



Appendix A

Oconee County Board of Commissioners

General Terms and Conditions

A. CONTRACT AND CONTRACT DOCUMENTS

Contractor's Bid/RFP, and all required forms shall form part of the Purchase Order, and the provisions thereof shall be as binding upon the parties.

B. DEFINITIONS

1. 'Alternate bids' means the amount stated in the bid or proposal to be added to or deducted from the amount of the base bid or base proposal if the corresponding change in project scope or alternate materials or methods of construction is accepted.
2. 'Base bid' or 'base proposal' means the amount of money stated in the bid or proposal as the sum for which the bidder or proposer offers to perform the work.
3. 'Bid bond' means a bond with good and sufficient surety or sureties for the faithful acceptance of the contract payable to, in favor of, and for the protection of the governmental entity for which the contract is to be awarded.
4. 'Change order' means an alteration, addition, or deduction from the original scope of work as defined by the contract documents to address changes or unforeseen conditions necessary for project completion.
5. 'Competitive sealed bidding' means a method of soliciting public works construction contracts whereby the award is based upon the lowest responsive, responsible bid in conformance with the provisions of subsection (b) of Code Section 36-91-21.
6. 'Competitive sealed proposals' means a method of soliciting public works contracts whereby the award is based upon criteria identified in a request for proposals in conformance with the provisions of subsection (c) of Code Section 36-91-21.
7. 'Emergency' means any situation resulting in imminent danger to the public health or safety or the loss of an essential governmental service.
8. 'Governing authority' means the official or group of officials responsible for governance of a governmental entity.
9. 'Governmental entity' means a county, municipal corporation, consolidated government, authority, board of education, or other public board, body, or commission but shall not include any authority, board, department, or commission of the state, or a public transportation agency as defined by Chapter 9 of Title 32.
10. 'Payment bond' means a bond with good and sufficient surety or sureties payable to the governmental entity for which the work is to be done and intended for the use and protection of all subcontractors and all persons supplying labor, materials, machinery, and equipment in the prosecution of the work provided for in the public works construction contract.



11. 'Performance bond' means a bond with good and sufficient surety or sureties for the faithful performance of the contract and to indemnify the governmental entity for any damages occasioned by a failure to perform the same within the prescribed time. Such bond shall be payable to, in favor of, and for the protection of the governmental entity for which the work is to be done.
12. 'Public works construction' means the building, altering, repairing, improving, or demolishing of any public structure or building or other public improvements of any kind to any public real property other than those projects covered by Chapter 4 of Title 32. Such term does not include the routine operation, repair, or maintenance of existing structures, buildings, or real property.
13. 'Responsible bidder' or 'responsible offeror' means a person or entity that has the capability in all respects to perform fully and reliably the contract requirements.
14. 'Responsive bidder' or 'responsive offeror' means a person or entity that has submitted a bid or proposal that conforms in all material respects to the requirements set forth in the invitation for bids or request for proposals.
15. 'Scope of project' means the work required by the original contract documents and any subsequent change orders required or appropriate to accomplish the intent of the project as described in the bid documents.
16. 'Scope of work' means the work that is required by the contract documents.
17. 'Sole source' means those procurements made pursuant to a written determination by a governing authority that there is only one source for the required supply, service, or construction item.

C. NONAPPROPRIATION OF FUNDS

The Contractor acknowledges that the Finance Department cannot contract for the payment of funds not yet appropriated by the Oconee County Board of Commissioners (OCBOC). If funding to a Department is reduced due to an order by the OCBOC or the Governor, or is required by State law, or if federal funding (when applicable) is not provided, the OCBOC may terminate this contract or proportionately reduce the services and purchase obligations and the amount due from the OCBOC upon 30 days written notice. In the case that funds are not appropriated or are reduced, the OCBOC will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and the OCBOC will not be liable for any future commitments, penalties, or liquidated damages.

D. DISCREPANCIES

Should an Bidder find discrepancies in the bid documents and/or specifications or be in doubt as to the meaning or intent of any part thereof, the Bidder shall request clarification from the County in writing. Any changes to the RFP that result from such a clarification will be communicated through a written addendum and posted on the Finance Department "Bid Opportunities" page at www.oconeecounty.com. Failure to request such a clarification is a waiver of any claim by the Bidder for additional expenses because its interpretation was different than the County's. The County assumes no responsibility that the specified technical and background information presented in this RFP, or otherwise distributed or made available during this procurement process, is complete or accurate. Without limiting the generality of the foregoing, the County will not be bound by or be responsible for any explanation or interpretation of the Proposal documents other than those given in writing as an addendum to this RFP.



