furnished under this Contract will 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 (Warranty Period); 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.

During the Warranty Period, the Contractor will repair and replace at Contractor's own expense, all work that may develop defects whether such defects may be inherent in the equipment or materials, in the functioning of the piece of equipment, or in the functioning and operation of pieces of equipment operating together as a functional unit. Any equipment or material that is repaired or replaced will have the Warranty period extended for a period of one year from the date of the last repair or replacement.

If the Contractor fails to repair, replace, rebuild, or restore such defective or damaged work promptly after receiving such notice, the Participating Entity will have the right to have the work done by others and to deduct the cost thereof from the monies owed to the Contractor. If the amount owed is insufficient to cover such costs, the Contractor will be liable to pay such deficiency on demand. The Project Manager's certificate setting forth the fair and reasonable cost of repairing, replacing, rebuilding or restoring any damaged or defective work when performed by one other than the Contractor will be binding and conclusive as the amount thereof upon the Contractor.

The Contractor must obtain all manufacturer's warrantees and guarantees of all equipment and materials required by this Contract in the name of the Participating Entity.

IV. SCOPE AND PROCEDURE FOR ORDERING WORK

A. REGION. The Contractor will primarily perform work in the Region designated at the top of this Contract. However, if the parties agree, the Contractor may work in another area using its awarded Adjustment Factors and appropriate Construction Task Catalog. If a contractor does not have a contract for the area work in which the work is to be performed, but maintains more than one contract with Sourcewell, it will use the contract that results in the lowest price for the Participating Entity.

B. SCOPE. Work will be offered to the Contractor only through an authorized Purchase Order issued in accordance with this Contract. Purchase Orders will contain the Detailed Scope of Work required for the Contractor to complete the Project for a Participating Entity. The Contractor will provide all pricing, management, incidental drawings, shop drawings, samples, documents, work, materials, supplies, parts (to include system components), transportation, plant, supervision, labor, and equipment needed to complete each Purchase Order. The

Contractor will also be responsible for Site safety as well as Site preparation and cleanup during and after construction.

The Contractor is not guaranteed to receive a Purchase Order under this Contract.

C. CONTRACTOR SELECTION METHODOLOGY. After the Participating Entity has developed a draft Scope of Work, it will select a contractor using one of the following methods:

1. *Directly Selecting a Contractor*. Depending upon the procurement requirements of the Participating Entity, it may choose to directly select an available Sourcewell-contracted contactor, or

2. *Use of BidSafe to Select Contractor*. When p available for the Project, the Participating Entity may use Gordian's BidSafe to issue a Request for Quotation to two or more contractors in order to determine the award of a Purchase Order. The use of BidSafe will be subject to Gordian's BidSafe requirements.

D. PURCHASE ORDER COMPLETION PROCESS. Upon selection of a contractor as described in Section C. above, the Participating Entity and Gordian will work with the Contractor to complete the following:

1. JOINT SCOPING MEETING. The Contractor will attend the Joint Scope Meeting with the Participating Entity and Gordian to discuss, at a minimum:
   a. The general Scope of Work
   b. Alternatives for performing the work and value engineering
   c. Access to the Site and protocol for admission
   d. Hours of operation
   e. Staging area
   f. Requirements for professional services, sketches, drawings, and specifications
   g. Construction schedule
   h. Requirement for bonding
   i. The presence of hazardous materials
   j. Date on which the Proposal Package is due

2. DETAILED SCOPE OF WORK. Upon completion of the joint scoping meeting, Gordian, the Participating Entity, and the Contractor will work together to create a Detailed Scope of Work referencing any sketches, drawings, photographs, and specifications required to document accurately the work to be accomplished. The Detailed Scope of Work will be the basis on which the Contractor will develop its Proposal Package. The Contractor does not have the right to refuse to perform any task or any work in connection with a particular Project.

3. REQUEST FOR PROPOSALS. Upon completion of the Detailed Scope of Work, the Participating Entity will issue a Request for Proposal to the Contractor. The Contractor will use Gordian's IQCC System to prepare its Price Proposal.

4. PROPOSAL PACKAGE CONTENTS. Upon issuance of the Participating Entity's Request for Proposal, the Contractor will create a Proposal Package that includes:

a. Price Proposal: The Price Proposal will be based on the following:
   1) *Pre-Priced Tasks*: Pre-Priced tasks described, and for which a Unit Price is set forth, in the CTC. The Contractor will identify the Task and the quantities required.
   2) *Non-Pre-Priced Tasks*: A Non Pre-priced Task is a task that is not in the CTC.
      a) For Non Pre-Priced Work Performed with the Contractor's Own Forces: The Contractor will submit three independent quotes for all materials to be installed and will provide a breakdown of the labor and equipment costs.

      The final price submitted for Non Pre-Priced Tasks will be according to the following formula, and each Non Pre-Priced Task must be supported with the necessary back-up documents including the calculation below:
      i. The hourly rate for each trade classification not in the CTC multiplied by the quantity.
      ii. The rate for each piece of Equipment not in the CTC multiplied by the quantity.
      iii. Lowest of three independent quotes for all materials.

      Total Cost for Non-Pre-Priced Tasks performed by contractor's own forces = (i + ii + iii) x Non-Pre-Priced Adjustment Factor.

      b) For Non-Pre-Priced Work performed through a Subcontractor: The Contractor must submit three independent bids from Subcontractors. The Contractor may not submit a quote or bid from any supplier or Subcontractor that the Contractor is not prepared to use during the Project. The Participating Entity may require additional quotes and bids if the suppliers or Subcontractors are not acceptable or if the prices are not determined to be reasonable. If the Contractor cannot obtain three quotes or bids, the Contractor will provide this information in writing to the Sourcewell Participating Entity for review and approval.

