

## **STAFF REPORT**

**To:** Coastside County Water District Board of Directors

**From:** James Derbin, Superintendent of Operations

**Via:** Dave Dickson, General Manager

**Agenda:** October 15, 2019

**Date:** October 11, 2019

**Subject:** Denniston Water Treatment Plant and Pump Station Standby Generators Project Procurement of Equipment

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### **Recommendation:**

Authorize the General Manager to purchase two standby generators with Automatic Transfer Switches for the Denniston Water Treatment Plant and Booster Pump Station for a not-to-exceed amount of \$213,000.

### **Background:**

In March 2019, the Board approved a professional services agreement with TJC and Associates (TJCAA) for \$50,000 for design, engineering and bid documentation services to procure and install two standby generators with Automatic Transfer Switches (ATS) at the Denniston Water Treatment Plant (WTP) and Booster Pump Station. This project will better prepare the District to be able to run the Denniston WTP during an extended power outage.

The engineering procurement specifications and design work were recently completed, and staff has solicited bids for procuring the generators and ATSs rather than pay the contractor markup for the equipment. This equipment has a lead time of 14-16 weeks.

Staff solicited bid pricing from Sourcewell, (Formerly NJPA), a Joint Powers Authority that serves government agencies with competitive bidding contract pricing to the member agencies for a variety of equipment and services. See Attachment A for a copy of the Cummins bid (\$213,000 including tax) and Attachment B for a copy of the Sourcewell Request for Proposals (RFP) "Comment and Review" document. Cummins West brand generators were specified for this project so they will match the generators the District currently owns and operates.

Staff plans to separately go to bid for the installation of the generators and ATSs and will bring the winning bid to the Board for approval at a future meeting. The Engineers' estimate for installation is \$200,000.

**Fiscal Impact:**

Total cost for the project is approximately \$460,000. Funding for this project is included in the District's Capital Improvement Program (approved June 2018) in the amount of \$450,000.



October 9, 2019

QUOTATION NO: 41666

## Cummins

## Attachment A

1939 Deere Ave  
Irvine, California, 92606

**Project:** Denniston WTP and Pump Station Standby Generators  
**Quotation No:** 41666

Coastside County Water District  
766 Main St  
Half Moon Bay, California, 94019

Main: 650-726-4405

Thank you for your request. We are pleased to quote as follows.

Item	Notes	Description	Qty	Unit Price	Ext Price
1	a	<b>Genset-Diesel (WTP): 60Hz,150kW</b> U.S. EPA, Stationary Emergency Application Genset-Diesel, 60Hz,150kW Duty Rating-Standby Power Listing-UL 2200 NFPA 110 Type 10 Level 1 Capable IBC Seismic Certification Seismic Anchor Calculation Emissions Certification, EPA, Tier 3, NSPS CI Stationary Emergency Enclosure-Aluminum,Sound Att,Level 2, w/Exh System Enclosure Distribution Panel, Lights, and Outlets Voltage-120/240,3 Phase,Delta,4 Wire Alternator-60Hz,12L,240/120V,120C,40C amb Generator Set Control-PowerCommand 2.3 Exciter/Regulator-Pmg, 3 Phase Sensor Engine Governor-Electronic, Isochronous Only Display Language-English Meters-AC OutputAnalog (kVA) Gauge-Oil Pressure Stop Switch-Emergency Relays-Auxiliary, Quantity 2, (25A-15V DC)/(10A-30V DC) Control Mounting-Left Facing Heater-Alternator, 120 Volt AC Load Connection-Single CB or EB or TB-Bottom Entry, Right CB,Loc A,200A-600A,3P,LSI,600VAC,100%,UL Enclosure Color-Green,Aluminum Enclosure Enclosure - Wind Load 180MPH, ASCE7-10 Fuel Tank-Regional, 2 Wall, Sub Base, 24Hr Minimum Alarm Panel-High Fuel Box-Spill Containment, 5 Gal, Lockable Extensions Kit-Fuel Tank Vents, 12 ft Mechanical Fuel Gauge Switch-Low, 40% Fuel Switch-High, 90% Fuel Separator-Fuel/Water Valve-Fuel Tank, Over Fill Protection, 95% Switch-Fuel Tank, Rupture Basin, Installed Skidbase-Housing Ready Engine Starter - 12 VDC Motor Battery Charging Alternator-Normal Output Engine Cooling-High Ambient Air Temperature Shutdown-Low Coolant Level Extension-Engine Coolant Drain Engine Coolant-50% Antifreeze, 50% Water Mixture Coolant Heater, Cold Ambient Engine Air Cleaner-Normal Duty Engine Oil Test Record-Safety Shutdowns Test Record-Certified Test-Varied Load,2hour,2 Step	1		