E. MATERIALS, SERVICES AND FACILITIES

1. It is understood that, except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every nature, and all other services and facilities of every nature whatsoever necessary to execute, complete, and deliver the work within the specified time.
2. Any work necessary to be performed after regular hours, on Sundays or Legal Holidays shall be performed without additional expense to the Owner.

F. CONTRACTOR'S TITLE TO MATERIALS

No materials or supplies for the work shall be purchased by the Contractor or by any subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. The contractor warrants that he has good title to all materials and supplies used by him in the work, free from liens, claims, or encumbrances.

G. BRAND OR MANUFACTURER'S REFERENCE

The County has determined that any manufacturer's brand defined in the RFP Specifications meets the County's product and support need. The manufacturer's reference is not intended to be restrictive, but descriptive of the type and quality the County desires to purchase. Bids for similar manufactured products of like quality will be considered if the Bid is fully noted with the manufacturer's brand name and model unless "No Substitutions" has been noted in the bid documents. The County reserves the right to determine products and support of equal value .

H. INSPECTION AND SUPERVISION

The work under this contract shall be done in accordance with the laws of the State of Georgia and under the direct supervision and to the entire satisfaction of Oconee County, Ga. Further, the County may, from time to time, make inspections of the work performed under the Agreement. Any inspection by the County does not relieve the Contractor of any responsibility in meeting the Agreement requirements. The decision of the Project Manager, upon any question connected with the execution of the work under this contract, and interpretation of the specifications or upon failure or delay of the work by the contractor, shall be final and conclusive.

I. WARRANTY

The Contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the Oconee County Board of Commissioners (OCBOC) under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The Contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Georgia apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the Contractor warrants that: (1) the product



will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the County has relied on the Contractor's skill or judgment to consider when it advised the County about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the County has not been warned. Remedies available to the County include the following: The Contractor will repair or replace (at no charge to the County) the product whose nonconformance is discovered and made known to the Contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the OCBOC may otherwise have under this contract.

J. SEVERABILITY

In the event that any provision shall be adjudged or decreed to be invalid, such ruling shall not invalidate the entire Agreement but shall pertain only to the provision in question and the remaining provisions shall continue to be valid, binding and in full force and effect.

K. APPLICABLE LAWS/FORUM

This Agreement shall be governed in all respects by the laws of the State of Georgia. Any judicial action shall be filed in the State of Georgia, County of Oconee.

L. OPEN RECORDS

Offeror acknowledges and agrees that the county is obligated to timely comply with requests for information pursuant to state and federal law and regulation. Offeror agrees to comply with all provision of the Georgia Open Records Act ("ORA") (O.C.G.A. § 50-18-70 *et. seq.*), and to make records pertaining to performance of services, provision of goods or other functions under this contract available for public inspection upon request, unless otherwise exempt under other provisions of the ORA. Offeror shall provide the county with immediate notice should Offeror receive an Open Records Request. If Offeror asserts that any information in its response or in any information provided to the county with respect to the services or products under this contract are a protectable trade secret, as that term is defined in O.C.G.A. § 10-1-761, then the Offeror *must* follow the requirements of the ORA set forth at O.C.G.A. § 50-18-72(a)(34) and submit an affidavit declaring and specifically describing their trade secrets, including those of their subcontractor.

M. NOTICES

All notices and other communications hereunder shall be deemed to have been given when made in writing and either (a) delivered in person, (b) delivered to an agent, such as an overnight or similar delivery service, or (c) deposited in the United States mail, postage prepaid, certified or registered, addressed as follows:



TO CONTRACTOR

TBD

TO COUNTY:

Oconee County Board of Commissioners
Attn: Finance Department/Purchasing Officer
23 N. Main Street, Suite 203
Watkinsville, GA 30677

N. PROCEDURES

The extent and character of the services to be performed by the Contractor shall be subject to the general control and approval of the Department Director or his/her authorized representative(s). The Contractor shall not comply with requests and/or orders issued by anyone other than Department Director or his/her authorized representative(s) acting within their authority for the County. Any change to the Agreement must be approved in writing by the Finance Director and the Contractor.

