



**City of South Fulton**  
**REQUEST FOR PROPOSAL (RFP) NUMBER 24-26**  
**INDEFINITE QUANTITY CONSTRUCTION CONTRACT**

**ISSUED DATE: July 11, 2024**

Lindell Y. Miller, CPPO, MBA, Purchasing Department  
4715 Frederick Dr. SW  
Atlanta, GA 30336



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<b>THIS PROPOSAL SOLICITATION FORM MUST BE SIGNED AND SUBMITTED WITH PROPOSAL</b>	
<b>COMPANY NAME:</b>	<b>DATE:</b>
<b>MAILING ADDRESS:</b>	<b>PHONE:</b>
<b>CITY:</b>	<b>FAX:</b>
<b>STATE:</b>	<b>ZIP:</b>
<b>EMAIL:</b>	<b>SSN OR FEDERAL TAX ID#:</b>
<b>PRINTED NAME:</b>	<b>TITLE OF AUTHORIZED REPRESENTATIVE:</b>
	<b>AUTHORIZED SIGNATURE:</b>



## CITY OF SOUTH FULTON REQUEST FOR PROPOSAL NUMBER 24-26 Indefinite Quantity Construction Contract

The City of South Fulton, (hereafter referred to as “the City”), is issuing this Request for Proposal (“RFP”) from interested and qualified firms to provide Indefinite Quantity Construction Contract services. This RFP aims to establish a group of indefinite quantity construction contracts that the City of South Fulton (COSF) may access to complete repair, maintenance, renovations, and minor new construction projects at competitively solicited prices. The Contractors will perform an ongoing series of individual projects for the COSF at city-owned, rented, and leased facilities, primarily within the city limits, on an as needed basis by approved Task Orders.

The City of South Fulton’s (COSF) Purchasing Department is soliciting submissions from the Bidder to provide Indefinite Quantity Construction Contract services for the City of South Fulton as specified in this RFP, Attachment A: Scope of Services (SOS), and any additional specifications, general requirements, project specific special provisions, special conditions or other Contract document attached hereto and incorporated herein by reference.

All qualification submittals will be evaluated in accordance with the applicable City of South Fulton rules, regulations, and laws. Evaluation of firms submitting statements of qualification for this project will be based on qualifications, experience, and performance on past projects, along with references.

**Solicitation Method:** This solicitation is being conducted in accordance with all applicable provisions of the City of South Fulton Purchasing Policy codified in Sec. 1-9001 et seq. of the City of South Fulton Code of Ordinances. By submitting a Proposal in reference to this solicitation, a Proponent acknowledges that it is familiar with all laws applicable to this solicitation, including, but not limited to, the City’s Code of Ordinances, Protest guidelines, which laws are incorporated into this RFP by reference.

**Minimum Qualifications:** In addition to meeting all other requirements of this RFP, all responding Proposers shall furnish verifiable evidence that their firm and personnel, at a minimum, meet the following qualifications.

- a. Proposer must already possess or be able to obtain a business license from the City prior to execution of the License and be licensed to do business within the State of Georgia.
- b. Proposer has completed at least five (5) years of similar work with verifiable references.

**Certificate of Authority to Transact Business in Georgia:** Each Proponent must submit documentation that demonstrates it is duly authorized to conduct business in the State of Georgia with its proposal. This requirement also applies to Joint Venture (JV) Team Members, Sub-Consultants and Sub-Contractors.

**Business License:** Proponent is requested to submit a copy of its current, valid business license with its Proposal. If the Proponent is a Georgia corporation, Proponent is requested to submit a valid City or city business license. If Proponent is a joint venture, Proponent is requested to submit valid business licenses for each member of the joint venture. If the Proponent is not a Georgia corporation, Proponent is requested to submit a Certificate of Authority to Transact Business in the State of Georgia and a copy of its current, valid business license issued by its home jurisdiction.



**Professional License:** Proponent must attach a copy of any professional license required by this RFP with its response.

**No Offer by City and Firm Offer by Proponent:** This solicitation does not constitute an offer by City to enter into an agreement and cannot be accepted by any Proponent to form a Contract. This solicitation is only an invitation for offers from interested Proponents and no offer shall bind City. A Proponent's offer is a firm offer and may not be withdrawn except as provided in this RFP, and in the City's Code of Ordinances and other applicable law.

**Proposal Duration:** Proposals submitted in response to this RFP must be valid for a period of One Hundred and Twenty (120) calendar days from the Proposal Submission Deadline and must be marked as such.

**Proposal Submission Deadline:** Responses to this RFP will be accepted online at <https://www.bidnetdirect.com/georgia/cityofsouthfulton> on **Monday, August 12, 2024, by 3:00 PM, Eastern Time (ET).**

Teams Meeting ID: 235 425 999 510

Passcode: e3hbGY

Dial in by phone

+1 929-583-6155,,713 574 847# United States, New York City

Phone Conference ID: 713 574 847#

**Non-Mandatory Pre-Proposal Conference:** A Non-Mandatory Pre-Proposal Conference has been scheduled for **Thursday, July 18, 2024, at 10:00 AM., ET.,** and will be hosted virtually by our staff and responsible person(s).

Teams Meeting ID: 217 895 728 332

Passcode: 9HKRs7

Dial in by phone

+1 929-583-6155,,928070060# United States, New York City

Phone Conference ID: 928 070 060#

Attendance at the Pre-Proposal Conference is voluntary for Proponents responding to this RFP; however, Proponents are encouraged to attend. During the Pre-Proposal Conference, the general requirements of the project will be discussed. Any questions during the Pre-Proposal Conference will not be authoritative. Each Proponent must be fully informed regarding all existing and expected conditions and matters, which might affect the cost or performance of the Services. It should be emphasized, however, that nothing stating or discussed during the court of this Pre-Proposal conference shall be considered to modify, alter, or change the requirement of the solicitation documents, unless it shall be subsequently incorporated into an addendum to the solicitation documents.



**Solicitation Questions/Prohibited Contacts:** Any questions and communications regarding this RFP shall be submitted in writing by logging into <https://www.bidnetdirect.com/georgia/cityofsouthfulton> on or before **Tuesday, July 23, 2024 by 3:00 PM., ET.** Questions received after the designated period may not be considered. Any response made by the City will be posted online at <https://www.bidnetdirect.com/georgia/cityofsouthfulton> by addendum. No Proponent may rely on any verbal response to any question submitted concerning this RFP.

### SOLICITATION EVENTS

EVENT	DATE
Request For Proposal Release Date	Thursday, July 11, 2024
Non-Mandatory Pre-Bid	Thursday, July 18, 2024 at 10:00 AM
Last Day for Questions to be Submitted	Tuesday, July 23, 2024 at 3:00 PM
RFP Submittal Due Date	Monday, August 12, 2024 at 3:00 PM
Presentations	TBA



## INFORMATION AND INSTRUCTIONS TO PROPONENTS

1. All Proponents, and/or representatives of Proponents, seeking an award of a City of South Fulton 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 other than the Purchasing Department employee named in the solicitation, between the date of the issuance of the solicitation and the date of the final Contract award by the City Council, unless specified otherwise herein. **Attempting to influence the outcome of any given Contract prior to a recommendation of award to the City Council is strictly prohibited.** The Director of Purchasing will review alleged violations of this prohibition. If the Director of Purchasing determines that such a communication has compromised the competitive process, the proposal submitted by that Proponent may be disqualified from consideration for award, and that Proponent may, among other things, be placed on the ineligible source list. Violations of this prohibition may also be subject to prosecution under federal, state, or local laws. City of South Fulton employees, officials, and their family members are prohibited from seeking, requesting, or receiving any material payment, gift, job offer, security, promise of future benefit, or any other tangible or intangible thing of value when such receipt has the potential to influence a procurement decision or to gain unfair advantage in a procurement competition, and as outlined in Sec. 1-9004(d) of the City of South Fulton Code of Ordinances **and all other applicable policies.**
2. **Ownership of Proposals:** Each Proposal submitted to the City will become the property of the City, without compensation to a Proponent, for the City's use, in its discretion. The City shall not be liable for any proposal preparation costs incurred by Proponents.
3. **Georgia Open Records Act:** Information provided to the City is subject to disclosure under the Georgia Open Records Act, O.C.G.A. § 50-18-70 *et. seq.* Pursuant to O.C.G.A. § 50-18-72(a)(34), “[a]n entity submitting records containing trade secrets that wishes to keep such records confidential under this paragraph shall submit and attach to the records an affidavit affirmatively declaring that specific information in the records constitute trade secrets pursuant to Article 27 of Chapter 1 of Title 10 [O.C.G.A. § 10-1-760 *et seq.*]”.
4. **Bonding and Insurance Requirements:** The Bonding and Insurance requirements for any Contract that may be awarded pursuant to this RFP are set forth in Appendix A: Bonding and Insurance Requirements. Proponent must provide a copy of a current certificate of insurance evidencing any existing commercial general liability policies issued for Proponent, if any. For purposes of this section, “Proponent” shall mean an individual, corporation or other corporate entity submitting a proposal in connection with this solicitation, including each Joint Venture partner if Proponent is a Joint Venture.
5. **Evaluation of Financial Information:** The City's evaluation of financial information concerning a Proponent and its consideration of such information in determining whether a Proponent is responsive and responsible may involve a review of several items of information required to be included in a Proposal. The City will review the Financial Information disclosed by Proponent and attached to this RFP. Further, if this RFP requires a successful Proponent that is awarded a Contract pursuant to this solicitation to post some

type of performance guarantee (e.g. letter of credit, guaranty agreement, etc.), a Proponent must submit with its Proposal a notarized letter from an appropriate financial institution indicating that it is willing to issue such a performance guarantee for the Proponent if a Contract is awarded to it.

6. **Sub-Consultants and Manufacturers:** Proponents are required to submit, in writing, the addresses of any proposed Sub-Consultants or equipment manufacturers listed in the Proposal and may be required to submit other material information relative to proposed Sub-Consultants. The City reserves the right to disapprove any proposed Sub-Consultants whose technical or financial ability, or resources, or experience are deemed inadequate.
7. Examination of Proposal Documents:
  - 7.1 Each Proponent is responsible for examining with appropriate care the complete RFP and all Addenda and for informing itself with respect to all conditions which might in any way affect the cost or the performance of any Services. Failure to do so will be at the sole risk of the Proponent, who is deemed to have included all costs for performance of the Services in its Proposal.
  - 7.2 Each Proponent shall promptly notify the City in writing should the Proponent find discrepancies, errors, ambiguities or omissions in the solicitation documents, or should their intent or meaning appear unclear or ambiguous, or should any other question arise relative to the RFP. Replies to such notices may be made in the form of an addendum to the RFP, which will be issued simultaneously to all potential Proponents. No oral responses are binding on the City.
  - 7.3 The City may in accordance with applicable law, by Addendum, modify any provision or part of the RFP at any time prior to the Proposal due date and time.
  - 7.4 Each Proponent must confirm all Addenda has been received and acknowledge receipt by executing the Acknowledgment of Addenda form provided with each Addendum.
  - 7.5 The City may waive any technicalities and formalities in this solicitation. Additionally, the City reserves the right to cancel the RFP in its entirety.
  - 7.6 If/when there is an error in extension prices, the unit prices, when available, shall govern.
8. **Oral Presentations/Interviews:** Responsive Proponents may be required to make an oral presentation of their proposed solution to the City's Evaluation Committee. Representatives of the Key Personnel as identified in the Proponent's proposal, and those with decision-making ability and authority speak on behalf of and to bind the Proponent, must be active participants in the oral presentation. If required, the city will notify responsive Proponents of the date, time and location for the presentation, and will supply an agenda or topics for discussion.

The City reserves the right to negotiate the fee and/or Scope of Services with the highest ranked Proposer. If negotiations cannot be completed successfully, then the City reserves the right to negotiate with the second highest ranked Proposer. Recommendations for an

award will be the Proposer with whom potential contract negotiations were successful.

The EC may provide a list of subject matter for the discussion. The individuals / firms will have equal time to present but the question-and-answer time may vary. Proposers / Providers may be requested to demonstrate the nature of their offered solution to the SC. After receipt of submittals, all firms will receive a description of, and arrangements for, the desired demonstration. A copy of the demonstration (hard copy, DVD, CD, or a combination of both) should be given to the Purchasing Agent at the meeting to retain it in the Purchasing files.

- 9. Award and Execution of Contract:** If the City awards a Contract pursuant to this solicitation, the City will prepare and forward to the Proponent a Contract for execution substantially in the form of the Draft Contract included in this RFP. Changes may be made to reflect the Proponent's proposal, Scope of Services, and Cost Proposal Forms. All Proponents should thoroughly review the Draft Contract prior to submitting a Proposal. Any proposed revisions to the terms or language of the Draft Contract must be submitted in writing with the Proponent's response to the RFP. Since the proposed revisions may result in a proposal being rejected if the revisions are unacceptable to the City, Proponent should review any proposed revisions with an Authorized Representative having the authority to execute the Contract. Upon approval of the Proponent by the City of South Fulton City Council, the City will provide the Proponent with three (3) unsigned Contracts. The Proponent shall execute and return the three (3) Contracts, with required insurance certificates and other documents as listed in this RFP or required by the City, within no more than ten (10) calendar days from receipt of the agreements.
- 10. Illegal Immigration Reform and Enforcement Act:** This RFP is subject to the Illegal Immigration Reform and Enforcement Act of 2011 (**Act**), formerly known as the Georgia Security and Immigration Compliance Act. Pursuant to Act, the Proponent must provide with its Proposal proof of its registration with and continuing and future participation in the E-Verify Program established by the United States Department of Homeland Security. Completed Contractor Affidavit, Illegal Immigration Reform and Enforcement Act Forms attached herein as Form F6.6 and F6.7, Appendix B: Required Form Submittals must be submitted with the Proposal at the time of submission. Under State Law, the City cannot consider any Proposal which does not include the completed F6.6 form. Where the business structure of a Proponent is such that Proponent is required to obtain an Employer Identification Number (EIN) from the Internal Revenue Service, Proponent must complete the Contractor Affidavit on behalf of, and provide a Federal Work Authorization User ID Number issued to, the Proponent itself. Where the business structure of a Proponent does not require it to obtain an EIN, each entity comprising the corporate entity must submit a separate Contractor Affidavit. It is not the intent of this notice to provide detailed information or legal advice concerning the Act. All Proponents intending to do business with the City are responsible for independently apprising themselves of and complying with the requirements of the Act and assessing its effect on City solicitations and their participation in those solicitations. For additional information on the E-Verify program or to enroll in the program, go to: <https://e-verify.uscis.gov/enroll>. Additional information on completing and submitting the Contractor Affidavit can be found preceding this form in this RFP.





