REQUEST FOR QUALIFICATIONS (RFQ)

RFQ 23-05

Standby Skilled Trade Contractors

QUALIFICATIONS DUE: November 30, 2023, 2:00 pm
Late Qualifications will be rejected and returned unopened.

Information concerning this solicitation may be found at:
www.dunwoodyga.gov
Deadline for Questions: November 15, 2023, 5:00pm
(There is no conference scheduled for this procurement)

Questions must be directed to
City of Dunwoody via e-mail: purchasing@dunwoodyga.gov
Questions will only be accepted via email to ensure the same information is given to everyone. A questions addendum will be issued shortly after the deadline and posted on the City's Purchasing Page.

Instructions to Proposers
All spaced below are to be completed and the Proposal Letter on page two must be signed where indicated. Failure to sign and return Proposal Letter may cause rejection of the proposal.

Proposal of:

Company Name: _____

Contact Name: _____

Address: _____

Telephone: _____ Facsimile: _____

Email: _____

Submit Qualifications to:
City of Dunwoody Purchasing Office
4800 Ashford Dunwoody Road
Dunwoody, GA 30338

PROPOSAL LETTER

We propose to furnish and deliver any and all of the deliverables and services named in the attached Request for Qualifications (RFQ) for which prices have been set. The price or prices offered shall apply for the period of time stated in the RFQ.

We further agree to strictly abide by all the terms and conditions contained in the City of Dunwoody Purchasing Policy as modified by any attached special terms and conditions, all of which are made a part hereof. Any exceptions are noted in writing and included with this bid.

It is understood and agreed that this proposal constitutes an offer, which when accepted in writing by the Purchasing Office, City of Dunwoody, and subject to the terms and conditions of such acceptance, will constitute a valid and binding contract between the undersigned and the City of Dunwoody.

It is understood and agreed that we have read the City's specifications shown or referenced in the RFQ and that this proposal is made in accordance with the provisions of such specifications. By our written signature on this proposal, we guarantee and certify that all items included in this proposal meet or exceed any and all such City specifications. We further agree, if awarded a contract, to deliver goods and services which meet or exceed the specifications. The City of Dunwoody reserves the right to reject any or all Qualifications, waive technicalities, and informalities, and to make an award in the best interest of the City.

It is understood and agreed that this proposal shall be valid and held open for a period of sixty (60) days from proposal opening date.

PROPOSAL SIGNATURE AND CERTIFICATION
(Bidder to sign and return with proposal)

I certify that this proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a proposal for the same materials, supplies, equipment, or services and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of State and Federal Law and can result in fines, prison sentences, and civil damage awards. I agree to abide by all conditions of the proposal and certify that I am authorized to sign this proposal for the proposer. I further certify that the provisions of the Official Code of Georgia Annotated, Sections 45-10-20 et. seq. have not been violated and will not be violated in any respect.

Authorized Signature_____ Date_____
Print/Type Name_____
Print/Type Company Name Here_____

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1.0 INTRODUCTION

1.1 Purpose of Procurement

The purpose of this Request for Qualifications (RFQ) is to select qualified contractors from the trades for standby services as required in City facilities. Bidders shall submit a Statement of Qualifications (SOQ) to the City which will be based on information provided herein. The term of contract shall be for a multi-year period beginning approximately January 1, 2024, through December 31, 2024. The initial term of this Agreement shall be through December 31, 2024. This Agreement shall terminate absolutely and without further obligation on the part of the City on December 31 of each succeeding and renewed year, as required by O.C.G.A. §36-60-13, as amended, unless terminated earlier in accordance with the termination provisions of this Agreement. This Agreement may be automatically renewed on an annual basis for 2 additional twelve-month terms. This Agreement will terminate on December 31, 2026.

1.2 Basic Guidelines for This Request for Qualifications

Competitive sealed Qualifications shall be submitted in response hereto. All Qualifications submitted pursuant to this request shall be made in accordance with the provisions of the City of Dunwoody Purchasing Policy, these instructions, and specifications.

Qualifications shall be presented in a sealed opaque envelope with the bid number and name RFQ 23-05 Standby Skilled Trade Contractors clearly marked on the outside of the envelope. The name of the company or firm submitting a bid should also be clearly marked on the outside of the envelope. ONE (1) ORIGINAL AND ONE (1) CD OR THUMB DRIVE OF THE PROPOSAL MUST BE SUBMITTED. (Total of two (2) submittals) one (1) hard copy original signed, one (1) CD or Thumb drive.

The Qualifications shall be evaluated in accordance with the evaluation criteria set forth in this Request for Proposal (RFQ). Award(s) shall be made to the responsible Offeror(s) whose proposal(s) is determined in writing to be the most advantageous for the City, taking into account all of the evaluation factors set forth in this RFQ. No other factors or criteria shall be used in the evaluation. The City of Dunwoody reserves the right to reject any and all Qualifications submitted in response to this request.

It shall be unethical for any Offeror to offer, give or agree to give any employee or official of the City or for any employee or official of the City to solicit, demand, accept from another person, a gratuity, rebate, and loan, offer of employment or other services or property of value in connection with this RFQ. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of Offeror as an inducement for the award. For violation of this provision, the City shall reserve the right to reject the proposal of the offending Offeror.

1.3 Restrictions on Communications with Staff

From the issue date of this RFQ until a contractor is selected and the selection is announced, Offerors are not allowed to communicate for any reason with any City Staff except through the Contracting Officer named herein or as provided by existing work agreement(s). For violation of this provision, the City shall reserve the right to reject the proposal of the offending Offeror. **All questions concerning this RFQ must be submitted in writing to purchasing at purchasing@dunwoodyga.gov no later than November 15, 2023, 5:00 pm. No questions other than written will be accepted and all questions and responses will be posted to the Purchasing webpage shortly after the questions deadline. No response other than an official addendum shall be binding upon the City.**

2.0 DESCRIPTION OF REQUIREMENTS

2.1 Introduction

The City of Dunwoody has established certain requirements with respect to Qualifications to be submitted by Offerors.

Whenever the terms "shall", "must", "will", or "is required" are used in the RFQ, the specification being referred to is a mandatory requirement of this RFQ. Failure to meet any mandatory requirement will be cause for rejection of Offeror's proposal.

Whenever the terms "can", "may", or "should" are used in the RFQ, the specification being referred to is a desirable and failure to provide any items so termed may not be cause for rejection, however, will probably cause a reduction in score awarded.

2.2 Scope of Work

The trades for standby services include:

1. Carpenter/general construction
2. Sheetrock installation and repair
3. Interior finish work
4. Interior demolition
5. Debris disposal
6. Electricians
7. Fire protection specialists
8. Painter, interior, exterior
9. HVAC, installation, repair, replacement, preventive maintenance
10. Rain gutters-cleaning gutter cover installation and replacement/repair
11. Window cleaning

12. Window repair and replacement
13. Plumber
14. Flooring installation, including but not limited to carpet, tile, lvt
15. Floor Refinishing (stripping, waxing of tile, refinishing hardwood, scrubbing ceramic tile)
16. Door hardware specialist capable of creating key schedules
17. Low Voltage (Data, Voice, Security, etc.).
18. Road and Parking Lot Striping
19. Tree Removal.
20. Concrete sealing, repair, replacement
21. Fence repair and installation
22. Roof repair and replacement
23. Landscaping, Landscape Construction, Sod Installation, Arboriculture/ Tree Protection
24. Turfplanting
25. Pest Control (rodent, insect, termite etc.)
26. Masonry,
27. Playground inspector
28. Playground repair
29. Siding installation, repair and replacement
30. Commercial pool, repair, replacement, preventive maintenance
31. Welding, metal fabrication.
32. Sielox Access Controls Specialist
33. Splash pad preventative maintenance, repair, replacement
34. water feature (stream, fountain, pond, etc.) preventative maintenance, repair, replacement
35. Pour n play playground surface installation and resurfacing/ resealing
36. Foundation repair and waterproofing
37. Crawlspace remediation
38. Mold and allergen testing
39. Surface drainage/ water runoff
40. Sign fabrication and installation
41. Artificial turf installation, repair, and replacement
42. Sports netting fabrication and installation (for baseball fields, soccer backstops, etc.)
43. Sports windscreen fabrication and installation (for baseball fields, tennis courts, etc.)
44. Skate Park construction, refinishing, renovation
45. Septic tank pumping, preventative maintenance, repair, renovation, replacement
46. Grease trap pumping, preventative maintenance, repair, renovation, replacement
47. Backflow testing, repair, replacement
48. Surface and building pressure wash cleaning
49. Sand/ media blasting
50. Elevator preventative maintenance, repair
51. Carpet cleaning

Bidders are requested to submit qualifications, references, and rates for the purpose of being awarded a standby contract for their respective trade. As projects arise, the project manager will contact the highest rated proposal in each required trade for contractor commitment to the project and timeline. If the highest rated proposal in a given trade is unable to commit to the project and timeline, then the next highest rate proposal in that trade is contacted until the project has full commitments by contractors in all trades required.

