

# City of Dallas

## INVITATION TO BID

BID NUMBER 2019-01

### 2019 - City of Dallas Polk Avenue & Main Street Paving

The City of Dallas is soliciting competitive sealed bids from qualified contractors for services to patch and resurface city streets consistent with GDOT specifications for paving, patching and tacking as these services are being funded by City of Dallas local funds.

Bids should be typed or submitted in ink and returned in a sealed container marked on the outside with the Bid Number and Company Name. Bids will be received until **Monday, February 4<sup>th</sup>, 2019 at 2:00 PM** at the City of Dallas City Hall, 129 E. Memorial Dr. Dallas, Georgia 30132, at which time the bids will be publicly opened read aloud. Bids received after the above date and time, or in any location other than Dallas City Hall, will not be considered. Questions regarding bids should be directed to Brandon Rakestraw, Public Works Director, at [brakestraw@dallas-ga.gov](mailto:brakestraw@dallas-ga.gov) or by calling 770-443-8117, no later than **January 28<sup>th</sup>, 2019**. Bids are legal and binding upon the bidder when submitted. All bids should be submitted in duplicate.

The written bid documents supersede any prior verbal or written communications between the parties.

An award will be made to the contractor submitting the lowest responsive and responsible bid. The City of Dallas reserves the right to reject any or all bids, to waive technicalities, and to make an award deemed in its best interest. Bids may be split or awarded in entirety. Dallas reserves the option to negotiate terms, conditions and pricing with the lowest responsive, responsible bidder(s) at its discretion.

Award notification will be posted after award on the City website, [www.dallasga.com](http://www.dallasga.com) and companies submitting a bid will be notified via e-mail.

*Brandon Rakestraw*

Brandon Rakestraw  
Public Works Director

# CITY OF DALLAS

## GENERAL INSTRUCTIONS FOR BIDDERS, TERMS AND CONDITIONS

### I. PREPARATION OF BIDS

- A. Each bidder shall examine the drawings, specifications, schedule and all instructions. Failure to do so will be at the bidder's risk, as the bidder will be held accountable for their bid response.
- B. Each bidder shall furnish all information required by the bid form or document. Each bidder shall sign the bid and print or type his or her name on the bid form or document. The person signing the bid must initial erasures or other changes. An authorized agent of the company must sign bids.
- C. Individuals, firms and businesses seeking an award of a City of Dallas, GA. herein after City or City of Dallas, Ga. contract may not initiate or continue any verbal or written communications regarding a solicitation with any City officer, elected official, employee or other City representative without permission of the Purchasing Official named in the solicitation between the date of the issuance of the solicitation and the date of the final contract award by the City of Dallas. Violations will be reviewed by the City Manager. If determined that such communication has compromised the competitive process, the offer submitted by the individual, firm or business maybe disqualified from consideration for award.
- D. Sample contracts (if pertinent) are attached. These do NOT have to be filled out with the bid/proposal submittal, but are contained for informational purposes only. If awarded, the successful bidder(s) will be required to complete them prior to notice to proceed.
- E. In accordance with the Georgia Illegal Reform and Enforcement Act of 2011, an original signed, notarized and fully completed Contractor Affidavit and Agreement should be included with your bid/proposal submittal, if applicable. Failure to provide the Contractor Affidavit and Agreement with your bid/proposal submittal may result in bid/proposal being deemed non-responsive and automatic rejection.

### II. DELIVERY

- A. Each bidder should state time of proposed delivery of goods or services.
- B. Words such as "immediate," "as soon as possible," etc. shall not be used. The known earliest date or the minimum number of calendar days required after receipt of order, notice to proceed or notice of award (delivery A.R.O.) shall be stated (if calendar days are used, include Saturday, Sunday and holidays in the number).

### III. EXPLANATION TO BIDDERS

Any explanation desired by a bidder regarding the meaning or interpretation of the invitation for bids, drawings, specifications, etc. must be requested by the question cutoff deadline stated in the solicitation in order for a reply to reach all bidders before the close of bid. Any information given to a prospective bidder concerning an invitation for bid will be furnished to all prospective bidders as an addendum to the invitation if such information is necessary or if the lack of such information would be prejudicial to uninformed bidders. The written bid documents supersede any verbal or written communications between parties. Receipt of any such addendum should be acknowledged in the bid. **It is the bidder's responsibility to ensure that they have all applicable addenda prior to bid submittal.** This may be accomplished via contact with the assigned Purchasing Official prior to bid submittal.

