

**COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
EMPIRE SOUTHWEST, LLC
D/B/A EMPIRE POWER SYSTEMS**

THIS COOPERATIVE PURCHASING AGREEMENT (this "Agreement") is entered into as of December 6, 2018, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town"), and Empire Southwest, LLC, a Delaware limited liability company, d/b/a Empire Power Systems (the "Contractor").

RECITALS

A. After a competitive procurement process, the National Joint Powers Alliance ("NJPA") entered into Contract No. 120617-CAT, dated January 29, 2018, with Caterpillar, Inc., a Delaware corporation ("Caterpillar"), for the supply of electrical energy power generation with related parts, supplies, and services. A copy of the NJPA Contract is attached hereto as Exhibit A and incorporated herein by reference, to the extent not inconsistent with this Agreement. Contractor is an authorized dealer for Caterpillar.

B. The Town is permitted, pursuant to Section 3-3-27 of the Town Code, to make purchases under the NJPA Contract, at its discretion and with the agreement of the awarded Contractor, and the NJPA Contract permits its cooperative use by other public entities, including the Town.

C. The Town and the Contractor desire to enter into this Agreement for the purpose of (i) acknowledging their cooperative contractual relationship under the NJPA Contract and this Agreement, (ii) establishing the terms and conditions by which the Contractor may provide the Town with electrical energy power generation with related parts, supplies, and services (the "Materials and Services"), and (iii) setting the maximum aggregate amount to be expended pursuant to this Agreement related to the Materials and Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the Contractor hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until December 6, 2019 (the "Initial Term"), unless terminated as otherwise provided in this Agreement or the NJPA Contract. After the expiration of the Initial Term, this Agreement may be renewed for up to four successive one-year terms (each, a "Renewal Term") if: (i) it is deemed in the best interests of the Town, subject to availability and

appropriation of funds for renewal in each subsequent year, (ii) the term of the NJPA Contract has not expired or has been extended, (iii) at least 30 days prior to the end of the then-current term of this Agreement, the Contractor requests, in writing, to extend this Agreement for an additional one-year term and (iv) the Town approves the additional one-year term in writing (including any price adjustments approved as part of the NJPA Contract), as evidenced by the Town Manager's signature thereon, which approval may be withheld by the Town for any reason. The Contractor's failure to seek a renewal of this Agreement shall cause this Agreement to terminate at the end of the then-current term of this Agreement; provided, however, that the Town may, at its discretion and with the agreement of the Contractor, elect to waive this requirement and renew this Agreement. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

2. Scope of Work. This is an indefinite quantity and indefinite delivery Agreement for Materials and Services under the terms and conditions of the NJPA Contract. The Town does not guarantee that any minimum or maximum number of purchases will be made pursuant to this Agreement. Purchases will only be made when the Town identifies a need and proper authorization and documentation have been approved. For purchase(s) determined by the Town to be appropriate for this Agreement, the Contractor shall provide the Materials and Services to the Town in such quantities and configurations agreed upon between the parties, in a written invoice, quote, work order or other form of written agreement describing the work to be completed (each, a "Work Order"). Each Work Order approved and accepted by the parties pursuant to this Agreement shall (i) contain a reference to this Agreement and the NJPA Contract and (ii) be attached hereto as Exhibit B and incorporated herein by reference. Work Orders submitted without referencing this Agreement and the NJPA Contract will be subject to rejection.

2.1 Inspection; Acceptance. All Materials and Services are subject to final inspection and acceptance by the Town. Materials failing to conform to the requirements of this Agreement and/or the NJPA Contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Upon discovery of a non-conforming Materials or Services, the Town may elect to do any or all of the following by written notice to the Contractor: (i) waive the non-conformance; (ii) stop the work immediately; or (iii) bring the Materials or Services into compliance and withhold the cost of same from any payments due to the Contractor.

2.2 Cancellation. The Town reserves the right to cancel Work Orders within a reasonable period of time after issuance. Should a Work Order be canceled, the Town agrees to reimburse the Contractor, but only for actual and documentable costs incurred by the Contractor due to and after issuance of the Work Order. The Town will not reimburse the Contractor for any costs incurred after receipt of Town notice of cancellation, or for lost profits, shipment of product prior to issuance of Work Order or for anything not expressly permitted pursuant to this Agreement.

3. Compensation. The Town shall pay Contractor for the Initial Term and for each subsequent Renewal Term, if any, an annual aggregate amount not to exceed \$9,999.00 for the Materials and Services at the unit rates set forth in the NJPA Contract. The maximum aggregate amount for this Agreement, including all Renewal Terms, shall not exceed \$49,995.00.

4. Payments. The Town shall pay the Contractor monthly, based upon acceptance and delivery of Materials and/or Services performed and completed to date, and upon submission and approval of invoices. Each invoice shall (i) contain a reference to this Agreement and the NJPA Contract and (ii) document and itemize all work completed to date. The invoice statement shall include a record of materials delivered, time expended, and work performed in sufficient detail to justify payment. Additionally, invoices submitted without referencing this Agreement and the NJPA Contract will be subject to rejection and may be returned.

5. Records and Audit Rights. To ensure that the Contractor and its subcontractors are complying with the warranty under Section 6 below, Contractor's and its subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Contractor and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the Town, to the extent necessary to adequately permit evaluation of the Contractor's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in Section 6 below. To the extent necessary for the Town to audit Records as set forth in this Section, Contractor and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the Town shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the Town to Contractor pursuant to this Agreement. Contractor and its subcontractors shall provide the Town with adequate and appropriate workspace so that the Town can conduct audits in compliance with the provisions of this Section. The Town shall give Contractor or its subcontractors reasonable advance notice of intended audits. Contractor shall require its subcontractors to comply with the provisions of this Section by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

6. E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Contractor and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Contractor's or its subcontractors' failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the Town.

