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gwinnettcounty

October 17, 2008

REQUEST FOR PROPOSAL  
RP033-08

The Gwinnett County Board of Commissioners is soliciting competitive sealed proposals from qualified contractors to provide **Collection of Past Due Accounts Receivable on a Multi-Year Contract** for the Department of Corrections.

Proposals must be returned in a sealed container marked on the outside with the Request for Proposal number and Company Name. Proposals will be received until 2:50 P.M. local time on **Wednesday November 12, 2008** at the Gwinnett County Purchasing Office, 75 Langley Drive, Lawrenceville, Georgia 30045. Any proposal received after this date and time will not be accepted. Proposals will be publicly opened and only names of submitting firms will be read at 3:00 P.M. A list of firms submitting proposals will be available the following business day on our website [www.gwinnettcounty.com](http://www.gwinnettcounty.com).

A pre-proposal conference is scheduled for 10:00 a.m. on Tuesday November 4, 2008 at the Gwinnett County Purchasing Office. All contractors are urged to attend.

Questions regarding proposals should be directed to Rich Hampton, Purchasing Associate 3 at [rich.hampton@gwinnettcounty.com](mailto:rich.hampton@gwinnettcounty.com) or by calling 770-822-8738, no later than Wednesday November 5, 2008. Proposals are legal and binding upon the proposer when submitted. One (1) unbound original and four (4) bound copies should be submitted.

Gwinnett County does not discriminate on the basis of disability in the admission or access to its programs or activities. Any requests for reasonable accommodations required by individuals to fully participate in any open meeting, program or activity of Gwinnett County Government should be directed to Percy Scott, Gwinnett County Justice and Administration Center, 770-822-7016.

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

Selection criteria are outlined in the request for proposal documents. Gwinnett County reserves the right to reject any or all proposals to waive technicalities, and to make an award deemed in its best interest. With limited response, Gwinnett County reserves the right to extend the solicitation opening date as appropriate in order to assure a competitive procurement process.

All companies submitting a proposal will be notified in writing of award.

We look forward to your proposal and appreciate your interest in Gwinnett County.

Rich Hampton  
Purchasing Associate III

RH/pe



## **INTRODUCTION**

Gwinnett County Government (County) is requesting competitive sealed proposals for the provision of collecting past due accounts receivable for the Gwinnett County Department of Corrections (DOC). The DOC operates the 800-bed Comprehensive Correctional Complex, the largest county owned correctional facility in the state of Georgia. The Complex is located at 750 Hi Hope Road, Lawrenceville, Georgia. Within the Complex is a traditional prison housing both state and county sentenced offenders. In addition, the Complex houses the County's Work Release and Work Alternative Programs.

The Work Release Program is a sentencing alternative for local judges to house criminal and civil-contempt offenders in a structured, in-custody environment while still maintaining their free world employment. Participants (called Residents) are required to pay administrative and daily fees to help offset the costs of the program. During fiscal year 2007, the DOC hosted 1,042 Residents who occupied the facility for a collective 66,876 days representing nearly \$1,000,000 in anticipated revenue. The DOC successfully collected 83% of the anticipated revenue leaving \$164,000 in lost collections. The DOC has records of \$630,000 in uncollected funds dating back to 2004.

The Work Alternative Program (WAP) provides the local courts with a structured community service sentencing alternative. While not housed at the facility, participants report to the facility and are then escorted to public or non-profit work sites in the community where they perform tasks at no cost. Participants pay a fixed one time administrative fee as well as daily fees to the County. During 2007, a total of 1,382 offenders registered with the WAP and over 10,000 collective work days were recorded. Of the \$117,400 in expected revenue, \$106,344 or 91% was collected. Since 2004, over \$60,000 has gone uncollected.

In order to recover the uncollected fees, both in the past and going forward, the County is seeking proposals from qualified contractors to provide collection services on behalf of the DOC. The County's goal is to maximize its existing revenue sources by increasing the collection of deficient and delinquent debt. The contractor shall make efforts to contact individuals and work vigorously to recover monies (non-tax debt) owed to the County. However, the County also wants to convey to the public that its debt collection system is fair and seeks to treat similarly situated individuals equally.

The intent of this RFP is to award a contract to that proposer whose conforming proposal is most advantageous to the County after price and other factors are considered. However, the County reserves the right to separately procure individual requirements that are the subject of the contract during the contract term when deemed by the Director of Financial Services to be in the County's best interest.

## **SCOPE OF WORK**

### **COUNTY CONTRACT MANAGER**

The County shall appoint a Contract Manager who shall serve as a single point of contact for the approved contractor after contract award. The County Contract Manager shall be available for contact by the contractor during normal business hours via E-mail and telephone.

### **TRANSFERRING CASES TO THE CONTRACTOR**

The contractor shall collect all non-tax debt that the DOC is owed. The County will use all reasonable efforts to provide the contractor with accurate data, however, the County does not warrant or guarantee the accuracy of the data provided. In the event the data is discovered to be inaccurate and the contractor is unable to obtain

accurate data, the contractor shall notify the County Contract Manager within thirty (30) days. When possible, the County's case information will include the following information:

1. Name of debtor (person or entity)
2. Last known address information
3. Employer information
4. Telephone number
5. Amount owed
6. Other available information

As the Work Release Program often involves employment, employer information may be available. Social Security Numbers or Employer Identification Numbers may not be available depending on the circumstances of the individual cases. The County will make all reasonable efforts to provide the debtor's SSN or EIN to the contractor. In nearly all instances, SSN's or EIN's provided will not have been verified. In cases where the debtor's SSN or EIN is either unavailable or inaccurate, the County will permit the contractor's billing invoice to request the SSN or EIN from the debtor. Information contained within the offender's Georgia Crime Information Center (GCIC) or National Crime Information Center (NCIC) data files will not be available for use in the collection of this debt.

The County makes no guarantee to the following:

- The number of cases that will be transferred to the contractor during any period of time;
- The number of debtors who will pay.

## **CASE ASSIGNMENTS**

The contractor shall:

1. Accept all case assignments unless the County agrees otherwise;
2. Notify the County within five (5) working days of its receipt of transferred account(s) and/or case(s);
3. Begin collection activities, documenting actions taken, and monitoring payments received on the transferred accounts within thirty (30) days of receipt, unless approval is given by the County for additional time;
4. The contractor shall have nationwide resources to "skip trace" and effect collection of accounts referred, including the ability to seek legal remedies.
5. Comply with all State and Federal laws regulating the collection of the County's debt.
6. Conduct its collection efforts without regard to the age, amount, location or any other factor of the debt.

The County shall:

1. Provide client information and new referrals according to a mutually agreed upon time frame and manner;
2. Provide supporting documentation of monies owed;
3. Provide new information on existing clients as it becomes available;

## **BANKRUPTCY**

If the contractor receives notification that a debtor has filed a bankruptcy petition, the contractor or subcontractor (appointed attorneys) shall obtain the appropriate proof from the debtor and forward, via facsimile transmission, a copy of the documents to the County Contract Manager within twenty-four (24) hours after receipt of written notice, as well as cease collection activity. The account file shall be returned to

the County unless otherwise directed by the County Contract Manager. The contractor and/or the subcontractor (appointed attorneys) shall be responsible for any violation of the automatic stay following the filing of a petition by a debtor. The contractor or subcontractor (appointed attorney) is not entitled to any fee on any money that must be returned to the debtor.

### **VERIFICATION OF DEBT**

The contractor will be informed how the receivables were calculated by the County. In the event clarification is required from the County, the contractor shall prepare a dispute form for questions or disputes regarding the amount or the cause of the receivables. The contractor shall then refer it to the County via facsimile transmission or e-mail. The County will be responsible for explaining the cause of the debt and how the debt was calculated by returning the dispute resolution form via facsimile or e-mail to the contractor.

### **CONTINUAL SERVICES**

The contractor shall provide continual collection services on an assigned case or an account for a period of twelve (12) months unless one of the following situations occur: The contractor shall notify the County indicating:

1. The obligation owed by the debtor has been paid in full.
2. The case was referred in error.
3. The debtor has died and the search for available assets has been exhausted. This recall shall be dependent upon the statute under which the debt was incurred.
4. The receivable amount on the case has been incorrectly calculated by the County.
5. The receivable/case becomes involved in litigation (this involves any situation that may occur where the County must pull back the case from the contractor and handle the litigation process itself).
6. The case becomes involved in administrative appeal.
7. The debtor has filed for bankruptcy and the law requires legal action to be performed by the County Attorney.
8. The court ordered obligation is in abeyance.
9. Appropriate documentation is obtained by the County to take legal action.
10. Recommitment of the debtor to a correctional institution or reversal of criminal conviction.
11. Any other reason.

### **DISCONTINUATION OF COLLECTION EFFORTS**

The County Contract Manager may request, either by fax, email, or telephone call, for the contractor to return a case and discontinue collection and/or locate efforts. When this occurs, the contractor must make every effort to discontinue activity as soon as possible, but no later than two (2) working days of notification. If the contractor is unsuccessful in effecting collection of an account after a twelve (12) month period, the account, along with a complete history of the collection effort, may be recalled by the County Contract Manager for further action.

Depending upon the collection history during the case assignment, an account may be placed again with the contractor for collection for six (6) additional months. An account may be recalled if the conditions described above are encountered. If no collection success has been achieved in the additional six (6) month period, the account shall be returned to the County Contract Manager along with a complete history of the collection effort for further processing.