### IV. SUBMISSION OF BIDS

- A. Bids shall be enclosed in sealed envelopes, addressed to the City of Dallas, Purchasing Office, 129 E. Memorial Dr. Dallas, Georgia 30132, with the name of the bidder, the date and hour of opening and the invitation to bid number on the face of the envelope. Emailed/faxed bids will not be considered. Any addenda should be enclosed in the sealed envelopes as well.
- B. ADD/DEDUCT: Add or deduct amounts indicated on the outside of the envelope are allowed and will be applied to the lump sum amount. Amount shall be clearly stated and should be initialed by an authorized company representative.
- C. Samples of items, when required, must be submitted within the time specified and, unless otherwise specified by the City, at no expense to the City. Unless otherwise specified, samples will be returned at the bidder's request and expense if items are not destroyed by testing.
- D. Items offered must meet required specifications as exhibit(s) A-D and must be of a quality, which will adequately serve the use and purpose for which intended.
- E. Full identification of each item bid upon, including brand name, model, catalog number, etc. must be furnished to identify exactly what the bidder is offering. Manufacturer's literature may be furnished.
- F. The bidder must certify that items to be furnished are new and that the quality has not deteriorated so as to impair its usefulness as new.
- G. Unsigned bids will not be considered except in cases where bid is enclosed with other documents, which have been signed and delivered in sealed envelope. The City will determine this.

H. City of Dallas is exempt from federal excise tax and Georgia sales tax with regard to goods and services purchased directly by City of Dallas. Suppliers and contractors are responsible for federal excise tax and sales tax, including taxes for materials incorporated in City construction projects. Suppliers and contractors should contact the State of Georgia Sales Tax Division for additional information.

I. Information submitted by a bidder in the bidding process shall be subject to disclosure after the public opening in accordance with the Georgia Open Records Act. Each page of proprietary information must be identified. Entire bid may not be deemed proprietary.

**V. WITHDRAWAL OF BID DUE TO ERRORS**

The bidder shall give notice in writing of his claim of right to withdraw his bid without penalty and revoke of bid bond due to an error within two (2) business days after the conclusion of the bid opening procedure. Bids may be withdrawn from consideration if the price was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of the bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and material used in the preparation of the bid sought to be withdrawn. The bidder's original work papers shall be the sole acceptable evidence of error and mistake if he elects to withdraw his bid. If a bid is withdrawn under the authority of this provision, the lowest remaining responsive bid shall be deemed to be low bid.

No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted. Bidder has up to forty-eight (48) hours to notify the City of Dallas Purchasing Office of an obvious clerical error made in calculation of bid in order to withdraw a bid after bid opening. Withdrawal of bid for this reason must be done in writing within the forty-eight (48) hour period. Suppliers who fail to request withdrawal of bid by the required forty-eight (48) hours shall automatically forfeit bid bond. Bid may not be withdrawn otherwise.

Bid withdrawal is not automatically granted and will be allowed solely at City of Dallas's discretion.

**VI. TESTING AND INSPECTION**

Since tests may require several days for completion, the City reserves the right to use a portion of any supplies before the results of the tests are determined. Cost of

inspections and tests of any item, which fails to meet the specifications, shall be borne by the bidder.

**VII. F.O.B. POINT**

Unless otherwise stated in the invitation to bid and any resulting contract, or unless qualified by the bidder, items shall be shipped F.O.B. Destination. The seller shall retain title for the risk of transportation, including the filing for loss or damages. The invoice covering the items is not payable until items are delivered and the contract of carriage has been completed. Unless the F.O.B. clause states otherwise, the seller assumes transportation and related charges either by payment or allowance. The city will not be responsible for lost or stolen goods/material after goods/material are delivered to site or storage yard.

**VIII. PATENT INDEMNITY**

The contractor guarantees to hold the City, its agents, officers or employees harmless from liability of any nature or kind for use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, articles or appliances furnished or used in the performance of the contract, for which the contractor is not the patentee, assignee or licensee.

