

Solicitation (IFB, RFP, RFQ) No. \_\_\_\_\_

Bidder/Offeror: \_\_\_\_\_

**THIS PAGE IS TO BE FILLED OUT AND RETURNED WITH YOUR BID. FAILURE TO DO SO  
MAY SUBJECT YOUR BID TO REJECTION.**

ATTENTION

Federal Employer Identification Number or alternate identification number  
(e.g., Social Security Number) is used for internal processing, including bid tabulation.

Enter ID number here: \_\_\_\_\_

Pursuant to N.C.G.S. 132-1.10(b) this identification number shall not be released to the public.

This page will be removed and shredded, or otherwise kept confidential,  
before the procurement file is made available for public inspection.

**THIS PAGE WAS INTENTIONALLY LEFT BLANK FOR THE PURPOSE OF 2 SIDED PRINTING**

<b>STATE OF NORTH CAROLINA</b> <b>NC Department of Administration</b>  <b>Division of Purchase and Contract</b>	<b>INVITATION FOR BIDS NO. 201000473</b>
	Bids will be publicly opened: <b>DRAFT</b>
	Contract Type: Open Market Solicitations
<b>Refer ALL Inquiries to:</b> Alice Cheatham Telephone No. 919-807-4538	Commodity: Green Square Sustainable Task Chairs  <b>DRAFT BID</b>
E-Mail: <a href="mailto:alice.cheatham@doa.nc.gov">alice.cheatham@doa.nc.gov</a>	Using Agency Name: DEPARTMENT - Environment And Natural Resources
<b>(See page 2 for mailing instructions.)</b>	Agency Requisition No.: PR9783821
INTERNET ADDRESS: <a href="http://www.pandc.nc.gov/">http://www.pandc.nc.gov/</a>	

**NOTICE TO BIDDERS**

Sealed bids, subject to the conditions made a part hereof, will be received at this office (116 W. Jones St., Raleigh, NC) until **2 o'clock p.m.** on the day of opening and then opened, for furnishing and delivering the commodity as described herein. Refer to page 2 for proper mailing instructions.

Bids submitted via telegraph, facsimile (FAX) machine, telephone, and electronic means, including but not limited to e-mail, in response to this Invitation for Bids will not be acceptable. Bids are subject to rejection unless submitted on this form.

Please review the new additions to the Instructions to Bidders, which are found in new paragraphs 22 ("Confidentiality of Bids," which prohibits certain types of communications during the procurement process and any violation of this provision may subject bidder's bid to disqualification) and 23 (Executive Order #50-Price-Matching Preference); and review the changes to paragraphs 15 (Award of Contract) and 19 (Protest Procedures) in the Instructions to Bidders, which are required to implement Executive Order 50.

**EXECUTION**

In compliance with this Invitation for Bids, and subject to all the conditions herein, the undersigned offers and agrees to furnish and deliver any or all items upon which prices are bid, at the prices set opposite each item within the time specified herein. By executing this bid, I certify that this bid is submitted competitively and without collusion (G.S. 143-54), that none of our officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and that we are not an ineligible vendor as set forth in G.S. 143-59.1. False certification is a Class I felony.

**Failure to execute/sign bid prior to submittal shall render bid invalid. Late bids are not acceptable.**

BIDDER:		
STREET ADDRESS:	P.O. BOX:	ZIP:
CITY & STATE & ZIP:	TELEPHONE NUMBER:	TOLL FREE TEL. NO (800)
PRINCIPAL PLACE OF BUSINESS ADDRESS IF DIFFERENT FROM ABOVE (SEE INSTRUCTIONS TO BIDDERS ITEM #21):		
N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.		
PRINT NAME & TITLE OF PERSON SIGNING:		FAX NUMBER:
AUTHORIZED SIGNATURE:	DATE:	E-MAIL:

Offer valid for 45 days from date of bid opening unless otherwise stated here: \_\_\_\_ days (See Instructions to Bidders, Item 6). Prompt Payment Discount: \_\_\_\_\_ % \_\_\_\_\_ days (See Instructions to Bidders, Item 7).

**ACCEPTANCE OF BID**

If any or all parts of this bid are accepted by the State of North Carolina, an authorized representative of the Division of Purchase and Contract shall affix their signature hereto and this document and the provisions of the Instructions to Bidders, special terms and conditions specific to this Invitation for Bids, the specifications, and the North Carolina General Contract Terms and Conditions shall then constitute the written agreement between the parties. A copy of this acceptance will be forwarded to the successful bidder(s).

<b><u>FOR STATE USE ONLY</u></b>  Offer accepted and contract awarded this ____ day of _____, 20____, as indicated on attached certification,  by _____ (Authorized representative of the Division of Purchase and Contract).
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In an effort to support the sustainability efforts of the State of North Carolina we solicit your cooperation in this effort.

**It is desirable that all responses meet the following requirements:**

- All copies are printed **double sided**.
- All submittals and copies are printed on **recycled paper with a minimum post-consumer content of 30%** and indicate this information accordingly on the response.
- Unless absolutely necessary, all bids and copies should **minimize or eliminate use of non-recyclable or non re-usable materials** such as plastic report covers, plastic dividers, vinyl sleeves, and GBC binding. Three-ringed binders, glued materials, paper clips, and staples are acceptable.
- Materials should be submitted in a format which allows for **easy removal and recycling** of paper materials.

**MAILING INSTRUCTIONS:** Mail only one fully executed bid document, unless otherwise instructed, and only one bid per envelope. Address envelope and insert bid number as shown below. It is the responsibility of the bidder to have the bid in this office by the specified time and date of opening.

<u>DELIVERED BY US POSTAL SERVICE (REGULAR/STANDARD MAIL ONLY)</u>	<u>DELIVERED BY ANY OTHER MEANS/SPECIAL DELIVERY/OVERNIGHT (BY ANY OTHER CARRIER)</u>
BID NO. _____ NC DEPARTMENT OF ADMINISTRATION DIVISION OF PURCHASE AND CONTRACT 1305 MAIL SERVICE CENTER RALEIGH NC 27699-1305	BID NO. _____ NC DEPARTMENT OF ADMINISTRATION DIVISION OF PURCHASE AND CONTRACT 116 WEST JONES STREET Room 4062 4 <sup>th</sup> Flr. RALEIGH NC 27603-8002

\*\*\*\*\*SPECIAL NOTE – PLEASE READ\*\*\*\*\*

**The US Postal Service DOES NOT deliver any mail (US Postal Express Mail, Certified, Priority, Overnight, etc.) to our physical address of 116 West Jones Street.**

**TABULATIONS:** The Division has implemented an Interactive Purchasing System (IPS) that allows the public to retrieve bid tabulations electronically from our Internet web site: <http://www.pandc.nc.gov/>. Click on the IPS BIDS icon, click on Search for Bid, enter the bid number, and then search. Tabulations will normally be available at this web site not later than one working day after opening. Lengthy tabulations may not be available on the Internet, and requests for these verbally or in writing cannot be honored. .

**VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM:** Vendor Link NC allows vendors to electronically register free with the State to receive electronic notification of current procurement opportunities for goods and services available on the Interactive Purchasing System. Online registration and other purchasing information are available on our Internet web site: <http://www.pandc.nc.gov/>.

**ATTENTION: This is an e-procurement solicitation. See paragraph #19 of the attached General Contract Terms and Conditions.**

**The Terms and Conditions made part of this solicitation contain language necessary for North Carolina’s Statewide e-procurement initiative.**

**It is the offeror’s responsibility to read these terms and conditions carefully and consider them in preparing the offer. By signature offeror acknowledges acceptance of all terms and conditions, including those related to e-procurement.**

General information on the e-procurement service can be found at: <http://eprocurement.nc.gov/>

**TRANSPORTATION:** All items are to be delivered FOB Destination with all freight and any related transportation charges included in your bid price(s).

**SCOPE:** See attached specifications, Section 1.2, Project Description.

**CLARIFICATIONS AND BID QUESTIONS:** All questions regarding these specifications or bid requirements are to be submitted in writing to [alice.cheatham@doa.nc.gov](mailto:alice.cheatham@doa.nc.gov) no less than four (4) days prior to the bid opening date. If necessary, questions and comments will be addressed by addendum posted to the IPS System under the bid number. It is the responsibility of the bidder to continuously check for bid addenda. Oral answers are not binding on the State.