11. **Multiple Awards:** The City reserves, in its sole discretion, the right to make one. (1) award, no award, or award to multiple Proponents.
12. **Joint Ventures:** Each party to a Joint Venture will be required to fully complete and submit the Required Submittal Forms unless otherwise indicated in this RFP.
13. **Conflict of Interest:** Proponents are advised to read and familiarize themselves with the conflict-of-interest provisions of this RFP. The City reserves the right to issue RFPs for specific projects that are independent of RFP #24-26 INDEFINITE QUALITY CONSTRUCTION CONTRACT Services for the City of South Fulton. Except as stated in this RFP these Instructions, and the Notice to Proponents concerning Conflicts of Interests, successful Proponents under this RFP are not precluded from responding to such solicitations.
14. **Tax Exemption Status:** The City is exempt from Federal Excise Tax or Georgia Sales Tax with regard to goods and services purchased directly by the City of South Fulton. Exemption certificates furnished upon request.
15. **Codes, Permits, Fees, Licenses and Laws:** All permits, fees, arrangements for inspections, licenses, and costs incurred for the same shall be the sole responsibility of the successful Proponent. All materials, labor and construction must comply with all applicable rules and regulations of local, state and/or national codes, laws and ordinances of all authorities having jurisdiction over the project, which shall apply to the Contract throughout and will be deemed to be included in the Contract the same as though herein written out in full.
16. **Negotiations/Best and Final Offers:** The City reserves the right to negotiate specifications, terms and conditions, which may be necessary or appropriate for the accomplishment of the intent of this RFP. The City may require the submission of Best and Final Offers. The City may require that this RFP and Proponent's response be incorporated in full or in part as Contract Documents. The RFP and all responses, supplemental information, and other submissions provided by Proponent during discussions or negotiations may be held by the City as contractually binding upon Proponent. The City may seek clarification from a Proponent at any time during the procurement process, and failure of a Proponent to timely respond may be cause for rejection of Proponent's proposal.
17. **TITLE VI SOLICITATION NOTICE -** The City of South Fulton, GA, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations (28 CFR Part 42), hereby notifies all bidders or offerors that it will affirmatively ensure that for any Contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded a full and fair opportunity to submit bids in response to this invitation and will not be, on the grounds of race, color, or national origin, excluded from participation in, denied the benefits of, or subject to discrimination in consideration for an award for any program or activity that receives Federal funds or other Federal financial assistance.



## **REQUEST FOR PROPOSAL (RFP) NO. 24-26 INDEFINITE QUANTITY CONSTRUCTION CONTRACT**

### **1. INTRODUCTION**

The City of South Fulton, (hereafter referred to as “the City”), is issuing this Request for Proposal (“RFP”) from interested and qualified firms to provide Indefinite Quantity Construction Contract services.

The City of South Fulton’s (COSF) Purchasing Department is soliciting submissions from the Bidder to provide Indefinite Quantity Construction Contract services for the City of South Fulton as specified in this RFP, Attachment A: Scope of Services (SOS), and any additional specifications, general requirements, project specific special provisions, special conditions or other Contract document attached hereto and incorporated herein by reference.

All qualification submittals will be evaluated in accordance with the applicable City of South Fulton rules, regulations, and laws. Evaluation of firms submitting statements of qualification for this project will be based on qualifications, experience, and performance on past projects, along with references.

### **1.1 COMMUNITY BACKGROUND**

The City of South Fulton was chartered in 2017. The City is comprised of all the land that had remained unincorporated in southwest Fulton County except for the Fulton Industrial Boulevard corridor. The communities of Red Oak, Cooks Crossing, Stonewall Tell, Fife, (part of) Campbelltown, Ben Hill, Sandtown, Cliftondale, and Peters Woods (a few of which were towns founded before the American Civil War) are located in the City of South Fulton.

The City of South Fulton is the third largest local government in metro Atlanta based on population behind the City of Sandy Springs and the City of Atlanta. By 2030, the City’s population is estimated to grow to over 127,000.

### **1.2 INTENT TO AWARD**

The City of South Fulton desires to complete the award process in a timely manner. The City of South Fulton reserves the right to reject or accept any or all proposals, whole or any parts hereof, by item or group of items, by section or geographic area, or make multiple awards and be the final approval of proposal(s) selection which would be the most advantageous to the City with price and other factors considered. The City of South Fulton may elect to waive any technicalities. The proposal will be awarded to the lowest responsive, responsible or highest scored proposer(s), based upon the qualification requirements herein.

City of South Fulton reserves the right to reject any proposal if the evidence submitted by or investigation of the proposer fails to satisfy the City that the proposer is properly qualified to carry out the obligations of the Contract. If the successful proposer defaults on their proposal, an award may be made to the next low responsive and responsible proposer or highest scored proposer(s).



Multiple Awards: The City reserves, at its sole discretion, the option to award multiple Proponents.

Responsibility - The determination of the proposer's responsibility will be made by the City based on whether the proposer meets the following minimum standard.

Requirements:

- Relevant knowledge, experience and qualifications of firm and team members.
- Proposed methodology and work plan to be used in the process.
- Understanding of the project and overall completeness of submission.
- Experience on similar projects/References
- The ability, capacity and skill of the Bidder to perform and/or provide the Work required.
- The City reserves the right to reject any bid if the evidence submitted by, or investigation of, the bidder fails to satisfy the City that he/she is properly qualified to carry out the obligations of any Contract that is made from this award;
- Has adequate financial means to meet obligations incidental to the work; and
- Such other factors as the City deem to be pertinent to either the bid or the contract.

Responsiveness - The determination of the proposer's responsiveness will be made by the City based on a consideration of whether the proposer has submitted complete proposal documents meeting proposal requirements without irregularities, excisions, special conditions, or alternatives proposals for any item unless specifically requested in the proposal solicitation.

The City is subject to making records available for disclosure after the City of South Fulton approval of the recommendation. The award shall be made by the City Council of South Fulton unless the lowest, qualified bid is less than the City Councils' approval limit.

No claim shall be made by the selected Contractor for loss of profit if the contract is not awarded or awarded for less work than is indicated and for less than the amount of the proposal. The total of the awarded contract shall not exceed the available funds allocated for the proposal project.

### **1.3 TERM OF CONTRACT**

- 1.3.1 The initial term of this Contract shall be for one (1) year and may be renewed for four (4) successive one (1) year terms upon written notice by the City under the same terms and conditions. The services to be performed under this Contract shall commence on the effective date of this agreement and terminate absolutely and without further obligation on the part of the City at the end of every Term, unless terminated earlier in accordance with the termination provisions of this Contract.



1.3.2 The Contract shall commence within ten (10) calendar days after receipt of written Notice to Proceed (NTP).

1.3.3 PROPOSAL SECURITY AND PERFORMANCE BONDS (NOT APPLICABLE)

1.3.3 NEGOTIATION AND AWARD

It is the City's intent to conduct the first negotiation meeting no later than thirty (30) days after City Council approval of the final ranking by the Committee. At least one (1) of the representatives for the firm participating in negotiations with the City must be authorized to bind the firm. In the event that the negotiations are not successful within a reasonable timeframe (notification will be provided to the firm) an impasse will be declared and negotiations with the first-ranked firm will cease. Negotiations will begin with the next ranked firm. This process shall continue until the City successfully negotiates a Contract.

#### **1.4 CONFLICT OF INTEREST NOTICE TO PROPONENTS**

1.4.1 All firms, Sub-Consultants and their employees are notified and advised to avoid potential conflicts of interests. Full and prompt disclosure of involvement in any project or services to other clients that may conflict with financing, construction, operation and management of the City's projects shall be made to the City in the technical response of the firm's proposal, and in advancement of assignment so that real or potential conflicts of interest can be avoided.

1.4.2 In any circumstance where Proponent, including any joint venture partners, parent or subsidiary companies, or affiliates under common control, is providing Services or work under another Contract with the City and a dispute, claim or conflict of interest arises between the City and such Proponent under this Contract or another agreement, the City may in its sole determination and discretion, suspend all existing work under this Contract and may or may not issue any further work to the Proponent under this Contract unless and until such dispute, claim or conflict of interest is resolved to the City's satisfaction. Should the City take such action, Proponent shall not be entitled to any additional costs of any kind resulting from such action except that Proponent may be paid for any authorized Services provided to the City under this Contract prior to the effective date of the suspension of the work. This provision shall not be deemed exclusive and shall be supplemental to any rights and remedies available to the City under this Contract, any other agreement or as may be available under applicable law.

#### **1.5 SUB-CONSULTANTS AND SUB-CONTRACTORS**

1.5.1 The proponent must ensure the responsibility standards for each of its Sub-Consultants and Sub-Contractors as listed below and in each and every part of this RFP are met. Verification must include documentation that each Sub-Consultant or Sub-Contractor meets the responsibility criteria required



to perform the work including any professional license, certification, insurance requirements of this RFP, any governmental agency having jurisdiction over the matter, or any law or regulation pertaining to the work or requirements. Proponent must not furnish any statement, representation, or certification in connection with Sub- Consultants or Sub-Contractors that is materially false, deceptive, incorrect or incomplete. Failure of the Proponent to provide information concerning the responsibility of any Sub-Consultant or Sub-Contractor may result in a finding that the Proponent is not responsible.

- 1.5.2 All proposed Sub-Consultants and Sub-Contractors must be listed in the Proponent's response. Proponent must ensure that all proposed Sub- Contractors have adequate personnel, past experience, adequate facilities, finances and business systems to perform the scope of services. The City reserves the right to approve all Sub-Contractors and Sub-Consultants.
- 1.5.3 Proponent must have the responsibility of verifying the existence, authenticity, and dates of expiration of all licenses required by all Sub- Consultants and Sub-Contractors engaged in the work of this RFP. The lack of a valid license from the Proponent or any Sub-Consultant or Sub- Contractor shall be grounds for default, and for immediate termination for cause with prejudice as it relates to the Proponent, and the removal of any unlicensed entity from the project. In the event Proponent, a Sub-Consultant or Sub-Contractor is required to be licensed or certified as a condition precedent to providing goods or services under this RFP, the revocation or loss of such license or certification may result in immediate termination of the Proponent's Contract effective as of the date on which the license or certification is no longer in effect.
- 1.5.4 All Sub-Consultants and Sub-Contractors must be approved by the City prior to performing. Proponent must receive written permission to add Sub-Consultants or Sub-Contractors not initially submitted with Proponent's response. Sub-Consultants and Sub-Contractors shall not subcontract any portion of their work pursuant to this RFP without the written consent of the City. Failure of the Proponent to obtain from the City prior approval of each Sub-Consultant or Sub-Contractor performing work on the project may result in suspension of work by that Sub- Contractor, removal of work performed by unapproved Sub-Contractor(s) and all permissible sanctions against the Proponent.

## **2. SCOPE OF SERVICES**

The Proponent shall provide Indefinite Quantity Construction Contract Services to partner with the City of South Fulton, as specified in this RFP and Attachment A: Scope of Services (SOS) attached hereto and incorporated herein by reference.

## **3. MINIMUM REQUIREMENTS**

- 3.3 The Proponent shall have a minimum of five (5) years of experience in providing Indefinite Quantity Construction Contract Services as specified in this RFP and Attachment A, Scope of Services (SOS), attached hereto and incorporated herein by reference. Please be sure to include the necessary references to support this requirement in Appendix B, Required Form Submittals, F6.10 – Reference Form.



#### **4. EVALUATION PROCESS**

The following criteria will be used to evaluate Proposals:

The City desires to select the Proponent whose proposal is determined to be the most advantageous to the City considering the technical and price evaluation criteria listed below.

The Evaluation Committee (EC) will be responsible for ranking and recommending the most qualified firms(s) to City Council for award. The process for this procurement may proceed in the following manner: The Purchasing Director delivers the RFP submittals to agency staff for summarization for the Evaluation Committee members. The appropriate department will review the litigation history and the Purchasing Department will review the financial portion of the submittals. Staff will also identify any incomplete responses. The Purchasing Director of Procurement will review the information and will make a recommendation to the Evaluation Committee as to each firm's responsiveness to the requirements of the RFP.

The final determination of responsiveness rests solely on the decision of the Evaluation Committee. All firms that are found to be both responsive and responsible to the requirements of the RFP may have an opportunity to make an oral presentation to the SC and discuss their proposal to illustrate to the Evaluation Committee their approach to the scope of work. If interviews are requested by the City, staff may provide a list of subject matter for the discussion and each firm will be given equal time to present but the question and answer may vary.