Item	Notes	Description	Qty	Unit Price	Ext Price
		Test Record-Strip Chart Genset Warranty- Base Literature-English Packing-Skid, Poly Bag Ship Loose-Green SL2 Baffle Ship Loose- Vent Kit A Rack-Battery Extension-Oil Drain Annunciator-Panel Mount With Enclosure (RS485) Battery Charger-10Amp,120/208/240VAC,12/24V,50/60Hz BATTERY GROUP 4D: C4D KIT,FUEL SYSTEM KIT,ENCLOSURE (SL2 Duct) O & M manuals Spare Parts Freight			
2	a	<b>Diesel Genset (PS): 60Hz-250kW</b> U.S. EPA, Stationary Emergency Application Genset-Diesel,60Hz,250kW Duty Rating-Standby Power Listing-UL 2200 Certification-Seismic, IBC2000, IBC2003, IBC2006, IBC2009, IBC2012 Seismic Anchor Calculation Emissions Certification, EPA, Tier 3, NSPS CI Stationary Emergency Enclosure-Steel,SndAtt,Level 2,Base Mtd,w/ExhSys Voltage-277/480,3 Phase,Wye,4 Wire Alternator-60 Hz, 12 Lead, Limited Range, 125/105C Generator Set Control-PCC 2100 Exciter/Regulator-Pmg, 3 Phase Sensor Engine Governor-Electronic, Isochronous Only Display Language-English Display-Control,Graphical Meters-AC Output,Analog Stop Switch-Emergency Alarm-Audible, Engine Shutdown Control Mounting-Left Facing Heater-Alternator, 120 Volt AC CB or EB or TB-Right Only Circuit Breaker-600A,Right CB on Right side,3-Pole, UL 600,IEC 690, 100% CB or EB or TB-Bottom Entry, Right Enclosure Color-Green,Steel Enclosure Listing, ULC-S601-07 Distribution Panel-Prewired AC Features ServiceReceptacle-120V,20A,ExternalGFCI,NEMA 5-20R Enclosure Lighting Alarm-High Fuel Fill Separator-Fuel/Water Engine Starter-24 VDC Motor Battery Charging Alternator-Normal Output Engine Cooling-High Ambient Air Temperature Shutdown-Low Coolant Level Engine Coolant-50% Antifreeze, 50% Water Mixture Coolant Heater-120 Volt Ac, Single Phase Engine Air Cleaner-Normal Duty Engine Oil Test Record-Strip Chart Test-Variied Load,2hour,2 Step Test Record-Safety Shutdowns Test Record-Certified Test - Witness Genset Warranty- Base Literature-English Packing-None, Base Mounted Housing Annunciator-Panel Mounted With Enclosure (RS485) Battery Charger-10Amp,120/208/240VAC,12/24V,50/60Hz	1		



Item	Notes	Description	Qty	Unit Price	Ext Price
		BATTERY GROUP 34: C34-HC O & M manuals Fuel Tank-Subbase,500 Gallon,UL142 Compliant Spare Parts Spill Bucket, 5 Gal Round, Internal, No Lid Freight Fuel Tank Vent Extension Fuel Overfill Prevention System, 24VDC gensets, audible & shutoff			
3	a	<b>ATS-A: 600A</b> Transfer Switch-Onan,PwrCmd,600 Amp Application-Utility To Genset Listing-UL 1008/CSA Certification Certificate-IBC Seismic Frequency-60 Hertz System-3 Phase,3 Wire Or 4 Wire Voltage-480 Vac Cabinet-Type 4X Stainless Display-Digital Module-Relay Signal Transfer Switch Warranty - Yr 0-2: Parts, Labor and Travel; Yr 3-5: Parts Only; Yr 6-10: Main Contacts Only Poles-4 Control-Transfer Switch,Level 2 Interface-Communications Network,FTT-10	1		
4	a	<b>ATS-B: 400A</b> Application-Utility To Genset Listing-UL 1008/CSA Certification Certificate-IBC Seismic Frequency-60 Hertz System-3 Phase,3 Wire Or 4 Wire Voltage-240 Vac Cabinet-Type 4X Stainless Display-Digital Module-Relay Signal Transfer Switch Warranty - Yr 0-2: Parts, Labor and Travel; Yr 3-5: Parts Only; Yr 6-10: Main Contacts Only Transfer Switch-Onan,PwrCmd,400 Amp Poles-4 Control-Transfer Switch,Level 2 Interface-Communications Network,FTT-10	1		
5	e	<b>Start &amp; Test</b> 150 C150D6D:PS 24 Hour Tank Test, WTP 24 Hour Tank Test, PS Operator Training, WTP Operator Training, Pre Start & Test, Install Batteries (grp 31 down), Start & Test, 2 Hour Load Bank Test, Fuel Tank Test 250 DQDAA:Pre Start & Test, Install Batteries (grp 4D up), Start & Test, 2 Hour Load Bank Test, Fuel Tank Test	1 1		
6	-	<b>Preventative Maintenance Agreement</b> Semi-Annual Maintenance 2 Years Contract Product Under PMA 150 C150D6D 250 DQDAA	1    1 1		

**Grand Total: \$194,954.00**  
Total Does Not Include Sales Tax

### Cummins Terms & Conditions

### NOTES

Please use this as a reference for the "note" column in the quote.

a. Factory Assembled.