7. Israel. Contractor certifies that it is not currently engaged in and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

8. Conflict of Interest. This Agreement may be canceled by the Town pursuant to ARIZ. REV. STAT. § 38-511.

9. Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona and a suit pertaining to this Agreement may be brought only in courts in Maricopa County, Arizona.

10. Agreement Subject to Appropriation. The Town is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and

budgeted for that purpose during the Town's then current fiscal year. The Town's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the Town concerning budgeted purposes and appropriation of funds. Should the Town elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the Town shall be relieved of any subsequent obligation under this Agreement. The parties agree that the Town has no obligation or duty of good faith to budget or appropriate the payment of the Town's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The Town shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The Town shall keep Contractor informed as to the availability of funds for this Agreement. The obligation of the Town to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the Town. Contractor hereby waives any and all rights to bring any claim against the Town from or relating in any way to the Town's termination of this Agreement pursuant to this section.

11. Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, any Town-approved work orders, the NJPA Contract, and invoices, the documents shall govern in the order listed herein. Notwithstanding the foregoing, and in conformity with Section 2 above, unauthorized exceptions, conditions, limitations or provisions in conflict with the terms of this Agreement or the NJPA Contract (collectively, the "Unauthorized Conditions"), other than the Town's project-specific requirements, are expressly declared void and shall be of no force and effect. Acceptance by the Town of any work order or invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Agreement or under the NJPA Contract shall not alter such terms and conditions or relieve Contractor from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Agreement.

12. Rights and Privileges. To the extent provided under the NJPA Contract, the Town shall be afforded all of the rights and privileges afforded to NJPA and shall be "NJPA" (as defined in the NJPA Contract) for the purposes of the portions of the NJPA Contract that are incorporated herein by reference.

13. Indemnification: Insurance. In addition to and in no way limiting the provisions set forth in Section 12 above, the Town shall be afforded all of the insurance coverage and indemnifications afforded to NJPA to the extent provided under the NJPA Contract, and such insurance coverage and indemnifications shall inure and apply with equal effect to the Town under this Agreement including, but not limited to, the Contractor's obligation to provide the indemnification and insurance. In any event, the Contractor shall indemnify, defend and hold harmless the Town and each council member, officer, employee or agent thereof (the Town and any such person being herein called an "Indemnified Party"), for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the work or services of the Contractor, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement.

14. Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (i) delivered to the party at the address set forth below, (ii) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (iii) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to the Town: Town of Fountain Hills
16705 East Avenue of the Fountains
Fountain Hills, Arizona 85268
Attn: Grady E. Miller, Town Manager

With copy to: Pierce Coleman PLLC
4711 E. Falcon Drive, Suite 111
Mesa, Arizona 85215
Attn: Aaron D. Arnson, Town Attorney

If to Contractor: Empire Southwest, LLC
d/b/a Empire Power Systems
840 North 43rd Avenue
Phoenix, Arizona 85009
Attn: Brett Burns

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received: (i) when delivered to the party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

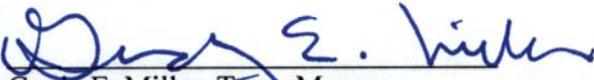
[SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

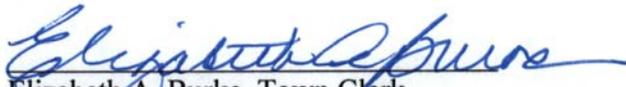
“Town”

TOWN OF FOUNTAIN HILLS,
an Arizona Municipal Corporation

CP
12/10/18


Grady E. Miller, Town Manager

ATTEST:


Elizabeth A. Burke, Town Clerk

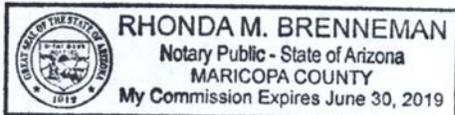
APPROVED AS TO FORM:

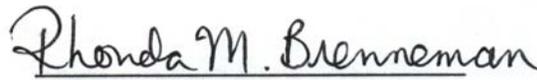

Aaron D. Arnson, Town Attorney

(ACKNOWLEDGEMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On December 11, 2018, before me personally appeared Grady E. Miller, the Town Manager of the TOWN OF FOUNTAIN HILLS, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the Town of Fountain Hills.




Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

EXHIBIT A
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
EMPIRE SOUTHWEST, LLC
D/B/A EMPIRE POWER SYSTEMS

[NJPA Contract]

See following pages.

Contract Award
RFP #120617

FORM D



Formal Offering of Proposal
(To be completed only by the Proposer)

ELECTRICAL ENERGY POWER GENERATION WITH RELATED PARTS, SUPPLIES, AND SERVICES

In compliance with the Request for Proposal (RFP) for ELECTRICAL ENERGY POWER GENERATION WITH RELATED PARTS, SUPPLIES, AND SERVICES, the undersigned warrants that the Proposer has examined this RFP and, being familiar with all of the instructions, terms and conditions, general and technical specifications, sales and service expectations, and any special terms, agrees to furnish the defined products and related services in full compliance with all terms and conditions of this RFP, any applicable amendments of this RFP, and all Proposer's response documentation. The Proposer further understands that it accepts the full responsibility as the sole source of solutions proposed in this RFP response and that the Proposer accepts responsibility for any subcontractors used to fulfill this proposal.