The final determination of responsiveness rests solely on the decision of the Evaluation Committee. All proposals will be evaluated using the Evaluation Criteria listed in the solicitation. All Proposals will be evaluated by an Evaluation Committee in accordance with the City's Code of Ordinances and the criteria specified in this RFP as follows:

##### **4.1 PRESENTATIONS / DEMONSTRATIONS / INTERVIEWS (WHEN APPLICABLE)**

The City reserves the right to negotiate the fee and/or Scope of Services with the highest ranked Proposer. If negotiations cannot be completed successfully, then the City reserves the right to negotiate with the second highest ranked Proposer. Recommendations for an award will be the Proposer with whom potential contract negotiations were successful.

The EC may provide a list of subject matter for the discussion. The individuals / firms will have equal time to present but the question-and-answer time may vary. Proposers / Providers may be requested to demonstrate the nature of their offered solution to the EC. After receipt of submittals, all firms will receive a description of, and arrangements for, the desired demonstration. A copy of the demonstration (hard copy, DVD, CD or a combination of both) should be given to the Purchasing Agent at the meeting to remain in the Purchasing files.



## PROPOSAL EVALUATION – SELECTION CRITERIA

The City's selection of a firm shall be based upon the demonstrated competence and qualifications of the firms to provide the type of service required. Each proposal will be evaluated and scored through a process by the City's staff. The Proposer's submittal must fully address the requirements listed in this solicitation and the Firm's degree of experience, knowledge, and ability to provide experienced and qualified support staff. The proposal is not to have any exclusions, conditions or provisions applied to the aforementioned request. It is the City's intention to select a firm which is the most qualified to meet the City's needs. The award shall be based on but not limited to the following factors:

REQUEST FOR PROPOSALS	SCORING VALUE MAXIMUM POINTS
<p><b>Qualification of Firm – Qualifications to be considered include but are not limited to:</b></p> <p>Technical experience in performing work of a closely similar nature; experience working with other public agencies; record of completing work on schedule; strength and stability of firm; technical experience and strength and stability of proposed sub-contractors; and assessments by client references. Qualifications of project staff will also be considered, particularly key personnel, and, especially, the project manager. Other factors to be considered include but are not limited to key personnel’s level of involvement in performing related work, logic of project organization, adequacy of labor commitment, and concurrence in the restrictions on changes in key personnel.</p>	50
<p><b>Methodology of Plan/Project Understanding</b></p> <p>Proposer’s demonstrated understanding of project requirements, potential problem areas and project approach.</p>	30
<p><b>Approach and Compliance with Requirements</b></p> <p>This criterion considers the proposer’s project approach and compliance with all of the terms and conditions, license/certification/insurance requirements, the City’s delivery requirements and the scope of work for providing construction services.</p>	20
<p><b>MAXIMUM SCORING POINTS TOTAL</b></p>	100

The City of South Fulton reserves the right, in its sole discretion, to reject or accept any submittal it considers to be non-responsive. Should the City of South Fulton fail to reach agreement with any firm or teams initially selected, the City reserves the right to commence negotiations with the next highest ranked firm or team.

The City of South Fulton may select a firm without an interview or may choose to interview all or a limited number of applicants.



**5.0 OVERVIEW OF PROPOSAL REQUIREMENTS**

Proposers shall submit Proposals in accordance with the content and format requirements set forth in this RFP. Proposals should be clearly organized and structured in a manner that allows materials included in the document to be located easily.

The City reserves the right to request additional information that, in the City’s opinion, is necessary to assure that the Proposer’s competence, number of qualified employees, business organization, and financial resources are adequate to perform according to contract. determine, at its sole discretion, whether any aspect of the Proposal meets the requirements set forth in this section.

Response packages do not have to be professionally produced nor professionally packaged. Regarding the Evaluation Criteria: each firm has a continuing obligation to provide the City with any material changes to the information requested. The City reserves the right to obtain additional information from interested individuals /firms. To assure consistency, proposals must conform to the format contained herein. Paper size: 8½” x 11”. Larger charts and graphs may be provided if folded neatly to 8½” x 11” and the following items, in the order presented below, with tabs between the sections must be included:

Evaluation Criteria	Tab Number
<p>The Proposal shall include the appropriate and requested information in enough detail to demonstrate the Proposer’s knowledge, skills, and abilities to provide requested services and will be reviewed and evaluated based on each Proposer’s responses to the criteria described below.</p> <p>Provide answers below. If you are submitting a response as a joint venture, you should respond to each question for each entity forming the joint venture. When entire response cannot be entered, a summary, followed with a page number reference where a complete response can be found is acceptable.</p>	
<p>Section 1 – Company Information</p> <p>The purpose of the Executive Summary is to provide an overview of the Proponent’s qualifications to accomplish the project. At a minimum, the Company Information Summary must contain the following information:</p> <ul style="list-style-type: none"> <li>a. Company's local name, address, and telephone number</li> <li>b. Primary local contact person(s) and telephone number(s)</li> <li>c. Total number of company's local full-time employees</li> <li>d. Year company was established.</li> <li>e. Description of the company's background and size.</li> <li>f. Description of the company’s corporate structure, including whether the company is under the control of any other corporation or organization. Include the legal status of the organization.</li> </ul>	<p style="text-align: center;">Tab 1</p>





<p>Section 2 – Organizational Qualifications/Personnel:</p> <p>Proponent shall provide the organization’s experience and ability to provide the scope of services described in Attachment A.</p> <p>a. Describe Responder's experience, capabilities and other qualifications for this project.</p> <p>b. How many years has proposer operated under current company name?</p> <p>c. Has proposer ever been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from doing business with a Federal, State, or local government agency?</p> <p>d. Statement of qualifications - including any experience with government agencies.</p> <p>e. Professional credentials and experience in providing the services enumerated in this Request For Proposals, i.e. certifications, awards, etc.</p> <p>f. Description of the competitive advantage that your company possesses over other potential providers.</p> <p>g. Staffing Plan, Including Resumes. Please provide details about key staff that will be associated with the City of South Fulton.</p> <ul style="list-style-type: none"> <li>• Provide résumés or a summary of skills, abilities and experience for each person who will represent your company as related to this proposal including the owner, project manager(s), superintendent(s).</li> <li>• Key management personnel proposed shall not be changed without written City approval in advance of the change. Provide list of major subconsultants the company intends to use for the following services.</li> </ul>	<p>Tab 2</p>
<p>Section 3 – Past Performance</p> <p>Past Performance – Describe proposer’s experience on projects of comparable nature, scope, complexity and duration along with evidence of satisfactory completion, both on time and within budget, for the past five (5) years regarding the proposer. Include the following for each project:</p> <p>a. Project name</p> <p>b. Project Budget</p> <p>c. Location</p> <p>d. Date of completion (month, year)</p> <p>e. Company role and responsibility for the project.</p> <p>f. List Proposer’s key personnel involved on the project.</p> <p>g. Provide references including contact name, title, organization, address, phone and</p>	<p>Tab 3</p>



<p>email address for all cited projects completed and active.</p> <p>h. Provide names, email addresses and phone numbers of three government customers with comparable volumes and origination types, who have been contracting the services requested in this RFP.</p>	
<p>Section 4 – Project Approach/Plan</p> <p>Provide a Project Approach/Plan. Indefinite Quantity Construction Contract should include an explanation of your proposed course of action. References should be made to the requirements of this RFP and your plan for meeting those requirements. If you propose changes to the approach set forth in the Scope of Services, those changes should be specified clearly. Explain the proposed methodology that will be used and clearly demonstrate understanding of the objectives the project is intended to complete. This section should include a proposed project schedule, indicating how each task under the Scope of Services will be accomplished. The Proposer should provide examples of protocols and practices where ‘good neighbor policies’ have been implemented specific to noise, parking, traffic, and other potential impacts.</p>	<p>Tab 4</p>
<p>Section 5 – Location</p> <p>Identify the office location responsible for this project. Supply legal firm name, headquarters address, local office addresses, satellite offices and warehouse addresses, if applicable. State of incorporation, and key firm contact names with their phone numbers and e-mail addresses.</p>	<p>Tab 5</p>
<p>Section 6 - Recent, Current, and Projected Workloads of the Firms – List all projects, including project number, during the past five (5) years, both completed and active with approximate percent complete.</p>	<p>Tab 6</p>
<p>Section 7- Proposer Financial Information</p> <p>The proposer must demonstrate sufficient financial resources to carry out its responsibilities as outlined in this RFP and to back up its contractual obligations. Proposers will be evaluated on the basis of their credit references, demonstrated ability to finance the required equipment, and ability to provide the performance bond.</p> <p>Financial Capacity</p> <ol style="list-style-type: none"> <li>1. Provide evidence of the development team’s financial ability to undertake and successfully complete the proposed project including the following:</li> <li>2. Bank letter of credit of interest in lending for the project</li> <li>3. Financial Statements:</li> </ol>	<p>Tab 7</p>



<ol style="list-style-type: none"> <li>a. If available, submit audited financial statements for the past two years for each development entity that is part of the development team.</li> <li>b. If audited financial statements are not available, provide documented evidence of prior development transactions in which substantially all of the funding was obtained by the developer/development team. This information should include letters from the project lenders that identify the size of the loans and the repayment terms, as well as letters from the equity investors that identify the investment amounts and summaries of the transaction terms’.</li> <li>c. Three (3) years of Balance Sheet/Profit and Loss statements compiled by CPA.</li> <li>d. It is the practice of the City to conduct a review of a firm’s financial responsibility in order to determine the firm’s capability to successfully perform the work.</li> <li>e. If submitting as a Joint Venture, Partnership, Limited Liability Corporation or Limited Liability Partnership, the financials must be submitted for each entity that comprises the prime Proposer.</li> </ol> <p>4. The proponent has within the past ten (10) years filed (or had filed against it) any bankruptcy or insolvency proceedings, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee or assignee for the benefit of creditors. If so, please provide an explanation;</p>	
<p>Section 8 – Litigation</p> <p>The City will consider a vendor's litigation history information in its review and determination of responsibility. All vendors are required to disclose to the City all "material" cases filed, pending, or resolved during the last three (3) years prior to the solicitation response due date, whether such cases were brought by or against the vendor, any parent or subsidiary of the vendor, or any predecessor organization.</p> <p>A complete disclosure of any alleged significant prior or on-going contract failure, any civil or criminal litigation or investigation pending which involves the Proposer and/or Proposers employees proposed or assigned to this contract or in which the Proposer has been judged guilty or liable within the last three (3) years. If there is no negative history to disclose, state that in the Bid.</p> <p>If the vendor is a Joint Venture, the information provided should encompass the Joint Venture (if it is not newly formed for purposes of responding to the solicitation) and each of the entities forming the Joint Venture. Although the review of a vendor's litigation</p>	<p>Tab 8</p>



<p>history is an issue of responsibility, the failure to provide litigation history as required in the Evaluation Criteria may result in a recommendation of non-responsiveness by the Purchasing Director.</p>	
<p><b>Section 9 - Business Licenses, Licenses, and Insurance</b></p> <p>Evidence that your proposer and/or persons performing the work are licensed to do business in the State of Georgia. Proof of insurance as listed/Evidence of possession of required licenses or business permits.</p>	<p>Tab 9</p>
<p><b>Section 10 – References</b></p> <p>The proposer is required to submit completed Reference Verification Forms for previous projects referenced in its submittal. The proposer should use the appropriate reference form to distribute to its reference organization/firm to complete and return to the proposer’s attention. The proposer should submit the completed Reference Verification Form with its response. The City will verify references provided as part of the review process. Provide a minimum of five (5) references that are comparable in scope, size, and clients within the last five (5) years. Governmental/Public entities are preferred. See Attached – Reference Verification Form</p>	<p>Tab 10</p>
<p><b>Section 11 – Documents and forms required by the city.</b></p> <p>Please provide all other documents and forms not included in the above sections.</p> <p>Provide statement detailing whether the contractor’s team members have ever filed for bankruptcy or had projects that have been declared in default or foreclosed upon. If yes to any of these questions, list the dates and describe the circumstances. Due to the sensitive nature of the financial information requested by the City, the contractors may choose to provide a secure download site address link and share access with the City.</p>	<p>Tab 11</p>
<p><b>Section 12 – Contract Exceptions</b></p> <p>The Contract that the City intends to use is identified as Attachment C. Any exceptions to the Contract must be identified on Form 6.12 Exceptions Form.</p>	<p>Tab 12</p>



## **APPENDIX A BONDING AND INSURANCE REQUIREMENTS**

**A. Bonding Requirements** – Bonding will apply where applicable per task order.

### **B. Insurance Requirements**

#### **1. Statutory Workers' Compensation Insurance**

Employers Liability:

Bodily Injury by Accident - \$1,000,000 each accident

Bodily Injury by Disease - \$1,000,000 policy limit

Bodily Injury by Disease - \$1,000,000 each employee

#### **1. Commercial General Liability Insurance**

**2.1** \$1,000,000 limit of liability per occurrence for bodily injury and property damage

**2.2** Separate Owner's and Contractor's Protective policy with City of South Fulton (and any applicable authority) as Named Insured

**2.3** The following additional coverages must apply:

**2.3.1** 1986 (or later) ISO Commercial General Liability Form

**2.3.2** Dedicated Limits per Project Site or Location (CG 25 03 or CG 25 04)

**2.3.3** Additional Insured Endorsement (Form B CG 20 10 with a modification for completed operations or a separate endorsement covering Completed Operations)

**2.3.4** Blanket Contractual Liability

**2.3.5** Broad Form Property Damage

**2.3.6** Severability of Interest

**2.3.7** Underground, explosion, and collapse coverage

**2.3.8** Personal Injury (deleting both contractual and employee exclusions)

**2.3.9** Hostile Fire Pollution Wording

#### **3. Auto Liability Insurance**

**3.1** \$2,000,000 limit of liability per occurrence for bodily injury and property damage.

**3.2** Comprehensive form covering all owned, non-owned, leased, hired, and borrowed vehicles.

**3.3** Additional Insured Endorsement.

**3.4** Contractual Liability.



**4. Umbrella Liability Insurance - Minimum \$3,000,000 limit of liability**

(Higher limit may be required depending on the extent of Contract)

4.1 The following additional coverages must apply:

- 4.1.1 Additional Insured Endorsement
- 4.1.2 Concurrency of Effective Dates with Primary
- 4.1.3 Blanket Contractual Liability
- 4.1.4 Drop Down Feature
- 4.1.5 Care, Custody, and Control - Follow Form Primary
- 4.1.6 Aggregates: Apply Where Applicable in Primary
- 4.1.7 Umbrella Policy must be as broad as the primary policy.