O. DELAYS

If delay is foreseen, the Contractor shall give immediate written notice to the Department Director. The Contractor must keep the County advised at all times of the status of the project. Default in promised delivery (without accepted reasons) or failure to meet specifications, authorizes Procurement to purchase services elsewhere and charge full increase in cost and handling to defaulting Contractor.

P. WORKMANSHIP

All work under this Agreement shall be performed in a skillful and workmanlike manner. The Contractor and its employees shall be professional and courteous at all times. The County may, in writing, require the Contractor to remove any employee from work for reasonable cause, as determined by the County.

Q. QUALITY:

All materials used for the manufacture or construction of any supplies, materials, vehicles, or equipment covered by this bid shall be new (unless otherwise specified), the latest model, of the best quality, and highest grade workmanship. Vehicles and/or equipment shall be equipped with such necessary equipment complying with the Georgia State Law, but not including licensing. In addition, materials must comply with all applicable Federal and State OSHA requirements in affect at the time of bid.

R. DELIVERY

Orders must be shipped directly to ordering agency at address specified. Shipments must be made in accordance with the item(s) as described and priced on this order. In addition, orders must be shipped F.O.B. Destination, Freight Prepaid, unless other shipping instructions are described in this order. **UNLESS INDICATED OTHERWISE, ALL ORDERS MUST BE SHIPPED PROMPTLY (WITHIN 5 WORKING DAYS), UPON RECEIPT OF ORDER.**

Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the County except as to latent defects, fraud and Contractor's warranty obligations.



S. CLEANING UP

The Contractor shall at all times keep the property free from rubbish and the accumulation of any waste materials. Contractor shall be responsible for the removal of all trash at the end of each day, or more frequently as may be required by the Department Director

T. SUBCONTRACTORS

All applicants shall include a list of all subcontractors with their bid. The County reserves the right to reject the successful Bidder's selection of subcontractors for good cause. If a subcontractor is rejected, the contractor may replace that subcontractor with another subcontractor subject to the approval of the County. Any such replacement shall be at no additional expense to the County nor shall it result in an extension of time without the County's approval.

U. EXEMPTION FROM TAXES

The Contractor shall not charge the County for Georgia State Sales or Use Taxes or Federal Excise Tax on the finished goods or services provided under the Agreement. However, this exemption does not apply to the Contractor, and the Contractor shall be responsible for the payment of any sales, use, or excise tax it incurs in providing the goods required by the Agreement, including, but not limited to, taxes on materials purchased by a Contractor for incorporation in or use on a construction project. Nothing in this section shall prohibit the Contractor from including its own sales tax expense in connection with the Agreement in its Agreement price.

V. INVOICING AND PAYMENTS

Upon completion of work, the Contractor shall submit a proper invoice, detailing a breakdown of all charges that shall be based on completion of tasks or deliverables.

Invoices shall be submitted to:
Oconee County Board of Commissioners
Attn: Finance Department
P. O. Box 1527
Watkinsville, GA 30677
or Email
financedept@oconee.ga.us (Preferred)

All such invoices will be paid within thirty (30) days of final inspection by the County unless other payment terms have been detailed in writing prior to the start of project. Should any items thereon are questioned, in which event payment will be withheld pending verification of the amount claimed and the validity of the claim. The Contractor shall provide complete cooperation during any such investigation. Contractor shall provide the purchase order number on the pricing form.

W. AGREEMENT DISPUTES

The Contractor shall give written notice to the Finance Director of intent to file a



claim for money or other relief within ten (10) calendar days of the occurrence-giving rise to the claim or at the beginning of the work upon which the claim is to be based, whichever is earlier.

The claim, with supporting documentation, shall be submitted to the Finance Director by US Mail, courier, or overnight delivery service, no later than sixty (60) days after final payment. The Contractor shall submit its invoice for final payment within thirty (30) days after completion or delivery of the services. If the claim is not disposed of by agreement, the Finance Director shall reduce his/her decision to writing and mail or otherwise forward a copy thereof to the Contractor within thirty (30) days of the County's receipt of the claim.

