# REQUEST FOR PROPOSALS

# PLUMBING INSPECTION SERVICES

**200 SOUTH FOURTH STREET**
**DEKALB, ILLINOIS 60115**

## CITY OF DEKALB, IL

## Bid/Proposal Cover Sheet

Name of Project: Request for Proposals (RFP) to provide plumbing inspection services for the City of DeKalb.

General Description of Project: The City of DeKalb is seeking qualified businesses to perform plumbing inspections for work in the City. Plumbing inspectors must hold a current license with the State of Illinois. Plumbing inspection service will include physical inspections for code compliance, passing inspections or preparing written documentation of deficiencies and communication with contractors and City Staff.

Website Link: http://www.cityofdekalb.com/bids.aspx

Type of Bid: Request for Proposals (RFP)

City Representatives:

Name: Thaddeus Mack, Chief Building Official

E-Mail: Thaddeus.mack@cityofdekalb.com

| | |
|---|---|
| **Request for Proposal Release Date:** | **December 11, 2018** |
| **Last Day for Questions:** | **December 17, 2018 5:00 PM** |
| **Question Response Date:** | **December 19, 2018, 5:00 PM** |
| **Proposal Due Date:** | **January 2, 2019, 5:00 PM** |

**All questions or comments must be directed through the City Representatives in writing via Email. Responses to questions (including the initial and follow up questions/comments) will be assembled into an addendum to the original RFP and distributed to all responsive parties and posted on the City's website. Phone calls are discouraged in an effort to ensure a transparent process for all interested parties.**

**All Proposals must be received at the Building Division via email (as described below) not later than 5:00 PM on January 2, 2019.**

## I.INTRODUCTION

### A. General Information

The City of DeKalb (City) is requesting proposals to solicit a qualified and experienced company specializing in Plumbing Inspections within the State of Illinois.

The City reserves the right to make clarifications, corrections, or changes in this Request for Proposals (RFP) at any time prior to the deadline for the submission of proposals. All proposers or prospective proposers that register with the City will be informed of said clarifications, corrections, or changes.

During the evaluation process, the City reserves the right, where it may serve the City's best interest, to request additional information or clarification from proposers, or to allow proposers to correct errors or omissions. At the discretion of the City, vendors submitting proposals may be requested to make oral presentations as part of the evaluation process. This process is being conducted as a Request for Proposals and not as a competitive bid. The City reserves the right to accept or reject any proposal for any reason, to contract directly with any respondent or with a party who does not respond to this RFP, and will select a provider who, in the sole and absolute direction of the City, provides the solution that is most effective or most appropriate to the City's needs, based upon the criteria as determined by the City. The City shall not be obligated to accept the lowest responsible bid, nor to conduct a bidding process nor to waive bids. The selected contractor shall be required to enter into an agreement with the City in form and content as specified by the City.

### B. Subcontracting

The selected vendor shall not be permitted to use subcontractors to provide professional services to the City without the prior consent of the City, which consent the City may withhold in its discretion.

## II. DESCRIPTION OF THE ISSUER:

### A. Principal Contact

The City's principal contact for this proposal is Thaddeus Mack, Chief Building Official.

### B. Background Information

The City of DeKalb is a suburban community with a vital commercial base located in a rural setting. It is located approximately 60 miles west of downtown Chicago. The City's current land area is 15.55 square miles, all of which is located within DeKalb County. Neighboring communities include Sycamore, Malta, and Cortland. The City's current official population is 44,030 as of the 2010 Census. DeKalb is home to the primary campus of Northern Illinois University.

The City has a Building Division that is part of the Community Development Department. The Building Division oversees review of plans, issuance of permits, scheduling and performing inspections, providing written notices of deficiency and issues certificates of occupancy or final approvals.

## III. SCOPE OF PRODUCTS AND SERVICES

### A. General Description

In order to be considered for this assignment, firms must show compliance with the following minimum criteria:

- **Firm:** Must have experience in serving municipal clients.
- **Team/Individual Assigned:** Lead employee assigned must have municipal experience and must be clearly identified in the proposal.
- **Evaluation of Proposals:** As described in Section VII, Item A.

As noted above, the Building Division of the Community Development Department issues permits for work which includes review of plans, performing field inspections, writing notices of correction and giving approvals for work at various stages of completion. Plan review of proposed work is done primarily in house with City Staff, but may be outsourced when time constraints or project complexity would necessitate this. Field inspection work for electrical, mechanical and general carpentry is done in house with City Staff. Plumbing inspection work is not currently at a volume to warrant hiring a full time City of DeKalb plumbing inspector. As such, the City has had plumbing inspections performed by a qualified third party inspector, licensed with the State of Illinois, who works with City Staff on all facets of the inspection process.

The City of DeKalb has adopted and amended the Illinois Plumbing Code, 2014 Edition, as documented in Chapter 24 of the Municipal Code, Article 9, titled "Illinois Plumbing Code." The City has also adopted the 2015 series of International Code Council (ICC) codes as referenced in the Amendments to the 2014 Illinois Plumbing Code. The City has utilized third party plumbing inspection services in 2017 and 2018, and it is anticipated that the City will continue to utilize third party inspection services in the future.