5. City of South Fulton (and any applicable Authority) should be shown as an additional insured on General Liability, Auto Liability and Professional Liability policies and noted accordingly on the Certificate of Insurance.

6. The cancellation provision should provide 30 days' notice of cancellation.

7. Certificate Holder shall read:

City of South Fulton  
4715 Frederick Dr. SW  
Atlanta, GA 30336

8. Insurance Company, except Worker' Compensation carrier, must have an A.M. Best Rating of A-10 or higher. Certain Workers' Comp funds may be acceptable by the approval of the Risk Management Division. European markets including those based in London and domestic surplus lines markets that operate on a non-admitted basis are exempt from this requirement provided that the contractor's broker/agent can provide financial data to establish that a market is equal to or exceeds the financial strengths associated with the A.M. Best's rating of A-10 or better.

9. Insurance Company should be licensed to do business by the Georgia Department of Insurance.

10. Certificates of Insurance, and any subsequent renewals, must reference specific bid/contract by project name and project/bid number.



11. The Contractor shall agree to provide complete certified copies of current insurance policy(ies) or a certified letter from the insurance company(ies) if requested by the City to verify the compliance with these insurance requirements.
12. All insurance coverages required to be provided by the Contractor will be primary over any insurance program carried out by the City.
13. Contractor shall incorporate a copy of the insurance requirements as herein provided in each and every subcontract with each and every Subcontractor in any tier and shall require each and every Subcontractor of any tier to comply with all such requirements. Contractor agrees that if for any reason Subcontractor fails to procure and maintain insurance as required, all such required Insurance shall be procured and maintained by Contractor at Contractor's expense.
14. No Contractor or Subcontractor shall commence any work of any kind under this Contract until all insurance requirements contained in this Contract have been complied with and until evidence of such compliance satisfactory to City of South Fulton as to form and content has been filed with City of South Fulton. The Acord Certificate of Insurance or a preapproved substitute is the required form in all cases where reference is made to a Certificate of Insurance or an approved substitute.
15. The Contractor shall agree to waive all rights of subrogation against the City, Council Members, its officers, officials, employees, and volunteers from losses arising from work performed by the contractor for the city.
16. Special Form Contractors' MATERIALS and Contents Insurance covering owned, used, and leased MATERIALS, tools, supplies, and contents required to perform the services called for in the Contract. The coverage must be on a replacement cost basis. The City will be included as a Loss Payee in this coverage for City owned MATERIALS, tools, supplies, and contents.
17. The Contractor shall make available to the City, through its records or records of their insurer, information regarding a specific claim related to any City project. Any loss run information available from the Contractor or their insurer relating to a City project will be made available to the City upon their request.
18. Compliance by the Contractor and all subcontractors with the foregoing requirements as to carrying insurance shall not relieve the Contractor and all Subcontractors of their liability provisions of the Contract.
19. The Contractor and all Subcontractors are to comply with the Occupational Safety and Health Act of 1970, Public Law 91-956, and any other laws that may apply to this Contract.
20. The Contractor shall at a minimum apply risk management practices accepted by the contractors' industry.

**5. Builders Risk – Limit up to \$1,000,000 per task order.**



## **APPENDIX B**

# **REQUIRED FORM SUBMITTALS**





## F6.1 W-9 FORM

Form <b>W-9</b> (Rev. October 2018) Department of the Treasury Internal Revenue Service	<b>Request for Taxpayer          Identification Number and Certification</b>  ► Go to <a href="http://www.irs.gov/FormW9">www.irs.gov/FormW9</a> for instructions and the latest information.	<b>Give Form to the          requester. Do not          send to the IRS.</b>
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Print or type. See Specific Instructions on page 3.	<b>1</b> Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	<b>2</b> Business name/disregarded entity name, if different from above	
	<b>3</b> Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check <b>only one</b> of the following seven boxes.	<b>4</b> Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  Exempt payee code (if any) _____  Exemption from FATCA reporting code (if any) _____  <i>(Applies to accounts maintained outside the U.S.)</i>
	<input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate  <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ <b>Note:</b> Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is <b>not</b> disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.  <input type="checkbox"/> Other (see instructions) ►	
	<b>5</b> Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
	<b>6</b> City, state, and ZIP code	
	<b>7</b> List account number(s) here (optional)	

<b>Part I</b>	<b>Taxpayer Identification Number (TIN)</b>																															
	Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> , later.	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="10" style="text-align: center;"><b>Social security number</b></td> </tr> <tr> <td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td> </tr> <tr> <td colspan="3" style="text-align: center;">-</td> <td colspan="4" style="text-align: center;">-</td> <td colspan="3"></td> </tr> </table>	<b>Social security number</b>																				-			-						
<b>Social security number</b>																																
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	<b>Note:</b> If the account is in more than one name, see the instructions for line 1. Also see <i>What Name and Number To Give the Requester</i> for guidelines on whose number to enter.	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="10" style="text-align: center;"><b>Employer identification number</b></td> </tr> <tr> <td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td><td style="width: 30px;"> </td> </tr> <tr> <td colspan="3" style="text-align: center;">-</td> <td colspan="4" style="text-align: center;">-</td> <td colspan="3"></td> </tr> </table>	<b>Employer identification number</b>																				-			-						
<b>Employer identification number</b>																																
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<b>Part II</b>	<b>Certification</b>	
	Under penalties of perjury, I certify that:	
	1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and 3. I am a U.S. citizen or other U.S. person (defined below); and 4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.	
	<b>Certification instructions.</b> You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.	

<b>Sign Here</b>	Signature of U.S. person ►	Date ►
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### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
  - Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
  - Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
  - Form 1099-S (proceeds from real estate transactions)
  - Form 1099-K (merchant card and third party network transactions)
  - Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
  - Form 1099-C (canceled debt)
  - Form 1099-A (acquisition or abandonment of secured property)
- Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

**Note:** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

## What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.



**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

### Specific Instructions

#### Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note: ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

#### Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

#### Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

#### Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

##### Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947



The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

- A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)
- B—The United States or any of its agencies or instrumentalities
- C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)
- E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)
- F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state
- G—A real estate investment trust
- H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940
- I—A common trust fund as defined in section 584(a)
- J—A bank as defined in section 581
- K—A broker
- L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note:** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

**Line 5**

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

**Line 6**

Enter your city, state, and ZIP code.

**Part I. Taxpayer Identification Number (TIN)**

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note:** See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.SSA.gov](http://www.SSA.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/Businesses](http://www.irs.gov/Businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. Go to [www.irs.gov/Forms](http://www.irs.gov/Forms) to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to [www.irs.gov/OrderForms](http://www.irs.gov/OrderForms) to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note:** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

**Part II. Certification**

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.



1. **Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.
2. **Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.
3. **Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.
4. **Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).
5. **Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLÉ accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

**What Name and Number To Give the Requester**

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
5. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee <sup>1</sup> The actual owner <sup>1</sup>
6. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(E))	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

\*Note: The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

**Secure Your Tax Records From Identity Theft**

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.** Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.



The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@uce.gov](mailto:spam@uce.gov) or report them at [www.ftc.gov/complaint](http://www.ftc.gov/complaint). You can contact the FTC at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see [www.IdentityTheft.gov](http://www.IdentityTheft.gov) and Pub. 5027.

Visit [www.irs.gov/IdentityTheft](http://www.irs.gov/IdentityTheft) to learn more about identity theft and how to reduce your risk.

### Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.



## F6.2 NON-CONFLICT OF INTEREST

By submitting a proposal in response to this solicitation, Proponent represents that in the preparation and submission of its proposal, said Proponent did not either directly or indirectly, enter into any combination or arrangement with any person, Proponent, Corporation or enter into any agreement, participate in any collusion, or otherwise take any action in the restraint of free, competitive bidding in violation of the Sherman Act (15 U.S.C. Section I or Section 59.1-9.1 through 59.1-9.17 or Sections 59.1 – 68.6 through 59.68.8). Collusion and fraud in bid or proposal preparation shall be reported to the State of Georgia Attorney General and the United States Justice Department.

Proponent certifies that to the best of its knowledge, no circumstances exist which shall cause a conflict of interest in performing services for the City of South Fulton, and that no company or person other than bona fide employees working solely for our firm has been employed or retained to solicit or secure an agreement resulting from this Request for Proposals.

Signature:

---

Type Name:

---

Title

---

Firm

---



### F6.3 NON-COLLUSION AFFIDAVIT

I, \_\_\_\_\_ of the City of \_\_\_\_\_, in the County of \_\_\_\_\_, and the State of \_\_\_\_\_, of full age, being duly sworn according to law on my oath depose and say that: I am. \_\_\_\_\_ of the firm of \_\_\_\_\_.

The Proponent making the Proposal for the above named Contract, and that I executed the said Proposal with full authority so to do; that said Proponent has not, directly or indirectly, entered into any agreement, participate in any collusion, or otherwise taken any action in restraint of free, competitive bidding in connection with the above named Contract; and that all statements contained in said Proposal and in this affidavit are true and correct, and made with full knowledge that the City of South Fulton relied upon the truth of the statements contained in said Proposal and in the statements contained in this affidavit in awarding the Contract for the said Proposal.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by:

\_\_\_\_\_  
(Name of Proponent)

\_\_\_\_\_  
(Signature of Proponent)

Subscribed and sworn to before me.  
This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Signature of Notary Public)

Notary Public of \_\_\_\_\_ My Commission expires \_\_\_\_, 20\_\_\_\_\_





## F6.4 BUSINESS ENTITY CERTIFICATE

### (a) CORPORATE CERTIFICATE

I, \_\_\_\_\_, certify that  
I am the

\_\_\_\_\_ of the Corporation named as Proponent herein,  
same

(title)

being organized and incorporated to do business under the laws of the State of

\_\_\_\_\_ ; that \_\_\_\_\_ who executed this  
Proposal on behalf of the Proponent was, then and there, \_\_\_\_\_

\_\_\_\_\_ and

(title)

that said Proposal was duly signed by said officer for and on behalf of said corporation, pursuant  
to the authority of its governing body and within the scope of its corporate powers. This \_\_\_ day  
of \_\_\_\_\_, 20 \_.

(Printed Name)

\_\_\_\_\_

(Signature)

(Corporate Seal must be affixed above)

\_\_\_\_\_

### (b) PARTNERSHIP, LLC, AND OTHER ENTITIES

I, \_\_\_\_\_, certify that I am authorized  
to sign to commit \_\_\_\_\_ named a Proponent in the foregoing  
Proposal. That said company is formed under the laws of the State of. This \_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_\_.

(Printed Name)

\_\_\_\_\_

\_\_\_\_\_



**F6.5 CERTIFICATE OF AUTHORITY – JOINT VENTURE**

(Separate Certificate to be submitted by each joint venture partner) I,

\_\_\_\_\_, (1) certify that:

- 1 I am the \_\_\_\_\_ (2) of \_\_\_\_\_, (3) (hereinafter “Venturer”).
  
- 2 Venturer is a partner and participation in the joint venture having submitted the Invitation to Bid or Request for Proposal No. \_\_\_\_\_ for

\_\_\_\_\_  
(Insert Project Name).

- 3 Venturer is organized and incorporated to do business under the laws of the State of \_\_\_\_; and
  
- 4 Said Invitation to Bid or Request for Proposal No. was duly signed by said officer for and on behalf of said Venturer and the Contractor pursuant to the authority of the governing body of each and within the scope of its corporate powers.

I further certify that the names and addresses of the owners of all the outstanding stock or ownership interest in Venturer as of this date are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

By:

\_\_\_\_\_  
Signature of Person  
Executing Certification



**INSTRUCTIONS FOR COMPLETION OF THIS CERTIFICATE**

1. Name of secretary (if Venturer is a corporation), or Manager or CEO (if Venturer is an LLP of Venturer).
2. Title of person executing Certification.
3. Name of joint venture partner.

**COPY THIS FORM AND SUBMIT SEPARATE CERTIFICATES FOR EACH JOINT VENTURE PARTNER WITH THE BID OR PROPOSAL.**



## F6.6 ILLEGAL IMMIGRATION REFORM AND ENFORCEMENT ACT

Contractor Affidavit under O.C.G.A. § 13-10-91(b) (1)

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 engaged in the physical performance for services on behalf of City of South Fulton (name of public employer), has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned Contractor will continue to use the federal work authorization program throughout the Contract period and the undersigned Contractor will Contract for the physical performance of services in satisfaction of such Contract only with subcontractors who present an affidavit to the Contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

\_\_\_\_\_  
Federal Work Authorization User Identification Number

\_\_\_\_\_  
Date of Authorization

\_\_\_\_\_  
Name of Contractor

RFP # 24-26 INDEFINITE QUANTITY CONSTRUCTION CONTRACT Services for the City of South Fulton

City of South Fulton, Georgia Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_, 20\_\_ in \_\_\_\_\_ (City), \_\_\_\_\_ (State).