      The final price submitted for Non Pre-Priced Work performed through a Subcontractor will the lowest of three Subcontractor quotes.

      The Total Cost for Non-Pre-priced Tasks performed by Subcontractors = Lowest of Three Subcontractor Quotes X Non-Pre-Priced Task Adjustment Factor.

      At the discretion of Gordian, Non-Pre-Priced Tasks, as well as other Tasks, may be added to the CTC during the course of the Contract. Unit prices will be established based on actual quotes from material suppliers and installers and fixed as a permanent Pre-priced Task in the CTC.

      Gordian's determination as to whether an item is a Pre-Priced Task or a Non-Pre-Priced Task will be final, binding and conclusive as to the Contractor.

The means and methods of construction will be such as the Contractor may choose; subject however, to the Participating Entity's right to reject means and methods proposed by the Contractor that: Will not produce finished work in accordance with the terms of the Contract; or Unnecessarily increases the price of the Purchase Order when alternative means and methods are available.

3) *Additional Costs.* In the event the Contractor is required to work within a secured facility where labor, material, and equipment must be inspected to pass through a secured perimeter, and all work must be constantly monitored by facility personnel, such as a prison, the Contractor will be paid for the labor time lost as a result of such perimeter inspection, as well as any loss of time resulting from a temporary shut down of the work site required by the facility, such as a temporary shut down to move prisoners.

The value of the Price Proposal will 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.

b. Incidental drawings, sketches, or specification information,
c. Quantity take-offs supporting all material quantities,
d. Catalog cuts providing information on materials or products, as specifically requested,
e. The list of known Subcontractors,
f. Construction schedule,
g. Back-up data for any Non-Pre-Priced Tasks (identified above),
h. Warranty information on special equipment or materials, and
i. Other such documentation as the Participating Entity may require.

By submitting a Price Proposal to the Participating Entity, the Contractor agrees to accomplish the Detailed Scope of Work in accordance with the Request for Proposal at the price it submits. It is the Contractor's responsibility to include the necessary tasks and quantities in the Price Proposal and apply the appropriate Adjustment Factor(s) prior to delivering it to the Participating Entity. However, when trade jurisdiction rules or small quantities, the cost of a minor task in the Price Proposal is less than the cost of the actual labor and material to perform such task, the Participating Entity may permit the Contractor to be paid for such task as a Non-Prepriced Task, or use Prepriced labor tasks and material component pricing to cover the actual costs incurred. Provided that there is no other work for that trade on the Project or other work for that trade cannot be scheduled at the same time and the final charge does not exceed $5,000.

E. WAGE RATES AND GOALS REQUIRED BY LAW. If other wage rates are required by law (such as prevailing wage), the Contractor must pay such wages to all workers in accordance with the applicable laws. If the Work is performed in whole or in part using federal funding, then the Davis Bacon Wages for that area will apply.

The wage rates used in the CTC were the prevailing wage rates, if any, in effect at the time the IFB was issued. If prevailing wage rates are revised prior to completion of the Project, the revised rate will apply to this Contract from the effective date of such revision; however, such revision will not entitle Contractor to any increased compensation under the terms of the Contract.

The Contractor must meet any goals or requirements established by the Participating Entity 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 detailed scope of work.

F. TIME FOR SUBMITTAL OF THE PROPOSAL PACKAGE.

1. The Proposal Package will be submitted by the date indicated on the Request for Proposal. All incomplete Proposal Packages will be rejected. The time allowed for preparation of the Proposal Package will depend on the complexity and urgency of the Project but should average between seven and fourteen days. On complex Projects, such as those requiring incidental engineering/architectural drawings and approvals and permits, allowance will be made to provide adequate time for preparation and submittal of the necessary documents.

2. In emergency situations and for Projects requiring immediate completion, the Proposal Package may be required quickly and the due date will be so indicated on the Request for Proposal or, the Contractor may begin work immediately, with the paperwork to follow.

3. If the Contractor fails to meet the deadline for submittal of the Proposal Package, this may be reason to suspend issuance of this particluar Purchase Order.

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

G. REVIEW OF THE PROPOSAL PACKAGE.

1. Gordian and/or the Participating Entity will evaluate the Price Proposal by evaluating the nature and number of Tasks proposed against the agreed upon Detail Scope of Work and will determine the reasonableness of approach. Furthermore Gordian or the Participating Entity may compare the Price Proposal to the cost estimate for the Detailed Scope of Work. Gordian or the Participating Entity reserves the right to reject a Price Proposal based on unjustifiable/unsupported (with take off details) quantities and/or Tasks, schedule, inadequate documentation, or for any other reason.

2. If Gordian and/or the Participating Entity finds any part of the Price Proposal unacceptable, Gordian or the Participating Entity may request the Contractor to re-submit its Price Proposal or cancel the Project. The Contractor is expected to submit correct Price Proposals the first time. Adjustments to the Price Proposal may occasionally need to be made after review by Gordian and the Participating Entity. In

that event, Gordian may permit the Contractor to submit the first Price Proposal and a second Price Proposal for each Purchase Order.

3. Additionally, Gordian and/or the Sourcewell Participating Entity will evaluate all other components of the Proposal Package and may request revisions thereto.

4. Requested revisions to any and all of the Proposal Package components should be made by the Contractor and resubmitted in no more than three working days. If after the second review by Gordian and/or the Participating Entity, Gordian and/or the Participating Entity finds requested revisions to the Proposal Package that were not made, this may be reason to suspend that particular Purchase Order.