- b. Assemble at Cummins facility.
- c. Shipped loose items. Assemble/Install by Cummins at Job Site.
- d. Shipped loose items. Assemble/Install by customer at Job Site.
- e. Start and Test performed by Cummins.
- f. Start and Test performed by customer.

This quote is based on written specifications Sections 263200 & 263623, and single line diagram E-2, with the following exceptions and clarifications.

## EXCEPTIONS

Offloading, installation, permits, fuel, and fuel for testing are to be provided by others.

1.1,A,9: Storage at Cummins facility is limited to six months. Any additional storage will incur storage fees to be paid by the customer.

1.6,B: Cummins takes exception to this section. Inspection will occur after EC installs generator during "Pre Start & Test". Installation Assistance is not included, as we are not contractors. Additionally this will add unnecessary cost to the customer without bringing value. Four hours of training is set for each generator; this is sufficient to instruct owner's operation.

1.7,A: Specifications are not clear on service interval. Cummins offers semi annual service for two years.

1.10,A: DPF Spare parts are not included.

1.12: Signs are to be provided by others.

2.4,A: Spill buckets are five gallon.

2.4,A: Fuel tank pressure test will be conducted on site, after installation; not at Cummins facility.

2.4,B: Batteries are lead acid type.

2.4,I: Generator enclosure for WTP is aluminum.

2.5,1: Controls are inside generator enclosure.

3.1: Witness testing not available for WTP generator.

3.2: Cummins takes exception to this section entirely. Our shops in California are not set up to perform the specified tests. Quality tests will be performed at Cummins factory in Fridley MN as described in section 3.1.

## ADDERS:

150kW Diesel Particulate Filter: Add \$51,500\*

250kW Diesel Particulate Filter: Add \$63,550\*

\*If a DPF is needed, lead time will increase by two weeks.

## INTERNATIONAL BUILDING CODE (IBC) CERTIFICATION

The products in this quotation identified as meeting the requirements of the 2009 IBC have been certified by their respective manufactures via a combination of analytical testing and shaker table testing. Not all products have been shaker table tested.

## OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT (OSHPD)

OSHPD seismic requirements are continuing to evolve. Please contact Cummins for the most current requirements for meeting OSHPD applications.

## SELECTIVE COORDINATION FOR NATIONAL ELECTRIC CODE (NEC) ARTICLE 700 AND 701 LOADS

Cummins generators are equipped with the manufacturer's recommended circuit breaker. Information regarding this device can be supplied upon request. This quotation is not valid if any changes to this circuit breaker(s) is required to coordinate with other devices in the electrical distribution system. If changes are required, the customer must provide a copy of the coordination study listing the manufacturers part number of the disconnect device to be supplied with the generator and a revised quotation will be issued

## TRANSFER SWITCH WITHSTAND AND CLOSE RATINGS



Transfer switch(es), if included in this quotation, require a withstand and closing rating (WCR) capable of meeting the available upstream fault current (kAIC). The WCR may be based on a specific breaker rating or a time-based rating, and it is the responsibility of a qualified facility designer or engineer to verify compatibility. In the event that the proposed transfer switch(es) are not compatible, the transfer switch(es) will need to be re-quoted to ensure compatibility. A full listing of the WCR can be provided upon request and will be included as part of the submittal package.

## **LEAD TIME**

### **Submittals**

Typical submittal lead time is 2 weeks after receipt of purchase order.

### **Equipment**

Current lead-time is 11-13 weeks after submittal approval and release for production.

## **CUMMINS STANDARD EXCLUSIONS**

### **Exhaust System**

All off-engine piping, hangers, flanges, gaskets, bolts, insulation, other materials and labor to install.

### **Fuel System**

All fuel piping and materials not limited to; supply, return, venting, valves, coolers, filters, pumps, fittings, primary fuel regulator, storage tank & senders, external to genset package. All fuel for testing and initial fill. Fuel tank vent extensions and flame arrestors unless specifically listed in the Bill of Materials.

### **Cooling System**

Intake louvers, exhaust louvers, air dampers, sheet metal ducting, flex adapters, sound attenuators/baffles. All off engine piping, flexible connections, labor and coolant for remote cooling systems.

### **Electrical**

All off-engine wiring, field terminations of wiring, and lugs other than those detailed in our submittal.

### **Mounting**

Mounting bolts and anchors. Vibration isolators (if included) may be shipped loose for installation at the jobsite by others. Seismic engineering calculations.

### **Electrical Testing**

Not limited to InterNational Electrical Testing Association (NETA), infrared scanning, harmonic content or other independent agency testing of switchgear, switchboards, protective relays, circuit breaker, electrical coordination studies, arc flash studies and reactive load site testing.

### **Environmental Testing**

Environmental Protection Agency (EPA), local air quality district or other Authority Having Jurisdiction (AHJ), including acoustical.

### **Programming**

All protective relay settings, breaker settings, PLC programming or other user configurable device programming.

### **Documentation**

Electronic submittals and operation and maintenance manuals will be provided. Printed copies are available upon request, additional charges may apply.