Company Name: Caterpillar Inc. Date: November 21, 2017

Company Address: 100 NE Adams Street

City: Peoria State: IL Zip: 61629

Contact Person: Seth Charna Title: Industry Representative

Authorized Signature: Bart Myers 
(Name printed or typed)

FORM E
CONTRACT ACCEPTANCE AND AWARD



(Top portion of this form will be completed by NJPA if the vendor is awarded a contract. The vendor should complete the vendor authorized signatures as part of the RFP response.)

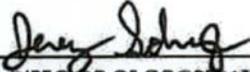
NJPA Contract #: 120617-CAT

Proposer's full legal name: Caterpillar Inc.

Based on NJPA's evaluation of your proposal, you have been awarded a contract. As an awarded vendor, you agree to provide the products and services contained in your proposal and to meet all of the terms and conditions set forth in this RFP, in any amendments to this RFP, and in any exceptions that are accepted by NJPA.

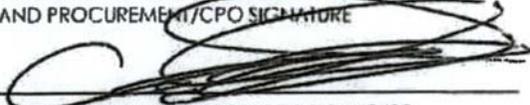
The effective date of the Contract will be January 29, 2018 and will expire on January 29, 2022 (no later than the later of four years from the expiration date of the currently awarded contract or four years from the date that the NJPA Chief Procurement Officer awards the Contract). This Contract may be extended for a fifth year at NJPA's discretion.

NJPA Authorized Signatures:



NJPA DIRECTOR OF COOPERATIVE CONTRACTS
AND PROCUREMENT/CPO SIGNATURE

Jeremy Schwartz
(NAME PRINTED OR TYPED)



NJPA EXECUTIVE DIRECTOR/CEO SIGNATURE

Chad Coauette
(NAME PRINTED OR TYPED)

Awarded on January 25, 2018

NJPA Contract # 120617-CAT

Vendor Authorized Signatures:

The Vendor hereby accepts this Contract award, including all accepted exceptions and amendments.

Vendor Name Caterpillar Inc.

Authorized Signatory's Title General Manager - IPSD Power Generation



VENDOR AUTHORIZED SIGNATURE

Bart Myers
(NAME PRINTED OR TYPED)

Executed on January 26, 2018.

NJPA Contract # 120617-CAT

PROPOSER ASSURANCE OF COMPLIANCE



Proposal Affidavit Signature Page

PROPOSER'S AFFIDAVIT

The undersigned, authorized representative of the entity submitting the foregoing proposal (the "Proposer"), swears that the following statements are true to the best of his or her knowledge.

1. The Proposer is submitting its proposal under its true and correct name, the Proposer has been properly originated and legally exists in good standing in its state of residence, the Proposer possesses, or will possess before delivering any products and related services, all applicable licenses necessary for such delivery to NJPA members agencies. The undersigned affirms that he or she is authorized to act on behalf of, and to legally bind the Proposer to the terms in this Contract.
2. The Proposer, or any person representing the Proposer, has not directly or indirectly entered into any agreement or arrangement with any other vendor or supplier, any official or employee of NJPA, or any person, firm, or corporation under contract with NJPA, in an effort to influence the pricing, terms, or conditions relating to this RFP in any way that adversely affects the free and open competition for a Contract award under this RFP.
3. The Proposer has examined and understands the terms, conditions, scope, contract opportunity, specifications request, and other documents in this solicitation and affirms that any and all exceptions have been noted in writing and have been included with the Proposer's RFP response.
4. The Proposer will, if awarded a Contract, provide to NJPA Members the /products and services in accordance with the terms, conditions, and scope of this RFP, with the Proposer-offered specifications, and with the other documents in this solicitation.
5. The Proposer agrees to deliver products and services through valid contracts, purchase orders, or means that are acceptable to NJPA Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to NJPA Members under an awarded Contract.
6. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
7. The Proposer understands that NJPA will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statute §13.591, Subd. 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals generally become public data. Minnesota Statute §13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.
8. The Proposer understands that it is the Proposer's duty to protect information that it considers nonpublic, and it agrees to defend and indemnify NJPA for reasonable measures that NJPA takes to uphold such a data designation.

[The rest of this page has been left intentionally blank. Signature page below]

By signing below, Proposer is acknowledging that he or she has read, understands, and agrees to comply with the terms and conditions specified above.

Company Name: Caterpillar Inc.

Address: 100 NE Adams Street

City/State/Zip: Peoria, IL 61629

Telephone Number: (309) 675-1000

E-mail Address: Contact Seth Charna: Charna_Seth@cat.com

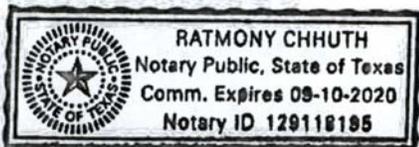
Authorized Signature: *Bart Myers*

Authorized Name (printed): Bart Myers

Title: General Manager - IPSD Power Generation

Date: November 21, 2017

Notarized



Subscribed and sworn to before me this 21 day of November, 20 17

Notary Public in and for the County of Harris State of Texas

My commission expires: 9/10/2020

Signature: *Ratmony Chhuth*



Form P

PROPOSER QUESTIONNAIRE

Payment Terms, Warranty, Products and Services, Pricing and Delivery, and Industry-Specific Questions

Proposer Name: _____ Caterpillar Inc. _____

Questionnaire completed by: _____ Seth Charna _____

Payment Terms and Financing Options

1) What are your payment terms (e.g., net 10, net 30)?