5. Failure by the Contractor to submit Proposal Packages, and revisions thereto, in a timely manner (within time frames described above) is grounds for suspension of all future Purchase Orders.

6. The Participating Entity reserves the right to obtain Price Proposals from any or all of the contractors awarded an IQC contract.

7. If the Contractor continues to submit Price Proposals that are rejected by Gordian, Sourcewell may declare the Contractor in default and initiate termination of the Contract.

H. DELIVERY OF THE PROPOSAL PACKAGE. After Gordian reaches an agreement with the Contractor on the Proposal Package and any requested revision thereto, if applicable, Gordian will assemble and deliver the Proposal Package for the Participating Entity's consideration.

If the Contractor submits a Proposal Package with inaccurate Adjustment Factors, the Contractor waives all rights to any further compensation above the Purchase Order Price submitted in the Proposal Package.

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

I. REVIEW OF THE PROPOSAL PACKAGE BY THE PARTICIPATING ENTITY AND ISSUANCE OF PURCHASE ORDER.

1. The Participating Entity will evaluate the entire Proposal Package.

2. The Participating Entity may reject a Proposal Package for any reason.

3. The Participating Entity may request changes to or clarifications of any part of the Proposal Package. A Participating Entity may also require a certificate of insurance or labor, material payment, or performance bonds. The Contractor and Gordian will work together to make any requested revisions in a timely manner and resubmit a revised Proposal Package.

4. Upon approval of the Proposal Package by the Participating Entity, the Participating Entity may issue a signed Purchase Order, Notice of Award, or similar document accepting the Contractor's offer. The document will include:
   a) Reference to the Detail Scope of Work
   b) The Purchase Order Price
   c) Start date, Purchase Order Completion Time (duration) and completion date
   d) Whether liquidated damages will apply

5. Once the Contractor accepts the Purchase Order, the Contractor may not refuse to perform the work. Such actions may be grounds for termination of this Contract or other disciplinary action at the option of Sourcewell.

6. If performance and payment bonding is required, or if a separate and/or special insurance certificate is required, the Contractor will deliver such requirement to the Participating Entity within 10 days of notification of the requirement.

7. Within two business days of receipt of a Purchase Order from a Participating Entity, the Contractor must provide notification to Gordian by forwarding a copy of the Purchase Order via email to PO@ezIQC.com or via facsimile to (864) 233-9100.

8. Within two business days of sending an Invoice to a Participating Entity, the Contractor must provide notification to Gordian of each Invoice by forwarding a copy of the Invoice via email to Invoice@ezIQC.com or via facsimile to (864) 233-9100.

J. CHANGES TO THE SCOPE OF WORK.

1. The Participating Entity reserves the right to make, in writing, at any time during the work, changes in the Detailed Scope of Work as are necessary to satisfactorily complete the Project, and to delete in whole or in part, or to add to, the Detailed Scope of Work. Such changes, deletions, or additions will not invalidate the Contract or the Purchase Order nor release the surety, if any, and the Contractor agrees to perform the work as altered.

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

K. PUNCH LIST COMPLETION.

1. The Contractor understands and agrees that time is of the essence in closing out the work of each Purchase Order under this Contract. Upon Substantial Completion of the work, the Punch List will be transmitted to the Contractor from the Participating Entity. The Contractor agrees to begin performance of Punch List Work immediately after receipt of the Punch List.

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

3. Punch List Work will be continuously prosecuted once begun and completed within 30 Days from the receipt of the Punch List. Should the Contractor fail to complete the Punch List within this period of time, the liquidated damages as identified in by the Participating Entity's Purchase Order will apply.

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

M. TERMINATION OF ORDERS. Participating Entities may terminate a Purchase Order, in whole or in part, immediately upon notice to the Contractor in the event of any of the following events:

1. The Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the work

2. Federal or state laws or regulations prohibit the work

3. The Contractor commits any material breach of this Contract or Purchase Order

N. PURCHASE ORDER GOVERNING LAW AND VENUE. The governing law and venue for any action related to a Participating Entity's Purchase Order will be determined by the Participating Entity.

V. ADJUSTMENT FACTORS AND PAYMENTS

A. PREVAILING WAGE RATES AND PARTICIPATION REQUIREMENTS. When applicable, the Contractor will be responsible for paying prevailing wages to all workers in accordance with the applicable laws; and the wage rates in the CTC will be the prevailing wage rates. If the state in which the work is located revises its prevailing rate of hourly wages prior to completion of the Project, the revised rates will apply to this Contract from the effective date of the revision; however, any such revision will not entitle the Contractor to any increased compensation under the terms of this Contract.

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

B. CONSTRUCTION TASK CATALOG (CTC) UPDATE. The CTC issued with this Solicitation will be in effect for the first year of the Contract. On the anniversary of the Contract award date, a new CTC will be furnished. The new CTC will be effective for the following twelve (12) month extension period. The new CTC will only apply to Work Orders issued after the effective date of the applicable contract extension and shall have no impact on Work Orders issued prior to the effective date of the applicable contract extension.

C. ECONOMIC PRICE ADJUSTMENT. Upon request by the Contractor, or upon the initiative of Gordian, the Contractor's Adjustment Factors may be updated at the time of the periodic extension of this Contract.

1. The Contractor's Adjustment Factors will be calculated according to the following:

   a. A Base Year Index will be calculated by averaging the 12 month Construction Cost Indices for the average of the 20 cities published in the *Engineering News Record* for the 12 months immediately prior to the month of the Solicitation (e.g., for an April solicitation, the Base Year Index will be April of the prior year to March of the Solicitation year).