### **Miscellaneous**

Site specific labeling. Exhaust backpressure, airflow restriction or vibration analysis

### **Design**

Cummins is not responsible for system design or engineering and does not guarantee system performance standards. Cummins will supply documentation and reasonable assistance to others responsible for system engineering, design and performance.

### **Taxes and Permit**



Any applicable sales tax, permits, fees, licenses.

**Bonds**

Any bid bond, payment or performance bond or other type of bond.

All items listed above are excluded and will only be supplied by Cummins if agreed upon, in writing, by a sales representative for Cummins.

**CUMMINS STANDARD TERMS AND CONDITIONS FOR SALE OF POWER GENERATION EQUIPMENT**

Purchase Orders must be made out to 'Cummins Inc', reference the Cummins quotation number and must be acknowledged in writing by Cummins to be deemed accepted. Purchase Orders must include a requested delivery date.

These Terms and Conditions for Sale of Power Generation Equipment, together with the Quote, Sales Order, and/or Credit Application on the front side or attached hereto, are hereinafter referred to as this 'Agreement' and shall constitute the entire agreement between the customer identified in the quote ('Customer') and Cummins Inc. ('Cummins') and supersede any previous representation, statements, agreements or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. In the event of any inconsistency between this Agreement and any purchase order or document produced or delivered by Customer, the terms and conditions of this Agreement shall take precedence.

**SCOPE.** Cummins shall supply power generation equipment and any related parts, materials and/or services expressly identified in this Agreement (collectively, 'Equipment'). No additional services, parts or materials are included in this Agreement unless agreed upon by the parties in writing. Any Quote is valid for 60 days. The price is firm provided drawings are approved and returned within 60 days after submission and ship date is not extended beyond published lead times. Any delays may result in escalation charges. A Sales Order for Equipment is accepted on hold for release basis. The Sales Order will not be released and scheduled for production until written approval to proceed is received. A Quote is limited to plans and specifications section set forth in the Quote. No other sections shall apply. Additional requirements for administrative items may require additional costs. The Quote does not include off unit wiring, off unit plumbing, offloading, rigging, installation, exhaust insulation or fuel, unless otherwise stated.

**SHIPPING; DELIVERY; DELAYS.** Unless otherwise agreed in writing by the parties, Equipment shall be delivered FOB origin, freight prepaid to first destination. For consumer and mobile products, freight will be charged to Customer. Unless otherwise agreed to in writing by the parties, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. Cummins may deliver in installments. A reasonable storage fee, as determined by Cummins, may be assessed if delivery of the Equipment is delayed, deferred, or refused by Customer. Offloading, handling, and placement of Equipment and crane services are the responsibility of Customer and not included unless otherwise stated. All shipments are made within normal business hours, Monday through Friday. Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order and will be in effect after engineering drawings have been approved for production. Cummins shall use best efforts to meet estimated dates, but shall not be liable to customer or any third party for any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of Customer or any unforeseen event, circumstance, or condition beyond Cummins' reasonable control including, but not limited to, acts of God, actions by any government authority, civil strife, fires, floods, windstorms, explosions, riots, natural disasters, embargos, wars, strikes or other labor disturbances, civil commotion, terrorism, sabotage, late delivery by Cummins' suppliers, fuel or other energy shortages, or an inability to obtain necessary labor, materials, supplies, equipment or manufacturing facilities.

**PAYMENT TERMS; CREDIT; RETAINAGE.** Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of the invoice. If Customer does not have approved credit with Cummins, as solely determined by Cummins, payments are due in advance or at the time of supply of the Equipment. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay Cummins costs and expenses (including reasonable attorneys' fees) related to Cummins enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins. Retainage is not acceptable nor binding, unless required by statute or accepted and confirmed in writing by Cummins prior to shipment.

**TAXES; EXEMPTIONS.** Unless otherwise stated, the Quote excludes all applicable local, state and federal sales and/or use taxes, permits and licensing. Customer must provide a valid resale or exemption certificate prior to shipment of Equipment or applicable taxes will be added to the invoice.

**TITLE; RISK OF LOSS.** Unless otherwise agreed in writing by the parties, title and risk of loss for the Equipment shall pass to Customer upon delivery of the Equipment by Cummins to freight carrier or to Customer at pickup at Cummins facility.

**INSPECTION AND ACCEPTANCE.** Customer shall inspect the Equipment upon delivery, before offloading, for damage, defects, and shortage. Any and all claims which could have been discovered by such inspection shall be deemed absolutely and unconditionally waived unless noted by Customer on the bill of lading. Where Equipment is alleged to be non-conforming or defective, written notice of defect must be given to Cummins within three (3) days from date of delivery after which time Equipment shall be deemed accepted. Cummins shall have a commercially reasonable period of time in which to correct such non-conformity or defect. If non-conformity or defect is not eliminated to Customer's satisfaction, Customer may reject the Equipment (but shall protect the Equipment until returned to Cummins) or allow Cummins another opportunity to undertake corrective action. In the event startup of the Equipment is included in the services, acceptance shall be deemed to have occurred upon successful startup.