The Finance Director's decision shall be final unless the Contractor appeals within thirty (30) days by submitting a written letter of appeal to the Finance Director or his/her designee. The Finance Director shall render a decision within sixty (60) days of receipt of the appeal.

X. ASSIGNMENT OF CONTRACT

The Agreement may not be assigned in whole or in part without the written consent of the Finance Department

Y. CHANGE ORDERS OR AGREEMENT MODIFICATIONS

Oconee County may order changes within the general scope of the contract at any time by change order or modification to the purchase order. Changes within the scope of the agreement are generally initiated between contractor and project manager. The project manager will submit a change order request to the Finance Department for administrative approval. Once a signed change order has been submitted to Purchasing, a revised purchase order is issued and distributed. The contractor shall comply with the notice upon receipt. The contractor shall be compensated for any additional costs incurred as the result of such order and shall give Oconee County a credit for any savings. Said compensation shall be determined by mutual agreement between Oconee County entity and the contractor in writing.

Z. TIME FOR COMPLETION AND LIQUIDATED DAMAGES

It is hereby understood and mutually agreed, by and between the Contractor and the Owner, that the date of beginning and the time for completion as specified; and it is further mutually understood and agreed that the work embraced in the RFP shall be commenced on a date to be specified in the Notice to Proceed.

The Contractor agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified. It is expressly agreed that the established contract time for the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.



If the said Contractor shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree, as a part consideration for the awarding of this contract, to pay to the Owner, not as a penalty but as liquidated damages for such breach of contract hereinafter set forth, \$100.00 for each and every calendar day that the Contractor shall be in default after the time stipulated in the contract for completing the work.

AA. CORRECTION OF WORK

All work, all materials, whether incorporated in the work or not, all processes of manufacture, and all methods of construction shall be at all times and places subject to the inspection of Oconee County, GA. Oconee County, GA. shall be the final judge of the quality and suitability of the work, materials, processes of manufacture, and methods of construction fail to meet their approval, they shall be forthwith reconstructed, made good, replaced and/or corrected, as the case may be, by the Contractor at his own expense. Rejected material shall immediately be removed from the site. If, in the opinion of the Owner, it is undesirable to replace any defective or damaged materials or to reconstruct or correct any portion of the work injured or not performed in accordance with the Contract Documents, the compensation to be paid to the Contractor hereunder shall be reduced by such amount as in the judgment of the Owner shall be equitable.

BB. ACCEPTANCE OF FINAL PAYMENT AS RELEASE

The acceptance by the Contractor of final payment shall be and shall operate as a release to the Owner of all claims and all liability to the Contractor for all things done or furnished in connection with this work and for every act and neglect of the Owner and others relating to or arising out of this work. No payment, however, final or otherwise, shall operate to release the Contractor from any obligations under this contract.

CC. TERMINATION

Subject to the provisions below, this Agreement may be terminated by the County upon thirty (30) days advance written notice to the Contractor; but if any work or service hereunder is in progress, but not completed as of the date of termination, then the Agreement may be extended upon written approval of the County until said work or services are completed and accepted:

1. Termination for Convenience-

The County may terminate this Agreement for convenience at any time in which the case the parties shall negotiate reasonable termination costs.

2. Termination for Cause-

In the event of Termination for Cause, the thirty (30) days advance notice is waived and the Contractor shall not be entitled to termination costs.

3. Termination Due to Unavailability of Funds in Succeeding Fiscal Years-

If funds are not appropriated or otherwise made available to support continuation of the performance of this Agreement in a subsequent fiscal year, then the



Agreement shall be canceled with no further cost to the County.

DD. BID BONDS, PERFORMANCE AND PAYMENT BONDS

If required in the RFP each bidder must deposit with his bid a Bid Bond or Certified Check for five percent (5%) of the total bid amount, and a Consent of Surety form from a surety company licensed to do business in the State of Georgia. The Consent of Surety shall state that upon award of the Agreement, a Performance and Payment Bond each for one hundred percent (100%) of the Total Agreement Amount can be furnished. The payment and performance bonds are required before the Notice to Proceed can be issued. **NOT ALL BID SOLICITATIONS REQUIRE A BID BOND. IF THERE ARE ANY QUESTIONS REGARDING BID BONDS, PLEASE CONTACT THE PROCUREMENT OFFICER.**

EE. CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE

As specified in the Oconee County Insurance Requirements (Refer to Appendix):

- 1. Contractors and Subcontractors Insurance:** The Contractor shall not commence work under this contract until he has obtained all the insurance required under this paragraph and such insurance has been approved by the Owner, nor shall the Contractor allow any subcontractor to commence work on his subcontract until the insurance required of the subcontractor has been so obtained and approved.