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

   c. The Economic Price Adjustment will be calculated by dividing the Current Year Index by the Base Year Index.

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

   e. Averages will be obtained by summing the 12-month indices and dividing by 12.

   f. All calculations in this article will be carried to the fifth decimal place and rounded to the fourth decimal place. The following rules will be used for rounding:
      - The fourth decimal place will be rounded up when the fifth decimal place is five or greater.
      - The fourth decimal place will remain unchanged when the fifth decimal place is less than five.

2. *Engineering News Record* occasionally revises indices. *Engineering News Record's* Construction Cost Indices used in the calculations described above will be those currently published at the time the Economic Price Adjustment calculation is performed. No retroactive adjustments will be made as a result of an *Engineering News Record* revision. Revised Construction Cost Indices, if any, will be used in subsequent calculations.

D. MATERIAL PRICE SPIKE ADJUSTMENT. A "major spike" in material price is defined as a spike in a specific material cost of more than 25% above the cost of that material on the date the CTC was issued.

1. 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 must:

a. Identify the specific material that has experienced a major spike;

b. Identify Pre-priced Task(s) or Job Orders that require the material experiencing a major spike; and,

c. 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.

2. The Participating Entity, 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 CTC was issued multiplied by 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.

3. Participating Entity, 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.

E. PARTIAL PAYMENTS.

1. The Contractor may submit a monthly Application for Payment for Work completed to date. The Contractor will submit Certified Payroll Records, and such other supporting documentation as may be required by the Project Manager. The Contractor may be required to submit Certified Payroll Records online. The Project Manager will inspect the work within a reasonable time and the Participating Entity will make partial payments to the Contractor based on the approved value of completed work.

2. As permitted by the law or policy of the Participating Entity, the Participating Entity may withhold retainage per purchase order until completion of the Project.

3. The Contractor must promptly pay each Subcontractor, upon receipt of payment from the Participating Entity, out of the amount paid to the Contractor on account of such Subcontractor's portion of the work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's portion of the work. The Contractor will, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to its sub-Subcontractors in a similar manner.

F. FINAL PAYMENTS.

1. The Contractor will notify the Project Manager when the Detailed Scope of Work is complete and ready for final inspection. The Project Manager will promptly make such inspection. If the Project Manager finds the Detailed Scope of Work complete and all final documentation submitted, the Project Manager will notify the Contractor that a final Application for Payment may be submitted.

2. The Contractor may then submit a final Application for Payment. The Contractor will submit Certified Payroll Records and such supporting documentation as may be required by the Project Manager. The Participating Entity will make final payment to the Contractor.

3. Acceptance of final payment by the Contractor, a Subcontractor or material supplier will constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

VI. CUSTOMER SERVICE

A. PRIMARY ACCOUNT REPRESENTATIVE. The Contractor will assign an Account Representative to Sourcewell for this Contract and must provide prompt notice to Sourcewell and Gordian if that person is changed. The Account Representative will be responsible for:

- Maintenance and management of this Contract;
- Timely response to all Sourcewell, Gordian, and Participating Entity inquiries; and
- Business reviews with Sourcewell, Gordian, and Participating Entities, if applicable.

B. BUSINESS REVIEWS. The Contractor must perform a minimum of one business review with Sourcewell and Gordian per contract year. The business review will cover sales to Participating Entities, pricing and contract terms, administrative fees, supply issues, customer issues, and any other necessary information.

VII. CONTRACT ACTIVITY REPORT AND ADMINISTRATIVE FEE PAYMENT

A. CONTRACT ACTIVITY REPORT. The Contractor must report contract activity within eGordian and complete all required fields.

The Report must contain the following fields related to Purchase Orders received from Participating Entities:

- Participating Entity Name,
- Participating Entity's Complete Address,
- Sourcewell Assigned Participating Entity Number,
- Brief Description of the work,
- Transaction Date,
- Total Sales Amount, and
- Applicable Sourcewell Contract Number.

B. ADMINISTRATIVE FEE. The Contractor must pay an administrative fee in exchange for the administration of the contracts by Sourcewell and Sourcewell's contract administrator, Gordian.

The Contractor will pay to Gordian an administrative fee of 7.5% of the total paid by the Participating Entity to the Contractor for the Work.

The Administrative Fee will be remitted monthly by the Contractor to the address below.

The Gordian Group, Inc.
PO Box 74008498
Chicago, IL 60674-8498

The Contractor will be assessed a 1% per month late fee for any Administrative Fees not paid by the due date set forth herein.

In order to audit this section, Sourcewell or Gordian may request records from the Contractor for all work performed under this Contract. If a discrepancy exists between the actual activity and the Administrative Fees paid, Gordian will provide written notification to the Contractor of the discrepancy and allow the Contractor 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 Sourcewell or Gordian, Sourcewell or Gordian reserve the right to engage a third party to conduct an independent audit of the Contractor's records. In the event the Contractor is found not to be in compliance with this Contract, the Contractor will reimburse Sourcewell or Gordian for the cost and expense related to such audit.

In the event the Contractor is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any bid or proposal submitted by the Contractor to a Sourcewell or a Participating Entity. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than 30 days from the cancellation date.

C. TAXES. The Contractor will pay all sales, consumer, use and other similar taxes required by law for which a valid exemption does not exist. If the Contractor is required to pay sales tax on non-exempt material, equipment, services, or other items purchased in connection with a Purchase Order, the Member will reimburse the Contractor for such tax, without mark-up, provided the Contractor submits the appropriate documentation therefore. Should Gordian, or any applicable tax authority, conclude that any sales and/or use tax shall be imposed on any part of the of the transactions contemplated herein, said tax shall be collected from the Job Order Contractor, in addition to the fees set forth herein, and remitted by Gordian.