In seeking proposals for third party plumbing inspection services, the City has developed the following criteria and requirements to be furnished by the awarded respondent.

- Provide plumbing inspection services to the City of DeKalb to ensure conformance to the currently adopted Illinois Department of Public Health Illinois Plumbing Code. Provide written reports, letters and memos noting approval, deficiency and/or corrective action required for plumbing work where attempted under permit, or where existing conditions contradict the provisions of the Illinois Plumbing Code.
- Plumbing inspection services to be available on all days City Hall is open. Plumbing inspection services will be as needed by the City and will be based upon inspection request load each day. Hours for inspections to occur are flexible, but should generally coincide with normal business hours of the Building Division. It is estimated that 2 hours a day should be sufficient, however some days may demand more. Where demands are likely to exceed the estimated 2 hours a day, City Staff will notify the Inspector in advance
- Review and respond to questions as necessary to ensure positive communication between Staff, Contractors and other interested parties relative to plumbing inspection services. Provide plan review comments where requested and prepare written reports and letters noting any questions, deficiencies or corrective action necessary for review by the Chief Building Official.
- Provide plumbing inspector with reliable transportation for plumbing inspector to travel to City Hall and as necessary to travel to, on and around job sites to inspect plumbing work for compliance.
- Provide plumbing inspector with appropriate testing devices and tools to be able to check plumbing systems for compliance to the Illinois Plumbing Code and document such findings.
- Provide plumbing inspector with all appropriate Personal Protective Equipment (PPE) necessary to safely inspect plumbing systems.
- Provide plumbing inspector with necessary equipment for communication and documentation, including but not limited to pens, paper, clip board, cellular telephone and digital camera.
- Provide consultation services at no cost to the City, which may include pre-development conferences, consultation for code enforcement matters, consultation for code updates, and amendment changes, where requested.
- Provide a reduced or waived rate for services related to City owned property
- Any charges that will be reimbursed by the City will be at actual cost with no mark-up.
- Protocol for emergency callout or emergency inspections.
- Use of, or compatibility with, Microsoft Outlook for inspection scheduling.
- Provide written inspection reports on City inspection form or on form used by the Respondent if acceptable to the City.
- Provide original copy of inspection report or emailed copy of inspection report prior to the end of the work day, or within one business day from the date of inspection.
- Provide the City with a dedicated mobile telephone number for the inspector(s) when the City has questions, special request for inspections, and general communication.

In addition to the minimum criteria listed above, if the respondent believes other services are necessary or recommended for the search, the respondent should add a supplement describing those services.

## IV. PRICING AND OTHER PROVISIONS:

Respondents are to describe further the services in Section III and how they may be provided. All chargers should be clearly identified, including charges for normal inspections, charges for inspections of City owned property and charges for emergency or callout inspections.

## V. PROPOSAL REQUIREMENTS

A. Inquiries

Any inquiries concerning the Request for Proposals and the subject of the Request for Proposals shall be submitted in writing and shall be emailed to Thaddeus Mack, Chief Building Official no later than close of business (5:00 PM Central Time) December 17, 2018 at the following email address: thaddeus.mack@cityofdekalb.com. **No questions will be answered by phone or any means other than Email**.

B. Submission of Proposals

Please deliver one digital copy of the proposal via email to thaddeus.mack@cityofdekalb.com. The subject line of the email shall be clearly marked "Plumbing Inspection RFP Proposal".

**No hard copy of the proposal is required.**

Proposals must be received no later than **5:00 PM Central Time, January 2, 2019** (***"Deadline"***). Proposals will not be opened publicly. Proposals submitted after the deadline will not be accepted. No oral, telephone, or facsimile proposals will be considered.

Each proposal shall include the following:

1. **Cover Letter** – Indicate the proposal subject, name of the firm, address, telephone number, name of primary contact person, email address for the primary contact person and date of submittal.

2. **Statement of Experience** – Briefly describe the background, public sector experience and plumbing inspection capabilities of your company including the number of licensed plumbing inspectors currently employed, how long the company has been in business and how long the company has been conducting plumbing inspection services for municipalities. The Statement of Experience should also outline the expertise and success the company has had in providing inspection services and training for municipalities or other organizations.

3. **Professional Background of Assigned Personnel** – Provide names, titles, resumes and placement experience of the individual(s) who will be assigned to perform plumbing inspection services.

4. **Proposed Cost** – Provide a detailed account of the services provided and the cost of the proposed services.

5. **References** – Provide reference information on the last five (5) municipalities plumbing inspection services have been furnished including all contact information.

6. **Contact person** – Provide the name, phone number, and e-mail address of the individual who will be available to answer questions and/or participate in discussion relative to the proposal.

7. **Sample Work Products** – Provide samples of inspection reports and plan reviews prepared for your municipal clients. Please also provide information regarding any training or code recommendations that have been provided to improve your municipal clients.

8. **Additional Services** – List and describe any additional services provided by your firm.

## VI. STANDARD TERMS AND CONDITIONS

Proposals submitted are offers only, and the decision to accept or reject is a function of quality, reliability, capability, reputation, and expertise of the vendors submitting proposals. Issuance of this RFP does not obligate the City to pay any costs incurred by a proposer in its submission of a proposal or for the preparation of that proposal.