**LIEN; SECURITY AGREEMENT.** Customer agrees that Cummins retains all statutory lien rights. To secure payment, Customer grants Cummins a Purchase Money Security Interest in the Equipment. If any portion of the balance is due to be paid following delivery, Customer agrees to execute and deliver such security agreement, financing statements, deed of trust and such other documents as Cummins may request from time to time in order to permit Cummins to obtain and maintain a perfected security interest in the Equipment; or in the alternative, Customer grants Cummins a power of attorney to execute and file all financing statements and other documents needed to perfect this security interest. Cummins may record this Agreement, bearing Customer's signature, or copy of this Agreement in lieu of a UCC-1, provided that it shall not constitute an admission by Cummins of the applicability or non-applicability of the UCC nor shall the failure to file this form or a UCC-1 in any way affect, alter, or invalidate any term, provision, obligation or liability under this Agreement. The security interest shall be superseded if Customer and Cummins enter into a separate security agreement for the Equipment. Prior to full payment of the balance due, Equipment will be kept at Customer's location noted in this Agreement, will not be moved without prior notice to Cummins, and is subject to inspection by Cummins at all reasonable times.

**CANCELLATION; CHARGES.** Orders placed with and accepted by Cummins may not be cancelled except with Cummins prior written consent. If Customer seeks to cancel all or a portion of an order placed pursuant to this Agreement, and Cummins accepts such cancellation in whole or in part, Cummins may charge Customer a cancellation charge in accordance with current Cummins policy which is available upon request, in addition to the actual, non-recoverable costs incurred by Cummins.

**MANUALS.** Unless otherwise stated, electronic submittals and electronic operation and maintenance manuals will be provided, and print copies may be available upon Customer's request at an additional cost.

**TRAINING; START UP SERVICES; INSTALLATION.** Startup services, load bank testing, and owner training are not provided unless otherwise stated. Site startup will be subject to the account being current and will be performed during regular Cummins business hours, Monday to Friday. Additional charges may be added for work requested to be done outside standard business hours, on weekends, or holidays. One visit is allowed unless specified otherwise in the Quote. A minimum of two-week prior notice is required to schedule site startups and will be subject to prior commitments and equipment and travel availability. A signed site check sheet confirming readiness will be required, and Cummins personnel may perform an installation audit prior to the startup being completed. Any issues identified by the installation audit shall be corrected at the Customer's expense prior to the start-up. Portable load banks for site test (if offered in the Quote) are equipped with only 100 feet of cable. Additional lengths may be arranged at an extra cost. Cummins is not responsible for any labor or materials charged by others associated with start-up and installation of Equipment, unless previously agreed upon in writing. Supply of fuel for start-up and/or testing, fill-up of tank after start up, or change of oil is not included unless specified in the Quote. All installation/execution work at the site including, but not limited to: civil, mechanical, electrical, supply of wall thimbles, exhaust extension pipe, elbows, hangers, expansion joints, insulation and cladding materials, fuel/oil/cooling system piping, air ducts, and louvers/dampers is not included unless specified in the Quote. When an enclosure or sub-base fuel tank (or both) are supplied, the openings provided for power cable and fuel piping entries, commonly referred to as "stub-ups", must be sealed at the site by others before commissioning. All applications, inspections and/or approvals by authorities are to be arranged by Customer.

**MANUFACTURER'S WARRANTY.** Equipment purchased hereunder is accompanied by an express written manufacturer's warranty ('Warranty') and, except as expressly provided in this Agreement, is the only warranty offered on the Equipment. A copy of the Warranty is available upon request. While this Agreement and the Warranty are intended to be read and applied in conjunction, where this Agreement and the Warranty conflict, the terms of the Warranty shall prevail.

**WARRANTY PROCEDURE.** Prior to the expiration of the Warranty, Customer must give notice of a warrantable failure to Cummins and deliver the defective Equipment to a Cummins location or other location authorized and designated by Cummins to make the repairs during regular business hours. Cummins shall not be liable for towing charges, maintenance items such as oil filters, belts, hoses, etc., communication expenses, meals, lodging, and incidental expenses incurred by Customer or employees of Customer, "downtime" expenses, overtime expenses, cargo damages and any business costs and losses of revenue resulting from a warrantable failure.

**LIMITATIONS ON WARRANTIES**

**THE REMEDIES PROVIDED IN THE WARRANTY AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY.**

**The limited warranty does not cover Equipment failures resulting from: (a) inappropriate use relative to designated power rating; (b) inappropriate use relative to application guidelines; (c) inappropriate use of an EPA-SE application generator set relative to EPA's standards; (d) normal wear and tear; (e) improper and/or unauthorized installation; (f) negligence, accidents, or misuse; (g) lack of maintenance or unauthorized or improper repair; (h) noncompliance with any Cummins published guideline or policy; (i) use of improper or contaminated fuels, coolants, or lubricants; (j) improper storage before and after commissioning; (k) owner's delay in making Equipment available after notification of potential Equipment problem; (l) replacement parts and accessories not authorized by Cummins; (m) use of battle short mode; (n) owner or operator abuse or neglect such as: operation without adequate coolant, fuel, or lubricants; over fueling; over speeding; lack of maintenance to lubricating, fueling, cooling, or air intake systems; late servicing and maintenance; improper storage, starting, warm-up, running, or shutdown practices, or for progressive damage resulting from a defective shutdown or warning device; or (o) damage to parts, fixtures, housings, attachments and accessory items that are not part of the generating set.**

**INDEMNITY.** Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Equipment supplied under this Agreement (collectively, the 'Claims'), where such Claims were caused or contributed to by, in whole or in part, the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity to its insurance carrier unless Cummins directs that the defense will be handled by Cummins' legal counsel at Customer's expense.