At project initiation, each contractor shall be apprised of the project requirements and be required to submit a list of materials and quantities needed to the project manager. When able, the City will provide all the construction and renovation materials and supplies as submitted and agreed upon. When unable the City will rely on the trade contractor to provide the construction and renovation materials and supplies as submitted and agreed upon. Each contractor shall be responsible for providing all necessary tools, equipment, safety gear and signage, labor, and insurance for his respective trade for each project. Contractor shall also coordinate with the project manager as to the appropriate number and type of personnel required, number of estimated hours anticipated and a timeline for his project assignment.

The project manager shall instruct contractors to minimize noise and to limit disruption of City employees' work at the site, as well as to building access, usage of passenger elevators, use of parking lots and loading dock areas, and proper attire and actions. Offending persons will be dismissed immediately from the site and project.

All work will be performed and completed to the complete satisfaction and acceptance of the owner. Contractor shall guarantee all work for a period of one (1) year from the date of acceptance or first beneficial use, whichever is first, against defective materials, design, workmanship and improper adjustment. Contractor will abide by any and all applicable professional standards, local codes, manufacturers' recommendations, and safe work practices and will secure any or all applicable permits or licenses to complete the described work.
The City will waive any permitting fees required, but it is the contractor's responsibility to acquire them as needed.

3.0 PROPOSAL SUBMISSION AND EVALUATION

3.1 Requested Proposal Format/Presentation

In order to secure information in a form which will ensure that Qualifications can be properly evaluated, you are asked to submit your proposal in the format listed below.

To be qualified in your respective trade, your company must have been in business for a minimum of ten (5) years. The supervisor assigned to the contract must have been working at his trade for a minimum of five (3) years and laborers for at least two (1) years.

The Contractor shall submit WITH THE BID the following information supporting their qualifications:

1. Indicate the construction or renovation trade for standby services for which the Statement of Qualifications pertain. See Section 2.2 for trades list. Listing a trade not on the list shall be cause for rejection of the SOQ.

2. Copy of business license and proof of being in business at least ten (5) years.

3. Name and telephone number of the Contractor's designated contact.

4. A list of industry trained personnel on staff and their qualifications. This will, at a minimum, be one (1) industry trained and certified supervisor, and one (1) laborer or technician. Supervisor must be able to communicate verbally with the project manager. Include copies of certifications. All workers must be documented.

5. A reference list of three (3) similar projects successfully completed by contractor including contact name and telephone number, project dates, and project value.

6. Salary Rate Schedule for industry-trained and certified supervisors and laborers. Include regular or standard rates, for the hours between 8:00 a.m. and 5:00 p.m., Monday through Friday. These rates shall be the determinant factor in ranking qualified firms. Also, provide premium or overtime rates for the hours outside of regular or standard. Note: Most work will be attempted to be accomplished during regular working hours.

7. A list of equipment and hourly rates for individual trades not provided under the general labor costs.

8. Percentage mark-up, above cost, for construction and renovation materials and supplies when required to provide when the City is unable.

9. Proof of Commercial general liability insurance with coverage of not less than ONE MILLION DOLLARS ($1,000,000.00) combined single limit per occurrence, and with contractual liability coverage for Contractor's covenants to and indemnification of the City under the Contract.

STATEMENT SUBMISSION AND EVALUATION

Economy of Presentation:

SOQ shall be prepared simply and economically, providing straight-forward, concise delineation of Offeror's capabilities to satisfy the requirements of this RFQ. Fancy bindings, colored displays, and promotional material are not required. Emphasis on each statement must be on completeness and clarity of content. To expedite the evaluation of statements, it is essential that Offerors follow the format and instructions contained herein.

All SOQs received will be reviewed by the Purchasing Manager to ensure that all administrative

requirements of the RFQ package have been met by the Offerors. Each SOQ will be reviewed to ensure that the Offeror submitted all information required in the RFQ and that all documents requiring a signature have been signed. Failure to meet these requirements may be cause for rejection. All SOQ that meets the administrative requirements will then be turned over to the evaluation committee for further evaluation.

Evaluation Committee:

The Evaluation Committee will review all submittals received and rank Offerors based on submittal information required in RFQ Section 3.1, Contractor Qualifications. Discussions may be conducted by the City with responsible Offerors who submit SOQ determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of and responsiveness to the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of statements; and such revisions may be permitted after submissions and prior to award. In conducting any such discussions, there shall be no disclosure of any information derived from proposals submitted by competing Offerors.

Award of Contract:

Awards of contract shall be made to the responsible Offerors in each trade who have successfully submitted an SOQ and been ranked by the Evaluation Committee taking into account all of the evaluation factors set forth in this RFQ. The City reserves the right to reject any and all SOQ submitted in response to this RFQ.

The following criteria will be weighed in evaluating the qualification of each Consultant:

Evaluation Scoring:

Experience 30% **References 30%** **Qualifications 40%**

STATEMENT OF QUALIFICATIONS

Work is to commence on or about January 1, 2024. The City of Dunwoody requires pricing to remain firm for the duration of the contract. Failure to hold firm pricing for the term of the contract will be sufficient cause for the City to declare bid non-responsive.

We propose to furnish and deliver any and all of the deliverables and services named in the attached Request for Qualifications (RFQ). The price or prices offered herein shall apply for the period of time stated in the RFQ.

It is understood and agreed that this statement of qualifications and proposal constitutes an offer, which when accepted in writing by the City of Dunwoody, and subject to the terms and conditions of

such acceptance, will constitute a valid and binding contract between the undersigned and the City of Dunwoody.

It is understood and agreed that we have read the City's specifications shown or referenced in the RFQ and that this statement is made in accordance with the provisions of such specifications. By our written signature on this proposal, we guarantee and certify that all items included in this statement meet or exceed any and all such City specifications. We further agree, if awarded a contract, to deliver goods and services which meet or exceed the specifications. The City reserves the right to reject any or all offers, waive technicalities, and informalities, and to make an award in the best interest of the city.

Termination for Cause: The City may terminate this agreement for cause upon ten days prior written notice to the contractor of the contractor's default in the performance of any term of this agreement. Such termination shall be without prejudice to any of the County's rights or remedies by law.

Termination for Convenience: The City may terminate this agreement for its convenience at any time upon 30 days written notice to the contractor. In the event of the City's termination of this agreement for convenience, the contractor will be paid for those services actually performed. Partially completed performance of the agreement will be compensated based upon a signed statement of completion to be submitted by the contractor, which shall itemize each element of performance.

Termination for fund appropriation: The City may unilaterally terminate this Agreement due to a lack of funding at any time by written notice to the Consultant. In the event of the City's termination of this Agreement for fund appropriation, the Consultant will be paid for those services actually performed. Partially completed performance of the Agreement will be compensated based upon a signed statement of completion to be submitted by the Service Provider which shall itemize each element of performance.

Name of Company_____

Name_____
Authorized Signature

Name_____ _____
Print Name Date

It is understood and agreed that this statement of qualifications and proposal shall be valid and held open for a period of sixty (60) days from opening date.

Certification of Non-Collusion in Quote Preparation _____
Signature Date

The City requires that all who enter into a contract for the physical performance of services with the City must satisfy O.C.G.A. § 13-10-91 and Rule 300-10-1-.02, in all manner, and such are conditions of the contract.

In compliance with the attached specifications, the undersigned offers and agrees, within ninety (90) days of the date of quote opening, to furnish any or all of the items upon which prices are quoted, at the price set opposite each item, delivered to the designated point(s) within the time specified in the quote schedule.

Legal Business Name _____

Federal Tax ID _____

Address _____

Does your company currently have a location within the City of Dunwoody? Yes No (circle one)

Representative Signature _____

Printed Name _____

Telephone Number _____ Fax Number _____

Email _____

REFERENCES

List below customers for whom you have provided similar products or services.

1. COMPANY NAME: _____

ADDRESS: _____

CONTACT PERSON: _____

PHONE NO.: _____

E-MAIL: _____

2. COMPANY NAME: _____

ADDRESS: _____

CONTACT PERSON: _____

PHONE NO.: _____

E-MAIL: _____

3. COMPANY NAME: _____

ADDRESS: _____

CONTACT PERSON: _____

PHONE NO: _____

E-MAIL: _____

4.0 TERMS AND CONDITIONS

4.1 RFQ Addenda

The City of Dunwoody reserves the right to addend the RFQ prior to the date of proposal submission. Addenda will be posted to the City of Dunwoody's website.

4.2 Proposal Withdrawal

Prior to the proposal due date, a submitted proposal may be withdrawn by the Offeror by submitting a written request to the Purchasing Manager named herein. All such requests must be signed by a person authorized to sign for the Offeror. No proposal may be withdrawn for a period of ninety (90) days after the time scheduled for the proposal opening.