\_\_\_\_\_  
Signature of Authorized Officer or Agent

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

Subscribed and sworn before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary public

My Commission Expires: \_\_\_\_\_





## F6.8 SUB-CONTRACTOR INFORMATION FORM

The Proponent shall identify all proposed Sub-Contractors who shall be performing work under the proposed Contract. The Proponent certifies that the following individuals, firms or businesses must be hired or awarded subcontracts for the indicated portions of the work in the event that the Proponent is awarded a Contract.

**Please list all proposed Sub-Contractors below:**

1. <u>TYPE OF WORK:</u> _____			
Name _____			
Street Address _____	City _____	State _____	Zip _____

2. <u>TYPE OF WORK:</u> _____			
Name _____			
Street Address _____	City _____	State _____	Zip _____

3. <u>TYPE OF WORK:</u> _____			
Name _____			
Street Address _____	City _____	State _____	Zip _____

4. <u>TYPE OF WORK:</u> _____			
Name _____			
Street Address _____	City _____	State _____	Zip _____

**(Make additional copies as necessary)**



## F6.9 ACKNOWLEDGEMENT OF PROPONENT

### STATE OF GEORGIA COUNTY OF FULTON

Before me, the undersigned authority a Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_, on this day personally appeared \_\_\_\_\_ who, after having first been duly sworn, upon oath did depose and say, that the forgoing proposal submitted by \_\_\_\_\_ hereafter called "Proponent" is duly authorized agent of said company and that the person signing said proposal has been duly authorized to execute the same. Proponent affirms that it is duly authorized to execute this Proposal, that this company, corporation, firm, partnership or individual has not prepared its proposal in collusion with any other Proponent, and that the contents of this proposal as to prices, terms or conditions of said proposal have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this proposal.

The undersigned certifies that the proposed costs contained in this proposal have been carefully checked and are submitted as correct and final and if proposal is accepted, agrees to furnish the articles and/or services listed and offered in this document at the prices and terms stated, subject to the conditions and specifications of this Request for Proposal.

Proponent Information:

(Company)	(Signature)
(Address)	(Printed Name)
(City, State, Zip)	(Title)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

Notary Public in and for the State of \_\_\_\_\_  
(Seal)

**(FAILURE TO SIGN THIS SECTION SHALL DISQUALIFY PROPONENT'S RESPONSE)**



## F6.10 REFERENCE

### REFERENCE VERIFICATION FORM

SOLICITATION NUMBER: REQUEST FOR PROPOSALS (RFP) NO. 24-26

SOLICITATION TITLE: INDEFINITE QUANTITY CONSTRUCTION CONTRACT

PROPOSING FIRM (List name exactly as provided in proposal):

Date of Verification:

---

Reference Organization:

---

Project Verified (Include the Project Name / Title and a brief description of the Project):

Person Contacted:

---

Title of Contact:

---

Telephone Number including extension:

---

Email Address:

---

#### Questions Yes No

1. Were you satisfied with the Company/Organization's overall performance?
2. Did the firm adhere to the scope of work and bid requirement?
3. Did the firm provide deliverables as agreed upon?
4. Would you engage this firm again?

Additional comments provided by Proposer's contact:

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## F6.11 ACKNOWLEDGEMENT OF INSURANCE REQUIREMENTS

I \_\_\_\_\_, as an authorized agent of \_\_\_\_\_ shall comply completely and promptly with all insurance requirements contained in the City’s Request for Proposal 24-26 INDEFINITE QUANTITY CONSTRUCTION CONTRACT SERVICES pertaining to insurance and/or bonding.

Proponent understands that it is required to share the City’s insurance and/or bonding requirements with the appropriate surety company(s) and/or insurance brokers, agents, underwriters, etc. prior to any award of a Contract and to take all necessary steps to ensure compliance with the applicable bonding, insurance and endorsement requirements without delay. **Proponent understands, acknowledges and agrees that its failure to fully comply with these requirements within five (5) days and no more than ten (10) days of the date proponent receives a final Contract from the City, may result in the forfeiture of the bid guarantee submitted with its proposal and/or the disqualification of Proponent from further consideration for the Contract.**

By executing this Acknowledgement of Insurance Requirements, I represent that I am authorized to make the representations contained herein on behalf of \_\_\_\_\_. Further by signing below, I represent that \_\_\_\_\_ understands and agrees to unconditionally comply with all requirements related to bonding and insurance contained in the City’s Contract attached hereto as Appendix A.

Date: \_\_\_\_\_, 20\_\_

Corporate Proponent

Non-Corporate Proponent

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Name: \_\_\_\_\_

Name:

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

Title:

\_\_\_\_\_  
Notary Public (Seal)

\_\_\_\_\_  
Notary Public (Seal)

My Commission Expires: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_





**F6.13 CERTIFICATION OF ABSENCE OF CONFLICT OF INTEREST FOR DEVELOPMENT OF SPECIFICATIONS OF SCOPE OF WORK**

*Required for each Contract or arrangement to prepare or develop specifications or requirements.  
(O.C.G.A. § 36-80-28)*

The undersigned Proponent, who is entering into a Contract or arrangement with (City of South Fulton, Georgia) to prepare or develop specifications or requirements for an invitation for bids, request for proposals, purchase order, or any other type of solicitation for said (City of South Fulton, Georgia) certifies that:

1. The Proponent shall avoid any appearance of impropriety and shall follow all policies and procedures of (City of South Fulton, Georgia) as may be related to the project.
2. The Proponent discloses below any material transaction or relationship currently known to the Proponent that reasonably could be expected to give rise to a conflict of interest, including, but not limited to, that of the Proponent, or the Proponent’s employees, agents or subsidiaries (Include past, present, or known prospective engagements, involvement in litigation or other dispute, client relationships, or other business or financial interest):

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3. The Proponent shall immediately disclose any material transaction or relationship subsequently discovered during the pendency of the Contract or arrangement.
4. The Proponent acknowledges that any violation or threatened violation of the agreement may cause irreparable injury to the (City of South Fulton, Georgia) entitling (City of South Fulton, Georgia) to seek injunctive relief in addition to all other legal remedies.

---

Signature of Proponent’s Authorized Official

---

Printed Name & Title of Authorized Official

---

Date



## F6.14 CERTIFICATION OF DISQUALIFICATION OR REMOVAL

The undersigned Bidder/Proponent declares that the applying organization has not been debarred, disqualified, removed, or otherwise prevented from bidding on or completing a federal, state, or local government project because of violations of law or safety regulation.

I, \_\_\_\_\_, authorized agent of

\_\_\_\_\_  
*(Name of Organization)*

Hereby certify, under penalty of perjury under the laws of the State of Georgia, that the organization has not been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of violations of law or a safety regulation.

Bidder/Proponent Information:

\_\_\_\_\_  
(Company)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(City, State, Zip)

\_\_\_\_\_  
(Title)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the  
State of

\_\_\_\_\_  
(Seal)



## APPENDIX C – REQUIRED CONTENT OF PROPOSAL

### 2. IDIQ OVERVIEW

2.1. IDIQ is a competitively solicited indefinite-delivery, indefinite-quantity construction contract awarded to Contractors to repair, alter, modernize, rehabilitate, renovate, and for minor new construction of infrastructure, buildings, structures, or other real property. The estimated contract term is one year with bilateral option terms. All Unit Prices are based on local labor, material, and equipment prices for the direct construction cost. Once contracts are awarded, The COSF will order Work from the awarded vendors by task issuing a Purchase Order against approved task order proposals.

2.2. Under IDIQ, the Contractor furnishes management, labor, materials, equipment, and incidental design support needed to perform the Work.

2.3. As Projects are identified, the Contractor will jointly scope the Work with the COSF user department. The user department will prepare a Detailed Scope of Work and issue a Request for Proposals to the Contractor. The Contractor will then prepare a Proposal Package for the Project, including a Price Proposal, Schedule, list of identified subcontractors, and other requested documentation, such as cut sheets for materials. The COSF purchasing department will issue a Purchase Order if the Proposal Package is reasonable. The Purchase Order will reference the Detailed Scope of Work and set forth the Purchase Order Completion Time and Price. The Contractor must perform the Detailed Scope of Work within the Purchase Order Completion Time for the Purchase Order Price. Extra Work, credits, and deletions will be contained in Supplemental Purchase Orders calculated similarly.

2.4. The COSF User Department (or the COSF Departmental Designated Representative) will identify Projects and develop a draft scope of the work. The Contractor will then assist the General Services and COSF User Department in developing a final scope of work. The COSF General Services Department will then issue a Detailed Scope of Work and a Request for Proposals to the Contractor. The Purchase Order will reference the Detailed Scope of Work and set forth the Purchase Order Completion Time and Price.

2.5. Within two (2) business days of receipt of a Purchase Order from The COSF General Services Department, the Contractor must acknowledge receipt of the purchase order via email to [GSMB@cityofsouthfultonga.gov](mailto:GSMB@cityofsouthfultonga.gov).

2.6. The Contractor must email all invoices to the COSF at [GSBM@cityofsouthfultonga.gov](mailto:GSBM@cityofsouthfultonga.gov). The invoices must be received by the 25<sup>th</sup> of each month to be considered for payment in the following month.

### 3. QUALIFICATION OF BIDDERS

3.1. Only bids from firms usually performing the type of work specified within the RFP Documents will be considered. Bidder must have adequate organization, facilities, equipment, and personnel to ensure prompt and efficient service to The COSF (as solely determined by the COSF).

3.2. To determine a Bidder's responsibility and ability to perform the Contract, The COSF has the right to investigate and request information concerning the bidder's financial condition, experience record, personnel, equipment, facilities, principal business location, and organization, as well as the Bidder's record



with environmental regulations and claims/litigation history.

3.3. Bidder must have a fully functioning office within the metropolitan Atlanta Area. Bidders with fully functional offices one year before and after the RFP will be given preference during the evaluation.

#### **4. AWARD**

4.1. Contract Awards will be made by the COSF Purchasing Director.

4.2. The COSF intends to award multiple Contracts to the most responsive, responsible Bidder(s) based on the bidders response as shown on the Bid, provided, however, no Bidder will be awarded more than one Contract. The COSF will have the right to waive any informality or irregularity in any Bidder's Response received and to accept the Bidder's Response(s), which, in its judgment, is (are) in the best interests of The COSF and The COSF User Departments. The COSF reserves the right to reject all Bid Responses and advertise again if, in The COSF's opinion, the received bids do not meet or exceed the minimum needs and expectations of the COSF's user departments.

4.3. Additionally, the Bidders must submit a Management Plan. The Bidder's Management Plan will provide The COSF with information to gauge the bidder's responsibility.

#### **5. ASSIGNMENT OF WORK**

5.1. The COSF General Services Department assigns the work at its discretion. The Contractor's performance history, and ability to perform the Work will be considered in determining the distribution of the Work.

5.2. The COSF will consider several factors when determining a Task Order, including, but not limited to, the following:

5.3.1. Estimated Work Order Amount.

5.3.2. Scope documentation, including but not limited to A/E design.

5.3.3. Nature and Complexity of the Work.

5.3.4. Contractors' abilities to self-perform the Work.

5.3.5. Contractors' proven capabilities on similar Work.

5.3.6. Schedule; and,

5.3.7. Other appropriate criteria as deemed in the best interest of the COSF and the User Department.

5.4. The Detailed Scope of Work will be developed by the COSF General Services and User Department personnel and included with the RFP.

5.5. The COSF may conduct one or more site visits with all contractors designated to Receive the RFP.



5.6. All contractors that receive the RFP will have the opportunity to submit requests for information. Should The COSF choose to respond to any or all the requests for information, the responses and any changes to the RFP will be provided in an addendum to all contractors designated to receive the RFP.

5.7. The Contractor will utilize any additional requested documentation in response to the RFP.

5.8. The COSF will issue a Request for Proposal to the Contractor submitting the NTE Offer that provides the best value to the COSF User Department based on, but not limited to, price and any technical factors considered.

5.9. The NTE Offer is valid for 120 Days from the opening date unless stated otherwise in the Detailed Scope of Work.

5.10. The Contractor who receives a Request for Proposal will submit a Price Proposal to the COSF. Provided that any modification to the Price Proposal is completed promptly and thoroughly, The COSF will deliver a Work Order Proposal Package for the COSF User Department's consideration.

5.11. The Work Order Amount shall be equal to the lessor of the NTE Offer and the Price Proposal amount.

5.12. Where the NTE Offer is less than the Price Proposal, the difference between the NTE Offer and the Price Proposal shall be deemed a discount the Contractor offers. The discount amount shall be a percent-based discount that the following equation will calculate:



## **ATTACHMENT A SCOPE OF SERVICES**

This RFP will establish a group of indefinite quantity construction contracts that the COSF may access to complete repair, maintenance, renovations, and minor new construction projects at competitively solicited prices. The resulting awarded contracts will be available to the COSF General Services, Police, Fire, and Parks and Recreation departments. The City will issue purchase orders to the contractor following the approval of task order proposals for the work anticipated under the contract.

### **1. SCOPE OF WORK**

1.1. This is an indefinite-quantity contract for the supplies or services specified and effective for the period stated in the RFP Documents. This contract will cover normal, emergency and special events.

1.2. Job or performance will be made only as authorized by Purchase Orders issued under these IDIQCC Standard Terms and Conditions.