### **FEES / COMMISSION PAYMENTS**

The County will pay commission/contingency fees on all funds collected by the contractor. However, the County shall not pay the contractor's commission in the following instances:

1. No commission shall be paid on monies collected after the account has been returned to the County Contract Manager and/or the appropriate County agency, except where it can be proven that the money was received as a result of the collection agency's efforts.
2. No commission shall be paid on monies collected should the debtor be returned to the custody of the County and payments are received for past due amounts.
3. In any case where an account has been assigned to the contractor and the County adjusts the amount of the account, the fee generated by the contractor for services rendered shall be calculated on the adjusted amount and not on the original amount.
4. In any case where an account has been assigned to the contractor, and that account becomes the subject of a bankruptcy, reorganization, County insolvency, receivership, probate or other proceeding, the contractor shall immediately refer the case back to the County. No additional fee shall be paid on the remaining balance.
5. In any non-tax debt case referred to litigation where a debtor presents a petition in bankruptcy which lists the non-tax debt among his/her debts, upon presentation of appropriate proofs, the subcontractor (appointed attorney) shall be required to return the case to the contractor for handling. The contractor and the subcontractor (appointed attorney) shall be responsible for any violation of the automatic stay following the filing of a petition by a debtor and are not entitled to any contingent fee on any money that must be returned to the debtor.
6. In any case where an account has been assigned to the contractor and the contractor has not made any collections within twelve (12) months of the assignment or any period following the assignment, the account shall be returned to the County. No commission will be paid on money collected by the County following the return of the account to the County.
7. Cases in which a payment is received from a receivable offset or intercept, license sanction, administrative levy (when the asset is identified by the County prior to contractor identification), income withholding (when the employer is identified by the County prior to contractor identification), or any other electronic intercept or information identified by the County prior to notification by the contractor. In the event information on assets or an employer is located by the County and the contractor also locates the same information on the same day, the contractor shall receive credit for collections resulting from this data.
8. Cases in which the debtor's checks are returned for insufficient funds, the County will attempt to recoup the funds, along with the administrative fee, within fifteen (15) days. If the debtor does not submit payment within this fifteen (15) day period, the contractor shall be responsible to recover the funds and the County's insufficient funds (NSF) fee where permitted by statute, from the debtor. If the debtor has not made restitution to the contractor after thirty (30) days, the contractor will issue a credit for such a payment, which will be reversed on subsequent payment invoices to the County.
9. Cases in which assets exist but the contractor is unable to collect any of the amounts due.
10. The uncollected portion of an account/case where collection action is suspended either temporarily or permanently by written notification from the County.
11. Amounts by which an account balance is reduced as a result of an abatement or balance correction made by the County either on its own or in response to an action taken by the debtor to the County.
12. Payments posted after the filing of or received from a bankruptcy unless the contractor through a court appearance was responsible for confirming and securing the County's right of payment in the bankruptcy case.
13. Payments received by the County prior to the date the account was referred to the contractor.

### **PROHIBITED COLLECTION PRACTICES**

The County is aware of a practice in the collection industry in which collectors expend the majority of their time and efforts in the collection of receivables which may be more easily and readily collectible, to the

exclusion of receivables which may be viewed as more difficult or time consuming to collect. This industry practice is called "creaming." For the purposes of this contract, this practice is not acceptable. The contractor shall work on all cases which are referred for collection.

### **COLLECTION PROCESS - GENERALLY**

The contractor shall attempt to contact the debtor at least once every thirty (30) days. These contacts shall include telephone calls and/or direct mailings. The contractor shall obtain prior written approval from the County Contract Manager for use of all forms and letters, collection workflows, and telephone scripts to be used by the contractor. No forms, letters, collection workflows, or telephone scripts shall be altered without the approval of the County Contract Manager.

The contractor shall research all accounts for a current address and telephone number if one was not supplied, either has been found to have changed, or if the one supplied is incorrect. The contractor shall also provide the most up-to-date skip-tracing capabilities in order to improve the quality of the data, as well as maintain accurate information available on all assigned cases. The contractor shall send to a debtor a direct mailing notice, which shall, at a minimum, contain the following information:

- The contractor is the County's collection agent
- The period(s) and the program/statute under which the debt was incurred
- The amount due
- The name, title, address, and telephone number of the collector who will handle any questions to be posed by the debtor
- The contractor's hours of operation
- The deadline for responding to this notice and the consequences of non-response
- The debtor's right to appeal

Other contractor responsibilities will include: preparing and generating notices for the collection of payments (both on a routine basis and upon the County's request); making telephone calls, arranging and maintaining payment plans; processing payments; and possibly, for certain programs, preparing Certificates of Debt and Warrants of Satisfaction.

In the event the debtor dies, the contractor or the subcontractor (appointed attorney) shall not proceed against the estate of a deceased debtor, unless directed to do so by the County Contract Manager.

In the event a debtor files a petition for bankruptcy, which lists the non-tax debt among his/her debts the contractor or subcontractor (appointed attorney) shall obtain the appropriate proof from the debtor and forward, via facsimile transmission, a copy of the documents to the County Contract Manager within twenty-four (24) hours after receipt of written notice, and return the case to the County Contract Manager for appropriate handling. The contractor and subcontractor (appointed attorneys) shall be responsible for any violation of the automatic stay following the filing of a petition by a debtor. The contractor or subcontractor (appointed attorney) is not entitled to any fee on any money that must be returned to the debtor.

### **INQUIRIES AND DISPUTES**

If a debtor disputes the amount owed or there are other factors which prevent the contractor from proceeding, the contractor shall refer the case to the County Contract Manager for resolution of the dispute, via facsimile or e-mail, no later than twenty-four (24) hours after the dispute arises. The County will notify the contractor via facsimile or e-mail, on what action to take or if and when the dispute has been resolved.

The established County procedures shall govern how the contractor shall proceed with a debtor's offer to negotiate receivables. However, if the contractor receives an unsolicited offer of compromise or forgiveness of receivables from a debtor, the contractor shall notify the County Contract Manager via facsimile or e-mail, no later than within twenty-four (24) hours after the unsolicited offer arises. The County will notify the contractor, via facsimile or email, on what action to take.

### **NAME AND ADDRESS CHANGES**

Upon the County's request, the contractor will make name and address changes either upon presentation of appropriate. Currently, the County will manually provide the required changes to the contractor to update its system (facsimile, electronic or US Postal mail). The County and the contractor may discuss the possibility of transferring this information electronically.

### **LITIGATION**

For certain cases, the contractor may choose or the County may direct the contractor to engage in litigation activity to collect the monies owed. Litigation activity may include, but not be limited to:

- wage garnishments
- information subpoenas
- orders of execution

In the event the County directs the contractor to engage in litigation to collect non-tax debt, the contractor may utilize the aid of general council. Any and all attorneys/law firms utilized shall be approved by the County Contract Manager prior to any work performed. Attorneys/law firms, for the purposes of this contract, shall be considered a subcontractor and must follow the rules and regulations put forth in this RFP.

To avoid multiple collection efforts and confusion to the debtor, all non-tax debt for an individual, regardless of the type of debt, shall be assigned to only one subcontractor.

In the event a case has been assigned to litigation, the contractor shall bear the prime responsibility for the operation of the program and still monitor all judgment and payment activity.

The contractor shall proceed with pre-defined collection efforts such as mailing information subpoenas, special collection notices, telephone calls and filing necessary court documents to effect asset seizure. It shall be the responsibility of the contractor to prepare the necessary documentation for the local sheriff for notification to the individual of any court action, such as a bank levy or wage garnishment.

The County shall satisfy all judgments which have been discharged by the debtors. The contractor shall not induce a debtor to pay a receivable upon a false promise or assurance that a judgment will be satisfied, nor is the County bound by representations made by a contractor to a debtor that a judgment will be satisfied. The contractor shall not file any documents with any court or other entity which purport to satisfy a judgment on behalf of the County or any third party on whose behalf receivables have been collected without County approval.

### **PAYMENT PLANS**

The contractor may enter into installment agreements with debtors provided the installment agreement complies with the applicable agency/departmental procedures and County guidelines.

Guidelines may include dollar thresholds, time limits, and written agreements. The contractor shall provide

procedures upon contract award subject to approval by the County.

All payment agreements entered into by the contractor shall contain language that the existence of payment agreements and/or compliance with the payment agreement shall not preclude the County from continuing to use County and Federal tax setoff procedures, or any other County tool that may be used to enforce payment of County debt.

The contractor shall comply with all applicable County and Federal laws when entering into any payment agreement.

The contractor must provide a written summary of payments received from any debtor that makes such a request in writing or verbally. Upon the debtor's request, the contractor will provide a copy of the backup documentation supporting the assessment of the debt. For non-tax debt debtors with specific questions relating to the reasons for amount of the debt charged, the debtor must be referred in writing to the County Contract Manager through the use of the dispute form.

### **DIRECT PAYMENTS RECEIVED BY COUNTY**

The contractor will be notified by the County Contract Manager facsimile, electronic or US Postal mail of all direct payments, the status of such payments, and any adjustments made on the active cases which have been transferred to the contractor. Once the debt is assigned to the contractor, the contractor will earn the commission upon collection of the debt. The County Contract Manager and the contractor shall cooperatively develop special instructions for direct payments.

### **NOTICES OF COMPLAINTS AND REFERRALS**

The contractor shall notify the County Contract Manager within twenty-four (24) hours upon receipt of an actual or constructive notice of a written or oral complaint against the contractor with regard to its collection practices concerning the collection of receivables subject to this contract. The contractor shall notify the County Contract Manager of any complaint, regardless of whether the complaint is made by a debtor or a third party on behalf of a debtor or by any other third party.

The contractor shall refer to the County Contract Manager within twenty-four (24) hours upon receipt of all other types of referrals received including, but not limited to, correspondence, telephone inquiries, or other types of communication received by the contractor from an elected official, County or Federal agency, media representative, attorney or any other type of private concern. Replies may be jointly coordinated.