4.3 Contract

Prior to award, the apparent winning Offeror will be required to enter into discussions with the City to resolve any contractual differences before an award is made. These discussions are to be finalized and all exceptions resolved within five (5) calendar days of notification, if not, this could

lead to rejection of the Offeror's proposal and discussions initiated with the second highest scoring Offeror.

4.4 Payment for Services

The city will make payments to the successful Offeror on a monthly basis. Monthly invoices are required.

4.5 Conflict of Interest

If an Offeror has any existing client relationship(s) that involve the City of Dunwoody that would prevent objectivity, the Offeror must disclose such relationship(s).

4.6 Confidentiality Requirements

The staff members who are assigned by the successful Offeror to this project may be required to sign a departmental non-disclosure statement. Qualifications are subject to the Georgia Open Records Act and may be provided to anyone properly requesting same, after contract award. The City cannot protect proprietary data submitted in Qualifications.

4.7 Georgia Open Records Act

All meetings of the City's Council are duly noticed public meetings and all documents submitted to the City as a part of or in connection with a Proposal may constitute public records under Georgia law regardless of any person's claim that proprietary or trade secret information is contained therein. By submission to the City, Proposers waive any declaration the entire response any solicitation to be proprietary information. The Proposer shall designate in the smallest increments possible, that part of the qualifications which is deemed to be proprietary. Qualifications and all related correspondence are governed by the Georgia Open Records Act and shall be provided to anyone properly requesting same, after contract award. The City cannot protect proprietary data submitted in vendor Qualifications unless provided for under the open records law and clearly marked as proprietary by the proposer. In the event the Proposer deems certain information to be exempt from the disclosure requirements, the Proposal must specify what content is considered exempt and cite the applicable provision of the law to support that assessment. In the event such information is requested under the open records law, the Proposer's assessment will be examined by the City Attorney who will make a determination. The decision to withhold or release the information will be at the City Attorney's sole discretion.

4.8 Policy on Drug-Free Workplace

The final award of a contract is contingent upon the contractor certifying to the City that a drug-free workplace will be provided for the Contractor's employees during the performance of the contract as required by the "Drug-Free Workplace Act' (O.C.G.A. 50-24-1).

SAMPLE CONTRACT AGREEMENT

CONTRACT FOR PROFESSIONAL SERVICES

This **CONTRACT** made and entered into this ____day of _____, 2023 by and between the City of Dunwoody, (Party of the First Part, hereinafter called the "City"), and _____(Party of the Second Part, hereinafter called the "Service Provider" or "Contractor").

NOW THEREFORE, for and in consideration of the mutual promises and obligations contained herein and under the conditions hereinafter set forth, the parties do hereby agree as follows:

1. TERM:

The services to be performed under this Contract shall commence on_____. This Contract shall terminate absolutely and without further obligation on the part of the City on December 31, 2026.

2. ATTACHMENTS:

The following documents are attached and are specifically incorporated herein by reference; and, along with this Contract and the General Conditions attached as Exhibit A encompass all of the Contract documents:

Exhibit A: General Conditions
Exhibit B: Scope of Services
Exhibit C: Fee
Exhibit D: Response to RFQ 23-05
Exhibit E: Request for Statement of Qualifications, RFQ 23-05
Exhibit F: Contractor's Affidavit and Agreement
Exhibit G: Drug Free Workplace
Exhibit H: Purchasing Policy Addendum

3. PERFORMANCE:

Service Provider agrees to furnish all skill and labor of every description necessary to carry out perform the services in accordance with the Contract Documents (the "work").

4. PRICE:

The Service Provider agrees to charge the amount reflected in Exhibit A.

5. INDEMNIFICATION AND HOLD HARMLESS:

[See Section 13 of Exhibit A. ---General Conditions]

Service Provider further agrees to protect, defend, indemnify, and hold harmless the CITY, its council members, officers, agents, and employees from and against any and all claims or liability for compensation under the Worker's Compensation Act arising out of injuries sustained by any employee of the Service Provider.

6. TERMINATION FOR CAUSE:

The City may terminate this Contract for cause upon ten (10) days prior written notice to the Service Provider of the Service Provider's default in the performance of any term of this Contract. Such termination shall be without

prejudice to any of the City's rights or remedies provided by law.

7. TERMINATION FOR CONVENIENCE:

The City may terminate this Contract for its convenience at any time upon 30 days written notice to the Service Provider. In the event of the City's termination of this Contract for convenience, the Service Provider will be paid for those services actually performed. Partially completed performance of the Contract will be compensated based upon a signed statement of completion to be submitted by the Service Provider who shall itemize each element of performance.

8. TERMINATION FOR FUND APPROPRIATION:

The City may unilaterally terminate this Contract due to a lack of funding at any time by written notice to the Service Provider. In the event of the City's termination of this Contract for fund appropriation, the Service Provider will be paid for those services actually performed. Partially completed performance of the Contract will be compensated based upon a signed statement of completion to be submitted by the Service Provider which shall itemize each element of performance.

9. CONTRACT NOT TO DISCRIMINATE:

During the performance of this Contract, the Service Provider will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, or disability which does not preclude the applicant or employee from performing the essential functions of the position. The Service Provider will also, in all solicitations or advertisements for employees placed by qualified applicants, consider the same without regard to race, creed, color, sex, national origin, age, or disability which does not preclude the applicant from performing the essential functions of the job. The Service Provider will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provision will be binding upon each subservice provider, providing that the foregoing provisions shall not apply to contracts or subservice providers for standard commercial supplies of raw materials.

10. ASSIGNMENT:

The Service Provider shall not sublet, assign, transfer, pledge, convey, sell or otherwise dispose of the whole or any part of this Contract or his right, title, or interest therein to any person, firm, or corporation without the previous consent of the City in writing.

11. WAIVER:

A waiver by either party of any breach of any provision, term, covenant, or condition of this Contract shall not be deemed a waiver of any subsequent breach of the same or any other provision, term, covenant, or condition.

12. SEVERABILITY:

The parties agree that each of the provisions included in this Contract is separate, distinct and severable from the other and remaining provisions of this Contract, and that the invalidity of any Contract provision shall not affect the validity of any other provision or provisions of this Contract.

13. GOVERNING LAW:

The parties agree that this Contract shall be governed and construed in accordance with the laws of the State of Georgia. This Contract has been signed in DeKalb County, Georgia.

14. MERGER CLAUSE:

The parties agree that the terms of this Contract include the entire Contract between the parties, and as such, shall exclusively bind the parties. No other representations, either oral or written, may be used to contradict the terms of this Contract.

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized agents, have caused this **CONTRACT** to be signed, sealed and delivered.

Dunwoody, GEORGIA

By: _____
Mayor
City of Dunwoody, Georgia

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

SERVICE PROVIDER:

BY:_____
Signature

_____
Print Name

_____
Title

ATTEST:

_____
Signature

_____
Print Name
Corporate Secretary
(Seal)

Exhibit A

GENERAL CONDITIONS

1. SCOPE OF WORK

The Contract will be to provide to the City in accordance with the Contract Documents. All work shall be performed in accordance with the Scope of Services attached hereto as Exhibit B.

2. REGULATIONS

2.1 The Service Provider shall comply with all applicable federal, state, and local laws, ordinances, rules, and regulations pertaining to the performance of the work specified herein.

2.2 The Service Provider shall obtain all permits, licenses, and certificates, or any such approvals of plans or specifications as may be required by federal, state, and local laws, ordinances, rules, and regulations, for the proper execution of the work specified herein.

2.3 During the performance of this Contract, the Service Provider shall keep current and, if requested by the City, provide copies of any and all licenses, registrations or permits required by applicable governing agencies. The Service Provider shall keep a copy of any and all licenses, registrations and permits on the job site while performing the Contract work.

2.4 The Service Provider will comply with the City of Dunwoody's Financial Management and Purchasing Policies.

3. [INTENTIONALLY OMITTED]

4. SERVICE PROVIDER'S PERSONNEL

4.1 The Service Provider will abide by all State and Federal regulations on wages and hours of an employee dealing with the employment relationship between the Service Provider and its subsidiaries or related parties and its employees, including but not limited to the Federal National Labor Relations Act, the Federal Fair Labor Standards Act, the Federal Civil Rights Act of 1964, as amended, and the Americans with Disabilities Act.

4.2 The Service Provider shall require all prospective employees to show proof of citizenship, or proof from the United States Immigration and Naturalization Service of valid entry permits and/or work permits for legal aliens and proof that such legal aliens are eligible to be employed in the United States. This includes any requirement for participation in the DHS e-Verify or SAVE program.

4.3 Should the Service Provider engage employees who are illiterate in English, it will be the Service Provider's responsibility and obligation to train such employees to be able to identify and understand all signs and notices in and/or around the areas that relate to them, or the services being performed by them pursuant to this Contract. In addition, the Service Provider will have someone in attendance at all times who can communicate instructions to said employee.