**IX. BID BONDS AND PAYMENT AND PERFORMANCE BONDS (IF REQUIRED)**

A five percent (5%) bid bond, a one hundred percent (100%) performance bond, and a one hundred percent (100%) payment bond shall be furnished to City of Dallas for any bid as required in bid package or document. Failure to submit appropriate bonding will result in automatic rejection of bid. Bonding company must be authorized to do business in Georgia by the Georgia Insurance Commission, listed in the Department of the Treasury's publication of companies holding certificates of authority as acceptable surety on Federal bonds and as acceptable reinsuring companies, and have an A.M. Best rating as stated in the insurance requirement of the solicitation.

**X. DISCOUNTS**

- A. Time payment discounts will be considered in arriving at net prices and in award of bids. Offers of discounts for payment within ten (10) days following the end of the month are preferred.
- B. In connection with any discount offered, time will be computed from the date of delivery and acceptance at destination, or from the date correct invoice or voucher is received, whichever is the later date. Payment is deemed to be made for the purpose of earning the discount, on the date of the City check.

**XI. AWARD**

- A. Award will be made to the lowest responsive and responsible bidder. The quality

of the articles to be supplied, their conformity with the specifications, their suitability to the requirements of the City, and the delivery terms will be taken into consideration in making the award. The City may make such investigations as it deems necessary to determine the ability of the bidder to perform, and the

bidder shall furnish to the City all such information and data for this purpose as the City may request. The City reserves the right to reject any bid if the evidence submitted by, or investigation of such bidder fails to satisfy the City that such bidder is properly qualified to carry out the obligations of the contract.

- B. The City reserves the right to reject or accept any or all bids and to waive technicalities, informalities and minor irregularities in bids received.
- C. The City reserves the right to make an award as deemed in its best interest, which may include awarding a bid to a single bidder or multiple bidders; or to award the whole bid, only part of the bid, or none of the bid to single or multiple bidders, based on its sole discretion of its best interest.

## **XII. DELIVERY FAILURES**

Failure of a contractor to deliver within the time specified or within reasonable time as interpreted by the City Manager, or failure to make replacement of rejected articles/services when so requested, immediately or as directed by the City Manager, shall constitute authority for the City Manager to purchase in the open market articles/services of comparable grade to replace the articles/services rejected or not delivered. On all such purchases, the contractor shall reimburse the City within a reasonable time specified by the City Manager for any expense incurred in excess of contract prices, or the City shall have the right to deduct such amount from monies owed the defaulting contractor. Alternatively, the City may penalize the contractor one percent (1%) per day for each day that delivery or replacement is late. Should public necessity demand it, the City reserves the right to use or consume articles delivered which are substandard in quality, subject to an adjustment in price to be determined by the City Manager.

## **XIII. CITY FURNISHED PROPERTY**

No material, labor or facilities will be furnished by the City unless so provided in the invitation to bid.

## **XIV. REJECTION AND WITHDRAWAL OF BIDS**

Failure to observe any of the instructions or conditions in this invitation to bid may constitute grounds for rejection of bid.

## **XV. CONTRACT**

Each bid is received with the understanding that the acceptance in writing by the City

of the offer to furnish any or all of the commodities or services described therein shall constitute a contract between the bidder and the City which shall bind the bidder on his part to furnish and deliver the articles quoted at the prices stated in accordance with the conditions of said accepted bid. The City, on its part, may order from such contractor, except for cause beyond reasonable control, and to pay for, at the agreed prices, all articles specified and delivered.

Upon receipt of a bid package containing a City of Dallas "Sample Contract" as part of the requirements, it is understood that the bidder has reviewed the documents with the understanding that City of Dallas requires that all agreements between the parties must be entered into via this document. If any exceptions are taken to any part, each must be stated in detail and submitted as part of the bid. If no exceptions are stated, it is assumed that the bidder fully agrees to the provisions contained in the "Sample Contract" in its entirety.

**XVI. NON-COLLUSION**

Bidder declares that the bid is not made in connection with any other bidder submitting a bid for the same commodity or commodities, and that the bid is bona fide and is in all respects fair and without collusion or fraud. An affidavit of non-collusion shall be executed by each bidder. Collusion and fraud in bid preparation shall be reported to the State of Georgia Attorney General and the United States Justice Department.