### **PROCESSING AND THE DEPOSIT OF FUNDS**

The contractor shall:

1. Instruct debtors to make checks, money orders, etc., payable to Gwinnett County Government
2. Process the checks on a daily basis
3. Verify the payments
4. Appropriately record the payment to the receivable
5. Update all accounts, including interest and penalty calculations if necessary
6. Directly deposit the checks, money orders, etc. daily into an account authorized by the Director of the Gwinnett County Department of Financial Services. The contractor shall deposit all remittances directly into an approved bank account, designated by the County, within twenty-four (24) hours of receipt. At the end of each working day, the contractor shall supply an inventory of deposits, via email, to the County Contract Manager. The inventory shall state the amount of each deposit and the date in which the collection was made. By 10:00 a.m. (EST) of the following business day, the



contractor shall also provide, in an electronic file format, all supporting documentation for the deposits made. Supporting documentation may include, but not be limited to:

- case number
- case name
- date of receipt
- total amount collected
- amount remitted for each debtor

The contractor shall provide a daily courier service or equivalent to the County's bank. All receipts shall be directly deposited in the County's bank account within twenty-four (24) hours of receipt.

## **CONTRACTOR PERSONNEL REQUIREMENTS**

### **TRAINING AND STAFFING**

The contractor shall be responsible for training its staff in the proper procedures for communicating with the public and performing collections. The contractor shall know the various laws pursuant to which the debt was incurred, and the various due process remedies available to the debtors. The contractor shall, within thirty (30) days of contract award, train appropriate County staff regarding the use of the contractor's computer system and reports provided by the contractor, if applicable. Computer equipment, including databases (if any) necessary for information transfer and the contractor's access to these databases shall be operative at the time of training. The contractor's training plans shall be submitted and approved by the County Contract Manager.

### **CONFIDENTIALITY**

The contractor shall make all of its employees, assigned to the contract, aware that under the terms of the Fair Debt Collection Practices Act (Title VIII) and the terms of this contract that it is prohibited for any employee or former employee to divulge, disclose or use for personal advantage any information obtained from the County or other information obtained in the execution of this contract. Misuse or disclosure of such information without prior written consent shall constitute a breach of confidentiality, which may result in criminal charges or civil action.

### **ORGANIZATION**

The contractor shall provide to the County Contract Manager on a monthly basis a detailed table of organization or list showing all employees by name and title assigned to the contract. The contractor shall also inform the County Contract Manager of new hires, leaves of absence, and terminations on a daily basis.

The contractor shall provide competent and trained staff to ensure that an adequate number of competent collection personnel are available to provide service to the County on an uninterrupted basis throughout the term of this contract and any extension thereof. Integral to meeting this requirement is active management of staff and ongoing training.

### **EMPLOYEE MISCONDUCT**

The contractor notify the County Contract Manager of cases in which misconduct or fraud is suspected of any employee or subcontractor's employee within twenty-four (24) hours of suspicion.

## REPORTS

The contractor shall submit monthly reports containing information that is mutually agreeable to all parties. At the beginning of each month, the contractor shall provide the County Contract Manager and other designated County agency staff with a summary and analysis of the collection activities for the preceding month to assist the County's evaluation of the progress of performance under the contract.

The contractor shall also submit fiscal year annual reports. Annual reports should compile all of the information mandated in the monthly reports.

The monthly report shall, at a minimum, contain the following information:

1. List of debtors being processed by the contractor by name or identification number, dollar amount referred/returned, dollar amount collected, current amount owed, date of referral/return.
2. The total number and aggregate value of accounts referred and returned for the month, placed for the County's fiscal year, and placed during the contract period to date.
3. Frequency of billing and date of billing for each transmitted account.
4. Total amount of mailings and aggregate value of accounts billed, and total amount of mailings and aggregate value of returned billings.
5. The gross collections for each account referred for the month, for the County's fiscal year, and during the contract period to date.
6. The total amount and aggregate value of adjustments placed during the month.
7. The total amount and aggregate value of closed, canceled, and returned accounts for each referral, for the month, for the County's fiscal year, and during the contract period to date.
8. The total amount and aggregate value of accounts subject to payment plans.
9. The total amount and aggregate uncollected value of the current inventory of accounts.
10. Amount and aggregate value of referred accounts totally collected.
11. Amount and aggregate value of referred/returned accounts partially collected.
12. Amount and aggregate value of returned accounts uncollected.
13. Recovery rate (percentage based on total accounts referred to the contractor over the total amount collected) of referred/returned accounts.
14. The total amount, aggregate value, and amount collected on all payment agreements made with the debtor to repay the debt.
15. Uncollectible accounts, broken out on the report by reason (i.e., bankruptcy, incarcerated, deceased, public assistance recipient, etc.).
16. Bankruptcy and legal actions taken on each account and the dates of such actions.
17. Payments received - All payments that were received for the month and justification for contractor's fee.
  - (a) Detail shall include: name, address, identification number, original amount billed, payment received, current amount owed, percentage due contractor, contingency fee amount to be paid to Contractor.
  - (b) Summary shall include: total amount collected, total amount due contractor, performance ratio = total amount collected for month/total billable amount X 100, total fees charged by contractor.
18. Reports detailing adjustments made to accounts by case.
19. Status report of cases assigned to subcontractors (appointed attorneys).
20. Any other information identified after the contract has been implemented.

Note: "total amount" shall be the number of cases and "aggregate value" shall be the total monetary value.

Upon the County's request, the contractor shall provide a report listing, but not limited to, the following information:

1. actions taken and events which occurred on referred cases as a result of telephone calls, letters, or other attempts to locate the debtor
2. verification of the debtor address, telephone number, social security number and employment
3. all attempts to collect the debt

The contractor shall provide all reports at no additional charge to the County. The contractor shall submit all reports to the County in a format which is mutually agreeable to all parties.

Presently, the County utilizes Windows XP and Microsoft Office 2003 products.

### **DISASTER RECOVERY PLAN**

The contractor shall have and maintain a disaster recovery plan to protect the County's receivables and the confidentiality of the information contained therein.

### **OTHER EQUIPMENT AND SERVICE REQUIREMENTS**

The contractor shall provide and have a sufficient amount of equipment to accomplish all tasks set forth in this RFP. All equipment shall be in good working order. The County reserves the right to have the contractor, at the contractor's expense, replace existing equipment or add to its existing equipment when the County Contract Manager finds it to be necessary.

The contractor shall provide its own equipment, including, but not limited to, the following:

1. Shredding machine on its premises to shred County office materials
2. Copy machines
3. Facsimile machines
4. Facilities and furniture
5. Computer hardware, software, etc.

### **TELECOMMUNICATIONS EQUIPMENT**

The contractor shall provide at least one nation-wide toll free telephone number that the County and the debtors can use. The contractor shall also provide telecommunication equipment sufficient to efficiently collect debt utilizing the latest technology such as the following: Automated Call Distributor System, Predictive Dialer System, and Automated Voice Response System to accept credit card payments via telephone. The contractor may back up the Automated Voice Response System with personnel to accept credit card payments. On a monthly basis, the contractor should check to make sure all equipment is properly functioning.

### **METHODS OF PAYMENT**

In addition to cash and personal check, the contractor shall offer alternative methods of payment such as credit card payments via telephone for Visa<sup>®</sup>, MasterCard<sup>®</sup>, Discover<sup>®</sup>, and American Express<sup>®</sup>. The contractor shall be responsible for payment of the merchant's fees, which cannot be added to the debtor's debt amount. The cost for this service shall be included in the overall price quoted in the contractor's proposal.

The contractor shall have the ability to accept Western Union<sup>®</sup> and Moneygram<sup>®</sup> payments from debtors. The cost for this service shall be included in the overall price quoted in the proposal.

The contractor shall have the ability to accept electronic payments from debtors. The contractor shall cover any additional fee incurred as a result of electronic payments, which cannot be added to the debtor's debt amount. The cost for this service shall be included in the overall price quoted in the proposal.

### **MAILING COSTS**

The contractor shall be responsible for all costs for post office boxes, regular, overnight, and certified mail required for the responsibilities set forth in this RFP, with the exception of cases that are referred to law firms. The law firms shall only be reimbursed for a maximum of two (2) certified mailings per debtor. If a courier is required, the contractor shall also absorb all costs for courier services.

### **COPYING SERVICES**

The contractor shall provide copies of documents to debtors or the County at no additional cost.

### **HOURS OF OPERATION**

The contractor shall, at a minimum, operate five (5) days per week (Monday through Friday) from 8:00 a.m. - 9:00 p.m. (hours of operation shall not conflict with Fair Debt Collection Practices Act) or some other mutually agreed upon schedule. There should be no debtor contact on Sunday.

### **MAINTENANCE OF POLICY AND PROCEDURES MANUAL**

The contractor is responsible for the documentation and maintenance of policies and procedures that have been implemented by the County and the contractor. These policies and procedures govern activities such as the collection of receivables, customer service, administration and support and coordination of responsibilities between the contractor and the County. The contractor's standard operating procedures shall be superseded by the County's operating procedures where they conflict.

### **INFORMATION RESEARCH SERVICES**

The contractor is responsible for all costs associated with securing information regarding debtors. The costs for these services shall be included in the overall price quoted in the contractor's proposal.