**DELIVERY/INSTALLATION:** Furniture shall be delivered such that installation by bidder shall be completed in complete compliance with Sections 1.6A and 1.6B in the attached specification. See also Sections 1.5B, 1.5C, and 1.5D, which concern delivery coordination/scheduling, on-site delivery conditions, and temporary storage of products during the delivery period. Bidder is advised that the temporary storage specified shall be used by bidder ONLY during the actual delivery/installation operation, and specifically NOT as a storage facility for products under this contract which may be manufactured and shipped to bidder or user in advance of such actual operation. The intention is that the storage facility may be used as a staging area a maximum of approximately three (3) work days before installation begins. It is expected that in consideration of the anticipated buildings completion dates, delivery will be required in Feb 2011 for the DENR building and September 2011 for the NRC building. However, this could vary if building schedule must be revised, in which case successful bidder will be apprised by the State as soon as such becomes known. By signature of Execution of Bid, bidder agrees and accepts this delivery/installation requirement in its entirety.

**NUMBERS OF CHAIRS TO BE ORDERED:** Per the attached specification, paragraph 1.3.D.1, the total number of chairs expected to be purchased under this contract is 729, and the minimum number of chairs expected to be ordered from each of three (3) intended awarded contractors is 100. Therefore bidder's bid unit price offered herein should apply to expected quantities from 100 through 529 (729 - 100 - 100).

**BRAND SPECIFIC:** Manufacturer's name and product description used in this solicitation are product specific. The items offered in response to this solicitation must be the manufacturer and type specified. These specific products are needed due to compatibility and continuity of support. If you have any questions, please call the purchaser listed on the first page.

**REFERENCES:** List below references where your company has supplied equipment similar to that proposed: The State reserves the right to require upon its request a list of users of the exact model of equipment bid. The State may contact these users to determine quality level of the offered equipment. Such information may be considered in the evaluation of the bid.

<u>SITE</u>	<u>DATE OF DELIVERY</u>	<u>CONTACT PERSON</u>	<u>TELEPHONE #</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**DESCRIPTIVE LITERATURE:** Bidders are requested to provide complete descriptive literature, specifications and other pertinent data necessary for their evaluation as required by the attached General Contract Terms & Conditions; otherwise, they will be subject to rejection.

**WARRANTY:** The contractor warrants to the Owner that all chairs furnished under this specification will be new, and of good material and workmanship, and agrees to replace promptly any part or parts which by reason of defective material or workmanship shall fail under normal use, free of negligence or accident, for the periods from date of acceptance until five years for fabric, cushions; ten years all other components. During the warranty period, any repairs or replacements required shall be performed without additional cost to the Owner. Refer to Section 1.7A and 1.7.B.

**QUALITY ACCEPTANCE INSPECTION:** Upon completion of the project, as called for herein, the contractor must request a Quality Acceptance Inspection. Such requests must be forwarded (in writing) to the Division of Purchase and Contract, Attn: Quality Acceptance Inspections, 1305 Mail Service Center, Raleigh, NC 27699-1305. Fax # (919) 807-4509.

INVOICES WILL NOT BE PAID BY THE USING AGENCY UNTIL QUALITY ACCEPTANCE HAS BEEN ACCOMPLISHED.

**CLEAN-UP:** Upon completion of the installation, the contractor shall remove and properly dispose of all waste and debris from the installation site. The contractor shall be responsible for leaving the installation area clean and ready to use.

**RECYCLED CONTENT:**

If the products offered herein contain any recycled content, indicate the material and content percentage:

Material \_\_\_\_\_ Percentage %: \_\_\_\_\_

If the packaging contains any recycled content, indicate here the material and content percentage:

Material \_\_\_\_\_ Percentage %: \_\_\_\_\_

**DEVIATIONS:** Any deviations from specifications and requirements herein must be clearly pointed out by bidder. Otherwise it will be considered that item(s) offered is in strict compliance with these specifications and requirements, and successful bidder will be held responsible therefore. Deviations must be explained in detail below or on an attached sheet. However, no implication is made by the State that deviations will be acceptable. Bidder is advised that the response (or lack thereof) on this question does not take precedence over specific responses or non-responses provided elsewhere in this bid.

**NC RECIPROCITY STATUTE:** In the ranking of bids, consideration will be given to NC G.S. 143-59 for reciprocal preference, which provides in part that, "For the purpose only of determining the low bidder on all contracts for equipment, materials, supplies, and services valued over twenty-five thousand dollars (\$25,000), a percent of increase shall be added to a bid of a nonresident bidder that is equal to the percent of increase, if any, that the state in which the bidder is a resident adds to bids from bidders who do not reside in that state. Any amount due under a contract awarded to a nonresident bidder shall not be increased by the amount of the increase added by this subsection," and that, If the reciprocal preference causes the nonresident bidder to no longer be the lowest bidder, the Secretary of Administration may, after consultation with the Board of Awards, waive the reciprocal preference."

**EXECUTIVE ORDER NO. 50 (PRICE-MATCHING PREFERENCE):**

Pursuant to North Carolina General Statute § 143-59 (G.S. § 143-59) and Executive Order No. 50 issued by Governor Perdue on February 17, 2010, entitled "Enhanced Purchasing Opportunities for North Carolina Businesses," a price-matching preference may be given to North Carolina resident bidders on contracts for the purchase of goods. This preference will allow a qualified North Carolina resident bidder to match the price of the lowest responsible nonresident bidder, if the North Carolina resident bidder's price is within five percent (5%) or \$10,000, whichever is less, of the nonresident bidder's price. If the resident bidder requests and qualifies for the price-matching preference, the resident bidder will first be offered the contract award and it will have three (3) business days to accept or decline the award based on the lowest responsible nonresident bidder's price.

Executive Order #50 applies to procurements from the Governor's Office, Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, and Transportation), Universities and Community Colleges and all procurements handled by the Division of Purchase and Contract. All other State Agencies are encouraged to implement the requirements of the Executive Order #50 and vendors should contact these State Agencies to determine whether they have adopted and implemented Executive Order #50.

ANY RESIDENT BIDDER REQUESTING THIS PREFERENCE SHOULD CAREFULLY REVIEW PARAGRAPH 23 OF THE INSTRUCTIONS TO BIDDERS, WHICH PROVIDES MORE INFORMATION REGARDING THE DEFINITION OF RESIDENT AND NONRESIDENT BIDDERS; THE QUALIFICATION PROCESS FOR GRANTING THE PREFERENCE AND HOW THE CONTRACT WILL BE AWARDED IF THE PREFERENCE IS APPLICABLE.

**ALL BIDDERS (RESIDENT AND NONRESIDENT) MUST ANSWER THE FOLLOWING QUESTION:**

1. **Bidder is a resident of North Carolina as defined in G.S. § 143-59:**

(Bidder may be deemed a **nonresident bidder**, if it failed to circle any choice.)

**YES / NO**  
(circle one)

ALL RESIDENT BIDDERS REQUESTING A PRICE-MATCHING PREFERENCE MUST ANSWER THE FOLLOWING QUESTION AND MUST COMPLETE "RESIDENT BIDDER'S CERTIFICATION FOR PRICE-MATCHING PREFERENCE UNDER EXECUTIVE ORDER #50", WHICH IS BELOW AFTER QUESTION 2. AS STATED ABOVE AND PARAGRAPH 23 OF THE INSTRUCTIONS TO BIDDERS, A RESIDENT BIDDER ANSWERING "YES" TO THE QUESTION BELOW AND IS QUALIFIED FOR THE PRICE-MATCHING PREFERENCE WILL BE GIVEN AN OPPORTUNITY TO ACCEPT OR DECLINE THE CONTRACT AWARD WITHIN THE SPECIFIED PERIOD OF TIME.

2. **Resident Bidder requests the price-matching preference:**

(Bidder shall be deemed **not** to have requested the preference, if it failed to circle any choice and did not complete the Resident Bidder's Certification. If a Bidder failed to circle a choice above and completed and notarized the Bidder's Certification, then it will have been deemed to have responded YES to the above question.)

**YES / NO**  
(circle one)

**RESIDENT BIDDER'S CERTIFICATION FOR  
PRICE-MATCHING PREFERENCE UNDER EXECUTIVE ORDER #50**

**NOTICE: The Price-Matching Preference will only be given to bidders that fully complete this affidavit (i.e., all information must be provided, all supporting documents must be attached, the affidavit must be signed by an authorized representative of the bidder and the affidavit must be notarized) and demonstrate their qualifications for the Price-Matching Preference through the certification and information provided in this affidavit and any required attachments.**

Affidavit of \_\_\_\_\_ (name of resident bidder, hereinafter the "Bidder")

**PART I**

Please check the box applicable to the Bidder's business in order for the Bidder to be considered for the price-matching preference established by Executive Order #50 and North Carolina General Statute § 143-59(c)(1).