Payment terms that Caterpillar Dealers would offer to NJPA Members vary by dealer, but are most certainly equivalent to local competition. Payment terms will be made very clear to potential NJPA customers upon quotation.

2) Do you provide leasing or financing options, especially those options that schools and governmental entities may need to use in order to make certain acquisitions?

Caterpillar Financial offers financial tools for NJPA Members through the Caterpillar Dealer Network on a case by case basis. Leasing terms that Caterpillar Dealers would offer to NJPA Members vary by dealers, but are most certainly equivalent to local competition. Leasing terms will be made very clear to potential NJPA customers upon quotation.

3) Briefly describe your proposed order process. Please include enough detail to support your ability to report quarterly sales to NJPA. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the NJPA Members' purchase orders.

The order process will not change compared to the current NJPA contract. The NJPA Member references the NJPA contract number on the P.O., which is then presented directly to their local Caterpillar Dealer.

4) Do you accept the P-card procurement and payment process? If so, is there any additional cost to NJPA Members for using this process?

Not Applicable.

Warranty

5) Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may include in your response a copy of your warranties, but at a minimum please also answer the following questions.

- Do your warranties cover all products, parts, and labor?
- Do your warranties impose usage restrictions or other limitations that adversely affect coverage?
- Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?
- Are there any geographic regions of the United States for which you cannot provide a certified technician to perform warranty repairs? How will NJPA Members in these regions be provided service for warranty repair?
- Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?
- What are your proposed exchange and return programs and policies?

Please reference the following attachments in response to these questions specifically for the Power Generation products listed in this proposal. There are no geographic regions of the United States or Canada for which Caterpillar cannot provide a certified technician to preform warranty repairs.

Additionally, when purchased through the NJPA contract, select products will automatically include options for Extended Service Coverage in 2018. Customized Extended Service Coverage is also available through the Caterpillar Dealer Network on a case by case basis.

See Attached: Caterpillar Standard Warranty SELF5709.pdf

See Attached: Olympian Standard Warranty LEXF3074.pdf

See Attached: 2018 ESC NJPA Announcement Letter – October 6 2017.pdf

6) Describe any service contract options for the items included in your proposal.

Service contracts that Caterpillar Dealers would offer to NJPA Members vary by dealer, but are most certainly at least equal to local competition. Service contract terms will be made very clear to potential NJPA customers upon quotation.

Pricing, Delivery, Audits, and Administrative Fee

7) Provide a general narrative description of the equipment/products and related services you are offering in your proposal.

Caterpillar is offering a full line of diesel and natural gas packaged generator sets from 40 to 4000 kW. Caterpillar is also offering our XQ Products, which is our mobile generator line including trailers. Other popular and almost necessary equipment included to enhance generator set purchases are Automatic Transfer Switches, Switchgear, EPIC paralleling gear, and Microgrid components all provided from Caterpillar. The Caterpillar Dealer Network can also offer custom shop work, installation, "turn-key" solutions, delivery/freight, training, custom enclosures, custom fuel tanks, custom automatic transfer switches, dealer labor, additional/custom parts, and general contracting labor. To further enhance the NJPA members' product offering, the Caterpillar Dealer Network can also offer an expansive network of used equipment along with rental agreements.

- 8) Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the NJPA discounted price) on all of the items that you want NJPA to consider as part of your RFP response. Provide a SKU for each item in your proposal. (Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract. See the body of the RFP and the Price and Product Change Request Form for more detail.)

Percentage Discount from Manufacturer's and Dealer's List Pricing per the included documentation along with product price lists. The discounts included are typically higher than standard discount for each product solution. There may be specific cases with specific options or attachments where the NJPA discount is not as deep as the non-NJPA offer. Caterpillar does have the ability to make additional discounts for NJPA members and non-NJPA customers on a case by case basis. For 2018 shipments, the price increase above the provided price lists is 2%. New price lists will be updated and submitted in January 2018. Please note, there are some items in the provided Caterpillar price lists that are marked as "Net" pricing that do not get discounted. These items usually include certifications (EPA, UL, IBC), standard EPA Tier 4f components, extended service coverage, and factory testing/packaging options. These items only follow the cost plus a percentage of cost pricing process that is acceptable for pricing sourced goods or services.

See Attached: Caterpillar Gen Disc List RFP December 2017.xlsx
See Attached: List of Caterpillar Price Lists by Product Family.zip

- 9) Please quantify the discount range presented in this response. For example, indicate that the pricing in your response represents is a 50% percent discount from the MSRP or your published list.

Overall pricing from published list price is discounted from 10% up to 40% with an average of 27% overall. Specific discounts apply to each diesel or natural gas platform product line. Services, used products, rental agreements, and microgrid solutions are also included at different discounting levels. For 2018 shipments, the price increase above the provided price lists is 2%. New price lists will be updated and submitted in January 2018.

See Attached: Caterpillar Gen Disc List RFP December 2017.xlsx
See Attached: List of Caterpillar Price Lists by Product Family.zip

- 10) The pricing offered in this proposal is

- a. the same as the Proposer typically offers to an individual municipality, university, or school district.
- b. the same as the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.
- c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.
- d. other than what the Proposer typically offers (please describe).

- 11) Describe any quantity or volume discounts or rebate programs that you offer.