### **DISTRIBUTION AND PLACEMENT OF CASES**

The County shall, at its sole discretion, refer accounts to the contractor for collection in such amounts and in such formats, as the County chooses. The contractor shall monitor all judgment and payment related activities. Accounts which do not have collection activity (payments) over 12 months after assignment shall be returned to the County. Upon closing the account, the contractor shall transmit the following information to the County: account identification, reason for closure, an indicator if the address or telephone number has been updated and any information found regarding assets, current employers, bankruptcy, etc. **The County reserves the right to withdraw any case from the contractor at any time.**

Existing outstanding County receivable accounts will be transferred to the contractor. Determination of the amount and types of cases referred to the contractor shall be discussed with the contractor in advance.

### **MEETINGS**

The contractor shall be available to meet with the County Contract Manager and/or representatives of the appropriate County agencies (if necessary) weekly during contract implementation, and at least once each quarter during the contract term, and/or as deemed necessary by the County. No additional reimbursement shall be paid to the contractor for meetings or travel.

**INSPECTIONS**

The contractor shall permit the County Contract Manager and other County officials, reasonable access to the contractor's collection facility with or without notice to the contractor, for the purpose of observing, auditing, or inspecting the contractor's collection activities.

**WITHHOLDING INFORMATION**

The contractor shall not enter into any formal or informal agreements or contracts with debtors, their agents or representatives to withhold information from the County that would permit the County or the contractor to more effectively or efficiently collect a receivable owed to the County. Failure to comply with this requirement may result in termination of this contract.

**LAW COMPLIANCE**

This RFP is expressly conditioned upon the contractor being, and at all times remaining in full compliance with all federal, state and local laws. The County reserves the right to conduct compliance checks to determine that the contractor is in compliance with all Federal, state and local laws. In the event that the County determines that the contractor is not in compliance, the contract may be terminated.

**PROFESSIONAL STANDARDS**

The contractor shall be responsible for all collection activity in a professional manner and must comply with the Federal Fair Debt Collection Practices Act (15 U.S.C., Section 1692 et seq.) and all applicable state statutes and regulations. The contractor shall act in compliance with the code of ethics and standards adopted by the American Collectors Association, Inc., and the Federal Trade Commission, Title 15, Commerce and Trade Sections 1601-1700 of the U.S. Code Annotated. The contractor's activities must comply with all appropriate statutes for the collection action being taken.

**OWNERSHIP OF MATERIAL**

All data, technical information, materials gathered, originated, developed, prepared, used or obtained in the performance of the contract, including, but not limited to, all reports, surveys, plans, charts, literature, brochures, mailings, recordings (video and/or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and print-outs, notes and memoranda, written procedures and documents, regardless of the state of completion, which are prepared for or are a result of the services required under this contract shall be and remain the property of the County and shall be delivered to the County upon 30 days notice by the County. With respect to software computer programs and/or source codes developed for the County, the work shall be considered "work for hire", i.e., the County, not the contractor or subcontractor, shall have full and complete ownership of all software computer programs and/or source codes developed. To the extent that any of such materials may not, by operation of the law, be a work made for hire in accordance with the terms of this Agreement, contractor or subcontractor hereby assigns to the County all right, title and interest in and to any such material, and the County shall have the right to obtain and hold in its own name and copyrights, registrations and any other proprietary rights that may be available.

Should the proposer anticipate bringing pre-existing intellectual property into the project, the intellectual property must be identified in the proposal. Otherwise, the language in the first paragraph of this section prevails. If the proposer identifies such intellectual property ("Background IP") in its proposal, then the Background IP owned by the proposer on the date of the contract, as well as any modifications or adaptations thereto, remain the property of the proposer. Upon contract award, the proposer or contractor shall grant the County a non-exclusive, perpetual royalty free license to use any of the proposer/contractor's Background IP delivered to the County for the purposes contemplated by the Contract.

**DATA CONFIDENTIALITY**

All financial, statistical, personnel and/or technical data supplied by the County to the contractor are confidential. The contractor is required to use reasonable care to protect the confidentiality of such data. Any use, sale or offering of this data in any form by the contractor, or any individual or entity in the contractor's charge or employ, will be considered a violation of this contract and may result in contract termination and the contractor's suspension or debarment from County contracting. In addition, such conduct may be reported to the County Attorney General for possible criminal prosecution.

No private or confidential data collected, maintained, or used in the course of performance of the contract shall be disseminated except as authorized by statute, either during the period of the contract or thereafter. The contractor shall protect the information contained in any necessary database(s) and provide safeguards ensuring that the information will be used only for the following purposes:

1. Collecting County debt and locating individuals owing money to the County.
2. Allowing the contractor to report updated information on referred cases.
3. Allowing the contractor to report on the initiated activities to collect non-tax debt.
4. Allowing the contractor to utilize other County agency information on referred cases in order to facilitate collection of the non-tax debt.
5. Allowing the contractor to provide an explanation of the collection action to the debtor.

Any information provided by the County or generated as a result of collection processing shall not be sold or otherwise used by the contractor, or other parties, for any purpose other than collection of County debt as stated above. Any use, sale or offering of this data in any form by the contractor, its employees, agents, subcontractors, or assignees will be considered a material breach of the confidentiality requirements of this contract and will cause infractions to be reported to the District Attorney for possible criminal prosecution. Penalties for violations will include, but are not limited to, cancellation of the contract and/or legal action with no damages paid by the County.

The contractor shall return at its own expense any and all data furnished by or obtained on behalf of the County promptly upon the County's request whether upon the termination or completion of the contract in whichever form it is maintained by the contractor.

**NEWS / INFORMATION RELEASES**

The contractor is not permitted to issue news releases pertaining to any aspect of the services being provided under this contract without the prior written consent of the County Contract Manager. The contractor is further prohibited from making any public statements of any kind, to include website announcements, advertising, or other public announcement regarding this contract without prior written consent of the County Contract Manager.

**ADVERTISING**

The contractor shall not use the County's name, logos, images, or any data or results arising from this contract as a part of any commercial advertising without first obtaining the prior written consent of the County Contract Manager.

**LICENSES AND PERMITS**

The contractor shall obtain and maintain in full force and effect all required licenses, permits, and authorizations necessary to perform this contract. The contractor shall supply the County Contract Manager with evidence of all such licenses, permits and authorizations. This evidence shall be submitted subsequent to

the contract award. All costs associated with any such licenses, permits and authorizations must be considered by the proposer in its proposal.

### **PROPOSAL EVALUATION COMMITTEE**

Proposals will be evaluated by an Evaluation Committee composed of members of the DOC together with a representative assigned by the Purchasing Division.

### **ORAL PRESENTATION AND/OR CLARIFICATION OF PROPOSAL**

A proposer may be required to give an oral presentation to the Evaluation Committee concerning its proposal. The Evaluation Committee may also require a proposer to submit written responses to questions regarding its proposal.

The purpose of such communication with a proposer, either through an oral presentation or a letter of clarification, is to provide an opportunity for the proposer to clarify or elaborate on its proposal. Original proposals submitted, however, cannot be supplemented, changed, or corrected in any way. No comments regarding other proposals are permitted. Proposers may not attend presentations made by their competitors. It is within the Evaluation Committee's discretion whether to require a proposer to give an oral presentation or require a proposer to submit written responses to questions regarding its proposal. Action by the Evaluation Committee in this regard should not be construed to imply acceptance or rejection of a proposal.

The Purchasing Division will be the sole point of contact regarding any request for an oral presentation or clarification.

### **EVALUATION CRITERIA**

The following evaluation criteria categories, not necessarily listed in order of significance, will be used to evaluate proposals received in response to this RFP. The evaluation criteria categories may be used to develop more detailed evaluation criteria to be used in the evaluation process:

### **NO CONTACT CLAUSE**

No contractor is to discuss any aspect of this RFP with any Gwinnett County employee without the approval of the Purchasing Division. This is to insure that all prospective respondents have the same level of knowledge relative to the project as well as insuring that any additional data is made available to all possible contractors.

### **TECHNICAL EVALUATION CRITERIA**

1. The proposer's detailed approach and plans to perform the services required by the Scope of Work of this RFP. (0 – 40 points)
2. The firm's documented experience in successfully completing contracts of a similar size and scope to the work required by this RFP. (0 – 20 points)
3. The qualifications and experience of the proposer's management, supervisory or other key personnel assigned to the contract, with emphasis on documented experience in successfully completing work on contracts of similar size and scope to the work required by this RFP. (0 – 15 points)
4. The overall ability of the proposer to mobilize, undertake and successfully complete the contract. This judgment will include, but not be limited to, the following factors: the number and qualifications of

management, supervisory and other staff proposed by the proposer to complete the contract, the availability and commitment to the contract of the proposer's management, supervisory and other staff proposed and the proposer's contract management plan, including the proposer's contract organizational chart. (0 – 15 points)

5. Cost of services (0 – 10)

6. Optional interview/presentation (0 – 20 points)

At Gwinnett County's discretion or as deemed in its best interest, firms may be short-listed. At this time, if deemed necessary, Gwinnett County may request interview or presentations with some or all of the firms submitting proposals.



**FAILURE TO RETURN THIS PAGE AS PART OF YOUR PROPOSAL MAY RESULT IN REJECTION OF THE PROPOSAL.**

PROPOSAL SCHEDULE

<u>Item</u>	<u>Service Description</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
1	All inclusive firm fixed contingency fee as a percentage of actual recoveries for non-tax debt.	%	%	%
2	All inclusive firm fixed contingency fee as a percentage of actual recoveries for non-tax debt as a result of attorney referrals.	%	%	%

The services to be performed under this Agreement shall commence on January 1, 2009. The initial term of this Agreement shall be through December 31, 2009. This Agreement shall terminate absolutely and without further obligation on the part of the County on December 31 of each succeeding and renewed year, as required by O.C.G.A. §36-60-13, as amended, unless terminated earlier in accordance with the termination provisions of this Agreement. This Agreement may be automatically renewed on an annual basis for two (2) additional twelve-month terms, for a total lifetime Agreement term of three (3) years, upon the same terms and conditions, as provided for in this Agreement, unless previously terminated. This Agreement will terminate on December 31, 2011.