I hereby certify that the Bidder paid unemployment taxes to the State of North Carolina for the most recent quarter or annually, and has specifically done so for the last such payment period.

**OR**

I hereby certify that the Bidder paid income taxes to the State of North Carolina each calendar quarter, or otherwise annually, and has specifically done so for the last such payment period.

**AND**

**PART II**

1. I hereby certify that the Bidder is a resident of the State of North Carolina under North Carolina General Statute § 143-59(c)(1), in that, Bidder's principal place of business is located in North Carolina. YES / NO  
(circle one)

A. **Business Type** (circle one of the following): CORPORATION (ALL TYPES); LIMITED LIABILITY COMPANY; GENERAL PARTNERSHIP; LIMITED PARTNERSHIP; LIMITED LIABILITY PARTNERSHIP; SOLE PROPRIETORSHIP; INDIVIDUAL; UNINCORPORATED ASSOCIATION; OR OTHER.

B. Provide address of principal place of business/principal office in North Carolina:

\_\_\_\_\_  
Street Address (no P.O. Box number)

\_\_\_\_\_  
City, State, Zip Code

Is the above address the location of Bidder's headquarters? YES / NO (circle one)

If Bidder has a public website, provide the link/address: \_\_\_\_\_



C. **ATTACH A COPY OF BIDDER’S MOST RECENT FILINGS WITH THE NORTH CAROLINA SECRETARY OF STATE** (such as Bidder’s Certificate of Authority, Annual Report or such other filing that discloses a North Carolina business address for the Bidder).

**OR** (check the box below)

Bidder certifies that its business is **not** required to make filings with the North Carolina Secretary of State.

2. I hereby certify that the Bidder is a resident of the State of North Carolina under North Carolina General Statute § 143-59(c)(3), in that, Bidder directs or manages its trade or business from its principal place of business in North Carolina.

YES / NO (circle one)
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A. State the number of Bidder’s employees that work at the North Carolina principal place of business:

B. State the total number of employees in Bidder’s entire workforce:

C. Briefly describe in the box below how Bidder manages or directs its business or trade from its North Carolina principal place of business:

IF BIDDER DESIRES TO KEEP CONFIDENTIAL ITS ANSWERS TO QUESTION 2.A, B AND C ABOVE PURSUANT TO PARAGRAPH 17 OF THE INSTRUCTIONS TO BIDDERS, THEN PLEASE CIRCLE YES OR NO IN THE BOX. IF BIDDER FAILS TO CIRCLE YES FOR ANY REASON, THEN BIDDER’S ANSWERS MAY BE SUBJECT TO PUBLIC DISCLOSURE.

YES / NO
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**PART III**

By executing this affidavit, the Bidder agrees to provide any additional information or documentation requested by the State (during the procurement process seeking clarification of the request for the Price-Matching Preference or after contract award to resolve any bid protest) to confirm the above certifications and statements within five (5) business days of request (including tax filings in North Carolina, banking statements, financial and accounting statements reflecting Bidder’s payment of the subject taxes, and any other documentation that may establish Bidder’s principal place of business in North Carolina, including but not limited to information regarding the amount of income and unemployment taxes paid to other states and number of employees in North Carolina and number of employees in other states). Pursuant to G.S. §§ 132-1.1, 105-259(b) and Paragraph 17 of the Instructions to Bidders, the State is prohibited from making public disclosures of the bidder’s tax information and documents (except if one of the 39 exceptions applies in G.S. § 105-259(b)) and the State shall preserve the confidentiality of the information and/or documents received in response to a request for clarification (or, as discussed below, to resolve a bid protest challenging resident bidder’s qualification for the price-matching preference). In order to further preserve the confidentiality of bidder’s tax information and documentation provided the State, the bidder shall comply with Paragraph 17 of the Instructions to Bidders and mark “CONFIDENTIAL” at the top and bottom of each page of the information and documentation. Bidder further understands and agrees that if Bidder fails to provide the State with the additional information and documentation within five (5) business days of the request; or the State determines that certifications or information in this Affidavit are false at any time after the contract is awarded to Bidder, the State may:

- (1) Cancel the Bidder's contract and/or purchase order that was awarded based on the price-matching preference and Bidder shall be liable for all its cost it incurs as a result of the cancellation and all increased costs of the State by awarding the contract to the next lowest bidder;
- (2) Bidder will not be entitled to any price-matching preference in any future State bidding opportunities;
- (3) Action may be taken against the contractor under the False Claims Act, G.S. § 1-605 through 1-617, inclusive, for submitting a false Certification for the price-matching preference under Executive Order #50 (including but not limited to treble damages and civil penalties); and/or
- (4) Debar Bidder from doing business with the State of North Carolina for a period determined by the State Purchasing Officer and/or Board of Award.

The undersigned hereby certifies that he or she has read this certification and is an officer, member, partner, owner or such managing employee of the Bidder (the "Authorized Representative") that is authorized to execute this affidavit and to bind the Bidder to the certifications, statements and agreements herein.

Name of Authorized Representative: \_\_\_\_\_

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

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

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

State of \_\_\_\_\_, County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

Notary Public: \_\_\_\_\_

My commission expires \_\_\_\_\_

SECTION – ERGONOMIC CHAIRS, REVISED MAY 4, 2010

PART 1 - GENERAL

1.1 SUMMARY

A. This section includes the following:

1. Technical Specifications
2. Quantities

1.2 PROJECT DESCRIPTION:

- A. The scope of this project is to provide ergonomic chairs for the Green Square Complex. This Complex is a two-block multi-use sustainable development project in downtown Raleigh, North Carolina. It includes an office building for the North Carolina Department of Environment and Natural Resources (DENR), and the Nature Research Center (NRC), a new wing for the North Carolina Museum of Natural Sciences. Some DENR divisions will be located in the office space of the NRC. Research and investigative labs in the NRC will have adjacent offices with task seating. Almost 700 people will work in these two buildings. The DENR Office Building is 149,350 total sq. ft. The Nature Research Center is 101,040 sq. ft.
- B. The Green Square Complex will promote stewardship by example to the general public. Both the DENR office building and the NRC are pursuing a LEED Gold certification, and will incorporate sustainable design strategies. Only environmentally sustainable products that have high recycled content and recyclability, in accordance with the requirements specified elsewhere herein, and are certified for indoor air quality will be accepted for this project.

1.3 SUBMITTALS REQUIRED WITH PROPOSAL

- A. Product Data: Product brochures, material descriptions, environmental information, and warranty information. Data shall be submitted with the bid and may be submitted electronically on a thumbdrive or CD, which should be properly identified with bidder's name on outside of thumbdrive or CD and electronically in each file contained thereon.
- B. Samples for Verification:
1. Memo samples of upholstery fabrics.
  2. Samples of all finish materials.
- C. Schedule:
1. Provide an installation schedule from order entry through to installation by dates for each installation procedure, such schedule to be in accordance with requirements herein for same.
- D. Unit prices:
1. The total quantity of ergonomic task chairs required is 729. After award of the bids, in accordance with the State's intention as explained below, each awardee shall provide to the Owner a sample of their chair, with all features, and finishes as specified. Exact quantities of each chair product will be determined after the Owner gives each employee an individual choice of one of the three chairs, with a minimum quantity of 100 of each chair product shall be awarded. The cost to customer for each chair shall be based on the

same discount from published MSRP that the chair was offered in the bid pricing, regardless of total chair quantity. The chair samples can be incorporated into the project.