**LIMITATION OF LIABILITY**

**NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, ENHANCED DAMAGES, MONETARY REQUESTS RELATING TO RECALL EXPENSES AND REPAIRS TO PROPERTY, AND/OR DAMAGES CAUSED BY DELAY) IN ANY WAY RELATED TO OR ARISING FROM CUMMINS SUPPLY OF EQUIPMENT UNDER THIS AGREEMENT OR THE USE OR PERFORMANCE OF EQUIPMENT SUPPLIED UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER'S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF EQUIPMENT SUPPLIED BY CUMMINS UNDER THIS AGREEMENT GIVING RISE TO THE CLAIM. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN EVEN IF THE EXCLUSIVE REMEDY UNDER THE WARRANTY IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.**

**DEFAULT; REMEDIES.** Customer shall be in breach and default if: (a) any of the payments or amounts due under this Agreement are not paid; (b) Customer fails to comply, perform, or makes any misrepresentation relating to any of the Customer's obligations or covenants under this Agreement; or (c) prior to full payment of the balance due, Customer ceases to do business, becomes insolvent, makes an assignment for the benefit of its creditors, appoints a receiver, commences an action for dissolution or liquidation, or becomes subject to bankruptcy proceedings, or the Equipment is attached, levied upon, seized under legal process, is subjected to a lien or encumbrance, or transferred by operation of law or otherwise to anyone other than Cummins.



Upon the occurrence of any event of Customer's default, Cummins, at its sole option and without notice, shall have the right to exercise concurrently or separately any one or all of the following remedies, which shall be cumulative and not alternative: (a) to declare all sums due, and to become due, under this Agreement immediately due and payable; (b) to commence legal proceedings, including collection actions and specific performance proceedings, to enforce performance by Customer of any and all provisions of this Agreement, and to be awarded damages or injunctive relief for the Customer's breach; (c) to require the Customer to deliver the Equipment to Cummins' branch specified on the face of this Agreement; (d) to exercise one or more of the rights and remedies available to a secured party under applicable law; and (e) to enter, without notice or liability or legal process, onto any premises where the Equipment may be located, using force permitted by law, and there to disconnect, remove and repossess the Equipment, the Customer having waived further right to possession after default. A waiver of any event of default by Cummins shall not be a waiver as to any other or subsequent default.

**CUSTOMER REPRESENTATIONS; RELIANCE.** Customer is responsible for obtaining, at its cost, permits, import licenses, and other consents in relation to the Equipment, and if requested by Cummins, Customer shall make these permits, licenses, and consents available to Cummins prior to shipment. Customer represents that it is familiar with the Equipment and understands operating instructions and agrees to perform routine maintenance services. Until the balance is paid in full, Customer shall care for the Equipment properly, maintain it in good operating condition, repair and appearance; and Customer shall use it safely and within its rated capacity and only for purpose it was designed. Even if Customer's purchase of Equipment from Cummins under this Agreement is based, in whole or in part, on specifications, technical information, drawings, or written or verbal advice of any type from third parties, Customer has sole responsibility for the accuracy, correctness and completeness of such specifications, technical information, drawings, or advice. Cummins make no warranties or representations respecting the accuracy, correctness and completeness of any specifications, technical information, drawings, advice or other information provided by Cummins. Cummins makes no warranties or representations respecting the suitability, fitness for intended use, compatibility, integration or installation of any Equipment supplied under this Agreement. Customer has sole responsibility for intended use, for installation and design and performance where it is part of a power, propulsion, or other system. Limitation of warranties and remedies and all disclaimers apply to all such technical information, drawings, or advice. Customer acknowledges and agrees by accepting delivery of the Equipment that the Equipment purchased is of the size, design, capacity and manufacture selected by the Customer, and that Customer has relied solely on its own judgment in selecting the Equipment.

**CONFIDENTIALITY.** Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

**GOVERNING LAW AND JURISDICTION.** This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of the State of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the courts of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement.

**INSURANCE.** Upon Customer's request, Cummins will provide to Customer a Certificate of Insurance evidencing Cummins relevant insurance coverage.

**ASSIGNMENT.** This Agreement shall be binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

**INTELLECTUAL PROPERTY.** Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins property. Nothing in this Agreement shall be deemed to have given Customer a licence or any other rights to use any of the intellectual property rights of Cummins.