A proposer may withdraw its proposal, either personally or by written request, at any time prior to the deadline for submittals. No proposal shall be withdrawn for 60 days after the date set for opening proposals. Proposals shall be subject to acceptance during this period.

The City reserves the right to accept the proposal that is, in its judgment, the best and most favorable to the interests of the City and to the public; to reject the proposal with the lowest price; to accept any item of any proposal; to reject any and all proposals; and to

waive irregularities and informalities in any proposal submitted or in the RFP process; provided, however, that the waiver of any prior defect or informality shall not be considered a waiver of any future or similar defect or informality. Proposers should not rely upon, or anticipate, such waivers in submitting their proposal. The City reserves the right to negotiate with one or more respondents and to vary the terms of what it contracts for as compared to the respondent's initial proposal.

This RFP does not obligate the City to contract for services specified herein. The City will not be liable for any costs incurred by the respondent in the preparation and presentation of proposals submitted in response to this RFP including, but not limited to, costs incurred in connection with the respondent's participation in interviews and pre-proposal conferences.

All contractors shall be required to utilize the Independent Contractor Agreement attached hereto as Attachment A, and to comply with the insurance requirements contained therein. The City shall have the right to assign the underlying contract to any other unit of government at its sole discretion and option.

## VII. EVALUATION OF PROPOSALS

A. Proposals will be evaluated on the basis of which proposer best meets the requirements and needs of the City. The successful firm will be selected on the basis of professional qualifications, experience, and competitive pricing. City staff and Council will evaluate the proposals according to the completeness of the proposals, experience and qualifications of the firm, and any innovative or unique approach to providing the desired services. Special attention will be paid to:

1. The firm's prior experience in providing services that are similar to those requested and having favorable outcomes with the same or similar service provision.
2. The qualifications and experience of the firm's staff assigned to the project.
3. The firm's ability to communicate effectively with elected officials, staff, key stakeholders and the general public.
4. Any past working relationships with the City of DeKalb.
5. The ability of the firm to provide a cost-effective solution.
6. References and responsiveness of references produced by the firm, specifically for municipal inspection services.

B. The City reserves the right to interview proposing vendors, if necessary. Please clearly list a contact person with the phone number and e-mail address in the event questions arise. The City also reserves the right to request modifications to submitted proposals with specific vendors where modifications may provide a better fitting solution for the City.

All proposing vendors will be notified of the result of this RFP via the e-mail address provided by each proposer.

ATTACHMENT A:

Professional Services (Advisor) Agreement for Services

THIS AGREEMENT, by and between the City of DeKalb, hereinafter referred to as the "City" and "_____" hereinafter referred to as the "Contractor", with the City and Contractor agreeing as follows

A. Services:

Contractor agrees to furnish to the City the following services:

See attached Exhibit A

Contractor represents that it possesses the skills and knowledge necessary to provide all such services and understands that the City is relying upon such representation. Contractor further acknowledges that Exhibit A is an integral part of this Agreement and may not be modified except in accordance with a modification to the terms of this Agreement.

B. Term:

Services will be provided as needed and directed by the City beginning on the date of execution of this agreement and continuing, until terminated by either party upon 7 days written notice to the non-terminating party. Upon termination the Contractor shall be compensated for all work performed for the City prior to termination and shall provide to the City all work completed through the date of termination. The City's issuance of a notice of termination shall function as a stop work order, beyond which the Contractor shall not incur any additional costs without the City's express, written permission.

C. Compensation:

Contractor shall receive as compensation for all work and services to be performed herein, an amount based on the fee schedule attached hereto as Exhibit B. All payments will be made according to the Illinois State Prompt Payment Act. Any payment made to the Contractor shall be strictly on the basis of quantum meruit. The Contractor shall submit to the City a detailed breakdown and invoice of all charges, including detail of past payments and amounts still remaining due, accurate to the date of the invoice, with each request for payment. Any additions to or deductions from the approved total amount of the contract, and any out of scope work shall require prior, written approval from the City. Any work performed without the City's express, written consent shall be solely at the expense of the Contractor. Contractor shall provide all contractor lien waivers, subcontractor lien waivers and materialmen lien waivers, properly executed and completed, prior to receiving payment. Contractor shall indemnify, defend and hold harmless the City from any claim arising out of or relating to the liens, public fund claims or other claims for payment or damages from any subcontractor or materialman employed

or utilized by Contractor, without regard to whether the City strictly enforced the requirement of submitting lien waivers. The following optional provisions apply if checked:

- o This work is to be completed on a time and materials basis in accordance with the rate schedule attached in Exhibit B.
- o This work is to be completed subject to a not-to-exceed price of $_____.
- o The Parties expressly acknowledge that this Agreement is being entered into pursuant to the City Manager's spending authority, and in no event shall the sum of all charges contemplated herein, inclusive of all fees, expenditure reimbursements or other payments of any kind, exceed Twenty Thousand Dollars ($20,000.00). Unless and until the City provides written notice to Contractor that this agreement has been ratified, approved or amended by the City Council and can exceed that threshold, this Agreement shall be deemed to terminate automatically, without any obligation for further notice, work or payment, upon reaching the threshold. Contractor shall provide the City with written notice when the total amount charged hereunder has reached or exceeded Fifteen Thousand Dollars ($15,000.00).