**XVII. DEFAULT**

The contract may be canceled or annulled by the Purchasing Director in whole or in part by written notice of default to the contractor upon non-performance or violation of contract terms. An award may be made to the next low responsive and responsible bidder, or articles specified may be purchased on the open market similar to those so terminated. In either event, the defaulting contractor (or his surety) shall be liable to the City for costs to the City in excess of the defaulted contract prices; provided, however, that the contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause. Failure of the contractor to deliver materials or services within the time stipulated on his bid, unless extended in writing by the City Manager, shall constitute contract default.

**XVIII. 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 City's rights or remedies by law.

**XIX. 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.

**XX. DISPUTES**

The parties hereto consent that venue and jurisdiction for any litigation concerning this agreement, bid or dispute and all documents or contract(s) concerning this matter must be asserted in and determined by the Superior Court of Paulding County, Georgia. (The parties hereto also waive any right to object to venue and jurisdiction for any litigation concerning this Agreement which must be asserted in and determined by the Superior Court of Paulding County, Georgia.) The parties also agree and consent that this Agreement and any litigation concerning this Agreement must be construed and determined pursuant to the Laws of the State of Georgia.

**XXI. SUBSTITUTIONS**

Bidders offering and quoting on substitutions or who are deviating from the attached specifications shall list such deviations on a separate sheet to be submitted with their bid. The absence of such a substitution list shall indicate that the bidder has taken no exception to the specifications contained herein.

**XXII. INELIGIBLE BIDDERS**

The City may choose not to accept the bid of a bidder who is in default on the payment of taxes, licenses or other monies due to the City. Failure to respond to three (3) consecutive times for any given commodity/service may result in removal from the supplier list under that commodity/service.

**XXIII. OCCUPATION TAX CERTIFICATE**

Each successful bidder shall provide evidence of a valid City of Dallas occupation tax certificate if the bidder maintains an office within the incorporated area of the City of Dallas. Out of City, and out of State bidders are required to provide evidence of a certificate to do business in any town, City or municipality in the State of Georgia, or as otherwise required by City ordinance or resolution.

**XXIV. ALTERATIONS OF SOLICITATION AND ASSOCIATED DOCUMENTS**

Alterations of City documents are strictly prohibited and will result in automatic disqualification of the firm's solicitation response. If there are "exceptions" or comments to any of the solicitation requirements or other language, then the firm may make notes to those areas, but may not materially alter any document language.

**XXV. TAX LIABILITY**

Local and state governmental entities must notify contractors of their use tax liability on public works projects. Under Georgia law, private contractors are responsible for



paying a use tax equal to the sales tax rate on material and equipment purchased under a governmental exemption that is incorporated into a government construction project: excluding material and equipment provided for the installation, repair, or expansion of a public water, gas or sewer system when the property is installed for general distribution purposes. To the extent the tangible personal property maintains its character (for example the installation of a kitchen stove), it remains tax-exempt. However, if the installation incorporates the tangible personal property into realty, e.g., the installation of sheetrock, it becomes taxable to the private contractor. See O.C.G.A. 48-8-3(2) and O.C.G.A. 48-8-63

## **XXVI. STATE LAW REGARDING WORKER VERIFICATION**

State Law requires that all who enter into a contract for the physical performance of services with the City or any other performance of labor for the City must satisfy the Illegal Immigration Reform and Enforcement Act of 2011, in all manner, and such are conditions of the contract.

By submitting a bid to the City, contractor agrees that, in the event the contractor employs or contracts with any subcontractor(s) in connection with the covered contract, the contractor will secure from the subcontractor(s) such subcontractor(s') indication of the employee-number category applicable to the subcontractor, as well as attestation(s) from such subcontractor(s) that they are in compliance with the Illegal Immigration Reform and Enforcement Act of 2011. Original signed, notarized Subcontractor Affidavits and Agreements must be submitted to the City.

The City Manager shall be authorized to conduct random audits of a contractor's or subcontractors' compliance with the Illegal Immigration Reform and Enforcement Act of 2011 and the rules and regulations of the Georgia Department of Labor. The contractor and subcontractors shall retain all documents and records of its compliance for a period of three (3) years following completion of the contract. This requirement shall apply to all contracts for the physical performance of services or for the performance of labor where any persons are employed on the City contract.