1.3. The Scope of Work of this Contract will be determined by individual Purchase Orders issued hereunder. The Contractor will provide all pricing, management, incidental drawings, shop drawings, samples, documents, Work, materials, supplies, parts (to include system components), transportation, plant, supervision, labor, and equipment needed to complete each Purchase Order. The Contractor will also be responsible for Site safety, environmental compliance, and Site preparation and cleanup during and after construction.

1.4. The Contractor will conduct the Work strictly following the Contract and all applicable laws, regulations, codes, or directives, including federal, state, county, and city.

1.5. The Contractor will maintain accurate and complete records, files, and libraries of documents to demonstrate compliance with federal, state, and local regulations, codes, applicable laws listed herein, and manufacturers' instructions and recommendations which are necessary and related to the Work to be performed.

1.6. The Contractor will prepare and submit required reports, maintain current record drawings, and submit required information. The Contractor will provide materials lists to include trade names and brand names, and model materials lists to include trade names, brand names, model numbers, and ratings (if appropriate) for all materials necessary to complete the Purchase Order.

1.7. In addition to the Tasks the COSF may, from time to time, require Non-Pre-priced Tasks.

1.8. All Work will comply with applicable standards, including those specified in the following documents. If the Purchase Order specifies a standard which is different or more stringent, the standard used in the Purchase Order will control:

1.8.1. City building codes.

1.8.2. The specific Detailed Scope of Work- The Detailed Scope of Work is the document that defines the Contractor's obligations. This includes but is not limited to, the contractor's work, the location of the work to be completed, and the specific equipment or materials to be used. The





Detailed Scope of Work may reference drawings and specifications prepared for the work.

### 1.8.3. Technical Specifications

1.8.4. These technical Specifications are intended to furnish concise industry and commercial standards for the construction, maintenance, or repair of The COSF User Department facilities.

1.8.5. Reference in the Technical Specifications is intended to be descriptive but not restrictive and only to indicate to the prospective Bidder items that will be satisfactory.

## 2. PROCEDURE FOR ORDERING WORK

### 2.1. Initiation of a Work Order

2.2. As the need exists, The COSF (or their designated representative) will, on behalf of The COSF User Department, notify the Contractor of a Project and schedule a Joint Scope Meeting.

2.3. The Contractor will attend the Joint Scope Meeting to discuss, at a minimum:

2.4. The general scope of the Work

2.5. Alternatives for performing the Work and value engineering,

2.6. Access to the Site and protocol for admission,

2.7. Hours of operation,

2.8. Staging area,

2.9. Requirements for professional services, sketches, drawings, and specifications,

2.10. Construction schedule,

2.11. Requirement for bonding,

2.12. The presence of hazardous materials and

2.13. The date on which the Proposal Package is due.

2.14. Upon completion of the joint scoping process, The COSF (or their designated representative), working with the COSF User Department and the Contractor, will prepare a Detailed Scope of Work referencing any sketches, drawings, photographs, and specifications required to document accurately the work to be accomplished. The COSF (or their designated representative) will issue a Request for Proposal requiring the Contractor to prepare a Proposal Package. The Detailed Scope of Work, unless modified by both the Contractor and The COSF (or their designated representative), will be the basis on which the Contractor will develop its Price Proposal and The COSF (or their designated representative) and the COSF User Department will evaluate the same. The Contractor has no right to refuse to perform any Task or work in connection with a particular Project.



2.15. Preparation of the Price Proposal: The Contractor will prepare Price Proposals per the following:

2.16. If the Contractor wants to perform it will submit three independent quotes for all materials to be installed and will provide a breakdown of the labor and equipment costs.

2.17. The Contractor must submit three independent bids from Subcontractors. The Contractor will not submit a quote or bid from any supplier or Subcontractor that the Contractor is not prepared to use. The COSF may require additional quotes and bids if the suppliers or Subcontractors are not acceptable or if the prices are not deemed reasonable by The COSF or its designated representative.

2.18. Pricing: The final price submitted for Tasks will follow the following formula supported with the necessary backup documents, including the calculation below:

2.18.1. On complex Projects, such as those requiring incidental engineering or architectural drawings, approvals, and permits, an allowance will be made to provide adequate time for preparing and submitting the necessary documents.

2.18.2. In emergencies and for Projects requiring immediate completion, the Proposal Package may be required quickly, and the due date will be so indicated on the Request for Proposal, or the Contractor may begin work immediately, with the paperwork to follow.

2.18.3. If the Contractor fails to meet the deadline for the submittal of the Proposal Package, this may be a reason to suspend the issuance of this particular Purchase Order.

2.18.4. If the Contractor requires clarifications or additional information regarding the Detailed Scope of Work to prepare the Proposal Package, the request must be submitted so that the submittal of the Proposal Package is not delayed.

### **3. ARCHITECTURAL AND ENGINEERING SERVICES**

3.1. Under this Contract, it is expected that the level of Architecture and Engineering (A/E) services and design, if any, will be incidental to the Contract. Therefore, the Contractor must include any associated costs. If the level of A/E services for a Purchase Order requires that the Contractor provide stamped drawings and plans, the Contractor will be reimbursed according to the appropriate Task. As on any construction project, the Contractor will be required to provide shop drawings, as-built drawings, project layout drawings, and sketches as needed.

3.2. The preparation of incidental drawings/plans, specifications, shop drawings, product data and samples, as-builts, and all other documentation required herein by the Contractor as required by individual Purchase Orders is part of the Scope of Work of this Contract.



**REQUEST FOR PROPOSAL (RFP) 24-26 Indefinite Quantity Construction Contract**

Please use the following checklist to verify that all required information is included in your proposal. It is the sole responsibility of each proponent to ensure that their proposal is inclusive of all Submittals outlined below or elsewhere in this RFP. **Failure to submit any of the items below may cause rejection of the Proposal.**

The City will not consider any proposal that does not include completed Illegal Immigration Reform and Enforcement Act Affidavit Form(s). The Cost Proposal must be submitted and uploaded as a separate attachment. Do not upload the Cost Proposal with the Technical Proposal. The Financials must be submitted and uploaded as a separate attachment. Do not upload the Financials with the Technical Proposal.

Proposer Requirements	Proposer Completed
<b>1. PROPOSAL SOLICITATION FORM</b>	<input type="checkbox"/>
<b>2. SUBMITTAL CHECKLIST (THIS FORM)</b>	<input type="checkbox"/>
<b>3. ADDENDA (IF APPLICABLE)</b>	<input type="checkbox"/>
<b>4. ENTIRE PROPOSAL</b>	<input type="checkbox"/>
<b>5. COST PROPOSAL (For Informational Purposes Only)</b>	<input type="checkbox"/>
<b>6. REQUIRED FORM SUBMITTALS (APPENDIX B)</b>	<input type="checkbox"/>
<input type="checkbox"/> F6.1 W-9 FORM	<input type="checkbox"/>
<input type="checkbox"/> F6.2 NON-CONFLICT OF INTEREST	<input type="checkbox"/>
<input type="checkbox"/> F6.3 NON -COLLUSION AFFIDAVIT	<input type="checkbox"/>
<input type="checkbox"/> F6.4 BUSINESS ENTITY CERTIFICATE	<input type="checkbox"/>
<input type="checkbox"/> F6.5 CERTIFICATE OF AUTHORITY-JOINT VENTURE	<input type="checkbox"/>
<input type="checkbox"/> F6.6 ILLEGAL IMMIGRATION REFORM AND ENFORCEMENT ACT – CONTRACTOR AFFIDAVIT	<input type="checkbox"/>
<input type="checkbox"/> F6.7 ILLEGAL IMMIGRATION REFORM AND ENFORCEMENT ACT- SUBCONTRACTOR AFFIDAVIT	<input type="checkbox"/>
<input type="checkbox"/> F6.8 SUBCONTRACTOR INFORMATION FORM	<input type="checkbox"/>
<input type="checkbox"/> F6.9 ACKNOWLEDGEMENT OF PROPONENT	<input type="checkbox"/>
<input type="checkbox"/> F6.10 REFERENCE AND RELEASE FORM	<input type="checkbox"/>
<input type="checkbox"/> F6.11 ACKNOWLEDGEMENT OF INSURANCE REQUIREMENTS	<input type="checkbox"/>
<input type="checkbox"/> F6.12 EXCEPTIONS FORM	<input type="checkbox"/>
<input type="checkbox"/> F6.13 CERTIFICATE OF ABSENCE OF CONFLICT OF INTEREST FOR DEVELOPMENT OF SPECIFICATIONS OF SCOPE OF WORK	<input type="checkbox"/>
<input type="checkbox"/> F6.14 DEBARMENT FORM	<input type="checkbox"/>
<b>1. Business License</b>	<input type="checkbox"/>
<b>2. Professional License</b>	<input type="checkbox"/>
<b>3. Certifications</b>	<input type="checkbox"/>



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### ADDENDUM ACKNOWLEDGMENT FORM

**ADDENDA ACKNOWLEDGMENT:** The undersigned acknowledges the receipt of the following Addenda:

Addendum #: \_\_\_\_\_ Dated: \_\_\_\_\_ Addendum

#: \_\_\_\_\_ Dated: \_\_\_\_\_ Addendum

#: \_\_\_\_\_ Dated: \_\_\_\_\_

Addendum #: \_\_\_\_\_ Dated: \_\_\_\_\_

Addendum #: \_\_\_\_\_ Dated: \_\_\_\_\_

Respondent (Company): \_\_\_\_\_

Signature (in ink): \_\_\_\_\_

Name (Typed/printed): \_\_\_\_\_

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

Note: If Addendums have been issued, respondents should complete and return this attachment with their proposal. Failure to do so may result in disqualification of the

## ATTACHMENT B - DRAFT SERVICES CONTRACT

### REQUEST FOR PROPOSAL (RFP) 24-26 INDEFINITE QUANTITY CONSTRUCTION CONTRACT

THIS CONTRACT (the “Contract”) is made this \_\_\_ day of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_ (the “Contractor”) and the CITY OF SOUTH FULTON, GEORGIA, a political subdivision of the state of Georgia (“COSF” or the “City”).

In consideration of the promises and the covenants herein contained, the adequacy and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

#### 1. Definitions

In this Contract, the following words have the meanings indicated:

- 1.1 “Contractor” means the entity first named above whose principal business address is (Contractor’s primary address), whose Federal Employer Identification Number or Social Security Number is (Contractor’s FEIN), and whose COSF vendor ID number is (Number).
- 1.2 “Financial Proposal” means the Contractor’s [pick one: Financial Proposal or Best and Final Offer (BAFO)] dated \_\_\_\_\_ (Financial Proposal date or BAFO date).
- 1.3 “RFP” means the Request for Proposals for solicitation Title, Solicitation # solicitation Number, and any amendments, addenda, and attachments thereto issued in writing by the City.
- 1.4 “Technical Proposal” means the Contractor’s Technical Proposal dated. \_\_\_\_\_ (Technical Proposal date), as modified and supplemented by the Contractor’s responses to requests clarifications and requests for cure, and by any Best and Final Offer.
- 1.5 Capitalized terms not defined herein shall be ascribed the meaning given to them in the RFP.

#### 2. Scope of Contract

- 2.1 The Contractor shall perform in accordance with this Contract and Exhibits A-F, which are listed below and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall control. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision: Exhibit A – RFP Documents, including general scope of services  
Exhibit B – Technical Proposal  
Exhibit C – Financial Proposal  
Exhibit D – Legislation (if applicable)  
Exhibit E – Insurance and Bonding Requirements/Certificate  
Exhibit F – Additional Contract Documents  
Exhibit G – Federal Funds Attachments (if applicable)

- 2.2 The City may, at any time, by a change order, make unilateral changes in the work within the general scope of the Contract. No other action shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor’s cost of, or the time required for, the performance of any part of the work, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.
- 2.3 The Contract may be modified by mutual agreement of the parties, provided:
  - (a) the modification is made in writing; (b) all parties sign the modification; and (c) all approvals required are obtained.

**3. Period of Performance**

- 3.1 The term of this Contract begins on the date the Contract is signed by the City following any required prior approvals, including approval by the City Council, if such approval is required (the “Effective Date”) and shall continue until \_ (“Initial Term”).
- 3.2 In its sole discretion, the City shall have the unilateral right to extend the Contract for <<enter the number of periods >>, successive one -year renewal options (each a “Renewal Term”) at the prices established in the Contract. “Term” means the Initial Term and any Renewal Term(s).
- 3.3. The Contractor’s performance under the Contract shall commence as of the date provided in a written NTP.
- 3.4 The Contractor’s obligation to pay invoices to subcontractors providing products/services in connection with this Contract, as well as the audit; confidentiality; document retention; patents, copyrights & intellectual property; warranty; indemnification obligations; and limitations of liability under this Contract; and any other obligations specifically identified, shall survive expiration or termination of the Contract.

**4. Consideration and Payment**

- 4.1 In consideration of the satisfactory performance of the work set forth in this Contract, the City shall pay the Contractor in accordance with the terms of this Contract and at the prices quoted in the Financial Proposal. Unless properly modified (see above Section 2), payment to the Contractor pursuant to this Contract, including the Initial Term and any Renewal Term, shall not exceed the Contracted amount.

The total amount of payments by City under this Contract shall not exceed \$ \_\_\_\_\_ ( the “ NTE Amount”), w h i c h includes \$ \_\_\_\_\_ for the Initial Term **[If one or more option periods exist, then include:]** and \$ \_\_\_\_\_ for the Renewal Term(s).