VIII. ADDITIONAL TERMS

A. SURVIVAL OF TERMS. The following Articles of these General Terms and Conditions survive the expiration or cancellation of this Contract: III. A, C, O, V, and W; IX; XIII; and XV.

B. ASSIGNMENT. Neither the Contractor nor Sourcewell may assign or transfer any rights, interest, or obligations under this Contract without the prior consent of the parties and a fully executed assignment agreement.

C. AMENDMENTS. Any amendment of, including extension to, this Contract must be in writing and will not be effective until it has been fully executed by the parties.

D. WAIVER. If either party fails to enforce any provision of this Contract, that failure does not waive the provision or the right to enforce it.

E. CONTRACT COMPLETE. This Contract contains all negotiations and agreements between Sourcewell and the Contractor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.

F. RELATIONSHIP OF THE PARTIES. The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.

G. SEVERABILITY. 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.

H. GRATUITIES. As it relates to this Contract, or any of the Contractor's efforts to secure this Contract or any of the work that may be offered or assigned hereunder, the Contractor is prohibited from offering or giving gratuities or favors, of any form, to Sourcewell, Gordian, or Participating Entities, including any of their representatives or agents.

Sourcewell may immediately cancel this Contract and notify proper authorities in the event Sourcewell determines that the Contractor or any of its agents offered or gave gratuities or favors of any form, including but not limited to: entertainment, gifts, cash, promise or forgiveness, or any other form of gratuity or favor to any employee or agent of Sourcewell, Gordian, or the Participating Entity.

IX. LIABILITY

The Contractor must indemnify, save, and hold Sourcewell, Gordian, and Participating Entities, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees, arising out of the performance of this Contract by the Contractor or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the work performed and any products provided under this Contract to the extent the work has been used according to its specifications and Project.

X. AUDITS

Sourcewell reserves the right to review the books, records, documents, and accounting procedures and practices of the Contractor relevant to this Contract for a minimum of six years from the end of this Contract. This clause extends to Participating Entities as it relates to business conducted by that Participating Entity under this Contract. The Contractor must provide verifiable documentation and tracking in a timely manner.

XI. GOVERNMENT DATA PRACTICES

The Contractor and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell or Gordian under this Contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor under this Contract.

XII. MARKETING

A. MARKETING. The Contractor must adhere to the following when preparing marketing materials and web sites, and in the use of trademarks and service marks:

1. The Contractor will include the Sourcewell logo and website address on all marketing materials and web sites that mention this Contract or have any relation to this Contract.

2. The Contractor will include Gordian's ezIQC logo, website address (www.ezIQC.com), and ezIQC® telephone number (888-993-9472) on all marketing materials and web sites that mention this Contract.

3. The Contractor is authorized to use Sourcewell's and Gordian's names, logos, trademarks, service marks and other provided materials solely for the presentation and promotion of the availability and use of this Contract to Participating Entities.

4. All publicity and marketing materials must be coordinated with and approved by Sourcewell.

5. The Contractor must not claim that Sourcewell or Gordian endorses its work or services.

6. The Contractor must avoid all conflicts of interest with the promotion of this Contract to any Participating Entity.

XIII. GOVERNING LAW, JURISDICTION, AND VENUE

This Contract, between the Contractor and Sourcewell, will be governed by Minnesota substantive and procedural law. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state court in Todd County or federal court in Fergus Falls, Minnesota.

For any action or claim between the Participating Entity and the Contractor, the governing law and venue will be determined by the Participating Entity accessing this Contract.

XIV. FORCE MAJEURE

Neither party will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party delaying or defaulting under this provision must provide the other party prompt written notice of the delay or default.

XV. SEVERABILITY

If any provision of this Contract is found to be illegal, unenforceable, or void then the parties will be relieved of all obligations arising under such provisions. If the remainder of this Contract is capable of performance, it will not be affected by such declaration or finding and must be fully performed.

XVI. PERFORMANCE, DEFAULT AND REMEDIES, AND LIQUIDATED DAMAGES

A. PERFORMANCE. During the term of this Contract, the parties will monitor performance and address unresolved contract issues. The resolution process is as follows:

1. *Notification*. The Parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, the Parties will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of the Parties.

2. *Escalation*. If Parties are unable to resolve the issue in a timely manner, as specified above, the Parties may escalate the resolution of the issue to a higher level of management within their organization. The Contractor will have 30 calendar days to cure an outstanding issue.

3. *Performance while Dispute is Pending*. Notwithstanding the existence of a dispute, the Contractor must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Contractor fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, any additional costs incurred by Sourcewell and/or its Participating Entities as a result of such failure to proceed will be borne by the Contractor.

B. DEFAULT AND REMEDIES. Either of the following constitutes cause to declare this Contract, or any Participating Entity Purchase Order under this Contract, in default:

1. Nonperformance of contractual requirements, or

2. A material breach of any term or condition of this Contract.

Written notice of default and a reasonable opportunity to cure must be issued by the party claiming default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

- Exercise any remedy provided by law or equity, or
- Terminate this Contract or any portion thereof, including any orders issued against the Contract.

C. LIQUIDATED DAMAGES. The Participating Entity may assess liquidated damages for each day after the Purchase Order Completion Time in the Detailed Scope of Work is not complete. It is understood and agreed by and between the Contractor, Sourcewell, and the Participating Entity, 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.