Whenever it appears that a contractor's or subcontractor's records are not sufficient to verify the work eligibility of any individual in the employ of such contractor or subcontractor, the City Manager shall report same to the Department of Homeland Security.

A contractor's failure to participate in the federal work authorization program as defined by the Illegal Immigration Reform and Enforcement Act of 2011 shall be sanctioned by termination of the contract. If it is determined that a subcontractor is not participating in the federal work authorization program as defined by the Illegal Immigration Reform and Enforcement Act of 2011, the City of Dallas may direct the contractor to terminate that subcontractor. A contractor's failure to follow the City of Dallas's instruction to terminate a subcontractor that is not participating in the federal work authorization program as defined by the Illegal Immigration Reform and Enforcement Act of 2011 may be sanctioned by termination of the contract.

## **XXVII. GENERAL CONTRACTORS LICENSE**

All General Contractors must have a current valid license from the State Licensing Board for Residential and General Contractors, unless specifically exempted from holding such license pursuant to Georgia law (O.C.G.A. Section 43-41-17).

## **XXVIII. INDEMNIFICATION**

To the fullest extent permitted by law, the Contractor shall, at his sole cost and expense, indemnify, defend, satisfy all judgments, and hold harmless the City, the engineer, and their agents and employees from and against all claims, damages, actions, judgments, costs, penalties, liabilities, losses and expenses, including, but not limited to, attorney's fees arising out of or resulting from the performance of the work, provided that any such claim, damage, action, judgment, cost, penalty, liability, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless whether such claim is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or otherwise reduce any of the rights or obligations of indemnity which would otherwise exist as to any party or person described in this agreement. In any and all claims against the City, the engineer, or any of their agents or employees by any employee of the Contractor, 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 contained herein shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any subcontractor under Worker's Compensation Acts, disability benefit acts, or other employee benefit acts.

**EXHIBIT A  
CITY OF DALLAS**

**DISCLOSURE FORM**

**This form is for disclosure of campaign contributions and family member relations with City of Dallas officials/employees.**

**Please complete this form and return as part of your RFP package when it is submitted.**

**Name of Offeror** \_\_\_\_\_

**Name and the official position of the Dallas Official to whom the campaign contribution was made (Please use a separate form for each official to whom a contribution has been made in the past two (2) years.)**

\_\_\_\_\_

**List the dollar amount/value and description of each campaign contribution made over the past two (2) years by the Applicant/Opponent to the named Dallas Official.**

**Amount/Value Description**

_____	_____
_____	_____
_____	_____

**Please list any family member that is currently (or has been employed within the last 12 months) by the City of Dallas and your relation:**

_____	_____
_____	_____

**EXHIBIT B**

**IMMIGRATION AND SECURITY FORM**

**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 Chamblee 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. 989-603], 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 with the City of Chamblee, contractor will secure from such subcontractors(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 substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the City of Chamblee at the time of the subcontractor(s) is retained to perform such service.

\_\_\_\_\_  
EEV / Basic Pilot Program\* User Identification Number

\_\_\_\_\_  
BY: Authorized Officer or Agent Date  
(Contractor Name)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title of Authorized Officer or Agent of Contractor

\_\_\_\_\_  
Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME ON  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 201\_\_

\_\_\_\_\_  
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 the "EEV/ Basic Pilot Program" 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).

**EXHIBIT C**  
**CITY OF DALLAS**  
**2019 - City of Dallas – Polk Avenue & Main Street Paving**

**BID SCHEDULE**

ITEM #	APPROXIMATE QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL PRICE
1	700 TON	Polk Avenue – 1.5” 12.5mm Super Pave		
2	700 TON	Polk Avenue – 1.5” Pavement Milling		
3	360 TON	Main Street – 1.5” 12.5mm Super Pave		
4	360 TON	Main Street – 1.5” Pavement Milling		
			<b>TOTAL</b>	

City of Dallas requires pricing to remain for the duration of the contract. Failure to hold firm pricing for the term of the contract will be sufficient cause for the City of Dallas to declare bid non-responsive.