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

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

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

Certification Of Non-Collusion In Bid Preparation \_\_\_\_\_  
Signature Date

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

**FAILURE TO RETURN THIS PAGE AS PART OF YOUR PROPOSAL MAY RESULT IN REJECTION OF**

**THE PROPOSAL.**

The County requires that all who enter into a contract for the physical performance of services with the County must satisfy O.C.G.A. § 13-10-91 and Rule 300-10-1-.02, in all manner, and such are conditions of the contract. Further, all bidders should identify which of the two statutory employee-number categories they represent:

- \_\_\_ 100 or more employees
- \_\_\_ fewer than 100 employees

In compliance with the attached specifications, the undersigned offers and agrees, if this quote is accepted by the Board of Commissioners within sixty (60) days of the date of quote opening, to furnish any or all of the items upon which prices are quoted, at the price set opposite each item, delivered to the designated point(s) within the time specified in the quote schedule.

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

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

Address \_\_\_\_\_

Does your company currently have a location within Gwinnett County? Yes  No

Representative Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

Telephone Number \_\_\_\_\_

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

E-mail address \_\_\_\_\_

**PROFESSIONAL SERVICES**

## INSURANCE REQUIREMENTS

1. Statutory Workers' Compensation Insurance
  - (a) Employers Liability:
    - Bodily Injury by Accident - \$100,000 each accident
    - Bodily Injury by Disease - \$500,000 policy limit
    - Bodily Injury by Disease - \$100,000 each employee
  
2. Commercial General Liability Insurance
  - (a) \$1,000,000 limit of liability per occurrence for bodily injury and property damage
  - (b) The following additional coverages must apply:
    - \* 1986 (or later) ISO Commercial General Liability Form
    - \* Dedicated Limits per Project Site or Location (CG 25 03 or CG 25 04)
    - \* Additional Insured Endorsement (Form B CG 20 10 with a modification for completed operations or a separate endorsement covering Completed Operations))
    - \* Blanket Contractual Liability
    - \* Broad Form Property Damage
    - \* Severability of Interest
    - \* Underground, explosion, and collapse coverage
    - \* Personal Injury (deleting both contractual and employee exclusions)
    - \* Incidental Medical Malpractice
    - \* Hostile Fire Pollution Wording
  
3. Auto Liability Insurance
  - (a) \$500,000 limit of liability per occurrence for bodily injury and property damage
  - (b) Comprehensive form covering all owned, nonowned, leased, hired, and borrowed vehicles
  - (c) Additional Insured Endorsement
  - (d) Contractual Liability
  
4. Professional Liability Insurance - \$1,000,000 (project specific for the Gwinnett County project) limit of liability per claim/aggregate or a limit of \$1,000,000 per occurrence and \$2,000,000 aggregate.
  - \*Insurance company must be authorized to do business in the State of Georgia.
  - \*\* Dedicated Limits per Project Site or Location (CG 25 03 or CG 25 04 or some other form)
  
5. Gwinnett County Board of Commissioners (and any applicable Authority) should be shown as an additional insured on General Liability and Auto Liability policies.
  
6. The cancellation should provide 10 days notice for nonpayment and 30 days notice of cancellation.
  
7. Certificate Holder should read:
  - Gwinnett County Board of Commissioners
  - 75 Langley Drive
  - Lawrenceville, GA 30045-6900
  
8. Insurance Company, except Worker' Compensation carrier, must have an A.M. Best Rating of A-5 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-5 or better.
  
9. Insurance Company should be licensed to do business by the Georgia Department of Insurance.
  - \*See above note regarding Professional Liability

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 County 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 by the County.
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 Gwinnett County as to form and content has been filed with Gwinnett County. **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 County, the Board of Commissioners, its officers, officials, employees, and volunteers from losses arising from work performed by the contractor for the County.
16. Special Form Contractors' Equipment and Contents Insurance covering owned, used, and leased equipment, tools, supplies, and contents required to perform the services called for in the Contract. The coverage must be on a replacement cost basis. The County will be included as a Loss Payee in this coverage for County owned equipment, tools, supplies, and contents.
17. The Contractor shall make available to the County, through its records or records of their insurer, information regarding a specific claim related to any County project. Any loss run information available from the contractor or their insurer relating to a County project will be made available to the county 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.

#### Surety Bonds (If Required)

All of the surety requirements will stay the same except the Surety Company must have the same rating as item 8 above.  
Rev 10/07

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

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

**1. TERM:**

The services to be performed under this Agreement shall commence on \_\_\_\_\_. The initial term of this Agreement shall be through December 31, 20\_\_\_. This Agreement shall terminate absolutely and without further obligation on the part of the County on December 31 of each succeeding and renewed year, as required by O.C.G.A. §36-60-13, as amended, unless terminated earlier in accordance with the termination provisions of this Agreement. This Agreement may be automatically renewed on an annual basis for \_\_\_\_\_additional twelve-month terms, for a total lifetime Agreement term of \_\_\_\_\_years, upon the same terms and conditions, as provided for in this Agreement, unless previously terminated. This Agreement will terminate on December 31, 20\_\_.

**2. ATTACHMENTS:**

Copies of the Service Provider's proposal, including all drawings, specifications, price lists, Instructions to Bidders, General Conditions, Special Provisions, and Detailed Specifications submitted to the Owner during the Bid process (hereinafter collectively referred to as the "Bid ") are attached hereto (Exhibit A) and are specifically incorporated herein by reference. In the event of a conflict between the Owner's contract documents and the Bid, the Owner's contract documents shall control.

**3. PERFORMANCE:**

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

**4. PRICE:**

As full compensation for the performance of this Contract, the Owner shall pay the Service Provider for the actual quantity of work performed. Bid amount shown on Exhibit A is the total obligation of the County pursuant to OCGA section 36-60-13 (a) (3). The fees for the work to be performed under this agreement shall be charged to the Owner in accordance with the rate schedule referenced in the Bid (Exhibit A). The Owner agrees to pay the Service Provider following receipt by the Owner of a detailed invoice, reflecting the actual work performed by the Service Provider.

**5. INDEMNIFICATION AND HOLD HARMLESS:**

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

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

**6. TERMINATION FOR CAUSE:**

The County may terminate this agreement for cause upon ten (10) days prior written notice to the Service Provider of the Service Provider's default in the performance of any term of this Agreement. Such termination shall be without prejudice to any of the County's rights or remedies provided by law.

**7 TERMINATION FOR CONVENIENCE:**

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

**8. TERMINATION FOR FUND APPROPRIATION:**

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

**9. AGREEMENT NOT TO DISCRIMINATE:**

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

**10. ASSIGNMENT:**

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

**11. WAIVER:**

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

**12. SEVERABILITY:**

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

**13. GOVERNING LAW:**

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

**14. MERGER CLAUSE:**

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

(Signatures Next Page)

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

**GWINNETT COUNTY, GEORGIA**

By: \_\_\_\_\_  
Charles E. Bannister, Chairman  
Gwinnett County Board of  
Commissioners

ATTEST:

\_\_\_\_\_  
Signature

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

County Clerk/ Deputy County Clerk Gwinnett County  
Board of Commissioners

SERVICE PROVIDER: \_\_\_\_\_

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

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

\_\_\_\_\_  
Title

ATTEST:

\_\_\_\_\_  
Signature

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Signature  
Gwinnett County Staff Attorney



Solicitation No. \_\_\_\_\_

## CONTRACTOR AFFIDAVIT AND AGREEMENT

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

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

\_\_\_\_\_  
E-Verify \* User Identification Number

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
BY: Authorized Officer or Agent  
(Contractor Signature)

\_\_\_\_\_  
Date

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

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

SUBSCRIBED AND SWORN  
BEFORE ME ON THIS THE

\_\_\_\_\_ DAY OF \_\_\_\_\_, 200\_\_

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

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

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



**GWINNETT COUNTY  
DEPARTMENT OF FINANCIAL SERVICES  
PURCHASING DIVISION**

**CONTRACTOR VERIFICATION PURSUANT TO GWINNETT COUNTY  
PURCHASING ORDINANCE Part 6.D**

Gwinnett County Contract No. \_\_\_\_\_

Part 1. This contract is for the physical performance of services where more than three (3) persons are employed on the County contract. Check one: Yes \_\_\_\_\_ No \_\_\_\_\_

*If "Yes" is checked, complete Part II. If "No" is checked, skip Part II, sign and date.*

Part II. This will affirm that \_\_\_\_\_ (name of contractor) and its subcontractors have registered for and are participating in the federal work authorization program as defined by O.C.G.A. § 13-10-90(2) to verify information for all new employees. All documents and records of this verification process shall be retained for a period of three (3) years following completion of the contract.