4.4 The Service Provider shall maintain a drug-free workplace within the meaning of the Georgia Drug-free Workplace Act. No employee shall be hired by a Service Provider for work on the City's premises prior to such employee having tested negative for drugs. In addition, existing employees of

the Service Provider must be subject to drug testing by the Service Provider upon reasonable suspicion of drug use. Results of all such drug tests are to be retained by the Service Provider. Copies shall be provided to the City, if requested.

4.5 The Service Provider shall transfer promptly from the City any employee or employees that the City advises are not satisfactory and replace such personnel with employees satisfactory to the City; but in no event shall the City be responsible for monitoring or assessing the suitability of any employee or agent of the Service Provider.

4.6 The Service Provider's employees shall be instructed that no gratuities shall be solicited or accepted for any reason whatsoever from the tenants, customers, or other persons at the City.

4.7 A valid driver license (Commercial Driver License, if applicable) will be required of all personnel operating motor vehicles or motorized equipment on roadways in or around the City.

4.8 While working on city property all Service Provider's employees shall wear neat-appearing business casual attire or uniforms with the company name and/or logo and footwear of a style that complies with all legal and safety requirements, including and without limitation, the requirements of OSHA.

4.9 [INTENTIONALLY OMITTED]

4.10 [INTENTIONALLY OMITTED]

5. TOOLS AND EQUIPMENT

It shall be the sole responsibility of the Service Provider to provide for all tools, parts, and equipment necessary to perform work under this Contract.

6. PERFORMANCE REQUIREMENTS

6.1 The Service Provider shall perform all of its obligations and functions under the Contract in accordance with the Contract specifications and industry standards. The Service Provider shall adjust and coordinate its activities to the needs and requirements of the City and perform its activities so as not to annoy, disturb, endanger, unreasonably interfere with or delay the operations or activities of the City.

6.2 The Service Provider's personnel shall perform work in compliance with all Federal, State, and City of Dunwoody regulations.

6.3 Dates for commencement and completion of work shall be coordinated with the City's Authorized Representative (CAR).

6.4 Any work required beyond that which is specified herein shall be reported in advance to the City. At no time shall work beyond the scope be performed without prior written authorization from the City.

6.5 The Service Provider shall utilize maximum safety procedures. Tools and equipment will be in a good state of repair, safe to use, and be used in the manner in which they were intended. The Service Provider is required to inform all workers and concerned persons of the Material Safety Data on all

products being utilized on this project. No materials or equipment will be left unattended at any time.

7. CONFIDENTIAL INFORMATION

7.1 In the course of performing the Contract work, the Service Provider may gain access to security-sensitive and other sensitive information of the City.

7.2 The Service Provider agrees to hold all City data and information in confidence and to make such information known only to its employees and subcontractors who have a legitimate need to know such information and only after advising such persons of the Service Provider's non-disclosure obligations.

7.3 The Service Provider shall seek the City's prior written consent before using for any purpose other than the fulfillment of the Service Provider's obligations hereunder, or before releasing, disclosing, or otherwise making such information available to any other person.

7.4 The Service Provider shall employ such practices and take such actions to protect the City's information from unauthorized use or disclosure as the Service Provider employs and takes to protect its own information, but in no event shall the Service Provider use less than reasonable efforts to protect the City's information.

7.5 The provisions of this Section shall survive the expiration or earlier termination of the Contract.

8. USE OF PREMISES

During the progress of the work specified herein, to the extent any work is performed on the City's premises, the Service Provider shall keep the premises free from accumulation of waste materials, and other debris resulting from the work. At the completion of each workday, the Service Provider shall remove daily all waste materials and debris from, and about the premises as well as tools, equipment, machinery and surplus material, and leave the site clean and ready for occupancy by the City.

9. SAFETY AND PROTECTION

The Service Provider shall be solely and completely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work. The Service Provider shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to all employees on the work site and other persons including, but not limited to, the general public who may be affected thereby.

10. COMPENSATION - INVOICE AND PAYMENT FOR SERVICES

10.1 The City shall pay the Service Provider, subject to any authorized deductions, the applicable prices set forth for each service authorized by the City, and actually delivered or performed, as the case may be, by the Service Provider to the satisfaction and acceptance, as appropriate, of the City. The timing of such payments shall be as set forth below in this Section.

10.2 The City shall pay the Service Provider the price as set forth within 30 days after completion of the services for the previous month, or 30 days after the City's receipt of the invoice for the month, whichever is later. The Service Provider shall invoice the City for the implementation services that

were completed and accepted under the Contract, accompanied by such supporting documentation and other backup material as the City may reasonably require.

10.3 The Service Provider shall invoice with such supporting documentation and other backup material as the City may reasonably require.

10.4 The Service Provider shall deliver to the City for approval and acceptance, and before eligible for final payment of any amounts due, all documents and material prepared by the Service Provider for the City under this Contract.

10.5 The City shall pay the undisputed amount of the Service Provider's invoice, as it may be reduced to reflect unsubstantiated or unsatisfactory services. Items in dispute shall be paid upon the resolution of the dispute. No verification or payment of any amounts invoiced shall preclude the City from recovering any money paid in excess of that due under the terms of this Contract.

10.6 The Service Provider shall be obligated to pay promptly all proper charges and costs incurred by the Service Provider for labor and expenses incurred for the work performed hereunder. The City shall have the right, but not the obligation, to pay directly to third parties (including subcontractors) all past due amounts owed by the Service Provider to third parties for labor and materials used for the work hereunder, based on invoices submitted by such third party, and all such amounts paid by the City shall be applied toward, and shall reduce, amounts owed to Service Provider hereunder.

10.7 The Service Provider shall submit all invoices to: City of Dunwoody, GA, Accounts Payable; 4800 Ashford Dunwoody Road, Dunwoody, GA 30338.

10.8 The Service Provider will agree to comply with the City of Dunwoody's Financial Policies and Purchasing Policy, to the extent applicable.

11. COMPLIANCE WITH LAWS AND REGULATIONS

11.1 The Service Provider shall perform its obligations and functions hereunder in compliance with the applicable laws of the United States, the State of Georgia, DeKalb County, the City of Dunwoody, any applicable rules, regulations, or directives of any agency thereof, and the applicable regulations of the City. OSHA rules and regulations shall be followed at all times. The City shall have the right (but not the obligation) to contest or challenge by any means whatsoever any law, regulation, rule or directive which in any way affects or otherwise impacts upon the Service Provider's performance of its obligations and functions hereunder; the Service Provider shall cooperate to the fullest extent and take whatever action (including becoming a party in any litigation) the City should reasonably request in connection with any such challenge or contest by the City.

11.2 The Service Provider shall obtain and keep current all licenses, permits and authorizations, whether municipal, county, state or federal, required for the performance of its obligations and functions hereunder and shall pay promptly when due all fees, therefore.

11.3 The Service Provider shall abide by all applicable state and federal regulations pertaining to wages and hours of an employee; including but not limited to the Service Provider's compliance with requirements of O.C.G.A. 13-10-91 and Rule 300-10-1-.02.

11.4 **Compliance with Sex Offender Laws**. Contractor acknowledges that pursuant to state law, any person listed on the Georgia Sexual Offender Registry maintained by the Georgia Bureau of Investigation (the "Registry") is prohibited from being within 1,000 feet of school property. Contractor further acknowledges and represents that any and all contractors, subcontractors, sub-subcontractors or others performing any work (or any portion thereof) on behalf of Contractor hereunder shall be obligated pursuant to their respective contracts with Contractor to comply with all relevant laws, rules and regulations, including without limitation, the aforementioned state law, in the performance of the work, and to ensure compliance by any and all of its subcontractors with, the relevant sex offender laws now or hereinafter in effect in the State of Georgia.

12. SERVICE PROVIDER'S LIABILITY

The Service Provider shall be responsible for the prompt payment of any fines imposed on the City or the Service Provider by any other federal, state, or local governmental agency as a result of the Service Provider's, or its subcontractor's (or the officers', directors', employees' or agents' of either), failure to comply with the requirements of any law or any governmental agency rule, regulation, order or permit. The liability of the Service Provider under this Section 12 is in addition to and in no way a limitation upon any other liabilities and responsibilities which may be imposed by applicable law or by the indemnification provisions of Section 13 hereof, and such liability shall survive the expiration or earlier termination of this Contract.