Volume discounts or rebate programs are not offered. The best discounting has been included in this RFP response for Caterpillar solutions.

- 12) Propose a method of facilitating “sourced” products or related services, which may be referred to as “open market” items or “nonstandard options”. For example, you may supply such items “at cost” or “at cost plus a percentage,” or you may supply a quote for each such request.

There are some items in the provided Caterpillar price lists that are marked as “Net” pricing that do not get discounted. These items usually include certifications (EPA, UL, IBC), standard EPA Tier 4f components, extended service coverage, and factory testing/packaging options. These items only follow the cost plus a percentage of cost pricing process that is acceptable for pricing sourced goods or services. The percentage mark-up offered by Caterpillar Dealers to NJPA Members will vary by dealer, but is certainly equivalent to local competition. Exercising the ability to offer cost plus a percentage for “Net” items will ensure more clarity for the Caterpillar Network regarding NJPA offers because the current contract makes it difficult to calculate “Net” items since they cannot be discounted by Caterpillar. For a majority of sales including EPA Tier 2 or EPA Tier 3 platforms, the “Net” items on average are no more than 1-2.5% of the total customer list pricing. EPA Tier 4f platforms have a higher percentage of “Net” items due to the significant amount of set priced emissions components required for EPA certification.

- 13) Identify any total cost of acquisition costs that are **NOT** included in the pricing submitted with your response. This cost includes all additional charges that are not directly identified as freight or shipping charges. For example, list costs for items like installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.

All transactions will take place and be negotiated between a Caterpillar Dealer and an NJPA member. Only those generator set items specifically included in a Caterpillar List Price are subject to the NJPA administration fee. Most costs associated with acquiring a generator set and related products are included within the pricing file (Caterpillar Gen Disc List RFP December 2017.xlsx) and are subject to discount. In some cases, there may be costs involved that have not been listed. These costs associated with acquiring a generator set involve items that a manufacturer (Caterpillar) cannot competitively provide.

- 14) If delivery or shipping is an additional cost to the NJPA Member, describe in detail the complete shipping and delivery program.

These programs and policies vary with products and geographic regions. Each quote from a Caterpillar Dealer to an NJPA member will have unique shipping fees. These fees may include shipment from the Caterpillar factory and, in some cases, additional local shipping fees either to a third-party packager or to the customer when factory shipment timing doesn't align with customer requirements. Shipping fees will be handles on a case-by-case basis between the selling Caterpillar Dealer and the NJPA member.

- 15) Specifically describe those shipping and delivery programs for Alaska, Hawaii, Canada, or any offshore delivery.

Shipping and delivery programs for Alaska, Hawaii, Canada, or any offshore delivery are included in question 14. These items vary by Caterpillar Dealer due to the different geographic locations. The Caterpillar Network located in Alaska, Hawaii, Canada, or other offshore location is aware of their local shipment requirements and is knowledgeable on how to quote shipping to NJPA customers.

- 16) Describe any unique distribution and/or delivery methods or options offered in your proposal.

Caterpillar offers a factory freight program specific to certain product lines. Where applicable, this program utilizes economies of scale to ensure the best shipment cost to the local Caterpillar dealer from our factories. This portion of the freight cost to customers will pass through the Caterpillar network as it did before, but is managed by Caterpillar for the first point of delivery.

- 17) Please specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with NJPA. This process includes ensuring that NJPA Members obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to NJPA.

The Caterpillar Dealer Network will receive additional discounts from Caterpillar to help reach NJPA members purchasing prices per the NJPA contract. To qualify for the discounts, the selling Caterpillar Dealer must identify each applicable sale as an NJPA sale on their order and they must also send a report to the Caterpillar designated NJPA custodian, Seth Charna, including the product order number and NJPA member number. Reports are updated and reviewed on a quarterly basis to assist in providing payment to NJPA. The Caterpillar designated NJPA custodian, Seth Charna, has and will remain actively involved in the auditing process both with auditing Caterpillar Dealer pricing to NJPA members as well as the quarterly administration fee process.

- 18) Identify a proposed administrative fee that you will pay to NJPA for facilitating, managing, and promoting the NJPA Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See RFP Section 6.29 and following for details.)

The proposed administrative fee payable to NJPA is proposed to be 1% of transaction price, in line with the previous two Caterpillar contracts, for all NJPA contract sales of generator sets. This 1% is the same percent as outlined in our current NJPA contract #080613-CAT

Should Caterpillar be exclusive, like the previous two Caterpillar contracts, this is valuable to the Caterpillar Dealer Network and Caterpillar would be willing to increase the administrator fee to 1.25% of transaction price.

Industry-Specific Questions

- 19) Please specify product and voltage range the generator equipment that you are offering.

Caterpillar offers factory voltage options for the majority of customer requirements. In general, here's a snapshot of the factory options based on the diesel product line. Voltage options may slightly differ on the natural gas product line and the full Caterpillar price list should be consulted to determine which specific ratings can be configured with the voltages listed below. There may also be a few exceptions where the Caterpillar Dealer Network can work towards custom solutions when necessary.

100 kW and Below Single Phase:	240V
750 kW and Below Three Phase:	480V, 600V, 208V, 240V
1000 kW up to 1250 kW:	480V, 600V, 208V, 240V, 400V, 380V
1500 kW up to 4000 kW:	480V, 600V, 240V, 440V, 380V, 2400V, 416V, 4160V, 6300V, 6600V, 6900V, 12470V, 13200V, 13800V

- 20) Describe your mobile or trailer mounted units, if any, and specify the ranges.