D. Changes in Rates of Compensation (and Prevailing Wages):

If the Contractor seeks to impose any change in the fee schedule (whether in terms of hourly fee or lump sum fees), then the Contractor shall provide not less than ninety days written notice of its intent to change its fee schedule, and any such change in fee schedule shall require the approval of the City. The Parties acknowledge that this Agreement is for professional services and is not subject to the Illinois Prevailing Wage Act. Contractor shall indemnify, defend and hold harmless the City from any claims arising out of or relating to any actual or alleged non-compliance with the requirements of the Prevailing Wage Act.

E. Ownership of Records and Documents / Confidential Information:

Contractor agrees to keep and maintain all books and records and other recorded information required to comply with any applicable laws, including but not limited to the Prevailing Wage Act. Contractor agrees to keep such information confidential and not to disclose or disseminate the information to third parties without the consent of the City. Contractor further agrees to keep as confidential any information belonging or relating to the City which is of a confidential nature, including without limitation information which is proprietary, personal, required by law to be confidential, or relates to the business, operations or accounts of the City. This confidentiality shall not apply to material or information, which would otherwise be subject to public disclosure through the freedom of information act or if already previously disclosed by a third party. Contractor acknowledges that the Freedom of Information Act, 5 ILCS 140/1 et seq. (the "Act") places an obligation on the City to produce certain records that may be in the possession of Contractor. Contractor shall comply with the record retention and documentation requirements of the Local Records Act 50 ILCS 205/1 et seq. and the Act and shall maintain all records relating to this Agreement in compliance with the Local Records Retention Act and the Act (complying in all respects as if the Contractor was, in fact, the

City). Contractor shall review its records promptly and produce to the City within two business days of contact from the City the required documents responsive to a request under the Act. If additional time is necessary to comply with the request, the Contractor may request the City to extend the time do so, and the City will, if time and a basis for extension under the Act permits, consider such extensions.

F. Governing Law:

This contract shall be governed and construed in accordance with the laws of the State of Illinois. Venue and jurisdiction for any legal action arising out of or related to this Agreement shall be exclusively fixed in the DeKalb County Circuit Court, DeKalb County, Illinois.

G. Independent Contractor:

The Contractor acknowledges that neither it nor its personnel shall be acting as an employee or official representative of the City for purposes of being offered any protection or coverage under City insurance policies for tort immunity or other legal purposes. The Contractor and City acknowledge that the provisions of this Agreement shall be construed, pursuant to *Carney v. Union Pacific Railroad Company*, 2016 IL 118984, to provide the City with the right to stop or resume work, to make inspections, to receive reports and to provide recommendations or suggestions pursuant to Section 414 of the Second Restatement of Torts, consistent with the employment of an independent contractor, and that no provision of this Agreement shall be construed as the City retaining control of or having liability for the actions of the Contractor. The City shall have no liability for Contractor's selection of personnel, employees or subcontractors, nor for the presence of dangerous conditions on any real property where Contractor is employed.

Contractor shall have sole control over the manner and means of providing the work and services performed under this agreement. The City's relationship to the Contractor under this agreement shall be that of an independent contractor. Contractor will not be considered an employee to the City for any purpose. The parties agree that the Contractor is exclusively responsible for the determination of what work is required to complete the tasks outlined in Exhibit A, and for the means and methods of completing such work. The City's compensation to Contractor shall be limited to that described in Exhibit B, and the City shall not reimburse any expenses, provide any benefits, withhold any employment taxes or otherwise have a financial relationship with Contractor other than payment of the stated compensation. The Contractor shall be solely responsible for withholding of taxes, providing employee benefits, or otherwise complying with applicable laws relating to its employees or contractors.

In the event that the City determines, in its sole discretion, that it is economically advantageous for the City to provide certain supplies or tools for use by Contractor in lieu of paying Contractor to provide the same, the City and Contractor agree that Contractor shall then utilize the City's equipment or supplies according to its own determination of their best and appropriate use. Contractor shall be responsible for its' own personnel,

training, instruction and related matters. Contractor shall be responsible for determining its sequence of performance for required work. Contractor's work shall be evaluated by the City based upon the end result of such work. Contractor shall be responsible for any expenses incurred by Contractor in the performance of its work, and shall not be authorized, expressly or impliedly, to obligate the City on any debt, contract or other agreement whatsoever. In the event that Contractor is compensated on an hourly basis under the terms of this Agreement, the City and Contractor agree that Contractor's compensation is usual and customary, based on the terms that Contractor offers its services to the market in general.

H. Certifications:

Executing this Agreement constitutes acknowledgment, acceptance, and certification of the accuracy of the following certifications, and any other certifications required under any applicable law relating to the performance of this Agreement. The Contractor is responsible for identifying all such applicable regulations and certifications, and for compliance with the same.

*Sexual Harassment:* The Contractor certifies that it is in compliance with the Illinois Human Rights Act 775 ILCS 5/1.101, et seq. including establishment and maintenance of sexual harassment policies and program.

*Tax Delinquency:* The Contractor certifies that it is not delinquent in payment of any taxes to the Illinois Department of Revenue in accordance with 65 ILCS 5/11-42.1, and is not delinquent in the payment of any tax, charge or obligation to the City of DeKalb.