13. INDEMNIFICATION AND INSURANCE

13.1 The Service Provider shall indemnify, defend and hold completely harmless the City, and the members (including, without limitation, members of the City's Council, and members of the boards and of the City), officers, employees and agents of each, from and against any and all liabilities (including statutory liability and liability under Workers' Compensation Laws), losses, suits, claims, demands, judgments, fines, damages, costs and expenses (including all costs for investigation and defense thereof, including, but not limited to, court costs, paralegal and expert fees and reasonable attorneys' fees) which may be incurred by, charged to or recovered from any of the foregoing by (i) reason or on account of damage to or destruction or loss of any property of the City, or any property of, injury to or death of any person resulting from or arising out of or in connection with the performance of this Contract, or the acts or omissions of the Service Provider 's directors, officers, agents, employees, subcontractors, licensees or invitees, in connection with the performance of this contract regardless of where the damage, destruction, injury or death occurred, **unless** such liability, loss, suit, claim, demand, judgment, fine, damage, cost or expense was proximately caused solely by the City's negligence or by the joint negligence of the City and any person other than the Service Provider or the Service Provider 's directors, officers, agents, employees, subcontractors, licensees, or invitees, or (ii) arising out of or in connection with the failure of the Service Provider to keep, observe or perform any of the covenants or agreements in this Contract which are required to be kept, observed or performed by the Service Provider, or (iii) arising out of or in connection with any claim, suit, assessment or judgment prohibited by Section 13.4 below by or in favor of any person described in Section 13.5 below, or (iv) arising out of or in connection with any action by Service Provider or its directors, officers, agents, employees, subcontractors, licensees or invitees. The City agrees to give the Service Provider reasonable notice of any suit or claim for which indemnification will be sought hereunder, to allow the Service Provider or its insurer to compromise and defend the same to the extent of its interests, and to

reasonably cooperate with the defense of any such suit or claim. In carrying out its obligations under this section, the Service Provider shall engage counsel reasonably acceptable to the City. In any suit, action, proceeding, claim or demand brought in respect of which the City may pursue indemnity, the City shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of the City unless (1) the Service Provider and the City shall have mutually agreed to the contrary, (2) the Service Provider has failed within a reasonable time to retain counsel reasonably satisfactory to the City, or (3) the City and the Service Provider are both named parties in any such proceeding and, in the sole judgment of the City, representation of both the City and the Service Provider by the same counsel would be inappropriate due to actual or potential differing interests between them. The indemnification provisions of this Section 14 shall survive the expiration or earlier termination of this Contract with respect to any acts or omissions occurring during the term of the Contract. Notwithstanding anything contained in the forgoing indemnity, any claim for indemnity by the City for claims of thirds parties alleging harm due to the professional services provided by Service Provider, to the fullest extent permitted by law, Service Provider shall indemnify City from and against losses, damages, and judgments arising from such claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are found to have been caused by a negligent act, error or omission of Service Provider or its sub-Service Providers in the performance of professional services under this Agreement.

13.2 In addition to indemnification provisions stated above, if the City's use of any service, software, firmware, programming, or other item provided by or on behalf of the Service Provider is enjoined due to infringement of another person or entity's intellectual property rights, the Service Provider shall promptly, at its sole cost and expense, modify the infringing item so that it no longer infringes, procure for the City the legal right to continue using the infringing item, or procure for the City a non-infringing item, or procure for the City a non-infringing replacement item having equal or greater functional capabilities as the infringing item.

13.3 The Service Provider shall assume all responsibility for loss caused by neglect or violation of any state, federal, municipal or agency law, rule, regulation, or order. The Service Provider shall give to the proper authorities all required notices relating to its performance, obtain all official permits and licenses, and pay all proper fees and taxes. It shall promptly undertake proper monetary restitution with respect to any injury that may occur to any building, structure, or utility in consequence of its work. The Service Provider will notify the City in writing of any claim made or suit instituted against the Service Provider because of its activities in performance of the Contract.

13.4 No recourse under or upon any obligation, covenant or agreement contained in this Contract, or any other agreement or document pertaining to the work or services of the Service Provider hereunder, as such may from time to time be altered or amended in accordance with the provisions hereof, or any judgment obtained against the City, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any statute or otherwise, under or independent of this Contract, shall be had against any member (including, without limitation, members of the City's Council, or members of the citizens advisory committees of each), any officer, employee or agent, as such, past, present, or future of the City, either directly or through the City or otherwise for any claim arising out of or in connection with this Contract or the work or services conducted pursuant to it, or for any sum that may be due and unpaid by the City. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such member, officer, employee, or agent, as such, to respond by reason of any act or omission on his or her part or otherwise for any claim arising out of or in connection with this Contract or the

work or services conducted pursuant to it, or for the payment for or to the City, or any receiver therefore or otherwise, of any sum that may remain due and unpaid by the City, is expressly waived and released as a condition of and in consideration of the execution of this Contract and the promises made to the Service Provider pursuant to this Contract.

13.5 In any and all claims against the City, or any of their officers, members, agents, servants or employees, by any employee of the Service Provider, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation of the Service Provider under this Section 13 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefit payable by or for the Service Provider or any subcontractor under Workers' Compensation Acts, disability benefit acts or other employee benefit acts.

13.6 No provisions of Section 13 herein shall be construed to negate, abridge, or otherwise reduce any other right of indemnity that the City may have as to any party or person described therein.

13.7 Insurance

13.7.1 General Liability and Automobile Liability. The Service Provider shall purchase and maintain in force during the term of the Contract, at its own cost and expense, to protect the Service Provider, the City, and the members (including, without limitation, all members of the governing City's Council and the citizens' advisory committees of each), officers, agents, and employees of each, from and against any and all liabilities arising out of or in connection with the Service Provider's performance of the Contract work:

(1) Commercial general liability insurance with coverage of not less than ONE MILLION DOLLARS ($1,000,000.00) combined single limit per occurrence, and with contractual liability coverage for Service Provider's covenants to and indemnification of the City under the Contract, and

(2) Automobile liability insurance with policy limits of not less than ONE MILLION DOLLARS ($1,000,000.00) combined single limit per accident or occurrence covering each motor vehicle operated on City property.

13.7.1.1 Self-Insured Retention. Service Provider's commercial general liability insurance policies shall not be subject to a self-insured retention exceeding $10,000, if the value of the Contract is less than $1,000,000, and not be subject to a self-insured retention exceeding $100,000, if the Contract is $1,000,000 or more, unless approved by the City Manager. Service Provider's automobile liability insurance policies shall not be subject to a self-insured retention exceeding $10,000, unless approved by the City Manager.

13.7.1.2 Additional Insured Endorsement. Service Provider agrees and shall cause the City their members (including, without limitation, members of the City's Council and members of the citizens' advisory committees of each), officers, employees, and agents to be named as additional insured under such policy or policies of commercial general and automobile liability insurance.

13.7.2 Workers' Compensation and Employer's Liability. If Service Provider has any employee working on City property, Service Provider shall procure and maintain in force during the term of the Contract (i) workers' compensation insurance, and (ii) employer's liability insurance. The policy limits of the Service Provider's employer's liability insurance shall not be less than $100,000 for "each accident," $500,000 for "disease policy limit," and $100,000 for "disease each employee." If the Service Provider is self-insured, the Service Provider shall provide proof of self-insurance and authorization to self-insure as required by applicable state laws and regulations.

13.7.3 Professional Liability Insurance. The Service Provider shall purchase and maintain in force during the term of the Contract, Professional Liability insurance which will pay for damages arising out of errors or omissions in the rendering, or failure to render professional services under the Contract in the amount of at least ONE MILLION DOLLARS ($1,000,000.00) per claim. Such insurance must contain nose and tail coverage to include work performed by the Service Provider from the project's inception date and until such time as the Statue of Limitations has run for the work done on the project.

13.7.4 Health Insurance. Not applicable.

13.7.5 Garage Liability Insurance. Not applicable.

13.7.6 Garage Keeper's Legal Liability Insurance. Not applicable.

13.7.7 Crime Coverage. Not applicable.

13.7.8 Pollution Liability Insurance. Not applicable.

13.7.9 Deductibles. The Service Provider's policies of insurance required by this Section 13.7 may require the Service Provider's payment of a deductible, provided the Service Provider's insurer is required to pay claims from the first dollar at 100% of the claim value without any requirement that the Service Provider pay the deductible prior to its insurer's payment of the claim.

13.7.10 Other Insurance Requirements. All insurance policies required by this Section 13.7 shall provide that they are primary insurance with respect to any other valid insurance the City may possess, and that any other insurance the City does possess shall be considered excess insurance only. All such insurance shall be carried with a company or companies which meet the requirements of Section 14.2 of these General Conditions and said policies shall be in a form satisfactory to the City. A properly completed and executed Certificate of Insurance on a form provided or approved by the City (such as a current ACORD certificate of insurance) evidencing the insurance coverage required by this Section shall be furnished to the City upon the Service Provider's execution of the Contract. The Service Provider shall provide the City with at least thirty (30) days' prior written notice of any adverse material change in the Service Provider's required insurance coverage except that ten (10) days' notice of cancellation for non-payment is required. For purposes of this Section 13.7.10, an "adverse material change" shall mean any reduction in the limits of the insurer's liability, any reduction, non-renewal or cancellation of any insurance coverage, or any increase in the Service Provider's

self-insured retention. Prior to the expiration of any such policy, the Service Provider shall file with the City a certificate of insurance showing that such insurance coverage has been renewed. If the insurance coverage is canceled or reduced, the Service Provider shall, within five (5) days after such cancellation or reduction in coverage, file with the City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies approved by the City. If the Service Provider fails to obtain or have such insurance reinstated, the City may, if it so elects, and without waiving any other remedy it may have against the Service Provider, immediately terminate this Contract upon written notice to the Service Provider. The City Manager shall have the right to alter the monetary limits or coverage herein specified from time to time during the term of this Contract, and the Service Provider shall comply with all reasonable requests of the City Manager with respect thereto.