2. Number of Awards per Chair Line Item: It is the State's intent to award to three DIFFERENT makes/models of chair in each respective line item. In cases where the same model is offered on two (or more) qualified and acceptable bids for a given line item, the award will be made to the lower/lowest bidder for that model, and the higher bidders for same model will not receive awards for that line item regardless of their bid ranking. Such process would continue with the qualified higher ranked bids, until three DIFFERENT models of chairs were awarded for that line item. As an example, if qualified Bidders A and B both offered approved Model 1, qualified Bidders C and D both offered approved Model 2, qualified Bidder offered approved Model 3, and order or ranking was (low to high) A, B, C, D, E, then A, C, and E would receive awards, which would provide contracts to the three lowest bidders offering the three DIFFERENT approved models of chairs which are lowest in the overall bid ranking. Note as elsewhere stated herein, that the "NC reciprocity statute" and "Executive Order 50" are considerations in awards on this contract.
3. The Unit Prices provided herein by bidder, in addition to being used to compute total bid price for purposes of bid ranking and the expected contract order, shall ALSO be used for any contract change orders, whether additions or deletions. These unit prices shall be considered complete including, as applicable, all material (which is to specifically include, but is not limited to, finish, trim, and upholstery, as called for herein), equipment, labor, delivery, insurance, installation costs, overhead and profit. The contract documents define, describe, or reasonably imply the total extent of work to be performed under the Base Bid. Any such contract additions shall be incorporated in the Contract Amount by Change Order and included in the Construction Sequence in the same manner as if it had been a part of the Base Bid. In the attached North Carolina General Contract Terms and Conditions, paragraph 23.a, the first sentence is changed to read, "All prices shall be firm against any increase for 180 days FROM THE DATE OF COMPLETION OF INSTALLATION."

#### 1.4 QUALITY ASSURANCE

- A. Products: All chairs shall be new; there are to be no refurbished, reused, or cloned products.
- B. All chairs shall meet or exceed ANSI/BIFMA standards for structural quality. Chairs shall be tested and warranted for users 300 lbs. and under.
- C. Only manufacturer's standard products in design, materials, and construction, will be considered for evaluation and acceptance. Any questions concerning acceptability of the quality offered shall be the sole decision of the N.C. Division of Purchase and Contract.
- D. Single lot / single run responsibility: Furnish manufacturer's certification that all upholstery fabric of a single finish, pattern and color is furnished from one dye lot. Whenever quality or appearance of any furnishings unit component or accessory may vary from one production run to the next, provide certification that furnished items are from a single production run.
- E. Installer Qualifications: Qualified professionals who have been authorized and trained by the manufacturer or the dealer to install, so that the product is eligible to receive the manufacturer's warranty. Bidder shall provide satisfactory documentation of such manufacturer authorization within five (5) work days of State's request.
- F. (a) Chairs shall be of the manufacturer's current standard production. (b) Unless otherwise approved, the manufacturer shall have offered the chairs to commercial and/or industrial users for a minimum period of one year. Satisfactory proof of (a) and (b) shall be provided within five (5) work days of request by the State. Any questions concerning acceptability of the quality offered shall be the sole decision of the N.C. Division of Purchase and Contract.
- G. Upon request by NC Purchase and Contract, the manufacturer shall furnish a list of users of the chairs offered, to include names, telephone numbers, and addresses of the users.

- H. Timing of approvals for alternate makes/models by the State: During the bid solicitation period, but no later than seven (7) work days prior to date of the public bid opening, if bidder believes a make/model OTHER than those specifically named herein will meet the requirements of this solicitation and wishes to offer same, bidder should contact BY EMAIL the purchaser named on front page of this Invitation For Bids and request that such other make/model be allowed. Included in bidder's email, or within one (1) work day thereafter, shall be sufficient documentation for the State to determine acceptability of the requested make/model. Furthermore, the State may request actual chair samples or partial samples (such as fabric colors) from the requesting bidder, which are then due in the purchaser's office within two (2) work days after State's request. If the State determines that the requested make/model is satisfactory, a written bid addendum shall be released by the State to all bidders. Note that inclusion on any other State of NC QPL for task or ergonomic chairs does NOT imply approval for THIS contract, since some requirements are different for Green Square versus such other State of NC Qualified Products Lists. Therefore, if bidder wishes to submit for this bid any models of task or ergonomic chairs appearing on the other State of NC Qualified Products Lists, approvals must be sought in accordance with this paragraph.

#### 1.5 ORDERING, DELIVERY, STORAGE, AND INSTALLATION

- A. Ordering is to take place only after the approval of contractor's samples by the State.
- B. Delivery date shall be coordinated with the building construction, and shall be scheduled by the contractor, in full coordination with the user, so that the delivery truck can come direct from the manufacturer to the project location.
- C. Delivery Conditions:
1. DENR Office Building: Deliveries shall be via the on-street parking and loading zone off of Dawson Street. Delivery trucks shall have integrated dock lifts. A ramp is located between the street level and the building finished floor elevations. The ramp is 10' wide by 34' long.
  2. Nature Research Center: Deliveries shall be from the loading dock at the Southwest corner of the NRC (off of McDowell Street). The loading dock equipment includes a dock lift.
- D. Storage: A conditioned, interior staging area in the building shall be provided by the State for the delivered products.
- E. Pre-installation conference: Contractor(s) will be required to attend a meeting at the State's site, and on a day and time to be arranged by the State, for the purpose of reviewing methods and procedures for delivering and installing furniture.
- F. Installation: Floors and walls shall be protected from damage. Contractor is responsible for any damage to the building caused by the moving or installation of the furniture. Similarly, the building's General Contractor is responsible for any damage caused to the furniture due to the building construction activities. A freight elevator shall be made available to the contractor for installation. Trash shall be removed from the project site at the end of each day.

#### 1.6 SEQUENCING AND SCHEDULING

- A. Sequencing: Furniture installation shall be coordinated with the General Contractor to minimize the possibility of damage and soiling during remainder of construction period.
- B. Scheduling: Installation shall commence only after all building finishing operations have been completed.
1. Complete installation shall be performed one building at a time.
    - a. DENR Office Building: Installation shall be completed within one (1) week after start of installation.
    - b. Nature Research Center: Installation shall be completed within one (1) week after start of installation.

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## 1.7 WARRANTY

- A. The contractor warrants to the Owner that all chairs furnished under this specification will be new, and of good material and workmanship, and agrees to replace promptly any part or parts which by reason of defective material or workmanship shall fail under normal use, free of negligence or accident, for the periods from date of acceptance as outlined below:
1. Fabric, cushions: Five Years.
  2. All other components: Ten years.
- B. During the warranty period, any repairs or replacements required shall be performed without additional cost to the Owner.

## 1.8 ENVIRONMENTAL

- A. Indoor Air Quality: Ergonomic chairs shall have the GREENGUARD Indoor Air Quality certification, or Scientific Certification Systems (SCS) Indoor Advantage Gold certification.
- B. Recycled content and recyclability: Ergonomic chairs shall contain recycled content and shall be recyclable. Bidder shall provide documentation satisfactory to the State which confirms such content within five (5) workdays of request. Chair should be separable for recycling, by means of a process which is not more complex or costly than is currently typical for the industry.
1. Recycled content: 38%
  2. Recyclability: 39%
- C. Documentation of all environmental attributes shall be submitted to NC Purchase and Contract, including data stating recycled content and recyclability, environmentally improved manufacturing processes, and all environmental certifications. Such documentation shall be deemed by the State to be acceptable, and shall specifically NOT include marketing brochures, published specifications, or similar documents.
- D. Delivery: Deliver products direct from the manufacturers in packaging that is made from recycled content, recyclable and/or reusable. Packaging shall be minimized to that required to adequately protect the furniture components from mechanical damage or soiling. In addition, corrugated containers used for packaging shall contain recycled content. Shipping blankets may be used. It is acceptable that some packaging, such as protective foam, may not be recyclable or reuseable.

## PART 2 - PRODUCTS

### 2.1 ERGONOMIC CHAIRS

- A. General:
1. Ergonomic chairs shall provide multiple comfort adjustments which serve to minimize the adverse effects on the body from sitting for long periods of time. All adjustment controls shall be readily viewable, and easily operated to execute the adjustment(s) while seated. The following features shall be provided, unless specified otherwise herein:
    - a. Pneumatic seat height adjustment with 4" minimum extension range, from 16" to 20" seat height minimum
    - b. Adjustable height and width arms
    - c. Tilt tension control
    - d. Synchronized tilt mechanism
    - e. Upright back lock
    - f. Seat depth adjustment, or sliding seat
    - g. Lumbar support with height adjustment