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.

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.

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.

The Contractor shall at a minimum apply risk management practices accepted by the contractors' industry.

- 2. Compensation Insurance:** The Contractor shall procure and shall maintain during the life of this contract Workmen's Compensation Insurance as required by applicable State or territorial law for all of his employees to be engaged in work at the site of the project under this contract and, in case



of any such work sublet, the Contractor shall require the subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the Contractor's Compensation Insurance. In case any class employees engaged in hazardous work on the project under this contract is not protected under the Workmen's Compensation Statute, the Contractor shall provide and shall cause each subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

3. Contractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance:

The Contractor shall procure and shall maintain during the life of this contract Contractor's Public Liability Insurance, Contractor's Property Damage Insurance and Vehicle Liability.

4. Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance: The Contractor shall require each of his subcontractors to procure and to maintain during the life of his subcontract, Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance of the type.

*****See Exhibit A for Oconee County Insurance Requirements*****

FF. 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 .

GG. GENERAL INDEMNIFICATION

It is understood that in the event of contractor negligence, Oconee County is protected against third-party claims. The Contractor is required to provide legal counsel to protect the owner and pay all damages arising from its negligent act.

HH. AGREEMENT

Each Bid 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 an agreement between the Bidder and the County which shall bind the Bidder on his part to furnish and deliver the articles quoted at the prices stated in accordance with the conditions of said accepted bid. The 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.

1. The Board of Commissioners may enter into contracts and agreements as



provided by state law. All capital contracts or agreements must be approved by the Board, and may be amended with the issuance of a change order under the signature of the Chair.

2. “no parole evidence”- prohibits oral modifications to the contract or allowance for past practices by the County.

3. Modifications, such as a written change order or amendment signed by the contracting authority, shall be the only allowable method for modification of the contract.

II. COMPLIANCE WITH LAWS AND ELIGIBILITY:

The bidder shall obtain and maintain all licenses, permits, liability insurance, workman’s compensation insurance and comply with any and all other standards or regulations required by federal, state, or county statute, ordinances and rules during the performance of any contract between the bidder and the County. Any such requirement specifically set forth in any contract document between the bidder and the County shall be supplementary to this section and not in substitution thereof. The County may choose not to accept the bid of a bidder who is in default on the payment of taxes, licenses or other monies due to the County. Failure to respond to three (3) consecutive times for any given commodity/service may result in removal from the supplier list under that commodity/service.

JJ. ANTI-DISCRIMINATION

Oconee County, in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 23 will be afforded full opportunity to submit bids in response to this Request for Proposal and will not be discriminated against on the grounds of race, color, national origin, sex, handicap/disability in consideration of an award.

KK. GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT

Vendors submitting a Bid package in response to this RFP must provide the following information in the package to indicate compliance with the Georgia Security and Immigration Compliance Act. The form is provided for completion.

1. A statement that indicates the contractor will conduct itself in compliance with O.C.G.A. §13-10-91 and Rule 300-10-.02 in the execution of the contract.
2. By completing the affidavit that is provided with this solicitation, the vendor is attesting to the following:



- a. The affiant has registered with and is authorized to use the federal work authorization program;
 - b. The user identification number and date of authorization for the affiant;
 - c. The affiant is using and will continue to use the federal work authorization program throughout the contract period;
 - d. Any employee, contractor, or subcontractor of such contractor or subcontractor shall also be required to satisfy the requirements set forth in this paragraph; and
 - e. Upon contracting with a new subcontractor, a contractor or subcontractor shall notify Oconee County and shall deliver a completed Subcontractor Affidavit to Oconee County within five (5) working days of entering into a contract or agreement of hire with the subcontractor before the new subcontractor begins any work.
3. Failure to provide the completed and notarized affidavit with the contractor's proposal will result in immediate disqualification as required by the Georgia Security and Immigration Compliance Act.

END OF SECTION II – GENERAL TERMS AND CONDITIONS