*Employment Status*: The Contractor certifies that if any of its personnel are an employee of the State of Illinois, they have permission from their employer to perform the service.

*Anti-Bribery*: The Contractor certifies it is not barred under 30 Illinois Compiled Statutes 500/50-5(a) - (d) from contracting as a result of a conviction for or admission of bribery or attempted bribery of an officer or employee of the State of Illinois or any other state.

*Loan Default*: If the Contractor is an individual, the Contractor certifies that he/she is not in default for a period of six months or more in an amount of $600 or more on the repayment of any educational loan guaranteed by the Illinois State Scholarship Commission made by an Illinois institution of higher education or any other loan made from public funds for the purpose of financing higher education (5 ILCS 385/3).

*Employment of Illinois Workers on Public Works Act*. If at the time the Contract Documents are executed, or if during the term of the Contract Documents, there is a period of excessive unemployment in Illinois as defined in the Employment of Illinois Workers on Public Works Act, 30 ILCS 570/0.01 *et seq*., (hereinafter referred to as "the Act"), GENERAL CONTRACTOR, its consultants, contractors, subcontractors and agents agree to employ Illinois laborers on this Project in accordance with the Act. GENERAL CONTRACTOR understands that the Act defines (a) "period of excessive unemployment" as "as any month following two consecutive calendar months during which the level of unemployment in the State of Illinois has exceeded 5%, as measured by the United States Bureau of Labor Statistics in its monthly publication of employment

and unemployment figures", and (b) "Illinois laborer" as "any person who has resided in Illinois for at least thirty (30) days and intends to become or remain an Illinois resident." See 30 ILCS 570/1. Contractor understands and agrees that its failure to comply with this provision of the Contract Documents may result in immediate termination of the Contract Documents.

*Felony Certification*: The Contractor certifies that it is not barred pursuant to 30 ILCS 500/50-10 from conducting business with the State of Illinois or any agency as a result of being convicted of a felony.

*Barred from Contracting*: The Contractor certifies that it has not been barred from contracting as a result of a conviction for bid-rigging or bid rotating under 720 ILCS 5/33E-3 (Bid Rigging) or 720 ILCS 5/33-4 (Bid Rotating) or a similar law of another state or of the federal government.

*Prevailing Wage:* The Contractor certifies that it shall comply with all applicable provisions of the Prevailing Wage Act, and further certifies that it is not in violation of said Act and has not been barred from bidding on this proposal by virtue of a past violation of the Act. A copy of the most recent available list of prevailing wages is attached hereto or has been provided to the Contractor. The Contractor is responsible for regularly updating said list as new prevailing wage rates are made available by the City *or by the Illinois Department of Labor*. The Illinois Department of Labor posts regular updates to prevailing wage rates on its official website, which is currently www.illinois.gov/idol. This notice is given pursuant to 820 ILCS 130/4 and the balance of the Illinois Prevailing Wage Act, which is incorporated herein by reference as if fully restated.

*Drug Free Workplace*: The Contractor certifies that it is in compliance with the Drug Free Workplace Act (30 Illinois Compiled Statutes 580) as of the effective date of this contract. The Drug Free Workplace Act requires, in part, that Contractors, with 25 or more employees certify and agree to take steps to ensure a drug free workplace by informing employees of the dangers of drug abuse, of the availability of any treatment or assistance program, of prohibited activities and of sanctions that will be imposed for violations; and that individuals with contracts certify that they will not engage in the manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract. The Contractor further certifies that it maintains a substance-abuse program and provide drug testing in accordance with 820 ILCS 130/11G, Public Act 095-0635

*Responsible Contractor Requirements:* The Contractor certifies that it complies with the Illinois Procurement Code and the provisions of Section 30-22 thereof relating to apprenticeship and training, if applicable.

*Non-Discrimination, Certification, and Equal Employment Opportunity*: The Contractor agrees to comply with applicable provisions of the Illinois Human Rights Act (775 Illinois Compiled Statutes 5), the U.S. Civil Rights Act, the Americans with Disabilities Act, Section 504 of the U.S. Rehabilitation Act and the rules applicable to each. The equal opportunity clause of Section 750.10 of the Illinois Department of Human Rights Rules is specifically incorporated herein. The Contractor shall comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375, and as supplemented by U.S. Department of Labor regulations (41 C.F.R. Chapter 60). The Contractor agrees to incorporate this clause into all

subcontracts under this Contract. The Contractor acknowledges that neither it nor the City shall discriminate on the basis of any protected classification.

*Record Retention and Audits*: If 30 ILCS 500/20-65 requires the Contractor (and any subcontractors) to maintain, for a period of 3 years after the later of the date of completion of this Contract or the date of final payment under the Contract, all books and records relating to the performance of the Contract and necessary to support amounts charged to the City under the Contract. The Contract and all books and records related to the Contract shall be available for review and audit by the City and the Illinois Auditor General. If this Contract is funded from contract/grant funds provided by the U.S. Government, the Contract, books, and records shall be available for review and audit by the Comptroller General of the U.S. and/or the Inspector General of the federal sponsoring agency. The Contractor agrees to cooperate fully with any audit and to provide full access to all relevant materials.