XVII. INSURANCE

A. REQUIREMENTS. At its own expense, the Contractor must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State where the Project is located. Participating Entities must follow their own laws and practices regarding insurance requirements; and may require additional coverage or limits. Each policy must have an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability*. Workers' Compensation: As required by any applicable law or regulation in the state in which the Project is located. Employer's Liability Insurance must be provided in amounts not less than listed below:

   Minimum limits:
   $500,000 each accident for bodily injury by accident
   $500,000 policy limit for bodily injury by disease
   $500,000 each employee for bodily injury by disease

2. *Commercial General Liability Insurance.* The Contractor will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office (ISO) Commercial General Liability Form CG0001 (2001 or newer edition), or equivalent. At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.

   Minimum Limits:
   $1,000,000 each occurrence Bodily Injury and Property Damage
   $1,000,000 Personal and Advertising Injury
   $2,000,000 aggregate for Products-Completed operations
   $2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, the Contractor will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must comply with the motor vehicle laws of the state in which the Project is located and apply to the use in connection with the work in the Contract Documents. The terms must be no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer), or equivalent.

   Minimum Limits:
   $2,000,000 each accident, combined single limit

4. *Umbrella Insurance.* During the term of this Contract, the Contractor will maintain umbrella coverage over Workers' Compensation, Commercial General Liability, and Commercial Automobile.

   Minimum Limits:
   $2,000,000

5. *All Risk 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 the Participating Entity. The cost of such Builders Risk Policy will be reimbursed to the Contractor as a reimbursable task.

6. *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.

   Minimum Limits:
   $2,000,000 per occurrence
   $2,000,000 aggregate.

   The cost of Pollution Liability Insurance is included in the Unit Prices and will not be reimbursed separately.

Failure of the Contractor to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default, or the Participating Entity cancel the Purchase Order for default.

If at any time any of the above-required insurance policies should be cancelled, terminated, or modified so that insurance is not in effect as above required, then, if Sourcewell will so direct, the Contractor will suspend performance of the work. If the work is suspended, no extension of time to complete the work will be due. If the work is not suspended, then Sourcewell or the Participating Entity may, at its option, obtain insurance affording coverage equal to that above required, the cost of such insurance to be payable by the Contractor.

Should the awarded Contractor retain a Subcontractor to perform any of the services mentioned herein, it is the Contractor's responsibility to ensure that the Subcontractor(s) maintains the same types of insurance coverage in accordance with the requirements and amounts indicated herein.

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, the Contractor must furnish to Sourcewell a certificate of insurance, as evidence of the Workers' Compensation, General Liability, Commercial Automobile, and Umbrella insurance required under this Contract. A Participating Entity may require a Certificate of Insurance as evidence of additional coverages it requires. Prior to expiration of the policy(ies), renewal certificates must

be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or emailed to the Sourcewell Supplier Development Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf. All policies must include there will be no cancellation, suspension, non-renewal, or reduction of coverage without 30 days' prior written notice to the Contractor.

Failure to request certificates of insurance by Sourcewell, or failure of the Contractor to provide certificates of insurance, in no way limits or relieves the Contractor of its duties and responsibilities in this Contract.

C. ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE. The Contractor agrees to list Sourcewell and its Participating Entities, including their officers, agents, and employees, as an additional insured under the Contractor's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of the Contractor, and products and completed operations of the Contractor. The policy provision(s) or endorsement(s) must further provide that coverage is primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. WAIVER OF SUBROGATION. The Contractor waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Contractor or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Contractor or its subcontractors. Where permitted by law, the Contractor must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. UMBRELLA/EXCESS LIABILITY. The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies).

XVIII. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

The Contractor certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during this Contract, Contractor declares bankruptcy, the Contractor must immediately notify Sourcewell in writing.

The Contractor certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government; or any Participating Entity. The Contractor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. The Contractor further warrants that it will provide immediate written notice to Sourcewell if there is a threat of change to any of these certifications.

XIX. UNITED STATES FEDERAL REQUIREMENTS

From time to time, Participating Entities may use United States federal grant or FEMA funds for work under this Contract and may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may also require additional requirements based on specific funding specifications.

The following list only applies when a Participating Entity intends to fully or partially fund the Project with United States federal money; and the Contractor will comply with all United States federal laws and regulations when working on or completing a Project, including, but not limited to, the following.

A. EQUAL EMPLOYMENT OPPORTUNITY. Except as otherwise provided under 41 C.F.R. § 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. §60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 C.F.R. §, 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 C.F.R. § 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." The equal opportunity clause is incorporated herein by reference.

B. DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148). When required by federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 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 contractor 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. The non-federal entity must report all suspected or reported violations to the federal awarding agency. Supplier must be in compliance with all applicable Davis-Bacon Act provisions.

C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of

every mechanic and laborer on the basis of a standard work week of 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 40 hours in the work week. The requirements of 40 U.S.C. § 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. This provision is hereby incorporated by reference into this Master Agreement. Supplier certifies that during the term of an award for all agreements by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of "funding agreement" under 37 C.F.R. § 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 of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 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 certifies that during the term of an award for all agreements by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of $150,000 require the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Supplier certifies that during the term of this Master Agreement will comply with applicable requirements as referenced above.

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 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 C.F.R. §180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 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 certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Suppliers must file any required certifications. Suppliers must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered

by 31 U.S.C. § 1352. Suppliers must 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. Suppliers must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Supplier must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Supplier further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of 3 years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Supplier must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Supplier must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Supplier agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Supplier that are directly pertinent to Supplier's discharge of its obligations under this Master Agreement for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Supplier's personnel for the purpose of interview and discussion relating to such documents.

L. PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322). A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 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 $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

M. FEDERAL SEAL(S), LOGOS, AND FLAGS. The Supplier is not to use the seal(s), logos, crests, or reproductions of flags or likenesses of Federal agency officials without specific pre-approval.

N. NO OBLIGATION BY FEDERAL GOVERNMENT. The U.S. federal government is not a party to this Contract or any purchase by an Participating Entity and is not subject to any obligations or liabilities to the Participating Entity, Supplier, or any other party pertaining to any matter resulting from the Contract or any purchase by an authorized user.

O. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS. The Contractor acknowledges that 31 U.S.C. 38 (Administrative Remedies for False Claims and Statements) applies to the Supplier's actions pertaining to this Contract or any purchase by a Participating Entity.

P. FEDERAL DEBT. The Supplier certifies that it is non-delinquent in its repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowance, and benefit overpayments.

Q. CONFLICTS OF INTEREST. The Supplier must notify the U.S. Office of General Services, Sourcewell, and Participating Entity as soon as possible if this Contract or any aspect related to the anticipated work under this Contract raises an actual or potential conflict of interest (as described in 2 C.F.R. Part 200). The Supplier must explain the actual or potential conflict in writing in sufficient detail so that the U.S. Office of General Services, Sourcewell, and Participating Entity are able to assess the actual or potential conflict; and provide any additional information as necessary or requested.

R. U.S. EXECUTIVE ORDER 13224. The Supplier, and its subcontractors, must comply with U.S. Executive Order 13224 and U.S. Laws that prohibit transactions with and provision of resources and support to individuals and organizations associated with terrorism.

S. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. To the extent applicable, Supplier certifies that during the term of this Contract it will comply with applicable requirements of 2 C.F.R. § 200.216.

T. DOMESTIC PREFERENCES FOR PROCUREMENTS. To the extent applicable, Supplier certifies that during the term of this Contract will comply with applicable requirements of 2 C.F.R. § 200.322.

XX. CONTRACT SUSPENSION OR TERMINATION

A. Sourcewell may, in Sourcewell's discretion:

1. Terminate this Contract for any reason upon 60 days' prior written notice to the Contractor;

2. Suspend the Contractor for violation of the terms of this Contract, and prohibit the Contractor during such suspension from submitting Price Proposals with respect to the Projects of Sourcewell and the Projects of any one or more Sourcewell member; or

3. May immediately terminate the Contract, if the Contractor:
   a. Persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
   b. Fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
   c. Persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or

d. Otherwise is guilty of material breach of a provision of the Contract Documents.

B. In the event of Contract termination, if an unpaid balance of one or more Purchase Orders exceeds the costs of finishing the work, such excess will be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor will pay the difference to Sourcewell.

C. A Participating Entity has no authority to unilaterally terminate this Contract between Sourcewell and the Contractor.

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AIA® Document A312™ – 2010

Bond No. 9450909

Performance Bond

CONTRACTOR:
(Name, legal status and address)
BEAR CONSTRUCTION COMPANY
1501 Rohlwing Road
Rolling Meadows, IL 60008

SURETY:
(Name, legal status and principal place of business)
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
1299 Zurich Way, 5th Floor
Schaumburg, IL 60196-1056

OWNER:
(Name, legal status and address)
PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF BARRINGTON
200 South Hough St.
Barrington, IL 60010

CONSTRUCTION CONTRACT
Date: March 14, 2024

Amount: Thirty Four Thousand Seven Hundred Thirty Four and 58/100 Dollars
($ 34,734.58)

Description:
(Name and location)
Removal and Replacement of Apron Approach at Barrington Public Works Facility
Contract Number IL-R1-GC-122122-BEA
Ordinance No. 2024-4396

BOND
Date: April 30, 2024
(Not earlier than Construction Contract Date)

Amount: Thirty Four Thousand Seven Hundred Thirty Four and 58/100 Dollars
($ 34,734.58)

Modifications to this Bond: ☒ None ☐ See Section 16

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

AIA Document A312–2010 combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

CONTRACTOR AS PRINCIPAL	**SURETY**
Company: *(Corporate Seal)* BEAR CONSTRUCTION COMPANY	Company: *(Corporate Seal)* FIDELITY AND DEPOSIT COMPANY OF MARYLAND
Signature:	Signature:
Name and Title: ADAM SANDEFUR CFO	Name and Title: Nichalas Kertesz, Attorney-in-Fact

(Any additional signatures appear on the last page of this Performance Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:
AON RISK SERVICES CENTRAL, INC.
200 E. Randolph St.
Chicago, IL 60601
(312) 381-1000

OWNER'S REPRESENTATIVE:
(Architect, Engineer or other party:)

BEAR CONSTRUCTION COMPANY CORPORATE SEAL ILLINOIS 1984

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

.1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;

.2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

.3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

.2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and

.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

§ 14.1 Balance of the Contract Price. The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 Contractor Default. Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL		**SURETY**	
Company:	*(Corporate Seal)*	Company:	*(Corporate Seal)*
Signature:		Signature:	
Name and Title: ,		Name and Title: , Attorney-in-Fact	
Address:		Address:	
,		,	

AIA® Document A312™ – 2010

Payment Bond

Bond No. 9450909

CONTRACTOR:
(Name, legal status and address)
BEAR CONSTRUCTION COMPANY
1501 Rohlwing Road
Rolling Meadows, IL 60008

SURETY:
(Name, legal status and principal place of business)
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
1299 Zurich Way, 5th Floor
Schaumburg, IL 60196-1056

OWNER:
(Name, legal status and address)
PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF BARRINGTON
200 South Hough St.
Barrington, IL 60010