**MISCELLANEOUS.** Cummins is a supplier of material and related services, not a contractor, and will not be responsible for providing installation services or other services for which a contractor's license is required. Installation services shall be the responsibility of others.

All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in this Agreement.

No amendment of this Agreement shall be valid unless it is in writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach.

Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof.

These terms are exclusive and constitute entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for and Customer has agreed to purchase of the Equipment pursuant to these terms and conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such terms and conditions. Neither party has relied on any



statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement. In the event of a conflict in the terms of this Agreement with any Customer terms or conditions or agreement (whether referenced in an order submitted by Customer as the terms that govern the purchase of the Equipment or otherwise) or any terms set forth in any other documentation of Customer with respect to the Equipment, the terms of this Agreement shall govern.

Cummins may incur additional charges which will be passed on to the Customer, as applicable.

**COMPLIANCE.** Customer shall comply with all laws applicable to its activities under this Agreement, including, without limitation, any and all applicable federal, state, and local anti-bribery, environmental, health, and safety laws and regulations then in effect. Customer acknowledges that the Equipment, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export and/or transfer, directly or indirectly, of such Equipment or technology to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of Cummins to comply with these laws, rules, and regulations. Any other provision of this Agreement to the contrary notwithstanding, Customer shall comply with all such applicable all laws relating to the cross-border movement of goods or technology, and all related orders in effect from time to time, and equivalent measures. Customer shall act as the importer of record with respect to the Equipment and shall not resell, export, re-export, distribute, transfer, or dispose of the Equipment or related technology, directly or indirectly, without first obtaining all necessary written permits, consents, and authorizations and completing such formalities as may be required under such laws, rules, and regulations. In addition, Cummins has in place policies not to distribute its products for use in certain countries based on applicable laws and regulations including but not limited to UN, U.S., UK, and European Union regulations. Customer undertakes to perform its obligations under this Agreement with due regard to these policies. Strict compliance with this provision and all laws of the territory pertaining to the importation, distribution, sales, promotion and marketing of the Equipment is a material consideration for Cummins entering into this Agreement with Customer and continuing this Agreement for its term. Customer represents and warrants that it has not and shall not, directly or through any intermediary, pay, give, promise to give or offer to give anything of value to a government official or representative, a political party official, a candidate for political office, an officer or employee of a public international organization or any other person, individual or entity at the suggestion, request or direction or for the benefit of any of the above-described persons and entities for the purposes of inducing such person to use his influence to assist Cummins in obtaining or retaining business or to benefit Cummins or any other person in any way, and will not otherwise breach any applicable laws relating to anti-bribery. Any failure by Customer to comply with these provisions will constitute a default giving Cummins the right to immediate termination of this Agreement and/or the right to elect not to recognize the warranties associated with the Equipment. Customer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify, and hold Cummins harmless from and against any and all fines, penalties, claim, damages, liabilities, judgments, costs, fees, and expenses incurred by Cummins or its affiliates as a result of Customer's breach.

Rev 01 Jan 2019

Thank you for this opportunity to Quote Cummins Power Generation Products. Please call if we may answer any questions or be of further service.

Submitted by  
Cummins Inc..

Samuel Creech  
Inside Sales

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**Email:** Samuel.Creech@cummins.com

**Accepted by:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

**Firm Name:** \_\_\_\_\_

**Customer P.O.:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Delivery Date Requested**

**by Purchaser** \_\_\_\_\_

Note: If no delivery date is provided, Cummins Inc. will hold placing material orders until such date is provided. It is the responsibility of Purchaser to supply a request date that is within factory lead times.



**COMMENT AND REVIEW**  
to the  
REQUEST FOR PROPOSAL (RFP) #120617  
Entitled

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

The following advertisement was placed in Oregon's *Daily Journal of Commerce* on October 20, 2017, in South Carolina's *The State* on October 19, 2017, in Utah's *The Salt Lake Tribune* on October 19, 2017, in *USA Today* on October 19, 2017, and on the NJPA website [www.njpacoop.org](http://www.njpacoop.org), Onvia website [www.onvia.com](http://www.onvia.com), Notice to Bidders website [www.noticetobidders.com](http://www.noticetobidders.com), PublicPurchase.com, AAMDC, Merx, Biddingo and The New York State Contract Reporter:

*The National Joint Powers Alliance® (NJPA), on behalf of NJPA and its current and potential member agencies, which includes all governmental, higher education, K-12 education, not-for-profit, tribal government, and all other public agencies located in all fifty states, Canada, and internationally, issues this Request For Proposal (RFP) to result in a national contract solution for the procurement of #120617 ELECTRICAL ENERGY POWER GENERATION WITH RELATED PARTS, SUPPLIES, AND SERVICES. Details of this RFP are available beginning October 19, 2017. Details may be obtained by letter of request to Chris Robinson, NJPA, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479, or by e-mail at [RFP@njpacoop.org](mailto:RFP@njpacoop.org). Proposals will be received until December 6, 2017 at 4:30 p.m. Central Time at the above address and opened December 7, 2017 at 8:30 a.m. Central Time.*

RFPs were requested by and distributed to:

