PARTICIPATION AGREEMENT
between
The K Company, Inc.
and the
STATE OF OHIO – DEPARTMENT OF ADMINISTRATIVE SERVICES
for
Contract #s: OH01HA-080311-TKC, OH02HA-080311-TKC, OH03HA-080311-TKC, OH04HA-080311-TKC, OH05HA-080311-TKC

WHEREAS OCR 125.022 authorizes Department of Administrative Services (DAS) to enter into cooperative purchasing agreements with one or more other states , groups of states, the federal government, other purchasing consortia, institutions of higher education, or any political subdivision of this state described in division (B) of section 125.04 of the Revised Code for the purpose of purchasing services or supplies; and

WHEREAS National Joint Powers Alliance ("NJPA") is a nonprofit cooperative purchasing consortium that can expand the purchasing base for DAS and thereby create leverage and economies of scale DAS cannot create by itself; and

WHEREAS NJPA issued Invitation for Bids OH01P-080311 (Plumbing), OH01H-080311 (HVAC), OH01E-080311 (Electrical), OH01GA-080311 (General) & OH01GB-080311 (General), OH02P-080311 (Plumbing), OH02H-080311 (HVAC), OH02E-080311 (Electrical), OH02GA-080311 (General) & OH02GB-080311 (General), OH03P-080311 (Plumbing), OH03H-080311 (HVAC), OH03E-080311 (Electrical), OH03GA-080311 (General) & OH03GB-080311 (General), OH04P-080311 (Plumbing), OH04H-080311 (HVAC), OH04E-080311 (Electrical), OH04GA-080311 (General) & OH04GB-080311 (General), OH05P-080311 (Plumbing), OH05H-080311 (HVAC), OH05E-080311 (Electrical), OH05GA-080311 (General) & OH05GB-080311 (General), soliciting indefinite quantity construction services; and

WHEREAS The K Company, Inc.. ("Contractor") submitted a bid, a copy of which is attached as Exhibit A; and

WHEREAS after reviewing Contractor's Bid NJPA selected Contractor as one of the approved vendors to provide indefinite quantity construction services via the following Contract Documents: the IFB Documents (Book 1 - Project Information, Instructions to Bidders and Execution Documents; Book 2 - IQCC Standard Terms and Conditions and General Conditions; Book 3 - Construction Task Catalog (CTC), Book 4 - Technical Specifications) and Addenda thereto, the Bid Deposit, all payment and performance bonds (if any), material and workmanship bonds (if any); wage rate decisions and certified payroll records (if any); Notice of Award; State of Ohio Standard Contract Terms and Conditions, State of Ohio Supplemental Contract Terms and Conditions, and State of Ohio Special Terms and Conditions; all modifications issued thereto, including Supplemental Work Orders/Change Orders and written interpretations and all Purchase Orders and accompanying documents (Requests for Proposals, Detailed Scopes of Work, Work Order Proposal Packages, etc.) issued hereunder."

NOW THEREFORE the parties agree as follows:

1. **Authorized Source of Supply**

   a) DAS authorizes cooperative purchasing through NJPA so that state and local government entities hereafter referred to as Authorized Users may contract for indefinite quantity construction services using the pricing formulas in the Contractor's Bid.

   b) Any such Order placed by an Authorized User for construction services under this agreement shall be bound by the terms and conditions set forth in the Contract Documents referenced above; provided, however;

      1) Contractor is not obligated to enter into an individual Order with any Authorized User for supplies or services less than $2,000.00

      2) Contractor shall not enter into an individual Order with any State Agency for supplies and services more than $200,000.00 without prior approval from DAS;

      3) Contractor is required, at a minimum, to utilize PROGEN JOC Management Software to formally advertise subcontractor opportunities resulting from any single Order placed by an Authorized User exceeding $7,500 on the eGordian website. The Contractor is strongly encouraged to formally advertise any subcontractor opportunities resulting from an Order placed by Authorized Users on the eGordian website and/or other websites, publications or communication media regardless of the amount of the order.

      4) **CONSTRUCTION LAW:** All work performed under this contract is subject to the applicable limitations set forth in sections 123.01, 153 of the Ohio Revised Code. It is the contractor's responsibility to ensure that duties are not performed outside of this limitation. Contractors will be responsible for any fines and fees associated with noncompliance.

   c) The Authorized User may issue an Order based upon the needs and scope of their particular construction service requirements referencing Contract #RS901512; Index #GPC011. Any specific requirements would be attached to the Order as "Special Conditions."

   d) This Participation Agreement authorizes the Contractor to enter into Orders with Authorized Users hereunder but does not obligate any funds. Each Order that the Contractor executes with Authorized Users is a separate obligation between the Contractor and that individual user and DAS shall not be responsible for the payment of any Orders executed pursuant to the authorization granted by this Participation Agreement.

2. State Entities' Right to Seek Competitive Bids

Notwithstanding anything in the Invitation for Bids issued by NJPA or Contractor's Bid, Authorized Users shall, at all times prior to signing a contract for work, have the right to reject any offer or proposed engagement from Contractor and seek competitive bids through the normal competitive bidding process.

3. Successors and Assigns

This Participation Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the parties hereto.

4. Entire Agreement

This Participation Agreement shall be and remain in full force and effect in accordance with its terms and shall constitute the legal, valid, binding and enforceable obligations to the parties. This Participation Agreement (including any written amendments thereto), collectively, are the complete agreement of the parties and supersede any prior agreements or representations, whether oral or written, with respect thereto.

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

The K Company, Inc.

Authorized Signature

Karl Frye

Print Name

September 22, 2011

Date

Department of Administrative Services

Robert Blair, DAS Director

_____

Print Name

_____

Date