B. Chair construction and materials:

1. Base: Chairs shall have a 360-degree swivel base with 5-leg "star" configuration. Base shall be free of sharp edges. The base shall be high strength, heavy duty, cast or die formed aluminum alloy, or steel. Metallic surfaces shall be scuff and oxidation resistant.
2. Seat construction: Seat shall be upholstered with foam, unless specified otherwise herein. The seat pan shall not deteriorate or lose its resiliency during the warranty period. The seat shall have a "waterfall" or "roll-off" front edge. The upholstery shall be wrinkle-free.
3. Back construction: The back shall be contoured to include a lumbar region for support of the occupant's lower back. The back shall be finished with an open weave fabric absent of any foam or upholstery, suspended by a smooth supporting frame. The open weave (mesh) shall provide comfort and durability equal to the offerings of a classic shell, foam and fabric design. Backs shall have safety device to prevent accidental disengagement of the back from the base.
4. Arms: Chairs shall have adjustable height and width arms. Adjustable height arms shall be adjustable in even increments for each arm. Top of arm surface shall be durable and soft in the occupant's arm contact area.
5. Casters: provide hard dual-wheel casters, capable of being replaced.
6. Workmanship: Chairs shall demonstrate the use of good materials and workmanship, upholstery materials shall be well tailored, and seams shall be smooth and straight. There shall be no sharp corners or edges that could cause injury to persons, or damage to clothing.
7. Dimensional Requirements:
  - a. Seat height: 16-20" minimum
  - b. Seat width: 19-20"
  - c. Seat depth: 16-19"
  - d. Total chair height: 37-43"
  - e. Total chair depth: 23-29"
  - f. Total chair width: 25-29"
  - g. Arm height: 7-11"

C. Products:

1. Provide one of the following products for CH1, or equal products as approved by NC Purchase and Contract:
  - a. Haworth "Zody Task Chair", Model #SZT-20-711MA1
  - b. Herman Miller "Aeron", Model #AE11-2-A-W-B-AJ-BB
  - c. Humanscale "Liberty", Model #L111-1
  - d. Knoll "Generation", Model # 11-1-HP-4-S-L-HC
  - e. Steelcase "Think 465 Series Work Chair with 3D Knit Back, Adjustable Lumbar Height and Aluminum Base", Model #46543100
  - f. Teknion "Contessa", Model #NCSY-1-H-S-FBH1-FBF1-52

D. Chair Finishes:

1. Trim color for frame/arm caps: as selected from Manufacturer's standard colors.
2. Trim color for base/arms: as selected from Manufacturer's standard colors.
3. Mesh back: as selected from Manufacturer's standard colors.
4. Seat upholstery fabric shall contain a minimum 70% recycled polyester, and be minimum 100,000 double rubs Wyzenbeck Method. Provide one of the following, or equal as approved by NC Purchase and Contract:
  - a. DesignTex "Wren" #2889, color 802 Ebony; 100% Recycled Polyester; 100,000 double rubs.
  - b. Knoll "Ricochet" #K498/17, color Ebony; 100% Recycled Polyester; 100,000 double rubs.
  - c. Maharam "Messenger" #458640, color 029 Onyx; 78% Post-Industrial Recycled Polyester, 15% Polyester, 7% Nylon; 100,000 double rubs.
  - d. Momentum "Hue", color Black; 100% Recycled Polyester; 1,000,000 double rubs.



**INSTRUCTIONS TO BIDDERS**INTERNET ADDRESS – <http://www.pandc.nc.gov/>

1. **READ, REVIEW AND COMPLY:** It shall be the bidder's responsibility to read this entire document, review all enclosures and attachments, and comply with all requirements specified herein.
2. **NOTICE TO BIDDERS:** All bids are subject to the provisions of the Instructions to Bidders, special terms and conditions specific to this Invitation for Bids, the specifications, and the North Carolina General Contract Terms and Conditions.  
The State objects to and will not evaluate or consider any additional terms and conditions submitted with a bidder response. This applies to any language appearing in or attached to the document as part of the bidder's response. **DO NOT ATTACH ANY ADDITIONAL TERMS AND CONDITIONS.**  
By execution and delivery of this document, the bidder agrees that any additional terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect.
3. **DEFINITIONS:**
  - **BIDDER:** Company, firm, corporation, partnership, individual, etc., submitting a response to an Invitation for Bids.
  - **TERM CONTRACT:** A contract generally intended to cover all normal requirements for a commodity for a specified period of time based on estimated quantities only.
  - **STATEWIDE TERM CONTRACT:** A Term Contract for all agencies, unless exempted by statute, rule, or special term and condition specific to this bid.
  - **AGENCY SPECIFIC TERM CONTRACT:** A Term Contract for a specific agency.
  - **OPEN MARKET CONTRACT:** A contract for the purchase of a commodity not covered by a term contract.
4. **EXECUTION:** Failure to sign under EXECUTION section will render bid invalid.
5. **ORDER OF PRECEDENCE:** In cases of conflict between specific provisions in this bid, the order of precedence shall be (1) special terms and conditions specific to this bid, (2) specifications, (3) North Carolina General Contract Terms and Conditions, and (4) Instructions to Bidders.
6. **TIME FOR CONSIDERATION:** Unless otherwise indicated on the first page of this document, bidder's offer shall be valid for 45 days from the date of bid opening. Preference may be given to bids allowing not less than 45 days for consideration and acceptance.
7. **PROMPT PAYMENT DISCOUNTS:** Bidders are urged to compute all discounts into the price offered. If a prompt payment discount is offered, it will not be considered in the award of the contract except as a factor to aid in resolving cases of identical prices.
8. **SPECIFICATIONS:** Any deviation from specifications indicated herein must be clearly pointed out; otherwise, it will be considered that items offered are in strict compliance with these specifications, and bidder will be held responsible therefore. Deviations shall be explained in detail. **The bidder shall not construe this paragraph as inviting deviation or implying that any deviation will be acceptable.**
9. **INFORMATION AND DESCRIPTIVE LITERATURE:** Bidder is to furnish all information requested and in the spaces provided in this document. Further, if required elsewhere in this bid, each bidder must submit with their bid sketches, descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous bid will not satisfy this provision. Bids which do not comply with these requirements will be subject to rejection.
10. **RECYCLING AND SOURCE REDUCTION:** It is the policy of this State to encourage and promote the purchase of products with recycled content to the extent economically practicable, and to purchase items which are reusable, refillable, repairable, more durable, and less toxic to the extent that the purchase or use is practicable and cost-effective.  
We also encourage and promote using minimal packaging and the use of recycled/recyclable products in the packaging of commodities purchased. However, no sacrifice in quality of packaging will be acceptable. The company remains responsible for providing packaging that will protect the commodity and contain it for its intended use.  
Companies are strongly urged to bring to the attention of purchasers those products or packaging they offer which have recycled content and that are recyclable.
11. **CLARIFICATIONS/INTERPRETATIONS:** Any and all questions regarding this document must be addressed to the purchaser named on the cover sheet of this document. Do not contact the user directly. Any and all revisions to this document shall be made only by written addendum from the Division of Purchase and Contract. The bidder is cautioned that the requirements of this bid can be altered only by written addendum and that verbal communications from whatever source are of no effect.
12. **ACCEPTANCE AND REJECTION:** The State reserves the right to reject any and all bids, to waive any informality in bids and, unless otherwise specified by the bidder, to accept any item in the bid. If either a unit price or extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded.
13. **REFERENCES:** The State reserves the right to require a list of users of the exact item offered. The State may contact these users to determine acceptability of the bid. Such information may be considered in the evaluation of the bid.

**14. TAXES:**

- **FEDERAL:** All agencies participating in this contract are exempt from Federal Taxes, such as excise and transportation. Exemption forms submitted by the contractor will be executed and returned by the using agency.
- **OTHER:** Prices offered are not to include any personal property taxes, nor any sales or use tax (or fees) unless required by the North Carolina Department of Revenue.

15. **AWARD OF CONTRACT:** As directed by statute, qualified bids will be evaluated and acceptance may be made of the lowest and best bid most advantageous to the State as determined upon consideration of such factors as: prices offered; the quality of the articles offered; the general reputation and performance capabilities of the bidders; the substantial conformity with the specifications and other conditions set forth in the bid; the suitability of the articles for the intended use; the related services needed; the date or dates of delivery and performance; and such other factors deemed by the State to be pertinent or peculiar to the purchase in question. After the foregoing evaluation, the bids will be reviewed to determine if there are any North Carolina resident bidders that submitted responsive bids and requested the price-matching preference pursuant to Executive Order #50 and G.S. § 143-59. If such bidders are found, the evaluators and/or purchaser will then determine whether any of the North Carolina resident bidders qualify for this preference and, if so, make the contract award pursuant to Paragraph 23 below.

Unless otherwise specified by the State or the bidder, the State reserves the right to accept any item or group of items on a multi-item bid.

In addition, on TERM CONTRACTS, the State reserves the right to make partial, progressive or multiple awards: where it is advantageous to award separately by items; or where more than one supplier is needed to provide the contemplated requirements as to quantity, quality, delivery, service, geographical areas; other factors deemed by the State to be pertinent or peculiar to the purchase in question.