By: Contractor Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Title

\_\_\_\_\_  
Signature

GENERAL CONDITIONS  
To Service Provider AGREEMENT

Article

- 1 Definitions
- 2 Contract Documents
- 3 Changes and Extra Work
- 4 Personnel and Equipment
- 5 Accuracy of Work
- 6 Findings Confidential
- 7 Termination of Agreement for Cause
- 8 Termination for Convenience of the COUNTY
- 9 SERVICE PROVIDER to Cooperate with other SERVICE PROVIDERS
- 10 Indemnification
- 11 Covenant Against Contingent Fees
- 12 Insurance
- 13 Prohibited Interests
- 14 Subcontracting
- 15 Assignability
- 16 Equal Employment Opportunity
- 17 Anti-Kickback Clause
- 18 Audits and Inspectors
- 19 Ownership, Publication, Reproduction and Use
- 20 Verbal Agreement or Conversation
- 21 Independent Service provider
- 22 Notices

1 DEFINITIONS

Wherever used in this Agreement, whether in the singular or in the plural, the following terms shall have the following meanings:

- 1.1 COUNTY-means Gwinnett County, Georgia, a political subdivision of the State of Georgia.
- 1.2 SUPPLEMENTAL AGREEMENT-means a written order to SERVICE PROVIDER signed by COUNTY and accepted by SERVICE PROVIDER, effecting an addition, deletion or revision in the Work, or an adjustment in the Agreement Price or the Contract Time, issued after execution of this Agreement.
- 1.3 CONTRACT-means the Agreement Documents specifically identified and incorporated herein by reference in Section 2, CONTRACT DOCUMENTS.
- 1.4 AGREEMENT EXECUTION-means the date on which SERVICE PROVIDER executes and enters into an Agreement with the COUNTY to perform the Work.
- 1.5 AGREEMENT PRICE-means the total monies, adjusted in accordance with any provision herein, payable to the SERVICE PROVIDER under this Agreement.
- 1.6 CONTRACT TIME-means the period of time stated in this Agreement for the completion of the Work.
- 1.7 SERVICE PROVIDER-means the party or parties contracting directly with the COUNTY to perform Work pursuant to this Agreement.
- 1.8 DEPARTMENT- means the Director or designee of requesting department(s) named in this solicitation.
- 1.9 DRAWINGS-means collectively, all the drawings, receipt of which is acknowledged by the COUNTY, listed in this Agreement, and also such supplementary drawings as the SERVICE PROVIDER may issue from time to time in order to clarify or explain such drawing or to show details which are not shown thereon.
- 1.10 SPECIFICATIONS-means the written technical provisions including all appendices thereto, both general and specific, which form a part of the Agreement Documents.
- 1.11 SUBSERVICE PROVIDER-means any person, firm, partnership, joint venture, company, corporation, or entity having a contractual agreement with SERVICE PROVIDER or with any of its subservice providers at any tier to provide a part of the Work called for by this Agreement.
- 1.12 WORK-means any and all obligations, duties and responsibilities, including furnishing equipment, engineering, design, workmanship, labor and any other services or things necessary to the successful completion of the Project, assigned to or undertaken by SERVICE PROVIDER under this Agreement.
- 1.13 LIAISON-Representative of the COUNTY who shall act as Liaison between the County and the SERVICE PROVIDER for all matters pertaining to this Agreement, including review of SERVICE PROVIDER'S plans and work.

2 CONTRACT DOCUMENTS

2.1 LIST OF DOCUMENTS

The Agreement, any required bonds, the General Conditions, the Appendices, the Detailed Scope of Work, the Specifications, the Drawings, the Exhibits, and all Agreement Supplemental Agreements shall constitute the Agreement Documents.

2.2 CONFLICT AND PRECEDENCE

2.2.1 The Agreement Documents are complementary, and what is called for by one is as binding as if called for by all. In the event there are any conflicting provisions or requirements in the component parts of this Agreement, the several Agreement Documents shall take precedence in the following order:

- 1. Supplemental Agreements
- 2. Agreement
- 3. General Conditions

4. Detailed Scope of Work
5. Specifications
6. Drawings

### 3 CHANGES AND EXTRA WORK

The COUNTY may, at any time, request changes in the work to be performed hereunder. All such changes, including any increase or decrease in the amount of the SERVICE PROVIDER'S compensation, which are mutually agreed upon by and between the COUNTY and the SERVICE PROVIDER, shall be incorporated in written Supplemental Agreements to the Agreement.

### 4 PERSONNEL AND EQUIPMENT

The SERVICE PROVIDER represents that it has secured or will secure, at its own expense, all personnel necessary to complete this Agreement; none of whom shall be employees of, or have any contractual relationship with, the COUNTY. Primary liaison with the COUNTY will be through its designee. All of the services required hereunder will be performed by the SERVICE PROVIDER under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under law to perform such services.

The SERVICE PROVIDER shall employ only persons duly registered in the appropriate category in responsible charge of supervision and design of the work; and further shall employ only qualified surveyors in responsible charge of any survey work.

The SERVICE PROVIDER shall endorse all reports, contract plans, and survey data. Such endorsements shall be made by a person duly registered in the appropriate category by the Georgia State Board of Registration, being in the full employ of the SERVICE PROVIDER and responsible for the work prescribed by this Agreement.

### 5 ACCURACY OF WORK

The SERVICE PROVIDER shall be responsible for the accuracy of the work and shall promptly correct errors and omissions in its plans and specifications without additional compensations.

Acceptance of the work by the COUNTY will not relieve the SERVICE PROVIDER of the responsibility for subsequent correction of any errors and the clarification of any ambiguities.

### 6 FINDINGS CONFIDENTIAL

The SERVICE PROVIDER agrees that its conclusions and any reports are for the confidential information of the COUNTY and that it will not disclose its conclusions in whole or in part to any persons whatsoever, other than to submit its written documentation to the COUNTY, and will only discuss the same with it or its authorized representatives. Upon completion of this Agreement term, all documents, reports, maps, data and studies prepared by the SERVICE PROVIDER pursuant thereto shall become the property of the COUNTY and be delivered to the DEPARTMENT.

Articles, papers, bulletins, reports, or other materials reporting the plans, progress, analyses, or results and findings of the work conducted under this Agreement shall not be presented publicly or published without prior approval in writing of the COUNTY.

It is further agreed that if any information concerning the PROJECT, its conduct, results, or data gathered or processed should be released by the SERVICE PROVIDER without prior approval from the COUNTY, the release of same shall constitute grounds for termination of this Agreement without indemnity to the SERVICE PROVIDER, but should any such information be released by the COUNTY or by the SERVICE PROVIDER with such prior written approval, the same shall be regarded as public information and no longer subject to the restrictions of this Agreement.

### 7 TERMINATION OF AGREEMENT FOR CAUSE

If through any cause the SERVICE PROVIDER shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the SERVICE PROVIDER shall violate any of the covenants, agreements or stipulations of this Agreement, the COUNTY shall thereupon have the right to terminate this Agreement by giving written notice to the SERVICE PROVIDER of such termination, and specifying the effective date thereof, at least ten (10) days before the effective date of such termination. Failure to maintain the scheduled level of effort as proposed and prescribed, or deviation from the aforesaid scheduler without prior approval of the COUNTY shall constitute cause for termination. In such event, all finished or unfinished documents, maps, data, studies, work papers and reports prepared by the SERVICE PROVIDER under this Agreement shall become the property of the COUNTY, and the SERVICE PROVIDER shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents, as determined by the COUNTY.

### 8 TERMINATION FOR CONVENIENCE OF THE COUNTY

The COUNTY may terminate this Agreement for its convenience at any time by notice in writing to the SERVICE PROVIDER. If

the Agreement is terminated by the COUNTY as provided in this Article 8, the SERVICE PROVIDER will be paid compensation for those services actually performed. Partially completed tasks will be compensated for based on a signed statement of completion to be submitted by the SERVICE PROVIDER which shall itemize each task element and briefly state what work has been completed and what work remains to be done.

All such expenses shall be properly documented and submitted to the COUNTY for processing and payment. The County shall be the final authority in the event of any disputes over authorized costs between the COUNTY and the Service Provider.

9 SERVICE PROVIDERS TO COOPERATE WITH OTHER SERVICE PROVIDERS

If the COUNTY undertakes or awards other contracts for additional related work, the SERVICE PROVIDER shall fully cooperate with such other SERVICE PROVIDERS and the COUNTY employees or appointed committee(s), and carefully fit its own work to such additional work as may be directed by the COUNTY. The SERVICE PROVIDER shall not commit or permit any act which will interfere with the performance of work by any other SERVICE PROVIDER or COUNTY employees.

10 INDEMNIFICATION

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

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

11 COVENANT AGAINST CONTINGENT FEES

The SERVICE PROVIDER warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by SERVICE PROVIDER for the purpose of securing business and that the SERVICE PROVIDER has not received any non-COUNTY fee related to this Agreement without the prior written consent of the COUNTY. For breach or violation of this warranty, the COUNTY shall have the right to annul this Agreement without liability or at its discretion to deduct from the Agreement Price of consideration the full amount of such commission, percentage, brokerage or contingent fee.

12 INSURANCE

The SERVICE PROVIDER shall, at all times that this Agreement is in effect, cause to be maintained in force and effect an insurance policy (s) that will ensure and indemnify both GWINNET COUNTY and SERVICE PROVIDER against liability or financial loss resulting from injuries occurring to persons or property or occurring as a result of any negligent error, act, or omission of the SERVICE PROVIDER during the term of this Agreement. The liability under such insurance policy shall be not less than as stated in the Bid Proposal.

The SERVICE PROVIDER shall provide, at all times that this Agreement is in effect, Worker's Compensation insurance in accordance with the laws of the State of Georgia.

The SERVICE PROVIDER shall provide, at all times that this Agreement is in effect, Professional Liability Insurance with a limit of not less than that as stated in the Bid Proposal.

Additionally, SERVICE PROVIDER shall provide, at all times that this Agreement is in effect, automobile liability insurance with a limit of not less than that as stated in the Bid Proposal.

The policies shall be written by a responsible company(s), to be approved by the COUNTY, and shall be non-cancelable except on thirty-(30) days' written notice to the COUNTY. Such policies shall name the COUNTY as co-assured, except for worker's compensation and professional liability policies, and a copy of such policy or a certificate of insurance shall be filed with the Director at the time of the execution of this Agreement.