A1 Energy	Henrich Equipment
ABLE Company	Himoinsa Power Systems, Inc.
Adrew Cooper	Hipower Systems
Aerial Contractors	Hurco Technologies, Inc.
Air Liquide Inc	Industrial Maintenance Services Inc.
Alpha Tunnel Energy Inc.	Innergex
Ameresco	Kitu Systems
Automatisation Grimard Inc.	KJ Electric
Belyea Company Inc.	Kohler Company
Better Power	Kohler Power Systems
Bidnet	KOTRA New York
Big Shine Energy	Ledwell & Son

Black & Veatch	Main Electric Company LLC
Brozelco	Majors Forest & Lawn
BTU Research	MC Power Companies, Inc.
Butler Supply, Inc.	Milton Cat
Caterpillar, Inc.	Multiquip
Central Power Systems and Services	National Solar Technologies
Clean Energy Consulting	Northern Reliability
Commander Power Systems	NYSOGS
Construction Industry Center	Office of State Procurement
Construction Journal	Penn Oak Energy Services
Contractor Plan Center	Plugin Stations Online LLC
Coronal Energy	Pomolux
CPC	Power IT USA, Inc.
Crescent Electric	Power System Engineering, Inc.
Crosstar Network Solutions	Power Systems Plus Inc.
Cummins Inc.	Power Testing and Energization
Cummins Sales and Service	Prime Vendor Inc.
CYMI Canada	Qwik Charge
D Mullis	Renew Energy Electrical
Danforth	Reuter Hanney
Deltek	Siemens - EVSE
Department of General Services	Stewart & Stevenson-Atlantic Division
DJC Project Center	Talan Industries
Earl Carr Electric	Taylor Rental
EC Power Systems	The Field Shop, Inc.
Energy in the Bank Development Partners, LLC	Tibiri Energy Group
FSG	TITANS USA LTD
FTG Equipment Solutions	Total Power
Fuentes	Tradewinds Power Corp.
Generac Power Systems	Tri State Buiding Center
Generated Energy Solutions	Weissco Power
Georgia Department of Administrative Services	White Harvest Energy
GigaTera USA, Inc.	ZeroBase
H.O. Penn Machinery Company	

Proposals were opened on December 7, 2017, at the NJPA offices located at 202 12th Street Northeast in Staples, Minnesota 56479, from the following:

Caterpillar Inc  
Cummins Inc  
Generac Power Systems, Inc  
Himoinsa Power Systems, Inc  
Kohler Co.

Multiquip Inc.

Proposals were reviewed by the Proposal Evaluation Committee:

Chris Robinson, JD, NJPA Procurement Manager  
James Voelker, CFCM, NJPA Procurement Lead Analyst  
Kim Austin, NJPA Procurement Analyst III  
Carol Jackson, NJPA Procurement Analyst III  
Brandon Town, NJPA Procurement Analyst II  
Marcus Miller, JD, NJPA General Counsel

**The findings of the Proposal Evaluation Committee are summarized as follows:**

The Proposal Evaluation Committee used the established NJPA RFP evaluation criteria and determined that all proposal responses met Level-One and Level-Two Responsiveness and were evaluated.

Caterpillar Inc offers a full line of diesel and natural gas packaged generator sets from 40 to 4000 kW through a network of 172 dealers across the United States and Canada. New, used and rental equipment are included as part of Caterpillar's offering. Caterpillar also provides Members with an extensive service network with 468 locations, over 8000 service bays and 8500 field service trucks. Caterpillar's pricing reflects a significant discount from list prices.


Cummins Inc brings a complete line of generators from 10 kW to 3.5 MW, transfer switches from 40 to 4000 amps, paralleling systems and related services. Cummins will provide service to Members through their 205 corporately owned branch locations throughout the United States and Canada. Cummins also has 3200 certified technicians able to respond to Member needs throughout North America. Cummins offers Members a solid discount from published prices.

Kohler Co includes a wide array of industrial, commercial, residential and portable grade generator sets ranging from 2 kW to 4000 kW depending on the specific configuration and application. With an extensive dealer network spread across the United States and Canada, Kohler is prepared to serve Members. Kohler offers Members competitive discounts from list prices.

For these reasons, the NJPA Proposal Review Committee recommends award of NJPA Contract #120617 to:

Caterpillar Inc	#120617-CAT
Cummins Inc	#120617-CMM
Kohler Co	#120617-KOH

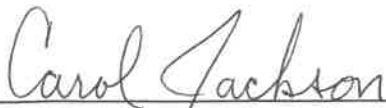
The preceding recommendations were approved on January 26, 2018.

  
Chris Robinson, JD, NJPA Procurement Manager

  
James Voelker, CFCM, NJPA Procurement Lead Analyst

  
Kim Austin, NJPA Procurement Analyst III

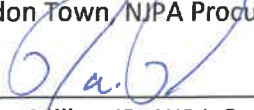




Carol Jackson, NJPA Procurement Analyst III



Brandon Town, NJPA Procurement Analyst II



Marcus Miller, JD, NJPA General Counsel