14. SURETY BONDS/LETTERS OF CREDIT/LIABILITY INSURANCE

14.1 A surety Bond/Letter of Credit is not required for this Contract.

14.2 Liability Insurance Companies furnishing insurance coverage required by these General Conditions shall (a) be approved to issue insurance policies in the State of Georgia, and (b) must have no less than a "B+" Financial Rating and a Financial Size Category of "Class VI" or higher according to the most current edition of A.M. Best's Insurance Reports. If the liability insurer is rated by A.M. Best's Insurance Reports at an "A-"Financial Rating and a Financial Size Category of "Class VIII" or higher than the City Manager may waive the requirement for the insurer to be approved by the State of Georgia.

15. CONTRACT ADJUSTMENTS

15.1 Notwithstanding any provision herein to the contrary, the City reserves the right to modify at any time the nature, method, scope, frequency, or timing of the Service Provider's obligations under this Contract (Contract Adjustments) in whatever manner it determines to be reasonably necessary for the proper completion of the Service Provider's work hereunder. Both parties agree that, should any Contract Adjustments be made, the Service Provider's compensation will be adjusted accordingly, in such amount or amounts as will be mutually agreed to by means of good faith negotiation by the City and the Service Provider and, to the extent possible, by reference to any unit costs already established in the Proposal. Without exception, all deletions, or additions to the scope of work will be set forth in a written Amendment to this Contract.

15.2 Notwithstanding the foregoing, the City shall have the right to terminate this Contract herein should the Service Provider and the City fail to reach agreement on the adjusted compensation within thirty (30) days after the date of the Contract Adjustment.

15.3 Notwithstanding the foregoing, there shall be no upward adjustment of the compensation on account of any Contract Adjustment made necessary or appropriate as a result of the mismanagement, improper act, or other failure of the Service Provider, its employees, agents, or its subcontractors to properly perform its obligations and functions under this Contract.

16. [INTENTIONALLY DELETED].

17. DEFAULT AND TERMINATION

17.1 In the event that:

17.1.1 the Service Provider shall fail to keep, perform, or observe any of the promises, covenants or agreements set forth in this Contract (provided that notice of the first failure shall have been given to the Service Provider, but whether or not the Service Provider shall have remedied any such failure); or

17.1.2 the Service Provider shall fail to keep, perform, or observe any promise, covenant, or agreement set forth in this Contract, and such failure shall continue for a period of more than five (5) days after delivery to the Service Provider of a written notice of such breach or default; or

17.1.3 the Service Provider's occupational or business license shall terminate, or the Service Provider shall fail to provide the City with any bond, letter of credit, or evidence of insurance as required by the Contract Documents, for any reason; or

17.1.4 the Service Provider fails for any reason to provide the City with an acceptable renewal or replacement bond or letter of credit within the time period specified by a provision of this Contract; or

17.1.5 the Service Provider shall become insolvent, or shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement for its reorganization, or the readjustment of its indebtedness under the Federal Bankruptcy laws, or under any other law or statute of the United States or any State thereof, or shall consent to the appointment of a receiver, trustee or liquidator of all or substantially all of its property; or

17.1.6 the Service Provider shall have a petition under any part of the Federal Bankruptcy laws, or an action under any present or future insolvency laws or statute filed against it, which petition is not dismissed within thirty (30) days after the filing thereof; or

17.1.7 there is any assignment by the Service Provider of this Contract or any of the Service Provider’s rights and obligations hereunder for which the City has not consented in writing; or

17.1.8 the Service Provider shall default on any other agreement entered into by and between Service Provider and the City, then, in its discretion, the City shall have the right to terminate this Contract for default, which termination shall be effective upon delivery of written notice of such termination to the Service Provider. In the event that the City terminates this Contract for default, or the Service Provider abandons or wrongfully terminates the Contract, the Service Provider shall be paid for compensation earned to the date of termination or abandonment (but the City shall have the right to reduce by off-set any amounts owed to the Service Provider hereunder or under any other Contract or obligation by the amount of the City’s damages and any amounts owed by the Service Provider to the City), but the Service Provider shall not be compensated for any profits earned or claimed after the receipt of the City's notice of termination by default or after abandonment or wrongful termination. The City's election to terminate or not to terminate this Contract in part or whole for the Service Provider's default shall

in no way be construed to limit the City's right to pursue and exercise any other right or remedy available to it pursuant to the terms of the Contract or otherwise provided by law or equity.

17.2 Notwithstanding anything else herein contained, the City may terminate this Contract in whole or in part at any time for its convenience by giving the Service Provider thirty (30) days written notice. In that event, the Service Provider shall proceed to complete any part of the work, as directed by the City, and shall settle all its claims and obligations under the Contract, as directed by the City. The Service Provider shall be compensated by the City in accordance with the provisions hereof, including in particular Section 2 of these General Conditions, provided, however, that in no event shall Service Provider be entitled to compensation for work not performed or for anticipatory profits. Service Provider shall justify its claims, as requested by the City, with accurate records and data.

17.3 Bankruptcy and Liquidation - In the event the Service Provider (1) makes an assignment for the benefit of creditors, or petition or apply to any tribunal for the appointment of a custodian, receiver, or trustee for all or a substantial part of its assets; (2) commences any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution, or liquidation law or statute of any jurisdiction whether now or hereafter in effect; (3) has had any such petition or application filed or any such proceeding commenced against it in which an order for relief is entered or an adjudication or appointment is made, and which remains undismissed for a period of sixty (60) days or more; (4) takes any corporate action indicating its consent to, approval of, or acquiescence in any such petition, application, proceeding, or order for relief or the appointment of a custodian, receiver, or trustee for all or substantial part of its assets; or (5) permits any such custodianship, receivership, or trusteeship to continue undischarged for a period of sixty (60) days or more causing the Service Provider or any third party, including, without limitation, a trustee in bankruptcy, to be empowered under state or federal law to reject this Contract or any agreement supplementary hereto, the City shall have the following rights:

(i) In the event of a rejection of this Contract or any agreement supplementary hereto, the City shall be permitted to retain and use any back-up or archival copies of the software licensed hereunder under this Agreement for the purpose of enabling it to mitigate damages caused to the City because of the rejection of this Contract. The City shall exert reasonable efforts to mitigate such damages by use of such back-up or archival copies.

(ii) In the event of rejection of this Contract or any agreement supplementary hereto, the City may elect to retain its rights under this Contract or any agreement supplementary hereto as provided in Section 365(n) of the Bankruptcy Code. Upon written request of the City to, as applicable, the Service Provider or the bankruptcy trustee or receiver. The Service Provider or such bankruptcy trustee or receiver shall not interfere with the rights of the City as licensee as provided in this Contract or in any agreement supplementary hereto to obtain the Source Material(s) from the bankruptcy trustee and shall, if requested, cause a copy of such Source Material(s) to be available to the City.

(iii) In the event of rejection of this Contract or any agreement supplementary hereto, the City may elect to retain its rights under this Contract or any agreement supplementary hereto as provided in section 365(n) of the Bankruptcy Code without prejudice to any of its rights of setoff with respect to this Contract under the Bankruptcy Code or applicable non-bankruptcy law; or In the event of a rejection of this Contract or any agreement supplementary hereto, the

City may retain its rights under this Contract or any agreement supplementary hereto as provided in section 365(n) of the Bankruptcy Code without prejudice to any of its rights under section 503(b) of the Bankruptcy Code.

18. CITY'S AUTHORIZED REPRESENTATIVE

During the term of this Contract, the City Manager or designee may from time to time designate an individual to serve as the City's Authorized Representative (CAR) and an Assistant CAR designated to serve in that capacity in the absence of the CAR, who shall have such authority to act on the City's behalf as the City Manager may from time to time actually delegate to such person, but in no event shall the CAR have authority to modify or terminate this Contract, or make final decisions with respect to amendments, time extensions, assignments, cost or payment adjustments or payment disputes.