*United States Resident Certification*: (This certification must be included in all contracts involving personal services by non-resident aliens and foreign entities in accordance with requirements imposed by the Internal Revenue Services for withholding and reporting federal income taxes.) The Contractor certifies that he/she/it is a: ☐ United States Citizen or Corporation ☐ Resident Alien ☐ Non-Resident Alien. The Internal Revenue Service requires that taxes be withheld on payments made to non-resident aliens for the performance of personal services at the rate of 30%.

*Tax Payer Certification*: Under penalties of perjury, the Contractor certifies that its Federal Tax Payer Identification Number or Social Security Number is _____ and is doing business as a (check one): ☐ Individual ☐ Real Estate Agent ☐ Sole Proprietorship ☐ Government Entity ☐ Partnership ☐ Tax Exempt Organization (IRC 501(a) only) ☐ Corporation ☐ Not for Profit Corporation ☐ Trust or Estate ☐ Medical and Health Care Services Provider Corp.

*Authorized in Illinois:* The Contractor that it is authorized to lawfully transact business in the State of Illinois, under all applicable Illinois laws and regulations. The Contractor certifies that it shall comply with the Corporate Accountability for Tax Administration Act, 20 ILCS 715/1, *et. seq.* Where applicable, the Contractor certifies that it is not barred from bidding by virtue of having been adjudicated to have committed a willing or knowing violation of Section 42 of the Environmental Protection Act within the five years preceding this bid, pursuant to 415 ILCS 5/1*, et. seq.* The Contractor further certifies that it is in compliance with all applicable requirements of the Business Enterprise for Minorities, Females and Persons with Disabilities Act, 30 ILCS 575/1*, et. seq.*

*Export Administration, Supplies, Labor:* The Contractor certifies that neither it nor any substantially owned affiliate is participating, nor shall participate, in an international boycott which is in violation of the provisions of the US Export Administration Act of 1979 or the regulations of the US Department of Commerce promulgated under the Act, including but not limited to the requirements of 30 ILCS 582/5. The Contractor further certifies that no foreign made equipment, materials or supplies furnished under the proposal or agreement have been or will be produced in whole or in part by forced labor, convict labor, or indentured labor, nor made in whole or in part by the labor of any child under the age of 12, under penal sanction pursuant to 30 ILCS 583/1 and 30 ILCS 584/1. The Contractor certifies that steel products used or supplied in the performance of a contract for public works shall be manufactured or produced in the United States, unless

the City Manager grants an exception to said requirement, pursuant to 30 ILCS 565/1, *et. seq.*

*General Compliance and Certification:* The Contractor certifies that it has and will comply with all other applicable laws, regulations, ordinances or restrictions applicable to any component of the bidding process, agreement, or any services or materials provided in connection therewith. The Contractor acknowledges that it is responsible for identifying and complying with all applicable laws, ordinances, rules and regulations, and that it shall indemnify and hold harmless the City of DeKalb from any claim, liability or damages arising out of the failure to identify or comply with any such applicable legal restriction.

I. Indemnification:

The Contractor shall be responsible for any and all damages to property or persons arising out of an error, omission, and/or negligent act in the prosecution of the work or failure to prosecute the work and shall indemnify and hold harmless the City, its officers, agents, and employees from all suits, claims, actions or damages of any nature whatsoever resulting therefrom. The Company shall assume all restitution and repair costs arising out of an error, omission and/or negligence.

The Contractor agrees to indemnify and save harmless the City, including its elected or appointed officials, employees, attorneys and agents (collectively, the "City Indemnitees") against any and all claims, loss damage, injury, liability, and court costs and attorney's fees incident thereto, including any claims made by employees of the Contractor or any of their subcontractors, as well as all other persons, resulting directly or indirectly from the work covered by this contract or the equipment used in connection therewith. It is understood that this agreement shall apply to any and all such claims whether resulting from the negligence or the intentional acts of the Contractor, the Contractor's employees, contractors or subcontractors, the City or City Indemnitees or otherwise, with the single exception of any claim, damage, loss, or expense arising solely out of the intentional misconduct of the City or City Indemnitees. The Contractor is solely responsible for determining the accuracy and validity of any information provided to the Contractor by the City or its representatives. This indemnification shall apply to the fullest extent of the law, and in the event that any provision hereof is determined to be unenforceable, the indemnification obligations shall be severable and the fullest extent of indemnification that may lawfully apply shall remain in full force and effect.

This indemnification shall include any claims arising out of the erection, construction, placement or operation of any scaffold, hoist, crane, stay, ladders, support or other mechanical contrivance in connection with such work including but not limited to losses, claims, damages and expenses arising pursuant to claims asserted against the City pursuant to theories premised upon Section 414 or Section 343 of the Restatement (Second) of Torts. This indemnification shall not be limited in any way by limitations on the amount or type of damages, compensation, or benefits payable by or for the Contractor under Workers' Compensation Acts, disability benefit acts, or other employee benefit acts, and serves as an express agreement to waive the protection of *Kotecki v. Cyclops Welding Corp*, 146 Ill.2d 155 (1991) in Illinois. However, pursuant to the

Construction Contract Indemnification for Negligence Act (740 ILCS 35), the Parties shall not indemnify the other for any liabilities, damages, costs or expense resulting from the other party's own willful misconduct or negligence. The City does not waive its defenses or immunities under the Local Government and Governmental Employees Tort Immunity Act (745 ILCS 10/1 *et seq*.), or other such immunity statute or common law, by reason of indemnification or insurance. Indemnification shall survive the termination of the Agreement.