13 PROHIBITED INTERESTS

13.1 Conflict of Interest: The SERVICE PROVIDER agrees that it presently has no interest and shall acquire no interest, direct or indirect, that would conflict in any manner or degree with the performance of its services hereunder.

13.2 Interest of Public Officials: No member, officer, or employee of the COUNTY during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

#### 14 SUBCONTRACTING

The SERVICE PROVIDER shall not subcontract any part of the work covered by this Agreement or permit subcontracted work to be further subcontracted without the COUNTY's prior written approval of the subservice provider, except as may have been specifically stated in the SERVICE PROVIDER'S response to proposal per Exhibit A. The COUNTY will not approve any subservice provider for work covered by this Agreement that has not been recommended for approval by the Director.

All subcontracts in the amount of \$5,000 or more shall include the provisions set forth in this Agreement.

#### 15 ASSIGNABILITY

The SERVICE PROVIDER shall not assign or transfer whether by an assignment or novation, any of its rights, obligations, benefits, liabilities or other interest under this Agreement without the written consent of the COUNTY.

#### 16 EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Agreement, the SERVICE PROVIDER agrees as follows: (1) the SERVICE PROVIDER will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin; (2) the SERVICE PROVIDER will, in all solicitations or advertisements for employees placed by qualified applicants, receive consideration for employment without regard to race, creed, color, sex or national origin; (3) the SERVICE PROVIDER will cause the foregoing provisions to be inserted in all subcontracts for any work covered by the Agreement so that such provision will be binding upon each subservice provider, provided that the foregoing provision shall not apply to contracts or subcontracts for standard commercial supplies of raw materials.

#### 17 ANTI-KICKBACK CLAUSE

Salaries of architects, draftsmen, technical engineers and engineers, and technicians performing work under this Agreement shall be paid unconditionally and not less often than once a month without deduction or rebate on any account except only such payroll deductions as are mandatory by law. The SERVICE PROVIDER hereby promises to comply with all applicable "Anti-kickback" laws, and shall insert appropriate provisions in all subcontracts covering work under this Agreement.

#### 18 AUDITS AND INSPECTORS

At any time during normal business hours and as often as the COUNTY may deem necessary, the CONSULTANT shall make available to the COUNTY for examination all of its records with respect to all matters covered by this Agreement. It shall also permit the COUNTY to audit, examine and make copies, excerpts or transcripts from such records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

The SERVICE PROVIDER shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred on the Project and used in support of its proposal and shall make such material available at all reasonable times during the period of the Agreement, and for three years from the date of final payment under the Agreement, for inspection by the COUNTY or any reviewing agencies, and copies thereof shall be furnished upon request. The SERVICE PROVIDER agrees that the provisions of this Article shall be included in any Agreements it may make with any subservice provider, assignee, or transferee.

#### 19 OWNERSHIP, PUBLICATION, REPRODUCTION AND USE

All documents and materials prepared pursuant to this Agreement are the property of the COUNTY. The COUNTY shall have the unrestricted authority to publish, disclose, distribute, and otherwise use, in whole or in part, any reports, data, maps, or other materials prepared under this Agreement without according credit of authorship. The COUNTY shall hold harmless and indemnify the SERVICE PROVIDER against all claims arising out of such use of documents and materials without the SERVICE PROVIDER'S knowledge and consent.

#### 20 VERBAL AGREEMENT OR CONVERSATION

No verbal agreement or conversation with any officer, agent, or employee of the COUNTY, either before, during, or after the execution of this Agreement, shall affect or modify any of the terms or obligations herein contained, nor shall such verbal agreement or conversation entitle the SERVICE PROVIDER to any additional payment whatsoever under the terms for this Agreement. All changes to this Agreement shall be in writing and appended hereto as prescribed in Article 3 above.

21 INDEPENDENT SERVICE PROVIDER

The SERVICE PROVIDER shall perform the services under this Agreement as an independent service provider and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this Agreement shall be interpreted or construed to constitute the SERVICE PROVIDER or any of its agents or employees to be the agent, employee, or representative of the COUNTY.

22 NOTICES

All notices shall be in writing and delivered in person or transmitted by certified mail, postage prepaid.

**GWINNETT COUNTY  
DEPARTMENT OF FINANCIAL SERVICES – PURCHASING DIVISION  
GENERAL INSTRUCTIONS FOR PROPOSERS, TERMS AND CONDITIONS**

**I. PREPARATION OF PROPOSALS:**

- A. Each proposer shall examine the drawings, specifications, schedule and all instructions. Failure to do so will be at the proposer's risk.
- B. Each proposer shall furnish all information required by the proposal form or document. Each proposer shall sign the proposal and print or type his or her name on the schedule. The person signing the proposal must initial erasures or other changes. An authorized agent of the company must sign proposals.
- C. Individuals, firms and businesses seeking an award of a Gwinnett County contract may not initiate or continue any verbal or written communications regarding a solicitation with any County officer, elected official, employee or other County representative without permission of the Purchasing Associate named in the solicitation between the date of the issuance of the solicitation and the date of the final contract award by the Board of Commissioners. Violations will be reviewed by the Purchasing Director. If determined that such communication has compromised the competitive process, the offer submitted by the individual, firm or business may be disqualified from consideration for award.
- D. Sample contracts (if pertinent) are attached, as are the affidavit(s) and affirmation. These do NOT have to be filled out with the bid/proposal submittal, but are contained for informational purposes only. If awarded, the successful proposer(s) will be required to complete them prior to contract execution.

**II. DELIVERY:**

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

**III. EXPLANATION TO PROPOSERS:**

Any explanation desired by a proposer regarding the meaning or interpretation of the request for proposals, drawings, specifications, etc. must be requested by the question cutoff deadline stated in the solicitation in order for a reply to reach all proposers before the close of the proposal. Any information given to a prospective proposer concerning a request for proposal will be furnished to all prospective proposers as an addendum to the invitation if such information is necessary or if the lack of such information would be prejudicial to uninformed proposers. The written proposal document supersedes any verbal or written communication between the parties. Receipt of addenda should be acknowledged in the proposal. Although the Purchasing Division will make every effort to send any addendum to known proposers, it is the proposer's ultimate responsibility to ensure that they have all applicable addenda prior to proposal submittal. This may be accomplished via contact with the assigned Procurement Agent prior to proposal submittal.

**IV. SUBMISSION OF PROPOSALS:**

- A. Proposals shall be enclosed in a sealed package, addressed to the Gwinnett County Purchasing Office with the name and address of the proposer, the date and hour of opening, and the request for proposal number on the face of the package. Telegraphic/faxed proposals will not be considered. Any addenda should be enclosed in the sealed envelopes as well.

- B. Samples of items, when required, must be submitted within the time specified and, unless otherwise specified by the County, at no expense to the County. Unless otherwise specified, samples will be returned at the proposer's request and expense if testing does not destroy items.
- C. Items offered must meet required specifications and must be of a quality that will adequately serve the use and purpose for which intended.
- D. Full identifications of each item proposed, including brand name, model, catalog number, etc. must be furnished to identify exactly what the proposer is offering. Manufacturer's literature may be furnished.
- E. The proposer must certify that items to be furnished are new and that the quality has not deteriorated so as to impair its usefulness.
- F. Unsigned proposals will not be considered except in cases where proposal is enclosed with other documents that have been signed. The County will determine this.
- G. Gwinnett County is exempt from federal excise tax and Georgia sales tax with regard to goods and services purchased directly by Gwinnett County. Suppliers and contractors are responsible for federal excise tax and sales tax, including taxes for materials incorporated in county construction projects. Suppliers and contractors should contact the State of Georgia Sales Tax Division for additional information.
- H. Information submitted by a proposer in the proposal process shall be subject to disclosure after proposal award in accordance with the Georgia Open Records Act. Proprietary information must be identified. Entire proposals may not be deemed proprietary.

**V. WITHDRAWAL OF PROPOSAL DUE TO ERRORS:**

No proposer who is permitted to withdraw a proposal shall, for compensation, supply any material or labor or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn proposal was submitted.

To withdraw a proposal after proposal opening, the supplier has up to forty-eight (48) hours to notify the Gwinnett County Purchasing Office of an obvious clerical error made in calculation of proposal. Withdrawal of bid bond for this reason must be done in writing. Suppliers who fail to request withdrawal of proposal by the required forty-eight (48) hours shall automatically forfeit bid bond. Bid bond may not be withdrawn otherwise.

Proposal withdrawal is not automatically granted and will be allowed solely at Gwinnett County's discretion.

**VI. TESTING AND INSPECTION:**

Since tests may require several days for completion, the County reserves the right to use a portion of any supplies before the results of the tests are determined. Cost of inspections and tests of any item that fails to meet the specifications shall be borne by the proposer.

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

Unless otherwise stated in the request for proposal and any resulting contract, or unless qualified by the proposer, items shall be shipped F.O.B. Destination. The seller shall retain title for the risk of transportation, including the filing for loss or damages. The invoice covering the items is not payable until items are delivered and the contract of carriage has been completed. Unless the F.O.B. clause states otherwise, the seller assumes transportation and related charges either by payment or allowance.