The XQ product line is included in the Caterpillar proposal. These units are offered with trailers for mobile use and for the most part they include switchable voltage options, which is preferred since they can be utilized at multiple customer locations with unique voltage requirements. The following XQ products are available and are EPA Tier 4f certified for mobile usage. We are working on a platform between the XQ125 and XQ425 that will be available/added to an awarded contract once released. The number represents the kVA rating of the generator and not the kW output.

XQ35
XQ60
XQ125
XQ425
XQ570

21) If you are providing trailers as part of a turnkey package, please provide details.

All XQ packages described in question 20 include trailers with selectable options including the ball size and brake type. These are the only factory product offerings that can be configured on trailers due to EPA emissions requirements.

It is important to note that the Caterpillar Dealer Network can also place Caterpillar genset packages on trailers when necessary as long as EPA regulations for stationary applications are met (EPA requires the generator to remain stationary for a specific period of time).

22) Describe how you will include customization and the pricing of such for the units.

The Caterpillar Dealer Network can offer custom shop work, installation, "turn-key" solutions, delivery/freight, training, custom enclosures, custom fuel tanks, custom automatic transfer switches, dealer labor, additional/custom parts, and general contracting labor. To further enhance the NJPA members' product offering, the Caterpillar Dealer Network can also offer an expansive network of used equipment along with rental agreements. Most costs associated with acquiring a generator set and related products are included within the pricing file (Caterpillar Gen Disc List RFP December 2017.xlsx) and are subject to discount. In some cases, there may be costs involved that have not been listed. These costs associated with acquiring a generator set involve items that a manufacturer (Caterpillar) cannot competitively provide.

23) Describe installation and service programs, and identify the associated services, service provider locations and pricing.

The Caterpillar Dealer Network will be the provider of all Caterpillar and non-Caterpillar components and services required to meet the NJPA members' local requirements.

24) Describe any preventative maintenance or extended service coverage agreements.

Preventative maintenance and extended service coverage/contracts agreements in addition to the standard product offering are covered in the "Caterpillar Gen Disc List RFP December 2017.xlsx" file.

25) Do you provide preventive, periodic or full maintenance plans/programs for the solutions you are proposing in this response?

- a. If so, provide a recommended service & maintenance agreement for a periodic/preventative and or full maintenance plan.
- b. What are recommended service intervals?

The Caterpillar Dealer Network will be the provider of all preventative maintenance plans / programs that are specific to the product being provided to the NJPA member. Preventative maintenance and extended service coverage/contracts agreements in addition to the standard product offering are covered in the "Caterpillar Gen Disc List RFP December 2017.xlsx" file.

26) Describe your rental agreements and pricing schedule.

Rental agreements in addition to the standard product offering are covered in the "Caterpillar Gen Disc List RFP December 2017.xlsx" file.

27) Will you include used equipment and if so, provide a pricing strategy for these units.

Used product agreements in addition to the standard product offering are covered in the "Caterpillar Gen Disc List RFP December 2017.xlsx" file.

28) Provide a general overview of your products EPA compliance.

Caterpillar offers a full range of products for use in the United States per EPA compliance guidelines. Per these guidelines, the application determines the EPA emissions level that is required for that specific product. For diesel emergency standby ratings (most of the market for <1000 kW) Caterpillar offers both EPA Tier 2 and EPA Tier 3 emissions levels and the specific emissions level is auto selected based on the EPA defined brake horsepower requirements. For non-emergency and/or mobile applications, Caterpillar has select ratings available with EPA Tier 4f factory certification. The Caterpillar Dealer Network is familiar with EPA regulations and can direct the NJPA member to the applicable product line required for their application.

29) Identify the lifecycle cost of ownership of your generator solutions.

The Caterpillar Dealer Network will be the provider of all preventative maintenance and lifecycle costs at the request of NJPA members. Due to the vast differences across geographic locations and product lines, this request will be handled on a case-by-case basis.

Signature:



Date:

11/21/2017

FORM E
CONTRACT ACCEPTANCE AND AWARD



(Top portion of this form will be completed by NJPA if the vendor is awarded a contract. The vendor should complete the vendor authorized signatures as part of the RFP response.)

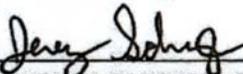
NJPA Contract #: 120617-CAT

Proposer's full legal name: Caterpillar Inc.

Based on NJPA's evaluation of your proposal, you have been awarded a contract. As an awarded vendor, you agree to provide the products and services contained in your proposal and to meet all of the terms and conditions set forth in this RFP, in any amendments to this RFP, and in any exceptions that are accepted by NJPA.

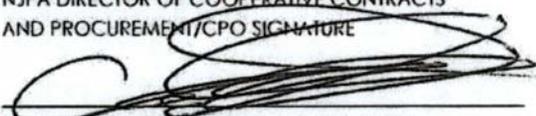
The effective date of the Contract will be January 29, 2018 and will expire on January 29, 2022 (no later than the later of four years from the expiration date of the currently awarded contract or four years from the date that the NJPA Chief Procurement Officer awards the Contract). This Contract may be extended for a fifth year at NJPA's discretion.

NJPA Authorized Signatures:



NJPA DIRECTOR OF COOPERATIVE CONTRACTS
AND PROCUREMENT/CPO SIGNATURE

Jeremy Schwartz
(NAME PRINTED OR TYPED)



NJPA EXECUTIVE DIRECTOR/CEO SIGNATURE

Chad Coauette
(NAME PRINTED OR TYPED)

Awarded on January 25, 2018

NJPA Contract # 120617-CAT

Vendor Authorized Signatures:

The Vendor hereby accepts this Contract award, including all accepted exceptions and amendments.