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 City’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.

**Certification of Non-Collusion in Bid Preparation** \_\_\_\_\_  
**Signature** **Date**

The City requires that all who enter into a contract for 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 the conditions of the contract.

**In compliance with the attached specifications, the undersigned offers and agrees, if this bid is accepted by the City within ninety (90) days of the date of bid 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 bid schedule.**

Legal Business Name \_\_\_\_\_

(If your company is a LLC, you must identify all principals to include addresses and phone numbers in your submittal)

Federal Tax ID \_\_\_\_\_

Address \_\_\_\_\_

Does your company currently have a location within the City of Dallas or Paulding County? Yes  No

Representative Signature \_\_\_\_\_ Printed Name \_\_\_\_\_

Phone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

Email address \_\_\_\_\_

## EXHIBIT D

**\*\*\*The City of Dallas requires that all Contracts between parties be entered into via the following documents. If any exceptions are taken to any part of this document, each must be stated in detail and submitted as part of your proposal/bid document. If no exceptions are noted it is assumed that the party fully agrees to the contract in its entirety. Exceptions to the sample contract provided in this request for proposal will be considered in terms of responsiveness when making award.\*\*\***

### “SAMPLE” SERVICE PROVIDER CONTRACT

This **CONTRACT** made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between the City of Dallas, Georgia (Party of the First Part, hereinafter called the "City"), and, \_\_\_\_\_ (Party of the Second Part, hereinafter called the "Service Provider").

**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:**

This contract shall commence upon Notice to Proceed.

Contract term for said project (attachment – exhibit C) will be Twenty (20) working days from Notice to Proceed issuance date.

It is acknowledged that the Contractor’s failure to achieve substantial completion of the Work within the Contract Time provided by the Contract Documents will cause the Owner to incur substantial economic damages and losses of types and in amounts which are impossible to compute and ascertain with certainty as a basis for recovery by the Owner of actual damages, and that liquidated damages represent a fair, reasonable and appropriate estimate thereof. Accordingly, in lieu of actual damages for such delay, the Contractor agrees that liquidated damages may be assessed and recovered by the Owner as against Contractor and its Surety, in the event of delayed completion and without the Owner being required to present any evidence of the amount or character of actual damages sustained by reason thereof; therefore Contractor shall be liable to the Owner for payment of liquidated damages in the amount of One Thousand Dollars (\$1,000) for each day that Substantial Completion is delayed beyond the Contract Time as adjusted for time extensions provided by the Contract Documents. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty, and Contractor shall pay them to Owner without limiting Owner's right to terminate this agreement for default as provided elsewhere herein.

**2. ATTACHMENTS:**

Copies of the Service Provider's proposal, including all plans, drawings, specifications, price lists, Instructions to Bidders, General Conditions, Special Provisions, and Detailed Specifications submitted to the City during the Bid process (hereinafter collectively referred to as the "Bid") are attached hereto (Exhibit(s) A-D) and are specifically incorporated herein by reference. In the event of a conflict between the City's contract documents and the Bid, the City's contract documents shall control. All work to be performed in a workman like manner according to standards as specified above. All change orders must be in writing and signed by all parties. In the event of any dispute, the bid and terms of contract(s) will control unless such are amended in writing and signed by all parties.

**3. PERFORMANCE:**

Service Provider agrees to furnish all skill and labor of every description necessary to carry out and complete in good, firm and substantial, workmanlike manner, the work specified, in strict conformity with the Bid.

**4. PRICE:**

As full compensation for the performance of this Contract, the City shall pay the Service Provider for the actual quantity of work performed, which shall in no event exceed \$ \_\_\_\_\_. The fees for the work to be performed under this Contract shall be charged to the City in accordance with the rate schedule referenced in the Bid Proposal (Exhibit A). The City agrees to pay the Service Provider following receipt by the City of a detailed invoice, reflecting the actual work performed by the Service Provider.