19. ASSIGNMENT

Neither this Contract nor any of the Service Provider's rights or obligations hereunder may be assigned by the Service Provider without the City's prior written consent, which consent may be granted or withheld at the City's sole discretion. Any transfer of this Contract by merger, consolidation, or liquidation (unless the stock of the Service Provider is traded on a national stock exchange or in a generally recognized over the counter securities market) any change in ownership of or power to vote a majority of the outstanding voting stock or ownership interests of the Service Provider shall constitute an assignment of this Contract for purposes of this Section. In the event the Service Provider assigns or subcontracts or attempts to assign or subcontract any right or obligation arising under this Contract without the City's prior written consent, the City shall be entitled to terminate this Contract pursuant to the provisions of Section 17 hereof.

20. NOTICES

20.1 Unless otherwise stated herein, all notices or other writings which the City is required or permitted to give to the Service Provider may be hand delivered, mailed via U.S. Certified Mail or sent next-day delivery by a nationally recognized overnight delivery service to the Service Provider's address set forth in the Proposal. Any such notice shall be deemed to have been delivered upon actual delivery, or one (1) day following submission to a nationally recognized overnight delivery service for next day delivery to the Service Provider, or three (3) days following submission to the Service Provider by U.S. Certified Mail.

20.2 Unless otherwise stated herein, all notices or other writings which the Service Provider is required or permitted to give to the City may be hand delivered to the City Manager, mailed via U.S. Certified Mail, or sent next-day delivery by a nationally recognized overnight delivery service. Any such notice shall be deemed to have been delivered upon actual delivery, or one (1) day following submission to a nationally recognized overnight delivery service for next day delivery to City, or three (3) days following submission to the City by U.S. Certified Mail. Any such notice shall be sent to:

City of Dunwoody, GA
ATTN: City Manager
4800 Ashford Dunwoody Road
Dunwoody, GA 30338

Service Provider

_____

_____
_____

20.3 Either party may change its notice address by written notice to the other given as provided in this section.

21. NONDISCRIMINATION

21.1 During the performance of this Contract, the Service Provider, for itself, its assignees and successors in interest agrees as follows:

21.1.1 Compliance with Regulations. The Service Provider shall comply with the Laws and Regulations as they may be amended from time to time (hereafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Contract.

21.1.2 Nondiscrimination. The Service Provider, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of any subcontractor, including procurement of materials and leases of equipment. The Service Provider shall not participate either directly or indirectly in the discrimination prohibited by the Regulations.

21.1.3 Solicitations for Subcontracts, Including Procurement of Materials and Equipment. In all solicitations either by competitive proposing or negotiation made by the Service Provider for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Service Provider of the Service Provider's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color or national origin.

21.1.4 Information and Reports. The Service Provider shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources or information, and its facilities as may be determined by the City to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of the Service Provider is in the exclusive possession of another who fails or refuses to furnish this information, the Service Provider shall so certify to the City, as appropriate, and shall set forth what efforts it has made to obtain the information.

21.1.5 Sanctions for Noncompliance. In the event of the Service Provider's noncompliance with the nondiscrimination provisions of this Contract, the City shall impose such Contract Sanctions as it may determine to be appropriate, including but not limited to:

21.1.5.1 Withholding of payments to the Service Provider under the Contract until the Service Provider complies, and/or

21.1.5.2 Cancellation, termination, or suspension of the Contract, in whole or in part.

21.1.6 Incorporation of Provisions. The Service Provider shall include the provisions of subsections 21.1.1 through 21.1.5 in every subcontract, including procurement of

materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Service Provider shall take such action with respect to any subcontract or procurement as the City may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Service Provider becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Service Provider may request the City to enter into such litigation to protect the interest of the City and, in addition, the Service Provider may request the United States to enter into such litigation to protect the interests of the United States.

21.2 The Service Provider assures the City that it will comply with the pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, marital status, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision shall bind the Service Provider from the period beginning with the initial solicitation through the completion of the Contract.

22. COPYING DOCUMENTS

The Service Provider hereby grants the City and its agent's permission to copy and distribute any and all materials and documents contained in, comprising, or which are otherwise submitted to the City with or in connection with the Service Provider's Proposal or which are contained in the Contract Documents (the "Submittals"). The permission granted by the Service Provider shall be on behalf of the Service Provider and any and all other parties who claim any rights to any of the materials or documents comprising the Submittals. Such permission specifically authorizes the City and its agents to make and distribute such copies of the Submittals or portions thereof as may be deemed necessary or appropriate by the City for its own internal purposes or for responding to requests for copies from any member of the public regardless of whether the request is specifically characterized as a public records request pursuant to Georgia Code. This provision shall survive the expiration or termination of the Contract.

23. GENERAL PROVISIONS

23.1 The Contract Documents consist of the Contract, the Proposal Forms, the Instructions to Proposers, Request for Qualifications, all Addendum(s) issued prior to execution of this Contract, these General Conditions and Specifications. Together, these documents comprise the Contract and all the documents are fully a part of the Contract as if attached to the Contract or repeated herein. Precedence of the Contract Documents shall be as follows: (i) addendum(s) to the Contract Documents, (ii) the Contract, (iii) the General Conditions, (iv)the Scope of Work in Exhibit B, (v) the Proposal Forms, and (vi) the Request.

23.2 This Contract represents the entire agreement between the parties in relation to the subject matter hereof and supersedes all prior agreements and understandings between such parties relating to such subject matter, and there are no contemporaneous written or oral agreements, terms or representations made by any party other than those contained herein. No verbal or written representations shall be relied upon outside the Contract terms and amendments. Without exception, all deletions, or additions to the scope of work will be set forth in a written amendment to this Contract. No amendment, modification, or waiver of this Contract, or any part thereof, shall be valid or effective unless in writing signed by the party or parties sought to be bound or charged

therewith; and no waiver of any breach or condition of this Contract shall be deemed to be a waiver of any other subsequent breach or condition, whether of a like or different nature.

23.3 The Service Provider shall, during the term of this Contract, repair any damage caused to real or personal property of the City and/or its tenants, wherever situated, caused by the intentional, reckless, or negligent acts or omissions of the Service Provider's officers, agents, or employees, and any subcontractors and their officers, agents, or employees, or, at the option of the City, the Service Provider shall reimburse the City for the cost of repairs thereto and replacement thereof accomplished by or on behalf of the City.

23.4 The Service Provider warrants to the City that no work performed or materials purchased pursuant to the Contract, whether by, from, or through the Service Provider or a subcontractor, shall cause any claim, lien or encumbrance to be made against any property of the City, and the Service Provider shall indemnify and save the City harmless from and against any and all losses, damages and costs, including attorneys' fees, with respect thereto. If any such claim, lien or encumbrance shall be filed, the Service Provider shall, within thirty (30) days after notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. This provision shall survive the expiration or termination of the Contract.

23.5 The language of this Contract shall be construed according to its fair meaning, and not strictly for or against either the City or the Service Provider. This Contract shall be deemed to be made, construed, and performed according to the laws of the State of Georgia. Any suit or proceeding initiated for the purpose of interpreting or enforcing any provision of this Contract or any matter in connection therewith shall be brought exclusively in a court of competent jurisdiction in DeKalb County, Georgia, and the Service Provider waives any venue objection, including, but not limited to, any objection that a suit has been brought in an inconvenient forum. The Service Provider agrees to submit to the jurisdiction of the Georgia courts and irrevocably agrees to acknowledge service of process when requested by the City.

23.6 The section headings herein are for the convenience of the City and the Service Provider and are not to be used to construe the intent of this Contract or any part hereof, or to modify, amplify, or aid in the interpretation or construction of any of the provisions hereof.

23.7 The use of any gender herein shall include all genders, and the use of any number shall be construed as the singular or the plural, all as the context may require.

23.8 The delay or failure of the City at any time to insist upon a strict performance of any of the terms, conditions and covenants herein shall not be deemed a waiver of that breach or any subsequent breach or default in the terms, conditions, or covenants of this Contract. The Service Provider shall not be relieved of any obligation hereunder on account of its failure to perform by reason of any strike, lockout, or other labor disturbance.

23.9 If the City shall, without any fault, be made a party to any litigation commenced between the Service Provider and a third party arising out of the Service Provider's operations and activities at the premises, then the Service Provider shall pay all costs and reasonable attorney's fees incurred by or imposed upon the City in connection with such litigation for all trial and appellate proceedings. The City shall give prompt notice to the Service Provider of any claim or suit instituted against it by such third party. The provisions of this Section supplement and are not intended to be in lieu of the indemnification provisions of Section 5 hereof. The provisions of this

Section shall survive the acceptance of the services and payment therefore, and the expiration or earlier termination of this Contract.

23.10 The City shall have the right to recover from the Service Provider all of the City's costs and expenses incurred in enforcing the provisions of this Contract including, but not limited to, (1) the cost of administrative investigation and enforcement (including, without limitation, audit fees and costs, attorneys' fees) and (2) the cost of any trial, appellate or bankruptcy proceeding (including, without limitation, investigation costs, audit fees and costs, attorneys' fees, court costs, paralegal fees and expert witness fees). This provision shall survive the expiration or termination of the Contract.