Vendor Name Caterpillar Inc.

Authorized Signatory's Title General Manager - IPSD Power Generation



VENDOR AUTHORIZED SIGNATURE

Bart Myers

(NAME PRINTED OR TYPED)

Executed on January 26, 2018

NJPA Contract # 120617-CAT

EXHIBIT B
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
EMPIRE SOUTHWEST, LLC
D/B/A EMPIRE POWER SYSTEMS

[Work Orders]

See following pages.



CSA INFORMATION SHEET

The attached pricing sheet(s) is effective November 2018 thru October 2019

NOTE: pricing end date does not indicate the termination of services. Client must terminate services.

TOTAL AMOUNT OF PRICING PERIOD \$ 2,702.00 plus applicable taxes and environmental fee

CHECK ONE

Services to be completed during **Regular Business Hours (M-F 7am – 4pm)**
Services to be completed outside Regular Business Hours (**over-time included**)

Sourcewell (formerly NJPA) Contract #120617-CAT

Client Name: Town of Fountain Hills
Client Name: _____
Client Address: 16705 E. Avenue of the Fountains
Client Address: Fountain Hills, AZA 85268
Client Phone #: 480-816-5180

Printed Name: _____

Title: _____

Signature: _____

P.O. #: _____ Date: _____



Designated CLIENT CONTACT person responsible for scheduling the Equipment:

Name: Raymond Rees
Phone: 602-721-3325
Fax: _____
E-mail: rrees@fh.az.gov

Client Account Number 0427501

Empire PSSR: Brett Tolman

E-Mail: brett.tolman@empire-cat.com **Phone #:** 602-622-5608 **Fax #:** 602-333-5618

Empire PM and Repair Service Contact: Anthony Dirmyer **Phone #:** 602-333-5622

After-hours Emergency Service 888-CAT-POWER



Client Support Agreement

Equipment Generator Client Town of Fountain Hills
 Make Generac Address 16705 E. Avenue of the Fountains
 Model 12809790100 Fountain Hills, AZ 85268
 Serial # 2109495
 Ar # _____
 Size (kW, A) 80 kW

Client Contact Raymond Rees Phone 480-816-5180 Site ID Fire House Station 1

Term of Agreement: 1-Year

Services	Price	Frequency	Total Visits	Total	Month of Services
Full System Inspection		Select One		\$ -	
Full Oil Service	\$ 429.00	Annually	1.00	\$ 429.00	February
Filter Change Service		Select One		\$ -	
Coolant Replacement		Select One		\$ -	
Hose(s) and Thermostat		Select One		\$ -	
Belt(s) Replacement		Select One		\$ -	
Load Bank Test	\$ 402.00	Annually	1.00	\$ 402.00	February
LB Length: <u>1.5 hrs long test per NFPA 110 2010 standard</u>					
Battery Replacement		Select One		\$ -	
Megger Test		Select One		\$ -	
Pressure Wash		Select One		\$ -	
Valve Adjustment		Select One		\$ -	
Fuel System Maintenance		Select One		\$ -	
Details: _____					
Additional Fluid Analysis		Select One		\$ -	
Details: _____					
Transfer Switch Inspection		Select One		\$ -	
Switchgear Inspection		Select One		\$ -	

Empire Contact Brett Tolman Phone 602-622-5608 Total per unit \$ 831.00
 plus applicable taxes and environmental fees

Notes: _____
Pricing reflects the NJPA 5% discount



Client Support Agreement

Equipment Generator
 Make Generac
 Model 12807010200
 Serial # 2109790
 Ar # _____
 Size (kW, A) 50 kW

Client Town of Fountain Hills
 Address 16705 E. Avenue of the Fountains
Fountain Hills, AZ 85268

Client Contact Raymond Rees Phone 480-816-5180 Site ID Fire House Station 2

Term of Agreement: 1-Year

Services	Price	Frequency	Total Visits	Total	Month of Services
Full System Inspection		Select One		\$ -	
Full Oil Service	\$ 429.00	Annually	1.00	\$ 429.00	February
Filter Change Service		Select One		\$ -	
Coolant Replacement		Select One		\$ -	
Hose(s) and Thermostat		Select One		\$ -	
Belt(s) Replacement		Select One		\$ -	
Load Bank Test	\$ 402.00	Annually	1.00	\$ 402.00	February
LB Length: <u>1.5 hrs long test per NFPA 110 2010 standard</u>					
Battery Replacement		Select One		\$ -	
Megger Test		Select One		\$ -	
Pressure Wash		Select One		\$ -	
Valve Adjustment		Select One		\$ -	
Fuel System Maintenance		Select One		\$ -	
Details: _____					
Additional Fluid Analysis		Select One		\$ -	
Details: _____					
Transfer Switch Inspection		Select One		\$ -	
Switchgear Inspection		Select One		\$ -	

Empire Contact Brett Tolman Phone 602-622-5608 Total per unit \$ **831.00**
 plus applicable taxes and environmental fees

Notes: _____
Pricing reflects the NJPA 5% discount



Client Support Agreement

Equipment Generator Client Town of Fountain Hills
 Make Onan Address 16705 E. Avenue of the Fountains
 Model DFAC4959824 Fountain Hills, AZ 85268
 Serial # E010244420
 Ar # _____
 Size (kW, A) 250 kW