16. **HISTORICALLY UNDERUTILIZED BUSINESSES:** Pursuant to General Statute 143-48 and Executive Order #150, the State invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled.
17. **CONFIDENTIAL INFORMATION:** As provided by statute and rule, the Division of Purchase and Contract will consider keeping trade secrets which the bidder does not wish disclosed confidential. Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL" by the bidder. Cost information shall not be deemed confidential. In spite of what is labeled as a trade secret, the determination whether it is or not will be determined by North Carolina law.
18. **SAMPLES:** Sample of items, when required, must be furnished as stipulated herein, free of expense, and if not destroyed will, upon request be returned at the bidder's expense. Request for the return of samples must be made within 10 days following date of bid opening. Otherwise the samples will become State property. Each individual sample must be labeled with the bidder's name, bid number, and item number. A sample on which an award is made, will be retained until the contract is completed, and then returned, if requested, as specified above.
19. **PROTEST PROCEDURES:** When a bidder wants to protest a contract awarded by the Secretary of Administration or by an agency over \$25,000 resulting from this solicitation, they must submit a written request to the State Purchasing Officer at Purchase and Contract, 1305 Mail Service Center, Raleigh, NC 27699-1305. This request must be received in the Division of Purchase and Contract within thirty (30) consecutive calendar days from the date of the contract award. When a bidder wants to protest a contract awarded by an agency or university resulting from this solicitation that is over \$10,000 but less than \$25,000 for any agency, or any contract awarded by a university, they must submit a written request to the issuing procurement officer at the address of the issuing agency. This request must be received in that office within thirty (30) consecutive calendar days from the date of the contract award. Protest letters must contain specific reasons and any supporting documentation for the protest. Note: Contract award notices are sent only to those actually awarded contracts, and not to every person or firm responding to this solicitation. Bid status and Award notices are posted on the Internet at <http://www.pandc.nc.gov/>. All protests will be handled pursuant to the North Carolina Administrative Code, Title 1, Department of Administration, Chapter 5, Purchase and Contract, Section 5B.1519. (See Protest Information at <http://www.pandc.nc.gov/protests.pdf> for more information.)

If a ground of a protest is based on a challenge to the qualification of a North Carolina resident bidder awarded a contract pursuant to Executive Order #50 (price-matching preference), the State Purchasing Officer or procurement officer may request the North Carolina resident bidder to produce documentation substantiating the North Carolina resident bidder's qualification for the subject preference. The State Purchasing Officer or procurement officer should request the supporting documentation within the 10-day period he or she has to make the decision on whether to deny or grant a protest meeting and the protest meeting should be scheduled after the anticipated receipt of the documents from the North Carolina resident bidder. Pursuant to Paragraph 23 below, the North Carolina resident bidder is required to produce to the State the requested documentation within five (5) business days of the State's request and failure to produce the documents by the end of that time period may result in the cancellation of the contract. Also note that any tax, financial, accounting or banking documents the North Carolina resident bidder submits to the State in connection with the resolution of a protest shall not be disclosed to the protester pursuant to G.S. §§ 132-1.1 and 105-259(b) and the State shall preserve the confidentiality of such documents.

20. **MISCELLANEOUS:** Masculine pronouns shall be read to include feminine pronouns, and the singular of any word or phrase shall be read to include the plural and vice versa.

21. **RECIPROCAL PREFERENCE:** G.S. 143-59 establishes a reciprocal preference law to discourage other states from applying in-state preferences against North Carolina's resident bidders. The "Principal Place of Business" is defined as the principal place from which the trade or business of the bidder is directed or managed.
22. **CONFIDENTIALITY OF BIDS:** In submitting its bid, the bidder agrees not to discuss or otherwise reveal the contents of its bid to any source outside of the using or issuing agency, government or private, until after the award of the contract. All bidders are advised that they are not to have any communications with the using or issuing agency during the evaluation of the bids (i.e., after the public opening of the bids and before the award of the contract), unless the State's purchaser contacts the bidder(s) for purposes of seeking clarification. A bidder shall not: transmit to the issuing and/or using agency any information commenting on the ability or qualifications of any other bidder to provide the advertised good, equipment, commodity; defects, errors and/or omissions in any other bidder's bid and/or prices at any time during the procurement process; and/or engage in any other communication or conduct attempting to influence the evaluation and/or award of the contract that is the subject of this IFB. Bidders not in compliance with this provision may be disqualified, at the option of the State, from the contract award. Only those communications with the using agency or issuing agency authorized by this IFB are permitted.
23. **EXECUTIVE ORDER #50-PRICE-MATCHING PREFERENCE:** Pursuant to North Carolina General Statute § 143-59 (G.S. § 143-59) and Executive Order No. 50 issued by Governor Perdue on February 17, 2010, entitled "Enhanced Purchasing Opportunities for North Carolina Businesses," a price-matching preference may be given to North Carolina resident bidders on contracts for the purchase of goods. This preference will allow a qualified North Carolina resident bidder to match the price of the lowest responsible nonresident bidder, if the North Carolina resident bidder's price is within five percent (5%) or \$10,000, whichever is less, of the non-resident bidder's price. G.S. § 143-59(c) (1) defines a "resident bidder" as a "bidder that has paid unemployment taxes or income taxes in this State and whose principal place of business is located in this State. G.S. § 143-59(c)(2) defines a nonresident bidder as a bidder that does not meet the definition in G.S. § 143-59(c)(1). G.S. § 143-59(c)(3) defines a "principal place of business" as the "principal place from which the trade or business of the bidder is directed or managed."

In order to qualify for this preference, a resident bidder must: (1) request the preference; and (2) complete "Resident Bidder's Certification for Price-Matching Preference under Executive Order #50" (hereinafter the "Certification") included at the end of this solicitation. The Certification may not be submitted after the public opening of the bids. By executing the Certification, the bidder agrees to provide any additional information or documentation requested by the State to confirm the above certifications and statements within five (5) business days of request (including tax filings, banking statements, financial and accounting statements reflecting Bidder's payment of the subject taxes and such other information regarding bidder's management or directors of its business or trade of its principal place of business).

The State will evaluate the bids in accordance with the award criteria stated in this IFB to determine the lowest responsible bidder. If the lowest responsible bidder is a North Carolina resident bidder, then there will be no consideration of the price-matching preference. If the lowest responsible bid was submitted by nonresident bidder and there are no North Carolina resident bidders that submitted a bid price that was within 5% or \$10,000 of the nonresident bidder's price, then none of the North Carolina resident bidders qualified for the price-matching preference and no review of the Resident Bidder's Certifications is required.

If the lowest responsible bid was submitted by nonresident bidder and there are one or more North Carolina resident bidders that submitted a bid price that was within 5% or \$10,000 of the nonresident bidder's price, then the evaluators shall review the Certification(s) of the resident bidder(s) to determine whether the resident bidders have certified compliance with G.S. § 143-59(c)(1), (3) and the information and documentation provided in or with the Certification supports the resident bidder(s) certifications. The evaluators may seek clarification of the certifications and/or information in a resident bidder's Certification and request documentation (including but not limited to income tax or unemployment tax returns, reports and/or filing (annual and/or quarterly); banking statements or financial/accounting statements reflecting bidder's payment of income taxes or unemployment taxes to the State of North Carolina and such other information regarding bidder's management or directors of its business or trade of its principal place of business.). If the resident bidder's Certification for the price-matching is challenged in a bid protest, the resident bidder shall provide the foregoing information and/or documents to the State within five (5) business days of receiving a request from the State for such information and/or documentation. Pursuant to G.S. §§ 132-1.1, 105-259(b) and Paragraph 17 of the Instructions to Bidders, the State is prohibited from making public disclosures of the bidder's tax information and documents (except if one of the 39 exceptions applies in G.S. § 105-259(b)) and the State shall preserve the confidentiality of the tax information and/or documents received in response to a request for clarification (or, as discussed below, to resolve a bid protest challenging resident bidder's qualification for the price-matching preference). In order to further preserve the confidentiality of bidder's tax information and documentation provided the State, the bidder shall comply with Paragraph 17 of the Instructions to Bidders and mark "CONFIDENTIAL" at the top and bottom of each page of the information and documentation. After review of the Certification(s) and any clarification, the evaluators shall include in their recommendation for award a finding that the North Carolina resident bidder(s) was or was not qualified for the price-matching preference.