Contractor shall notify the Contract Administrator, in writing, at least sixty (60) days before payments reach the NTE Amount. After notification by the Contractor, if the City fails to increase the Contract amount, the Contractor shall have no obligation to perform under this Contract after payments reach the stated amount; provided,

however, that, prior to the stated amount being reached, the Contractor shall: (a) promptly consult and work in good faith with the City to establish a plan of action to assure that every reasonable effort is undertaken by the Contractor to complete critical work in progress prior to the date the NTE Amount will be reached; and (b) when applicable secure databases, systems, platforms, and applications on which the Contractor is working in an industry standard manner so as to prevent damage or vulnerabilities to any of the same due to the existence of any such unfinished work.

- 4.2 Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the City's receipt of a proper invoice from the Contractor.
- 4.3 In addition to any other available remedies, if, in the opinion of the City, the Contractor fails to perform in a satisfactory and timely manner, the City may refuse or limit approval of any invoice for payment and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the City.
- 4.4 Payment of an invoice by the City is not evidence that services were rendered as required under this Contract.

## 5. Rights to Records

- 5.1 The vendor agrees that all documents and materials including, but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations, and data prepared by the Contractor for purposes of this Contract shall be the sole property of the City and shall be available to the City at any time. The City shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.
- 5.2 The Contractor agrees that at all times during the term of this Contract and thereafter, works created as a Deliverable under this Contract (as defined in **Section 7.2**), and services performed under this Contract shall be "works made for hire" as that term is interpreted under U.S. copyright law. To the extent that any products created as a Deliverable under this Contract are not works made for hire for the City, the Contractor hereby relinquishes, transfers, and assigns to the City all of its rights, title, and interest (including all intellectual property rights) to all such products created under this Contract and will cooperate reasonably with the City in effectuating and registering any necessary assignments.
- 5.3 The Contractor shall report to the Contract Administrator, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all data delivered under this Contract.
- 5.4 The Contractor shall not affix any restrictive markings upon any data, documentation, or other materials provided to the City hereunder and if such markings are affixed, the City shall have the right at any time to modify, remove, obliterate, or ignore such warnings.
- 5.5 Upon termination or expiration of the Contract, the Contractor, at its own expense, shall deliver any equipment, software or other property provided by the City to the place designated by the City.

## 6. Exclusive Use



- 6.1 The City shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any purpose whatsoever, that may be created or generated by the Contractor in connection with this Contract. If any material, including software, is capable of being copyrighted, the City shall be the copyright owner and the Contractor may copyright material connected with this project only with the express written approval of the City.
- 6.2 Except as may otherwise be set forth in this Contract, Contractor shall not use, sell, sub-lease, assign, give, or otherwise transfer to any third party any other information or material provided to Contractor by the City or developed by Contractor relating to the Contract, except as provided for in **Section 8. Confidential or Proprietary Information and Documentation**.

## 7. Patents, Copyrights, and Intellectual Property

- 7.1. All copyrights, patents, trademarks, trade secrets, and any other intellectual property rights existing prior to the Effective Date of this Contract shall belong to the party that owned such rights immediately prior to the Effective Date (“Pre-Existing Intellectual Property”). If any design, device, material, process, or other item provided by Contractor is covered by a patent or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the City to use such item or items pursuant to its rights granted under the Contract.
- 7.2 Except for (1) information created or otherwise owned by the City or licensed by the City from third parties, including all information provided by the City to Contractor; (2) materials created by Contractor or its subcontractor(s) specifically for the City under the Contract (“Deliverables”), except for any Contractor Pre-Existing Intellectual Property included therein; and (3) the license rights granted to the City, all right, title, and interest in the intellectual property embodied in the solution, including the know-how and methods by which the solution is provided and the processes that make up the solution, will belong solely and exclusively to Contractor and its licensors, and the City will have no rights to the same except as expressly granted in this Contract. Any SaaS Software developed by the Contractor during the performance of the Contract will belong solely and exclusively to Contractor and its licensors. For all Software provided by the Contractor under the Contract, Contractor hereby grants to the City a nonexclusive, irrevocable, unlimited, perpetual, non-cancelable, and non-terminable right to use and make copies of the Software and any modifications to the Software. For all Contractor Pre-Existing Intellectual Property embedded in any Deliverables, Contractor grants to the City a license to use such Contractor Pre-Existing Intellectual Property in connection with its permitted use of such Deliverable. During the period between delivery of a Deliverable by Contractor and the date of payment therefor by the City in accordance with this Contract (including throughout the duration of any payment dispute discussions), subject to the terms and conditions contained herein, Contractor grants the City a royalty-free, non-exclusive, limited license to use such Deliverable and to use any Contractor Materials contained therein in accordance with this Contract.
- 7.3. Subject to the terms of **Section 10**, Contractor shall defend, indemnify and hold harmless the City and its agents and employees, from and against any and all claims, costs, losses, damages, liabilities, judgments and expenses (including without limitation reasonable attorneys’ fees) arising out of or in connection with any third-party claim

that the Contractor-provided products/services infringe, misappropriate or otherwise violate any third-party intellectual property rights. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the City or that adversely affects the City's rights or interests, without the City's prior written consent.

- 7.4 Without limiting Contractor's obligations under Section 5.3, if an infringement claim occurs, or if the City or the Contractor believes such a claim is likely to occur, Contractor (after consultation with the City and at no cost to the City):
- (a) shall procure for the City the right to continue using the allegedly infringing component or service in accordance with its rights under this Contract; or (b) replace or modify the allegedly infringing component or service so that it becomes non-infringing and remains compliant with all applicable specifications.
- 7.5 Except as otherwise provided herein, Contractor shall not acquire any right, title or interest (including any intellectual property rights subsisting therein) in or to any goods, Software, technical information, specifications, drawings, records, documentation, data or any other materials (including any derivative works thereof) provided by the City to the Contractor. Notwithstanding anything to the contrary herein, the City may, in its sole and absolute discretion, grant the Contractor a license to such materials, subject to the terms of a separate writing executed by the Contractor and an authorized representative of the City as well as all required City approvals.
- 7.6 Without limiting the generality of the foregoing, neither Contractor nor any of its subcontractors shall use any Software or technology in a manner that will cause any patents, copyrights or other intellectual property which are owned or controlled by the City or any of its affiliates (or for which the City or any of its subcontractors has received license rights) to become subject to any encumbrance or terms and conditions of any third party or open source license (including, without limitation, any open source license listed on <http://www.opensource.org/licenses/alphabetical>) (each an "Open Source License"). These restrictions, limitations, exclusions, and conditions shall apply even if the City or any of its subcontractors becomes aware of or fails to act in a manner to address any violation or failure to comply therewith. No act by the City or any of its subcontractors that is undertaken under this Contract as to any Software or technology shall be construed as intending to cause any patents, copyrights or other intellectual property that are owned or controlled by the City (or for which the City has received license rights) to become subject to any encumbrance or terms and conditions of any open-source license.
- 7.7 The Contractor shall report to the City, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all Deliverables delivered under this Contract.
- 7.8 The Contractor shall not affix (or permit any third party to affix), without the City's consent, any restrictive markings upon any Deliverables that are owned by the City, and if such markings are affixed, the City shall have the right at any time to modify, remove, obliterate, or ignore such warnings.
- 8. Confidential or Proprietary Information and Documentation**
- 8.1 All confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems or cloud infrastructure, if applicable) shall be held in confidence by

the other party. Each party shall, however, be permitted to disclose, as provided by and consistent with applicable law, relevant confidential information to its officers, agents, and Contractor Personnel to the extent that such disclosure is necessary for the performance of their duties under this Contract. Each officer, agent, and Contractor Personnel to whom any of the City's confidential information is to be disclosed shall be advised by Contractor provided that each officer, agent, and Contractor Personnel to whom any of the City's confidential information is to be disclosed shall be advised by Contractor of the obligations hereunder, and bound by, confidentiality at least as restrictive as those of set forth in this Contract.

- 8.2 The provisions of this section shall not apply to information that: (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already rightfully in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

## 9. Loss of Data

- 9.1 In the event of loss of any City data or records where such loss is due to the act or omission of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for restoring or recreating, as applicable, such lost data in the manner and on the schedule set by the Contract Administrator. The Contractor shall ensure that all data is backed up and recoverable by the Contractor. At no time shall any Contractor actions (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in databases, systems, platforms, and applications with which the Contractor is working hereunder.
- 9.2 In accordance with prevailing federal or state law or regulations, the Contractor shall report the loss of non-public data.
- 9.3 Protection of data and personal privacy shall be an integral part of the business activities of the Contractor to ensure there is no inappropriate or unauthorized use of City information at any time. To this end, the Contractor shall safeguard the confidentiality, integrity, and availability of City information.

## 10. Indemnification and Notification of Legal Requests

- 10.1. At its sole cost and expense, Contractor shall (i) indemnify and hold the City, its employees and agents harmless from and against any and all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs and expenses (including but not limited to attorneys' fees and costs), whether or not involving a third party claim, which arise out of or relate to the Contractor's, or any of its subcontractors', performance of this Contract and (ii) cooperate, assist, and consult with the city in the defense or investigation of any such claim, demand, action or suit. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the City or that adversely affects the City's rights or interests, without the City's prior written consent.
- 10.2. The City has no obligation: (i) to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim or action of any character is brought against the Contractor or its subcontractors as a result of or relating to the Contractor's

obligations or performance under this Contract, or (ii) to pay any judgment or settlement of any such suit, claim or action. Notwithstanding the foregoing, the Contractor shall promptly notify the City of any such claims, demands, actions, or suits.

- 11. Notification of Legal Requests.** In the event the Contractor receives a subpoena or other validly issued administrative or judicial process, or any discovery request in connection with any litigation, requesting City Pre- Existing Intellectual Property, of other information considered to be the property of the City, including but not limited to City data stored with or otherwise accessible by the Contractor, the Contractor shall not respond to such subpoena, process or other legal request without first notifying the City, unless prohibited by law from providing such notice. The Contractor shall promptly notify the City of such receipt providing the City with a reasonable opportunity to intervene in the proceeding before the time that Contractor is required to comply with such subpoena, other process, or discovery request.
- Non-Hiring of Employees**

No official or employee of the City, whose duties as such official or employee include matters relating to or affecting the subject matter of this Contract, shall, during the pendency and term of this Contract and while serving as an official or employee of the City, become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

**12. Disputes**

- 12.1** If Contractor contends it is entitled to compensation or any other relief from City or if there are any disagreements over the scope of Services or proposed changes to the Services, Contractor shall, without delay and within three (3) days of being aware of its circumstances giving rise to Contractor's claim, provide written notice of its claim to City. If Contractor fails to give timely notice as required by this subsection or if Contractor commences any alleged additional work without first providing notice, Contractor shall not be entitled to compensation or adjustment for any such work to the extent timely notice was not provided. Such notice shall include sufficient information to advise City of the circumstances giving rise to the claim, the specific contractual adjustment of relief requested and the basis for such request. Within ten (10) days of the date that Contractor's written notice to City is required under this subsection, Contractor shall submit a change order relating to the claim.
- 12.2** The parties are fully committed to working with each other and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Contractor and City each commit to resolving such disputes or disagreements in an amicable, professional, and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Services.
- 12.3** If a dispute or disagreement cannot be resolved informally, Contractor Authorized Representative and Authorized City Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Prior to any meetings between the Authorized Representatives, the parties exchange relevant information that will assist the parties in resolving their dispute or disagreement.
- 12.4** If City and Contractor are still unable to resolve their dispute, each agrees to consider submitting such dispute to mediation or another acceptable form of alternative dispute

resolution.

**13. Georgia Law Jurisdiction and Venue**

13.1 This Contract shall be construed, interpreted, and enforced according to the laws of the State of Georgia.

13.2 The Parties hereby submit and consent to the exclusive jurisdiction of the state courts of Fulton County, Georgia or in the United States District Court for the Northern District of Georgia and irrevocably agree that all actions or proceedings relating to this Contract will be litigated in such courts, and each of the Parties waives any objection which it may have based on improper venue or forum non conveniencce to the conduct of any such action or proceeding in such court

**14. Nondiscrimination in Employment**

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, gender identification, marital status, national origin, ancestry, genetic information, or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or the individual's refusal to submit to a genetic test or make available the results of a genetic test; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

**15. Unauthorized Services**

The Contractor acknowledges that this Contract and any changes to it by amendment, modification, change order or other similar document may have required or may require the legislative authorization of the City's Council. Under Georgia law, Contractor is deemed to possess knowledge concerning the City's ability to assume contractual obligations and the consequences of Contractor's provision of services to the City under an unauthorized contract, amendment, modification, change order or other similar document, including the possibility that the Contractor may be precluded from recovering payment for such unauthorized goods or services. Accordingly, Contractor agrees that if it provides services to the City under a contract that has not received proper legislative authorization or if Contractor provides services to the City in excess of the any contractually authorized services, the City may withhold payment for any unauthorized services provided by Contractor. Contractor assumes all risk of non-payment for the provision of any unauthorized services to the City, and it waives all claims to payment or to other remedies for the provision of any unauthorized services to the City, however characterized, including, without limitation, all remedies at law or equity.

**16. Non-Availability of Funding**

If the City Council fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the City's or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor

and the City from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The City shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

**17. Termination for Default**

If the Contractor fails to fulfill its obligations under this Contract properly and on time, fails to provide any required annual and renewable bond or insurance 30 days prior to expiration of the current bond or insurance then in effect, or otherwise violates any provision of the Contract, the City may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the City's option, become the City's property. The City shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the number of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the City can affirmatively collect damages.

**18. Termination for Convenience**

The performance of work under this Contract may be terminated by the City in accordance with this clause in whole, or from time to time in part, whenever the City shall determine that such termination is in the best interest of the City. The Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination.