23.11 The Service Provider shall not during the term of the Contract knowingly hire or employ (on either a full-time or part-time basis) any employee of the City.

23.12 The Service Provider shall be required, during the term of the Contract, at no additional cost to the City, to take such reasonable security precautions with respect to its operations at City Hall as the City in its discretion may from time to time prescribe. The Service Provider shall comply with all regulations, rules and policies of any governmental authority, including the City, relating to security issues.

23.13 The City may, but shall not be obligated to, cure, at any time, upon five (5) days written notice to the Service Provider (provided, however, that in any emergency situation the City shall be required to give only such notice as is reasonable in light of all the circumstances), any default by the Service Provider under this Contract; whenever the City so cures a default by the Service Provider, all costs and expenses incurred by the City in curing the default, including, but not limited to, reasonable attorneys' fees, shall be paid by the Service Provider to the City on demand.

23.14 The City shall, in its discretion, be entitled to deduct from the compensation to which the Service Provider is otherwise entitled hereunder, an amount equal to any liabilities of the Service Provider to the City which are then outstanding. In the event that additional work beyond the scope of this Contract is requested by the City Manager and it results in any extra charges to the City, the Service Provider shall so advise the City in writing of the amount of the extra charges. The City is not required to pay any extra charges for additional work unless such work and the charges therefore have been approved in advance and have been confirmed in writing within twenty-four (24) hours by the City Manager, in his or her exclusive discretion.

23.15 The Service Provider is an independent Service Provider, and nothing contained herein shall be construed as making the Service Provider an employee, agent, partner, or legal representative of the City for any purpose whatsoever. The Service Provider acknowledges that it does not have any authority to incur any obligations or responsibilities on behalf of the City and agrees not to hold itself out as having any such authority. Nothing contained in this Contract shall be construed to create a joint employer relationship between the City and the Service Provider with respect to any employee of the Service Provider or of its subcontractors.

23.16 The Service Provider and its subcontractors, if any, shall maintain complete and accurate books and records in accordance with generally accepted accounting principles, consistently applied, and shall be in a form reasonably acceptable to the City Manager or designee. The Service Provider and its subcontractors shall account for all expenses of any nature related to transactions in connection with this Contract in a manner which segregates in detail those transactions from other transactions

of the Service Provider and subcontractors, and which support the amounts reported and/or invoiced to the City. At a minimum, the Service Provider's and subcontractor's accounting for such expenses and transactions shall include such records in the form of electronic media compatible with or convertible to a format compatible with computers utilized by the City at its offices; a computer run hard copy; or legible microfilm or microfiche, together with access to the applicable reader. All such books and records and computerized accounting systems shall upon reasonable notice from the City be made available in DeKalb County, Georgia, for inspection, examination, audit and copying by the City through and by its duly authorized representatives at any time for up to four (4) years after the year to which books and records pertain. Such inspection, examination, or audit may include, but is not limited to a review of the general input, processing, and output controls of information systems, using read only access, for all computerized applications used to record financial transactions and information. The Service Provider and subcontractor shall freely lend its own assistance in a timely manner in making such inspection, examination, audit, or copying and, if such records are maintained in electronic and other machine-readable format, shall provide the City and/or its representative such assistance as may be required to allow complete access to such records. The City Manager may require the Service Provider and subcontractors to provide other records the City Manager, in his or her sole discretion, deems necessary to enable the City to perform an accurate inspection, examination or audit of expenses incurred in and transactions related to performance of this Contract. Such records shall be provided within thirty (30) days of request thereof. In the event that expenses incurred or reimbursed are found by such inspection, examination, or audit to have been overpaid, the Service Provider and its subcontractors agree that such amounts shall be payable to the City. If, prior to the expiration of the above-stated four (4) year record retention period, any audit or investigation is commenced by the City, or any claim is made or litigation commenced relating to this Contract by the City, the Service Provider, or a third party, the Service Provider shall continue to maintain all such records, and the City shall continue to have the right to inspect such records in the manner stated above, until the inspection, examination, audit, claim, or litigation is finally resolved (including the determination of any and all appeals or the expiration of time for an appeal). This provision shall survive the expiration or earlier termination of this Contract. In the event of any conflict between any provision of this Contract and generally accepted accounting principles or generally accepted auditing standards, the provisions of this Contract shall control even where this Contract references such provisions or standards. In particular, without limitation, the Service Provider and subcontractors shall maintain all records required under this Contract to the full extent required hereunder, even if some or all such records would not be required under such generally accepted accounting principles or auditing standards. If as a result of an inspection, examination or audit, it is established that amounts are due from the Service Provider to the City, the Service Provider shall forthwith, upon written demand from the City, pay the City such amount, together with interest on the amount due at the rate of eighteen (18%) percent per annum, or if less, the maximum rate of interest allowed by law, from the date such additional amounts were overpaid by the City. Further if such inspection, examination, or audit establishes that the Service Provider has over billed such amounts for any Contract period by two (2%) percent or more, then the entire expense of such inspection, examination or audit shall be paid by the Service Provider.

23.17 The Service Provider and subcontractors shall prepare and provide the City with all detailed reports as required under the Contract on a timely basis. The City reserves the right to modify the reporting procedures or the form and content of any report as it deems necessary.

23.18 There are no third-party beneficiaries to this Contract, and nothing contained herein shall be construed to create such.

23.19 Time is of the essence for the performance of each of the Service Provider's obligations under this Contract.

23.20 In computing any period of time established under this Contract, except as otherwise specified herein the word “days,” when referring to a period of time that is ten (10) days or less means business days, and when referring to a period of time that is more than ten (10) days means calendar days. The day of the event, from which the designated period of time begins to run shall not be included. A business day is any day other than Saturday, Sunday, or Federal, State of Georgia or City holidays.

23.21 The Service Provider agrees to perform all acts and execute all supplementary instruments or documents which may be reasonably necessary to carry out or complete the transaction(s) contemplated by this Contract.

23.22 The City reserves the right to further develop, improve, repair and alter the facilities and all roadways, and parking areas, as it may reasonably see fit, free from any and all liability to the Service Provider for loss of business or damages of any nature whatsoever to the Service Provider occasioned during the making of such improvements, repairs, alterations and additions, including, but not limited to, any damages resulting from negligence of the City or its employees, agents or Service Providers.

23.23 The Service Provider and the City hereby mutually waive any claim against each other and their respective members, officials, officers, agents and employees for damages (including damages for loss of anticipated profits) caused by any suit or proceedings brought by either of them or by any third party directly or indirectly attacking the validity of this Contract or any part thereof, or any addendum or amendment hereto, or the manner in which this Contract was solicited, awarded or negotiated, or arising out of any judgment or award in any suit or proceeding declaring this Contract, or any addendum or amendment hereto, null, void or voidable or delaying the same, or any part thereof, from being carried out.

23.24 At the option of the Service Provider, the products and/or services provided under the Contract resulting from this solicitation may be provided to other governmental agencies, including the State of Georgia, its agencies, political subdivisions, counties and cities under the same terms and conditions, including price, as such products and/or services are provided under this Contract. Each governmental agency allowed by the Service Provider to purchase products and/or services in connection with this Contract shall do so independent of the City or any other governmental entity. Each agency shall be responsible for its own purchases and shall be liable only for goods and services ordered, received and accepted by it. The City shall have no liability to the Service Provider or any governmental agency resulting from the purchase by that agency of products and/or services from the Service Provider in connection with this Contract.

24. GRATUITIES, REBATES, OR KICKBACKS.

24.1 GRATUITIES. It shall be unethical for any person to offer, give or agree to give any employee or official of the City or for any employee or official of the City to solicit, demand, accept from another person, a gratuity, rebate, loan, offer of employment or other services or property of value in connection with any decision, approval, disapproval, recommendation or preparation of any part of a program requirement or a purchase request, including the content of any

specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any particular matter, pertaining to any program requirement or a Contract or subcontract, or to any solicitation or proposal therefore in any manner inconsistent with the State of Georgia's Department of Administrative Services Gratuity Policy. Rebates normally or routinely offered to customers in the ordinary course of business for the purchase of goods and services are acceptable and are the property of the City.

24.2 KICKBACK AND REBATES. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor to this Contract to the prime contractor or higher tier subcontractor, or any person associated therewith, as an inducement for the award of a subcontractor or order.

* * * * * * * END OF GENERAL CONDITIONS * * * * * * *

SAMPLE

Solicitation No. _____

CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with the City of Dunwoody has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract, contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the City of Dunwoody at the time the subcontractor(s) is retained to perform such service.

_____
E-Verify * User Identification Number

Company Name _____

_____
BY: Authorized Officer or Agent Date
(Contractor Signature)

_____
Title of Authorized Officer or Agent of Contractor

_____
Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

_____ DAY OF _____, 2023

_____

Notary Public

My Commission Expires: _____

As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is “E-Verify” operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).