**VIII. PATENT INDEMNITY:**

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

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

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

**X. DISCOUNTS:**



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

**XI. AWARD:**

- A. Award will be made to the highest scoring responsive and responsible proposer according to the criteria stated in the proposal documents. The County may make such investigations as it deems necessary to determine the ability of the proposer to perform, and the proposer shall furnish to the County all such information and data for this purpose as the County may request. The County reserves the right to reject any proposal if the evidence submitted by, or investigation of, such proposer fails to satisfy the County that such proposer is properly qualified to carry out the obligations of the contract.
- B. The County reserves the right to reject or accept any or all proposals and to waive technicalities, informalities and minor irregularities in the proposals received.
- C. The County reserves the right to make an award as deemed in its best interest, which may include awarding a proposal to a single proposer or multiple proposers; or to award the whole proposal, only part of the proposal, or none of the proposal to single or multiple proposers, based on its sole discretion of its best interest.
- D. In the event scores rounded to the nearest whole number result in a tie score, two (2) additional points will be added to the graded average score of any local firm. In the event there are two or more local firms whose scores rounded to the nearest whole number result in a tie score, the award will be based on lowest cost.

**XII. DELIVERY FAILURES:**

Failure of a contractor to deliver within the time specified or within reasonable time as interpreted by the Purchasing Director, or failure to make replacements of rejected articles/ services when so requested, immediately or as directed by the Purchasing Director, shall constitute authority for the Purchasing Director to purchase in the open market articles/services of comparable grade to replace the articles/services rejected or not delivered. On all such purchases, the contractor shall reimburse the County within a reasonable time specified by the Purchasing Director for any expense incurred in excess of contract prices, or the County shall have the right to deduct such amount from monies owed the defaulting contractor. Alternatively, the County may penalize the contractor one percent (1%) per day for a period of up to ten (10) days for each day that delivery or replacement is late. Should public necessity demand it, the County reserves the right to use or consume articles/services delivered which are substandard in quality, subject to an adjustment in price to be determined by the Purchasing Director.

**XIII. COUNTY FURNISHED PROPERTY:**

The County will furnish no material, labor or facilities unless so provided in the RFP.

**XIV. REJECTION OF PROPOSALS:**

Failure to observe any of the instructions or conditions in this request for proposal shall constitute grounds for rejection of proposal.

**XV. CONTRACT:**

Each proposal is received with the understanding that the acceptance in writing by the County of the offer to furnish any or all of the commodities or services described therein shall constitute a contract between the proposer and the County which shall bind the proposer on his part to furnish and deliver the articles quoted at the prices stated in accordance with the conditions of said accepted proposal. The County, on its part, may order from such contractor, except for cause beyond reasonable control, and to pay for, at the agreed prices, all articles specified and delivered.

Upon receipt of a proposal containing a Gwinnett County "Sample Contract" as part of the requirements, it is understood that the proposer has reviewed the documents with the understanding that Gwinnett County requires that all agreements between the parties must be entered into via these documents. If any exceptions are taken to any part, each exception must be stated in detail and submitted as part of the proposal document. If no exceptions are stated, it is assumed that the proposer fully agrees to the "Sample Contract" in its entirety.

When the contractor has performed in accordance with the provisions of this agreement, Gwinnett County shall pay to the contractor, within thirty (30) days of receipt of any payment requested based upon work completed or service provided pursuant to the contract, the sum so requested, less the retainage stated in this agreement, if any. In the event that Gwinnett County fails to pay the contractor within sixty (60) days of receipt of a pay request based upon work completed or service

provided pursuant to the contract, the County shall pay the contractor interest at the rate of ½% per month or pro rata fraction thereof, beginning the sixty-first (61<sup>st</sup>) day following receipt of pay requests. The contractor's acceptance of progress payments or final payment shall release all claims for interest on said payment.

**XVI. NON-COLLUSION:**

Proposer declares that the proposal is not made in connection with any other proposer submitting a proposal for the same commodity or commodities, and that the proposal is bona fide and is in all respects fair and without collusion or fraud. Each proposer, if included in proposal documents, shall execute an affidavit of non-collusion. Collusion and fraud in bid preparation shall be reported to the State of Georgia Attorney General and the United States Justice Department.

**XVII. DEFAULT:**

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

**XVIII. TERMINATION FOR CAUSE:**

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

**XIX. TERMINATION FOR CONVENIENCE:**

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

**XX. DISPUTES:**

Except as otherwise provided in the contract documents, any dispute concerning a question of fact arising under the contract which is not disposed of shall be decided after a hearing by the Purchasing Director who shall reduce his/her decision to writing and mail or otherwise furnish a copy thereof to the contractor. The decision of the Purchasing Director shall be final and binding; however, the contractor shall have the right to appeal said decision to a court of competent jurisdiction.

**XXI. SUBSTITUTIONS:**

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

**XXII. INELIGIBLE PROPOSERS:**

The County may choose not to accept the proposal of one who is in default on the payment of taxes, licenses or other monies owed to the County. Failure to respond three (3) consecutive times for any given commodity may result in removal from the list under that commodity.

**XXIII. OCCUPATION TAX CERTIFICATE:**

Each successful proposer shall provide evidence of a valid Gwinnett County occupation tax certificate if the proposer maintains an office within the unincorporated area of Gwinnett County. Incorporated, out of County and out of State proposers are required to provide evidence of a certificate to do business in any town, County or municipality in the State of Georgia, or as otherwise required by County ordinance or resolution.

**XXIV. PURCHASING POLICY AND REVIEW COMMITTEE:**

The Purchasing Policy and Review Committee has been established to review purchasing procedures and make recommendations for changes; resolve problems regarding the purchasing process; make recommendations for standardization of commodities, schedule buying, qualified products list, annual contracts, supplier performance (Ineligible Source List) and other problems or requirements related to Purchasing. The Purchasing Policy and Review Committee has

authority to place suppliers and contractors on the Ineligible Source List for reasons listed in the Gwinnett County Purchasing Ordinance.

**XXV. AMERICANS WITH DISABILITIES ACT:**

All contractors for Gwinnett County are required to comply with all applicable sections of the Americans with Disabilities Act (ADA) as an equal opportunity employer. In compliance with the Americans with Disabilities Act (ADA), Gwinnett County provides reasonable accommodations to permit a qualified applicant with a disability to enjoy the privileges of employment equal to those employees without disabilities. Disabled individuals must satisfy job requirements for education background, employment experience, and must be able to perform those tasks that are essential to the job with or without reasonable accommodations. Any requests for reasonable accommodations required by individuals to fully participate in any open meeting, program or activity of Gwinnett County should be directed to Percy Scott, Human Relations Coordinator, 75 Langley Drive, Lawrenceville, Georgia 30045, 770-822-7016.

**XXVI. ALTERATIONS OF SOLICITATION AND ASSOCIATED DOCUMENTS:**

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

**XXVII. TAX LIABILITY:**

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

**XXVIII. STATE LAW REGARDING WORKER VERIFICATION:**

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

By submitting a proposal to the County, contractor agrees that, in the event the contractor employs or contracts with any subcontractor(s) in connection with the covered contract, the contractor will secure from the subcontractor(s) such subcontractor(s)' indication of the employee-number category applicable to the subcontractor, as well as attestation(s) from such subcontractor(s) that they are in compliance with O.C.G.A. § 13-10-91 and Rule 300-10-1-.02. Such attestation(s) shall be maintained and may be inspected by the County at any time. Any such attestation shall become a part of the contractor/subcontractor agreement.

An affidavit of such compliance with O.C.G.A. § 13-10-91 and Rule 300-10-1-.02 will be initiated by the County, signed by the contractor, and will become part of the contract.

**XXIX. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED:**

It is the policy of Gwinnett County that unauthorized aliens shall not be employed to perform work on County contracts involving the physical performance of services. Therefore, the County shall not enter into a contract for the physical performance of services within the State of Georgia unless the contractor shall provide evidence on County-provided forms that it and its subcontractors have registered for and are participating in the federal work authorization program as defined by O.C.G.A. § 13-10-90(2) to verify information of all new employees. The Purchasing Division Director with the assistance of the Performance Analysis Division shall be authorized to conduct random audits of a contractor's or subcontractors' compliance with O.C.G.A. § 13-10-91 and the rules and regulations of the Georgia Department of Labor. The contractor and subcontractors shall retain all documents and records of its compliance for a period of three (3) years following completion of the contract. This requirement shall apply to all contracts for the physical performance of services where more than three (3) persons are employed on the County contract.

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

A contractor's failure to participate in the federal work authorization program as defined by O.C.G.A. § 13-10-90(2) may

be sanctioned by termination of the contract. If it is determined that a subcontractor is not participating in the federal work authorization program as defined by O.C.G.A. § 13-10-90(2), Gwinnett County may direct the contractor to terminate that subcontractor. A contractor's failure to follow Gwinnett County's instruction to terminate a subcontractor that is not participating in the federal work authorization program as defined by O.C.G.A. § 13-10-90(2) may be sanctioned by termination of the contract.

The above requirements shall be in addition to the requirements of state and federal law, and shall be construed to be in conformity with those laws.

**XXX. SOLID WASTE ORDINANCE:**

No individual, partnership, corporation or other entity shall engage in solid waste handling except in such a manner as to conform to and comply with the current Gwinnett County Solid Waste Ordinance and all other applicable local, state and federal legislation, rules, regulation and orders. An application to be listed as an approved hauler may be obtained from the Department of Financial Services, License and Revenue Division, 678-377-4101.

**XXXI. GENERAL CONTRACTORS LICENSE:**

**Effective July 1, 2008:** All General Contractors must have a current valid license from the State Licensing Board for Residential and General Contractors, unless specifically exempted from holding such license pursuant to Georgia law (O.C.G.A. Section 43-41-17).

**DIRECTIONS TO GJAC BUILDING FROM I-85**

Take I-85 north to Georgia Highway 316 (Lawrenceville/Athens exit). Exit Highway 120 (Lawrenceville/Duluth exit) and turn right. At sixth traffic light, turn right onto Langley Drive. Cross Highway 29 through the traffic light to the 4-way stop sign. The public parking lot is on the left. The Purchasing Division is located in the Administrative Wing.