If more than one North Carolina resident bidder qualified for the price-matching preference, then the evaluators, purchaser, or procurement specialist shall prioritize the qualified North Carolina resident bidders according to their original bid prices, from lowest to highest, so that qualified North Carolina resident bidder that submitted the lowest bid should get the first opportunity to match the bid price of the nonresident lowest responsible bidder. If the lowest responsible and qualified North Carolina resident bidder declines to accept contract award, then the contract should be offered to the next lowest qualified North Carolina resident bidder and to continue in this manner until either a qualified North Carolina resident bidder accepts to contract award or the award is made to nonresident bidder if no qualified North Carolina resident bidder accepted the award. If two responsible North Carolina

resident bidders qualify for the price-matching preference, both had the same bid price, then the evaluators, purchaser or procurement specialist may: (1) consider the information provided in these bidders' Certifications or publicly available information to determine which bidder the contract award would have a greater impact of stimulating or sustaining the North Carolina economy and/or is most likely to create or save jobs (e.g., if the choice is between a resident broker and a resident manufacturer of the subject goods, then the contract should be awarded to the resident manufacturer); (2) consider the unemployment rate in the municipality or county where each bidder's principal place of business is located; or (3) seek clarification from the bidders to ascertain the impact on their respective businesses if offered the award of the contract.

If the resident bidder requests and qualifies for the price-matching preference, the resident bidder will first be offered the contract award and it will have three (3) business days to accept or decline the award based on the lowest responsible nonresident bidder's price

If at any time during or after the procurement process (including but not limited to clarifications and resolution of bid protests), the State determines that: the certifications or information in the Certification were false, substantially inaccurate, materially misleading; or the Bidder failed to provide, within the specified time period, the information and documentation the State requested, then the State may:

- (1) Cancel the resident bidder's contract and/or purchase order that was awarded based on the price-matching preference and resident bidder shall be liable for all its cost it incurs as a result of the cancellation and all increased costs of the State may incur by awarding the contract to the next lowest bidder;
- (2) Bidder will not be entitled to any price-matching preference in any future State bidding opportunities;
- (3) Action may be taken against the contractor under the False Claims Act, G.S. § 1-605 through 1-617, inclusive, for submitting a false Certification for the price-matching preference under Executive Order #50 (including but not limited to treble damages and civil penalties); and/or
- (4) Debar Bidder from doing business with the State of North Carolina for a period determined by the State Purchasing Officer and/or Board of Award.

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**NORTH CAROLINA GENERAL CONTRACT TERMS AND CONDITIONS**INTERNET ADDRESS – <http://www.pandc.nc.gov/>

1. **DEFAULT AND PERFORMANCE BOND:** In case of default by the contractor, the State may procure the articles or services from other sources and hold the contractor responsible for any excess cost occasioned thereby. The State reserves the right to require performance bond or other acceptable alternative guarantees from successful bidder without expense to the State.

**The contractor shall be in default, if its Certification submitted for a price-matching preference under Executive Order #50 and G.S. § 143-59 was false and/or contained materially misleading or inaccurate information, and/or contractor failed to provide information and documentation requested by the State to substantiate contractor's Certification.**

In addition, in the event of default by the Contractor under this contract, the State may immediately cease doing business with the Contractor, immediately terminate for cause all existing contracts the State has with the Contractor, and de-bar the Contractor from doing future business with the State. The State may take action against the contractor under the False Claims Act, G.S. § 1-605 through 1-617, inclusive, for submitting a false Certification for the price-matching preference under Executive Order #50 (including but not limited to treble damages and civil penalties).

Upon the Contractor filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Contractor, the State may immediately terminate, for cause, this contract and all other existing contracts the Contractor has with the State, and de-bar the Contractor from doing future business with the State.

2. **GOVERNMENTAL RESTRICTIONS:** In the event any Governmental restrictions are imposed which necessitate alteration of the material, quality, workmanship or performance of the items offered prior to their delivery, it shall be the responsibility of the contractor to notify, in writing, the issuing purchasing office at once, indicating the specific regulation which required such alterations. The State reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the contract.
3. **AVAILABILITY OF FUNDS:** Any and all payments to the contractor are dependent upon and subject to the availability of funds to the agency for the purpose set forth in this agreement.
4. **TAXES:** Any applicable taxes shall be invoiced as a separate item.

G.S. 143-59.1 bars the Secretary of Administration from entering into contracts with vendors if the vendor or its affiliates meet one of the conditions of G. S. 105-164.8(b) and refuse to collect use tax on sales of tangible personal property to purchasers in North Carolina. Conditions under G. S. 105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the State that solicit sales or transact business on behalf of the vendor and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the bid document the vendor certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.

5. **SITUS:** The place of this contract, its situs and forum, shall be North Carolina, where all matters, whether sounding in contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined.
6. **GOVERNING LAWS:** This contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina.
7. **INSPECTION AT CONTRACTOR'S SITE:** The State reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a prospective contractor prior to contract award, and during the contract term as necessary for the State's determination that such equipment/item, plant or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the contract.
8. **PAYMENT TERMS:** Payment terms are Net not later than 30 days after receipt of correct invoice or acceptance of goods, whichever is later. The using agency is responsible for all payments to the contractor under the contract. Payment by some agencies may be made by procurement card and it shall be accepted by the contractor for payment if the contractor accepts that card (Visa, Mastercard, etc.) from other customers. If payment is made by procurement card, then payment may be processed immediately by the contractor.
9. **AFFIRMATIVE ACTION:** The contractor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or disability.
10. **CONDITION AND PACKAGING:** Unless otherwise provided by special terms and conditions or specifications, it is understood and agreed that any item offered or shipped has not been sold or used for any purpose and shall be in first class condition. All containers/packaging shall be suitable for handling, storage or shipment.
11. **STANDARDS:** All manufactured items and/or fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving a connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate state inspector which customarily requires the label or re-examination listing or

identification marking of the appropriate safety standard organization; such as the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and /or National Electrical Manufacturers' Association for electrically operated assemblies; or the American Gas Association for gas operated assemblies, where such approvals of listings have been established for the type of device offered and furnished. Further, all items furnished shall meet all requirements of the Occupational Safety and Health Act (OSHA), and state and federal requirements relating to clean air and water pollution.

12. **PATENT:** The contractor shall hold and save the State, its officers, agents and employees, harmless from liability of any kind, including costs and expenses, on account of any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this contract, including use by the government.
13. **ADVERTISING:** Contractor agrees not to use the existence of this contract or the name of the State of North Carolina as part of any commercial advertising.
14. **ACCESS TO PERSONS AND RECORDS:** The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7.
15. **ASSIGNMENT:** No assignment of the contractor's obligations nor the contractor's right to receive payment hereunder shall be permitted.  
However, upon written request approved by the issuing purchasing authority and solely as a convenience to the contractor, the State may:
  - a. Forward the contractor's payment check directly to any person or entity designated by the contractor, and
  - b. Include any person or entity designated by contractor as a joint payee on the contractor's payment check.In no event shall such approval and action obligate the State to anyone other than the contractor and the contractor shall remain responsible for fulfillment of all contract obligations.
16. **INSURANCE:**

**COVERAGE** - During the term of the contract, the contractor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract. As a minimum, the contractor shall provide and maintain the following coverage and limits:

  - a. **Worker's Compensation** - The contractor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$150,000.00, covering all of contractor's employees who are engaged in any work under the contract. If any work is sublet, the contractor shall require the subcontractor to provide the same coverage for any of his employees engaged in any work under the contract.
  - b. **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$500,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)
  - c. **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the contract. The minimum combined single limit shall be \$150,000.00 bodily injury and property damage; \$150,000.00 uninsured/under insured motorist; and \$1,000.00 medical payment.