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

AIA Document A312–2010 combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

CONSTRUCTION CONTRACT
Date: March 14, 2024

Amount: Thirty Four Thousand Seven Hundred Thirty Four and 58/100 Dollars
($ 34,734.58)

Description:
(Name and location)
Removal and Replacement of Apron Approach at Barrington Public Works Facility
Contract Number IL-R1-GC-122122-BEA
Ordinance No. 2024-4396

BOND
Date: April 30, 2024
(Not earlier than Construction Contract Date)

Amount: Thirty Four Thousand Seven Hundred Thirty Four and 58/100 Dollars
($ 34,734.58)

Modifications to this Bond: ☒ None ☐ See Section 18

CONTRACTOR AS PRINCIPAL
Company: *(Corporate Seal)*
BEAR CONSTRUCTION COMPANY

Signature:
Name and Title: ADAM SANDEFUR CFO

SURETY
Company: *(Corporate Seal)*
FIDELITY AND DEPOSIT COMPANY OF MARYLAND

Signature:
Name and Title: Nichalas Kertesz, Attorney-in-Fact

(Any additional signatures appear on the last page of this Payment Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:
AON RISK SERVICES CENTRAL, INC.
200 E. Randolph St.
Chicago, IL 60601
(312) 381-1000

OWNER'S REPRESENTATIVE:
(Architect, Engineer or other party:)

BEAR CONSTRUCTION COMPANY CORPORATE SEAL ILLINOIS 1984

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- **.1** have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- **.2** have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 Claim. A written statement by the Claimant including at a minimum:

- **.1** the name of the Claimant;
- **.2** the name of the person for whom the labor was done, or materials or equipment furnished;
- **.3** a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- **.4** a brief description of the labor, materials or equipment furnished;
- **.5** the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- **.6** the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- **.7** the total amount of previous payments received by the Claimant; and
- **.8** the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 Claimant. An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

§ 16.3 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

§ 16.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 18 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL		**SURETY**	
Company:	*(Corporate Seal)*	Company:	*(Corporate Seal)*
Signature:		Signature:	
Name and Title: ,		Name and Title: , Attorney-in-Fact	
Address:		Address:	
,		,	

EXTRACT FROM BY-LAWS OF THE COMPANIES

"Article V, Section 8, Attorneys-in-Fact. The Chief Executive Officer, the President, or any Executive Vice President or Vice President may, by written instrument under the attested corporate seal, appoint attorneys-in-fact with authority to execute bonds, policies, recognizances, stipulations, undertakings, or other like instruments on behalf of the Company, and may authorize any officer or any such attorney-in-fact to affix the corporate seal thereto; and may with or without cause modify of revoke any such appointment or authority at any time."

CERTIFICATE

I, the undersigned, Vice President of the ZURICH AMERICAN INSURANCE COMPANY, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that Article V, Section 8, of the By-Laws of the Companies is still in force.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the ZURICH AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 15th day of December 1998.

RESOLVED: "That the signature of the President or a Vice President and the attesting signature of a Secretary or an Assistant Secretary and the Seal of the Company may be affixed by facsimile on any Power of Attorney...Any such Power or any certificate thereof bearing such facsimile signature and seal shall be valid and binding on the Company."

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at a meeting duly called and held on the 5th day of May, 1994, and the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seals of the said Companies, this 30th day of April, 2024

Thomas O. McClellan
Vice President

TO REPORT A CLAIM WITH REGARD TO A SURETY BOND, PLEASE SUBMIT A COMPLETE DESCRIPTION OF THE CLAIM INCLUDING THE PRINCIPAL ON THE BOND, THE BOND NUMBER, AND YOUR CONTACT INFORMATION TO:

Zurich Surety Claims
1299 Zurich Way
Schaumburg, IL 60196-1056
reportsfclaims@zurichna.com
800-626-4577

Authenticity of this bond can be confirmed at bondvalidator.zurichna.com or 410-559-8790

ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Illinois, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Illinois (herein collectively called the "Companies"), by Robert D. Murray, Vice President, in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint Corinne CHAPMAN, Roger PARAISON, Kristin L. HANNIGAN, Tara A. MAQUINTO, Sandra M. WINSTED, Dartonya WRIGHT, Susan A. WELSH, Judith A. LUCKY-EFTIMOV, James B. MCTAGGART, Jean TORRES, Samantha CHIERICI, Jessica B. DEMPSEY, Christina L. SANDOVAL, Nicholas KERTESZ o of Chicago, Illinois, its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: **any and all bonds and undertakings,** and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York., the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland., and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland., in their own proper persons.

The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said **ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND**, this 22nd day of November, A.D. 2023.

Colonial American Casualty and Surety Company CORPORATE SEAL
Zurich American Insurance Company CORPORATE SEAL 1972 NEW YORK
Fidelity and Deposit Company of Maryland CORPORATE SEAL 1890

ATTEST:
ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND

By: Robert D. Murray
Vice President

By: Dawn E. Brown
Secretary

State of Maryland
County of Baltimore

On this 22nd day of November, A.D. 2023, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, **Robert D. Murray, Vice President and Dawn E. Brown, Secretary** of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, deposeth and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

Genevieve M. Maison

GENEVIEVE M. MAISON
NOTARY PUBLIC
BALTIMORE COUNTY, MD
My Commission Expires JANUARY 27, 2025

GENEVIEVE M. MAISON NOTARY PUBLIC EXP. 01/27/2025 BALTIMORE COUNTY, MD

Authenticity of this bond can be confirmed at bondvalidator.zurichna.com or 410-559-8790