**5. INDEMNIFICATION AND HOLD HARMLESS:**

Service Provider agrees to protect, defend, indemnify, and hold harmless the City, its council members, officers, agents and employees from and against any and all liability, damages, claims, suits, liens, and judgments, for whatever nature, including claims for contribution and/or indemnification, for injuries to or death of any person or persons, or damage to the property or other rights of any person or persons to the extent arising out of and attributed to the negligent acts, errors, or omissions of the Service Provider. Service Provider's obligation to protect, defend, indemnify, and hold harmless, as set forth hereinabove shall include any matter arising out of any patent, trademark, copyright, or service mark, or any actual or alleged unfair competition disparagement of product or service, or other business tort of any type whatsoever, or any actual or alleged violation of trade regulations.

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. Partially completed performance payments will be review by City engineer and approved by City council.

**8. 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.

**Title VI of the 1964 Civil Rights Act**, 42 U.S.C. 2000, provides in section 601 that:  
“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”  
(PROHIBITS DISCRIMINATION IN IMPACTS, SERVICES, AND BENEFITS OF, ACCESS TO, PARTICIPATION IN, AND TREATMENT UNDER A FEDERAL-AID RECIPIENT’S PROGRAMS OR ACTIVITIES)

**The Age Discrimination Act of 1975**, as amended 42 U.S.C. 6101, provides:  
“No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” (PROHIBITS DISCRIMINATION BASED ON AGE)

**Section 504 of the Rehabilitation Act of 1973**, 29 U.S.C. 790, provides that:  
“(N)o qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under



any program or activity that receives or benefits from Federal financial assistance.”  
(PROHIBITS DISCRIMINATION BASED ON PHYSICAL OR MENTAL HANDICAP)

**The Americans with Disabilities Act**, P.L. 101-336, provides:

“No qualified individual with a disability shall, by reason of such disability, be excluded from the participation in, be denied benefits of, or be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a State or a local government.” (PROVIDED ENFORCEABLE STANDARDS TO ADDRESS DISCRIMINATION AGAINST PEOPLE WITH DISABILITIES)

**The Uniform Relocation Act Amendments of 1987**, P.L 101-246, provides:

“For fair, uniform, and equitable treatment of all affected persons; ... (and) minimizing the adverse impact of displacement... (to maintain)... the economic and social well-being of communities; and... to establish a lead agency and allow for State certification and implementation.” (UPDATED THE 1970 ACT AND CLARIFIED THE INTENT OF CONGRESS IN PROGRAMS AND PROJECTS WHICH CAUSE DISPLACEMENT)

**The 1973 Federal-aid Highway Act**, 23 U.S.C 324, provides:

“No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this Title or carried on under this title.” (PROHIBITS DISCRIMINATION ON THE BASIS OF SEX)

**The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**, 42 U.S.C. 4601, provides:

“For the fair and equitable treatment of persons displaced as direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance.”  
(PROVIDES FOR FAIR TREATMENT OF PERSONS DISPLACED BY FEDERAL AND FEDERAL-AID PROGRAMS AND PROJECTS)

**9. 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.

**10. 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.

**11. 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.

**12. GOVERNING LAW:**

The parties hereto consent that venue and jurisdiction for any litigation concerning this agreement, bid or dispute and all documents or contract(s) concerning this matter must be asserted in and determined by the Superior Court of Paulding County, Georgia. (The parties hereto also waive any right to object to venue and jurisdiction for any litigation concerning this Agreement which must be asserted in and determined by the Superior Court of Paulding County, Georgia.) The parties also agree and consent that this Agreement and any litigation concerning this Agreement must be construed and determined pursuant to the Laws of the State of Georgia

**13. MERGER CLAUSE:**

This Contract shall not be assigned or transferred by either the Service Provider or the City without the prior written consent of the other. Notwithstanding the foregoing, however, the Service Provider shall in no way be prohibited or restricted from sub-contracting with qualified sub-contractors or from assigning the a bank, trust company, or other financial institution any claims for compensation due, or to become due.

[Signatures on Next Page]

**CITY OF DALLAS, GEORGIA**

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

This \_\_\_\_\_ day of \_\_\_\_\_, 2019

CITY OF DALLAS, GEORGIA

SERVICE PROVIDER

\_\_\_\_\_  
**Boyd L. Austin Jr.**  
Mayor

\_\_\_\_\_  
Signature

ATTEST:

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
**Tina Clark,**  
City Clerk

\_\_\_\_\_  
Title

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name, Corporate Secretary  
(Seal)