J. Insurance, Licensure and Intellectual Property:

The Contractor shall comply with all insurance requirements described on the attached Exhibit C. The Contractor agrees and warrants that it has procured all licenses, permits or other official permissions required by any applicable law to perform the services contemplated herein, that it will procure all additional licenses, permits or other official permissions hereafter required by law during the term of this Agreement, and that it will keep all such licenses in effect during the term of this Agreement. The Contractor shall provide a copy of any such licenses or permits upon request. All such insurance and licensure shall be provided at the Contractor's sole expense. Contractor also warrants that it has complete ownership or authorization/entitlement to any intellectual property, software, images or other such items used in the performance of its work under this Agreement, and that it shall transfer to the City, unrestricted, the ability to modify, amend, publicize or otherwise utilize any intellectual property provided to the City under this Agreement unless the City expressly preapproves in writing a limitation to these provisions.

The Contractor shall not commence work under this Contract until they have obtained all insurance required and such insurance has been submitted to and approved by the City, nor shall the Contractor permit any Subcontractor to commence work on any subcontract until the same insurance has been obtained by the Subcontractor. The Company and all Subcontractors shall maintain their insurance in place for not less than two (2) years following completion of all work required under this Contract.

All drawings, specifications, reports and any other project documents prepared by the Contractor in connection with any or all of the services to be furnished thereunder shall be delivered to the City for the expressed use of the City. The Contractor shall have the right to retain original documents, but shall cause to be delivered to the City such quality of documents so as to assure total reproductibility of the documents delivered. All information, worksheets, reports, design calculations, plans and specifications shall be the sole property of the City unless otherwise specified in the negotiated agreement. The Contractor agrees that basic survey notes and sketches, charts, computations and other data prepared or obtained by the Contractor pursuant to this Agreement shall be made available, upon request, to the City without cost and without restriction or limitation as to their use. All field notes, test records, and reports shall be available to the City upon request.

K. Bonds:

Contractor shall be responsible for identifying and complying with all legal requirements applicable to this Agreement or the underlying work to be performed, including but not limited to any requirement to post bonds or security. Without limitation, Contractor shall comply with the Public Construction Bond Act, 30 ILCS 550/0.01, *et. seq.* for any public works having a total cost in excess of $50,000.

L. Additional Terms or Modification:

The terms of this agreement shall be further modified as provided on the attached Exhibit A, Exhibit B and Exhibit C. Except for those terms included on Exhibit A, Exhibit B and Exhibit C, no additional terms are included as a part of this agreement. All prior understandings and agreements between the parties are merged into this agreement, and this agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties. The City reserves the right by written amendment to make changes in requirements, amount of work, or time schedule adjustments. The Contractor shall negotiate appropriate adjustments acceptable to both parties to accommodate any changes. The City may, at any time by written order, require the Contractor to stop all or part of the services required by this Agreement. Upon receipt of such an order, the Contractor shall immediately comply with its terms and take all steps to minimize the occurrence of costs allocable to the services covered by the order. If the Contractor identifies any costs associated with the suspension of services, such costs must be expressly approved by the City in writing, or they shall be the sole expense of the Contractor.

M. Notices:
All notices required to be given under the terms of this License shall be given mail, addressed to the parties as follows:

| For the City: | For the Contractor: |
|---|---|
| City Manager | _____ |
| City of DeKalb | _____ |
| 200 S. Fourth Street | _____ |
| DeKalb, IL 60115 | _____ |

Either of the parties may designate in writing from time to time substitute addresses or persons in connection with required notices.

N. Subcontractors and Third Parties:

Contractor shall not assign or subcontract for the performance of any obligation under this Agreement, except with the express, written preapproval of the City, which consent may be withheld in the City's sole and absolute discretion. Should Contractor assign any obligation arising under this Agreement with the consent of the City, the Contractor shall remain to be primarily liable to the City for the performance of the obligation in question,

and further shall be liable for ensuring that the subcontractor(s) comply with all obligations arising under this Agreement as if the subcontractor(s) was/were the Contractor itself. Further, should Contractor request to assign the performance of any obligation arising hereunder to a subcontractor, Contractor expressly provides its consent to the City contracting directly with such proposed subcontractor (or another subcontractor acceptable to the City) for the performance of such work, and to the amendment of this Agreement to reduce the scope and cost accordingly.

Nothing contained in this Agreement, nor the performance of the parties hereunder, is intended to benefit, nor shall it inure to the benefit of any third party.

O. Progress Reports:

Contractor shall report to the City Manager or her designee, and shall submit written progress reports identifying, in detail, the extent of work completed, the percentage of project completion, and project status, accompanying any invoice submitted to the City. Contractor shall also provide additional written or verbal progress reports to the City upon request, at any time, without additional charge. The Contractor shall attend conferences and visit the site of the work as may be outlined in the Request for Proposal and at any reasonable time when requested to do so by the City, at no additional charge.