Client Contact Raymond Rees Phone 480-816-5180 Site ID Police Station

Term of Agreement:

Services	Price	Frequency	Total Visits	Total	Month of Services
Full System Inspection		<input type="text" value="Select One"/>		\$ -	<input type="text"/>
Full Oil Service	\$ 559.00	<input type="text" value="Annually"/>	1.00	\$ 559.00	<input type="text" value="February"/>
Filter Change Service		<input type="text" value="Select One"/>		\$ -	<input type="text"/>
Coolant Replacement		<input type="text" value="Select One"/>		\$ -	<input type="text"/>
Hose(s) and Thermostat		<input type="text" value="Select One"/>		\$ -	<input type="text"/>
Belt(s) Replacement		<input type="text" value="Select One"/>		\$ -	<input type="text"/>
Load Bank Test	\$ 481.00	<input type="text" value="Annually"/>	1.00	\$ 481.00	<input type="text" value="February"/>
LB Length: <u>1.5 hrs long test per NFPA 110 2010 standard</u>					
Battery Replacement		<input type="text" value="Select One"/>		\$ -	<input type="text"/>
Megger Test		<input type="text" value="Select One"/>		\$ -	<input type="text"/>
Pressure Wash		<input type="text" value="Select One"/>		\$ -	<input type="text"/>
Valve Adjustment		<input type="text" value="Select One"/>		\$ -	<input type="text"/>
Fuel System Maintenance		<input type="text" value="Select One"/>		\$ -	<input type="text"/>
Details: _____					
Additional Fluid Analysis		<input type="text" value="Select One"/>		\$ -	<input type="text"/>
Details: _____					
Transfer Switch Inspection		<input type="text" value="Select One"/>		\$ -	<input type="text"/>
Switchgear Inspection		<input type="text" value="Select One"/>		\$ -	<input type="text"/>

Empire Contact Brett Tolman Phone 602-622-5608 Total per unit \$ 1,040.00
 plus applicable taxes and environmental fees

Notes: _____
Pricing reflects the NJPA 5% discount

- **Full System Inspection:** A comprehensive inspection of the engine's cooling, fuel, lube, air, exhaust, and starting systems; as well as inspection of the engine monitors, safety controls, and control panel. This service is recommended weekly, monthly, quarterly, semi-annually or annually, depending on use and application. For standby systems, it is recommended quarterly or semi-annually.
- **Full Oil Service:** The lubricating oil, lubricating oil filter, fuel filter will be changed, and oil & coolant analysis performed. A Full System Inspection is also completed.
- **Filter Change Service:** CATERPILLAR C9-3600 PRODUCTS may extend their oil change intervals to every third year. For these particular units lubricating oil filters and fuel filters are replaced on an annual basis. (see additional conditions)
- **Coolant Replacement:** Includes removal of all radiator anti-freeze/coolant, and replacement with high quality anti-freeze/coolant. When using Caterpillar Diesel Engine Anti-freeze/Coolant (DEAC), this service is recommended every 3 years. When using Caterpillar Extended Life Coolant (ELC), this service is recommended every 6 years, and extender is required at the half-life (3 years).
- **Hose(s) and Thermostat Replacement:** All coolant hoses and thermostats are replaced. This service must be accompanied by a Coolant Replacement service.
- **Belt(s) Replacement:** All serviceable belts are replaced. This service is recommended to be performed at the same time as hose and thermostat replacements.
- **Load Bank Test:** Load test at 75% of the generator name-plate rating, using resistive load bank(s). Length of test determined by application, generator size and client request. This service helps to identify any malfunctions or potential problems before they cause equipment failure. This also burns off harmful deposits in the combustion chamber, injector nozzles, and exhaust system caused by lightly loading the genset. This service is recommended annually.
- **Battery Replacement:** Replacement of the starting batteries. The number one reason that gensets don't start during an emergency situation are the starting batteries. When using Caterpillar's Premium High Output batteries, this service is recommended every 3 years. For all other batteries, this service is recommended every 2 years.
- **Megger Test:** Generator winding megger testing. This testing can help in early detection of deterioration or breakdown of generator windings, cabling insulation, and/or poor lug connectors. Winding deterioration can be caused by moisture, grease or oil residual, physical damage from overheating/overloading, and age deterioration. The frequency of this test is determined by the generator's environment and usage.
- **Pressure Wash:** This service utilizes a mobile pressure washer to clean the unit. Frequency of this service is dependent on client preference and request.
- **Valve Adjustment:** Perform a complete valve adjustment on the engine as required per Manufacturer's maintenance requirements or per client's specific requirements.
- **Fuel System Maintenance:** Maintenance to fuel filtering systems and/or main fuel storage tank. Specific client requirements should be detailed on pricing sheet.
- **Additional Fluid Analysis:** Additional fluid analysis that is not already included in other service levels. This may include oil, coolant and/or fuel. Details of which fluids and frequencies should be detailed on the pricing sheet.
- **Transfer Switch Inspection:** Inspect and clean the automatic transfer switch (ATS). This includes utilizing an infrared heat gun, checking buss bars and connections for hot spots. The voltage drop across load contacts is measured. With client's authorization, verify proper operation of the ATS, time delays, and indicator lamps and/or LEDs. This service is recommended semi-annually.
- **Switchgear Inspection:** Inspect and clean the switchgear as required. This includes utilizing an infrared heat gun, checking buss bars and connections for hot spots. With client's authorization, verify proper operation of the switchgear. This service is recommended annually.