**19. Delays and Extensions of Time**

19.1 The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.

19.2 Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the City in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the City, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

**20. Suspension of Work**

The City unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of its performance for such period of time as the City may determine to be appropriate for the convenience of the City.

**21. Labor Trafficking Prohibitions**

Pursuant to O.C.G.A. §16-5-46, Contractor agrees that its employees, directors, officers, owners, subcontractors, vendors, suppliers, agents and affiliates shall not engage in Human Trafficking including, but not limited to: (a) using forced labor, (b) engaging in misleading or fraudulent recruitment practices, (c) charging recruitment fees, (d) destroying, concealing, confiscating, or otherwise denying employee access to the

employee's identification documents, (f) failing to provide an employment agreement (if required) in an employee's native tongue and prior to the employee's departure from his/her place of origin. Contractor agrees to cooperate fully with and provide reasonable access to any agency or governmental authority conducting investigations into actual or alleged violations of this section, self-report activities that are inconsistent with or otherwise violate the provisions of this section or any other applicable law or regulation.

Contractor agrees that its subcontractors, vendors, and suppliers shall create and post a formal compliance plan at (a) at any and all locations at which Contractor engages in business and/or locations at which Contractor may have employees on site and/or (b) on any website owned by or maintained for its benefit. Contractor agrees to maintain a formal compliance plan including, as appropriate an employee awareness program about United States and State of Georgia anti-trafficking policy and preventative procedures. Each contractor and subcontractor must formally certify it has a compliance plan in place, due diligence was conducted, the absence of misconduct, and that, if misconduct was observed, that appropriate remediation and referral actions were taken.

Any violation of the provisions contained herein, in whole or in part, may result in (a) suspension of this Contract and/or any other existing agreements with Contractor and/or any current or future payments or compensation required pursuant to this Contract, (b) termination of this Contract or any existing, pending or future agreements with Contractor, (c) debarment, as defined under 48 C.F.R. 9.406-2 and/or (d) any other claims, actions, remedies, judgments, fees or costs as allowed in accordance with any Applicable law, now or hereafter in effect.

## **22. Retention of Records**

The Contractor and subcontractors shall retain and maintain all records and documents in any way relating to this Contract for (i) three (3) years after final payment by the City hereunder, or (ii) any applicable federal or State retention requirements (such as HIPAA) or condition of award, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the City, at all reasonable times. The Contractor shall provide copies of all documents requested by the City, including, but not limited to itemized billing documentation containing the dates, hours spent, and work performed by the Contractor and its subcontractors under the Contract. All records related in any way to the Contract are to be retained for the entire time provided under this section.

## **23. Right to Audit**

**23.1** The City reserves the right, at its sole discretion and at any time, to perform an audit of the Contractor's performance under this Contract. An audit is defined as a planned and documented independent activity performed by qualified personnel, including but not limited to State and federal auditors, to determine by investigation, examination, or evaluation of objective evidence from data, statements, records, operations and performance practices (financial or otherwise) the Contractor's compliance with the Contract, including but not limited to adequacy and compliance with established procedures and internal controls over the services performed pursuant to the Contract.

**23.2** Upon three (3) Business Days' notice, the City shall be provided reasonable access to Contractor's records to perform any such audits. The City may conduct these audits with any or all of its own internal resources or by securing the services of a third-party accounting or audit firm, solely at the City's election. The City may copy any record related to the services performed pursuant to the Contract. The Contractor agrees to fully cooperate

and assist in any audit conducted by or on behalf of the City, including, by way of example only, making records and employees available as, where, and to the extent requested by the City and by assisting the auditors in reconciling any audit variances. Contractor shall not be compensated for providing any such cooperation and assistance.

- 23.3** The right to audit shall include any of the Contractor's subcontractors including but not limited to any lower tier subcontractor(s). The Contractor shall ensure the City has the right to audit such subcontractor(s).

**24.** Compliance with Laws

The Contractor hereby represents and warrants that:

- 24.1** It is qualified to do business in the State and that it will take such action as, from time-to-time hereafter, may be necessary to remain so qualified.
- 24.2** It is not in arrears with respect to the payment of any monies due and owing the City, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the Term.
- 24.3** It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
- 24.4** It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

**25.** Cost and Price Certification

- 25.1** The Contractor, by submitting cost or price information certifies that, to the best of its knowledge, the information submitted is accurate, complete, and current as of the date of its Proposal.
- 25.2** The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date of its Proposal, was inaccurate, incomplete, or not current.

**26.** Subcontracting; Assignment

The Contractor may not subcontract any of its obligations under this Contract without obtaining the prior written approval of the Procurement Officer, nor may the Contractor assigns this Contract or any of its rights or obligations hereunder, without the prior written approval of the Procurement Officer, each at the City's sole and absolute discretion; provided, however, that a Contractor may assign monies receivable under a contract after written notice to the City. Any subcontracts shall include such language as may be required in various clauses contained within this Contract, exhibits, and attachments. The Contract shall not be assigned until all approvals, documents, and affidavits are completed and properly registered. The City shall not be responsible for fulfillment of the Contractor's obligations to its subcontractors.

**27.** Limitations of Liability

- 27.1** Contractor shall be liable for any loss or damage to the City occasioned by the acts or omissions of Contractor, its subcontractors, agents, or employees as follows:



- (a) For infringement of patents, trademarks, trade secrets and copyrights as provided in **Section 7 “Patents, Copyrights, Intellectual Property”** of this Contract.
- (b) Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property; and
- (c) For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract and regardless of the basis on which the claim is made, Contractor’s liability shall be unlimited. Except that, if the Contract is for Information Technology all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract and regardless of the basis on which the claim is made, Contractor’s liability shall not exceed <<two (2) >> times the total value of the Contract or \$1,000,000, whichever is greater. This limitation of liability is per incident.
- (d) In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor hereunder. For purposes of this Contract, Contractor agrees that all subcontractors shall be held to be agents of Contractor.

27.2 Contractor’s indemnification obligations for Third party claims arising under Section 10 (“Indemnification”) of this Contract are included in this limitation of liability only if the City is immune from liability. Contractor’s indemnification liability for third party claims arising under Section 10 of this Contract shall be unlimited if the City is not immune from liability for claims arising under Section 10.

27.3. In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor hereunder. For purposes of this Contract, Contractor agrees that it is responsible for performance of the services and compliance with the relevant obligations hereunder by its subcontractors.

27.4 Exceptions to Limitations. The limitations set forth in the immediate subsection shall not apply to: (a) personal injury, wrongful death or tangible property damage; (b) any claim for infringement of intellectual property; (c) any breach of the Section entitled "Confidential Information"; or (d) any claim involving a violation of any Applicable Law concerning homeland security, terrorist activity or security sensitive information, regardless of the manner in which such damages are characterized.

## 28. Insurance and Bonding Requirements

Contractor shall comply with the insurance and bonding requirements set forth in the RFP and attached in Exhibit B of this Contract.

## 29. Prompt Pay Requirements

29.1 If the Contractor withholds payment of an undisputed amount to its subcontractor, the City at its option and in its sole discretion, may take one or more of the following actions:

29.1.1 Not process further payments to the Contractor until payment to the subcontractor is verified.

29.1.2 Suspend all or some of the Contract work without affecting the completion date(s) for the Contract work.

29.1.3 Pay or cause payment of the undisputed amount to the subcontractor from

monies otherwise due or that may become due to the Contractor.

29.1.4 Place a payment for an undisputed amount in an interest-bearing escrow account; or

29.1.5 Take other or further actions as appropriate to resolve the withheld payment.

29.2 An “undisputed amount” means an amount owed by the Contractor to a subcontractor for which there is no good faith dispute. Such “undisputed amounts” include, without limitation: (a) retainage which had been withheld and is, by the terms of the agreement between the Contractor and subcontractor, due to be distributed to the subcontractor; and (b) an amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.

29.3 An act, failure to act, or decision of the City concerning a withheld payment between the Contractor and a subcontractor under this **section**, may not:

29.3.1 Affect the rights of the contracting parties under any other provision of law.

29.3.2 Be used as evidence on the merits of a dispute between the City and the Contractor in any other proceeding; or

29.3.3 Result in liability against or prejudice the rights of the City.

### 30. Use of Estimated Quantities

Unless specifically indicated otherwise in the City’s solicitation or other controlling documents related to the Scope of Work or Services, any sample amounts provided are estimates only and the City does not guarantee a minimum or maximum number of units or usage in the performance of this Contract.

### 31. Risk of Loss; Transfer of Title

Risk of loss for conforming supplies, equipment, materials and Deliverables furnished to the City hereunder shall remain with the Contractor until such supplies, equipment, materials and Deliverables are received and accepted by the City, following which, title shall pass to the City.

### 32. Effect of Contractor Bankruptcy

All rights and licenses granted by the Contractor under this Contract are and shall be deemed to be rights and licenses to “intellectual property,” and the subject matter of this Contract, including services, is and shall be deemed to be “embodiments of intellectual property” for purposes of and as such terms are used and interpreted under § 365(n) of the United States Bankruptcy Code (“Code”) (11 U.S.C. § 365(n) (2010)). The City has the right to exercise all rights and elections under State Code and all other applicable bankruptcy, insolvency, and similar laws with respect to this Contract (including all executory statement of works). Without limiting the generality of the foregoing, if the Contractor or its estate becomes subject to any bankruptcy or similar proceeding: (a) subject to the City’s rights of election, all rights and licenses granted to the City under this Contract shall continue subject to the respective terms and conditions of this Contract; and (b) the City shall be entitled to a complete duplicate of (or complete access to, as appropriate) all such intellectual property and embodiments of intellectual property, and the same, if not already in the City’s possession, shall be promptly delivered to the City, unless the Contractor elects to and does in fact continue to perform all of its obligations under this Contract.

### 33. Illegal Immigration Reform and Enforcement Act.

For the entire Term of this Contract, Contractor must comply with the Illegal Immigration Reform and Enforcement Act of 2011 (“Act”) (O.C.G.A. §13-10-90 *et seq.*), as it may be amended from time to time, including but not limited to, obtaining affidavits from Contractor’s subcontractors and sub-subcontractors demonstrating their participation in the E-Verify Program for the duration of their contract with Contractor. Contractor shall further include the obligation to obtain affidavits demonstrating E-Verify participation in its subcontracts with all of Contractor’s subcontractors and sub-subcontractors that perform all or part of the services in this Contract. For additional information on the E-Verify program or to enroll in the program, go to <https://e-verify.uscis.gov/enroll>.

### **34. Miscellaneous**

- 34.1 Any provision of this Contract which contemplates performance or observance subsequent to any termination or expiration of this Contract shall survive termination or expiration of this Contract and continue in full force and effect.
- 34.2 This Contract is not exclusive. During the Term of this Contract, the City reserves the right to select other Contractors, vendors, and suppliers to provide goods and services similar to goods and services provided by Contractor or otherwise described in, provided for or anticipated in this Contract.
- 34.3 Contractor shall not make any public announcement, communication to the media, take any photographs or release any information concerning City, the Services or this Contract without the prior written consent of City.
- 34.4 Any waiver by the Parties or failure to enforce their rights under this Contract shall be deemed applicable only to the specific matter and shall not be deemed a waiver or failure to enforce any other rights under this Contract, and this Contract shall continue in full force and effect as though such previous waiver or failure to enforce any rights had not occurred. No supplement, modification, amendment or waiver of this Contract will be binding on City unless executed in writing by the City Authorized Representative.
- 34.5 Except as otherwise provided herein, all rights and remedies under this Contract are cumulative and are in addition to and not in lieu of any other remedies available under Applicable Law, in equity or otherwise.
- 34.6 Contractor is an independent Contractor of City and nothing in this Contract shall be deemed to constitute Contractor and City as partners, joint venturers, or principal and agent, or be construed as requiring or permitting the sharing of profits or losses. Neither Party has the authority to represent or bind or create any legal obligations for or on behalf of the other Party.
- 34.7 If any term contained in this Contract is held or finally determined to be invalid, illegal, or unenforceable in any respect, in whole or in part, such term shall be severed from this Contract, and the remaining terms contained herein shall continue in full force and effect, and shall in no way be affected, prejudiced, or disturbed thereby.
- 34.8 This Contract is not intended, expressly or implicitly, to confer on any other Person any rights, benefits, remedies, obligations, or liabilities.
- 34.9 The headings of the sections contained in this Contract are for convenience only and shall not be deemed to control or affect the meaning or construction of any provision of this Contract.

34.10 This Contract may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Signatures provided by facsimile or other electronic means, e.g., and not by way of limitation, in Adobe .PDF sent by electronic mail, shall be deemed to be original signatures.

**35. Contract Administrator**

The City representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, and achieving completion of the Contract on budget, on time, and within scope. The Contract Administrator may authorize in writing one or more City representatives to act on behalf of the Contract Administrator in the performance of the Contract Administrator's responsibilities. The City may change the Contract Administrator at any time by written notice to the Contractor.

**36. Notices**

All notices hereunder shall be in writing and either delivered personally or sent by certified or registered mail, postage prepaid, as follows:

If to the City:

With a copy to:

If to the Contractor:

(Contractor's Name)

(Contractor's primary address)

Attn: \_\_\_\_\_

SIGNATURES ON NEXT PAGE

IN WITNESS THEREOF, the parties have executed this Contract as of the date hereinabove set forth.

Contractor

City of South Fulton

\_\_\_\_\_

By:

\_\_\_\_\_

By:

\_\_\_\_\_

Date

\_\_\_\_\_

Date

City Clerk

\_\_\_\_\_

By:

\_\_\_\_\_

Date

Approved for form and legal sufficiency this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

City Attorney