**REQUIREMENTS:** Providing and maintaining adequate insurance coverage is a material obligation of the contractor and is of the essence of this contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The contractor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this contract. The limits of coverage under each insurance policy maintained by the contractor shall not be interpreted as limiting the contractor's liability and obligations under the contract.
17. **YEAR 2000 COMPLIANCE/WARRANTY:** Vendor shall ensure the product(s) and service(s) furnished pursuant to this agreement ("product" shall include, without limitation, any piece of equipment, hardware, firmware, middleware, custom or commercial software, or internal components, subroutines, and interfaces therein) which perform any date and/or time data recognition function, calculation, or sequencing, will support a four digit year format, and will provide accurate date/time data and leap year calculations on and after December 31, 1999, at the same level of functionality for which originally acquired without additional cost to the user. This warranty shall survive termination or expiration of the agreement.
18. **GENERAL INDEMNITY:** The contractor shall hold and save the State, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the contractor in the performance of this contract and that are attributable to the negligence or intentionally tortious acts of the contractor provided that the contractor is notified in writing within 30 days that the State has knowledge of such claims. The contractor represents and warrants that it shall make no claim of any kind or nature against the State's agents who are involved in the delivery or processing of contractor goods to the State. The representation and warranty in the preceding sentence shall survive the termination or expiration of this contract.
19. **ELECTRONIC PROCUREMENT (APPLIES TO ALL CONTRACTS THAT INCLUDE E-PROCUREMENT AND ARE IDENTIFIED AS SUCH IN THE BODY OF THE SOLICITATION DOCUMENT):** Purchasing shall be conducted through the Statewide E-Procurement Service. The State's third party agent shall serve as the Supplier Manager for this E-Procurement Service. The contractor shall register for the Statewide E-Procurement Service within two (2) business days of notification of award in order to receive an electronic purchase order resulting from award of this contract.

**THE SUCCESSFUL BIDDER(S) SHALL PAY A TRANSACTION FEE OF 1.75% (.0175) ON THE TOTAL DOLLAR AMOUNT (EXCLUDING SALES TAXES) OF EACH PURCHASE ORDER ISSUED THROUGH THE STATEWIDE E-PROCUREMENT SERVICE**

This applies to all purchase orders, regardless of the quantity or dollar amount of the purchase order. The transaction fee shall not be stated or included as a separate item on the invoice. There are no additional fees or charges to the contractor for the services rendered by the Supplier Manager under this contract. Contractor will receive a credit for transaction fees they paid for the purchase of any item(s) if an item(s) is returned through no fault of the contractor. Transaction fees are non-refundable when an item is rejected and returned, or declined, due to the contractor's failure to perform or comply with specifications or requirements of the contract.

Contractor or its Authorized Reseller, as applicable, will be invoiced monthly for the State's transaction fee by the Supplier Manager. The transaction fee shall be based on purchase orders issued for the prior month. Unless Supplier Manager receives written notice from the Contractor identifying with specificity any errors in an invoice within thirty (30) days of the receipt of invoice, such invoice shall be deemed to be correct and Contractor shall have waived its right to later dispute the accuracy and completeness of the invoice. Payment of the transaction fee by the Contractor is due to the account designated by the State within thirty (30) days after receipt of the correct invoice for the transaction fee, which includes payment of all portions of an invoice not in dispute. Within thirty (30) days of the receipt of invoice, contractor may request in writing an extension of the invoice payment due date for that portion of the transaction fee invoice for which payment of the related goods by the governmental purchasing entity has not been received by the Contractor. If payment of the transaction fee is not received by the State within this payment period, it shall be considered a material breach of contract. The Supplier Manager shall provide, whenever reasonably requested by the contractor in writing (including electronic documents), supporting documentation from the E-Procurement Service that accounts for the amount of the invoice.

The Supplier Manager will capture the order from the State approved user, including the shipping and payment information, and submit the order in accordance with the E-Procurement Service. Subsequently, the Supplier Manager will send those orders to the appropriate contractor on State Contract. The State or State approved user, not the Supplier Manager, shall be responsible for the solicitation, bids received, evaluation of bids received, award of contract, and the payment for goods delivered.

Contractor agrees at all times to maintain the confidentiality of its user name and password for the Statewide E-Procurement Services. If a contractor is a corporation, partnership or other legal entity, then the contractor may authorize its employees to use its password. Contractor shall be responsible for all activity and all charges by such employees. Contractor agrees not to permit a third party to use the Statewide E-Procurement Services through its account. If there is a breach of security through the contractor's account, contractor shall immediately change its password and notify the Supplier Manager of the security breach by e-mail. Contractor shall cooperate with the State and the Supplier Manager to mitigate and correct any security breach.

20. **ELECTRONIC PROCUREMENT (APPLIES ONLY TO STATEWIDE TERM CONTRACTS):** Within ten (10) calendar days of notice, the contractor shall provide supplier information, contract pricing and other product-related information requested by the State or the Supplier Manager. This information shall include such information as contractor name, SKU, brand/manufacturer, product name and a brief description, unit of measure, price, and other similar information properly requested by the State or the Supplier Manager to facilitate purchasing from the contract. This information shall be posted by the contractor in the format provided by the Supplier Manager, or as otherwise provided in a template or format required by the State. No costs or expenses associated with providing this information shall be charged to the State, its agents (including Supplier Manager) or State approved users of the contract. For the purposes of this contract, the contractor warrants that it is authorized and empowered to and hereby grants the State and the Supplier Manager the right and license to use, reproduce, transmit, distribute and publicly display this information. In addition, for the purposes of this contract, the contractor warrants that it is authorized and empowered to and hereby grants the State and the Supplier Manager the right and license to reproduce and display contractor's trademarks, service marks, logos, trade dress or other branding designation that identifies the goods available under the contract. The Supplier Manager shall create and maintain, with contractor's timely assistance, web-based placement of contract information, where appropriate, that includes the contract items distributed by the contractor within the appropriate contract categories. The State shall provide any price adjustment/product modification information that it has approved during the course of the contract, to the Supplier Manager immediately upon such change.

If the contractor is not the manufacturer, then it shall be the contractor's responsibility to obtain authorization from the manufacturer to comply with the provisions of this contract, including any appropriate intellectual property rights of the manufacturer. If the contractor is the manufacturer, then the manufacturer shall only authorize dealers, outlets, distributors, value added resellers, etc. (together, "Authorized Resellers") within their network that can comply with the provisions of this contract.

**CONTRACTOR IS AND SHALL REMAIN RESPONSIBLE FOR PAYING THE TRANSACTION FEE ON BEHALF OF ITS AUTHORIZED RESELLERS IN THE EVENT THAT THE AUTHORIZED RESELLER(S) DEFAULTS.**

21. **CANCELLATION (TERM CONTRACTS ONLY):** All contract obligations shall prevail for at least 90 days after the effective date of the contract. After that period, in addition to the provisions of the paragraph entitled Price Adjustments, for the protection of both parties, this contract may be canceled in whole or in part by either party by giving 30 days prior notice in writing to the other party.

**CANCELLATION (EXECUTIVE ORDER #50 CONTRACTS):** A contract awarded to a North Carolina resident bidder pursuant to Executive Order #50 and G.S. § 143-59 may be cancelled by the State, if the State determines that the Bidder's certification or information in Resident Bidder's Certification for Price-Matching Preference under Executive Order #50 is false, materially inaccurate or misleading. The contractor shall bear all losses and liability resulting from the cancellation of the contract and/or any purchase order and the contractor shall be liable for any additional costs the State may incur by contracting with another supplier of the goods or equipment.

22. **QUANTITIES (TERM CONTRACTS ONLY):** The award of a term contract neither implies nor guarantees any minimum or maximum purchases thereunder.

23. **PRICE ADJUSTMENTS (TERM CONTRACTS ONLY):** Any price changes, downward or upward, which might be permitted during the contract period must be general, either by reason of market change or on the part of the contractor to other customers.

a. **Notification:** Must be given to the issuing purchasing authority, in writing, concerning any proposed price adjustments. Such notification shall be accompanied by copy of manufacturer's official notice or other acceptable evidence that the change is general in nature.

b. **Decreases:** The State shall receive full proportionate benefit immediately at any time during the contract period.

c. **Increases:** All prices shall be firm against any increase for 180 days from the effective date of the contract. After this period, a request for increase may be submitted with the State reserving the right to accept or reject the increase, or cancel the contract. Such action by the State shall occur not later than 15 days after the receipt by the State of a properly documented request for price increase. Any increases accepted shall become effective not later than 30 days after the expiration of the original 15 days reserved to evaluate the request for increase.

d. **Invoices:** It is understood and agreed that orders will be shipped at the established contract prices in effect on dates orders are placed. Invoicing at variance with this provision will subject the contract to cancellation. Applicable North Carolina sales tax shall be invoiced as a separate item.

24. **By Executive Order 24**, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor ( i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Office of the Governor and Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, and Transportation). This prohibition covers those vendors and contractors who:

- (1) have a contract with a governmental agency; or
- (2) have performed under such a contract within the past year; or
- (3) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and G.S. Sec. 133-32.

Executive Order 24 also encouraged and invited other State Agencies to implement the requirements and prohibitions of the Executive Order to their agencies. Vendors and contractors should contact other State Agencies to determine if those agencies have adopted Executive Order 24.