P. Conflicts:

Contractor may continue to represent or undertake to represent existing or new clients in those matters that are not substantially related to Contractor's work for the City, even if the interests of such clients in those matters are directly adverse to City. Contractor agrees however that the City's prospective consent to conflicting representation contained in this paragraph shall not apply in any instance where, as a result of Contractor's representation of the City, Contractor has obtained sensitive proprietary or other confidential information of a non-public nature that, if known to any such other client of Contractor, could be used in any such other matter by such client to the material disadvantage of the City. Contractor and the City covenant to work in good faith to identify any current or prospective conflicts, and to negotiate in good faith to resolve or waive such conflicts, or to limit or terminate services under this Agreement so as to avoid such conflicts.

Q. Inspections or Observation:

Where services provided herein relate to the inspection or observation of items or projects constructed by third parties on behalf of the City, whether with respect to the compliance of those items with applicable codes or its acceptable construction as a public or private improvement, the Contractor shall not serve as a guarantor of any third party, public or worker safety. The Parties acknowledge that the Contractor shall have a duty to identify defects or non-compliance with applicable standards and to report such information to the City, and where such defects or non-compliance require immediate remediation, to make such report immediately upon observation of the condition. Such duty shall also extend

to properly documenting the observed condition whether through report, photography, video or other medium. However, the Contractor shall not be responsible for the means, method or sequence of work that any third party employs, nor for review or recommendation of applicable workplace safety rules, regulations or suggestions. The Parties expressly disclaim the existence of any third party beneficiary from the Contractor's services hereunder (where relating to inspection or observation as defined herein), it being recognized that the services contemplated herein require reporting of information to the City as the client of Contractor, and not to any other party.

Agreed to this _____ day of _____, 20___.

City of DeKalb Contractor

_____ _____

City Mayor/Manager

_____

_____

City Clerk

**Exhibit A:**

**Description of Work**

TO BE DEVELOPED BASED UPON PROPOSALS AS RECEIVED.

**Exhibit B:**

**Fee Schedule**

TO BE DEVELOPED BASED UPON PROPOSALS AS RECEIVED.

**Exhibit C:**

**Insurance Requirements:**

**1. All Contractors and All Contracts.**

Contractor shall provide any and all insurance required under any applicable law, regulation, statute or ordinance, including but not limited to workers' compensation insurance, unemployment insurance, automobile liability insurance and other legally required insurance. Contractor shall produce a certificate evidencing current coverage, upon request from the City. Contractor shall indemnify and hold harmless the City from any and all liability, damage, cost or expense which the City may incur or be liable to pay as a result of any and all accidental injuries or damages suffered by the Consultant or its employees (in addition to any other required indemnification or insurance from Consultant).

**2. Certificates and General Conditions:**

Unless otherwise indicated herein, any certificate of insurance shall further indicate that the City is additional *primary* insured on such policy of insurance, shall indicate that such policies shall not have any right of subrogation against the City or the City's insurers, and shall indicate that said policy shall not be cancelled or revoked except after the provision of not less than thirty (30) days notice to the City. Contractor shall maintain said policy in full force and effect for the duration of this Agreement, and shall periodically provide updated certificates of insurance to evidence continuing coverage in compliance herewith. For purposes of this Agreement and insurance provided hereunder, the "City" shall include the City of DeKalb, its employees, appointed and elected officers, its committees, its attorneys, and all corporate bodies that exist as a subsidiary to the City.

**3. Comprehensive General Liability Coverage Requirements.**

Unless this Section 3 of Exhibit B is clearly marked out as being inapplicable, Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating that the Contractor has obtained and maintains comprehensive general liability insurance with policy limits of not less than One Million Dollars ($1,000,000.00) per person / Two Million Dollars ($2,000,000.00) per occurrence.

**4. Automobile Insurance Coverage:**

Unless this Section 4 of Exhibit B is clearly marked out as being inapplicable, Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating that the Contractor has obtained and maintains comprehensive automobile liability insurance with policy limits of not less than One Million Dollars ($1,000,000.00) per person / Two Million Dollars ($2,000,000.00) per occurrence.

**5. Professional Liability Insurance Coverage / Errors & Omissions Insurance Coverage:**

Unless one or more subsections of this Section 5 of Exhibit B is clearly marked out as being in applicable:

A. Professional Liability / Malpractice: Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating that the Contractor has obtained and maintains professional liability or malpractice insurance with policy limits of not less than One Million Dollars ($1,000,000.00) per person / per occurrence. Said policy need not identify the City as additional primary insured.

B. Errors & Omissions Insurance Coverage: Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating that the Contractor has obtained and maintains errors & omissions insurance with policy limits of not less than One Million Dollars ($1,000,000.00) per person / per occurrence. Said policy need not identify the City as additional primary insured.

**6. Indemnification.**

The policy limits, availability or inavailability of insurance coverage or the applicability of claims, defenses or limitations based upon applicable law (including but not limited to the Illinois Worker's Compensation Act or similar laws or statutes) shall in no way limit the Contractor's obligation to indemnify and hold harmless the City from any claims for damage, liabilities or other costs arising out of or relating to the Contractor's work or this Agreement.

**7. Additional Insurance Requirements.**

Contractor shall also be required to provide the following insurance: