

**PROPOSAL
CONTRACT AND SPECIFICATIONS
FOR
RFP FOR 2023 NATURAL GAS SYSTEM RELIABILITY UPGRADES
THE WATER, LIGHT AND SINKING FUND COMMISSIONERS
OF
THE CITY OF DALTON, GEORGIA**

**COMMISSIONERS
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JACKIE KILLINGS
ED ANTHONY**

**TOM BUNDROS
CHIEF EXECUTIVE OFFICER**



DALTON UTILITIES – 2023 NATURAL GAS SYSTEM RELIABILITY UPGRADES
TABLE OF CONTENTS

Advertisement for Bids	I
Instruction to Bidders	II
Contractor’s Bid	III
General Conditions, Plans and Specifications	IV
Construction Contract	V
Non-Collusion Affidavit	VI
Statement of License Certificate	VII
Corporate Certificate	VIII
Performance Bond	IX
Payment Bond	X
E-Verify Affidavits	XI
Attachment 1	XII

ADVERTISEMENT FOR BIDS
FOR
**RFP FOR 2023 NATURAL GAS SYSTEM
RELIABILITY UPGRADES**
FOR
THE BOARD OF WATER, LIGHT AND
SINKING FUND COMMISSIONERS
OF THE
CITY OF DALTON, GEORGIA
D/B/A DALTON UTILITIES

Sealed Proposals for **2023 NATURAL GAS SYSTEM RELIABILITY UPGRADES** for the BOARD OF WATER, LIGHT AND SINKING FUND COMMISSIONERS OF THE CITY OF DALTON, GEORGIA D/B/A DALTON UTILITIES (“Owner”) will be received in the Auditorium of the Dalton Utilities’ Administration Building at 1200 V.D. Parrott Jr. Parkway at **10:00 A.M.** local time **Wednesday, February 22, 2023** at which time they will be publicly opened and read. If submitting by mail send sealed bids to the above address; **Attention: David Keaton**

Work Scope: The project will consist of, but is not limited to, a contract that will be signed on or about, **Tuesday, March 21, 2023** after the bids have been reviewed and evaluated. Official contract start date will be **Monday, March 27, 2023** and will continue through **December 31, 2023**. Work will include forty (40) hours a week labor, excluding holidays and inclement weather. Contractor will be responsible to have equipment and tools required for the construction of gas mains both Steel and HDPE, gas services, both threaded and welded meter set builds, and perform other distribution work related to the improvement of Dalton Utilities’ natural gas distribution system per Dalton Utilities specifications. All sites must be tested for leaks and repaired if necessary after pressurizing line.

PROJECT REQUIREMENTS:

- All work must be performed in accordance with Dalton Utilities’ Standard Specifications as outlined in the Dalton Utilities natural gas system operations and maintenance SOP manual.
- Contractor will provide Dalton Utilities with a copy of their DOT Anti-Drug and Alcohol Misuse Plan along with access to any documentation necessary for compliance with applicable federal or state regulatory requirements prior to the Mandatory Pre-Bid Meeting for Dalton Utilities’ review.
- Contractors who have implemented their own Operator Qualification Plan must submit a copy, along with procedures used for qualification purposes, prior to the Mandatory Pre-Bid Meeting for Dalton Utilities’ review. Qualification records of employees who will perform covered tasks will be made available with the bid for Dalton Utilities’ review. Photographic I.D. should be carried at all times so records can be related to the individual worker.
- A preconstruction meetings will be held at Dalton Utilities prior to beginning field work.
- The Contractor shall provide a 1 year warranty on all work performed.
- Contractor shall possess and provide evidence to Dalton Utilities of a valid Georgia Utility Contractor’s License.
- Contractor must be a member of Georgia E-Verify and complete the affidavit included as Section 10.
- The project ends on **December 31, 2023**.

The Contractor will be responsible for acquiring any other permits or licenses required to complete the work. The Contractor will complete all necessary clean-up and restoration work to include filling, finish grading, grassing, landscaping, pavement repairs, driveway repairs, culvert repairs, drainage ditch restoration and other necessary restoration activities such that post construction conditions are **DEEMED SATISFACTORY TO THE OWNER.**

The Owner is authorized to issue change orders, without the necessity of additional requests for bids, within the scope of the Project when appropriate or necessary in the performance of the contract. No additional work shall be performed unless authorized by the Owner. The bidder declares that it understands that the unit price quantities shown in the proposal are subject to adjustment by either increase or decrease, by the Owner, and that should the quantities of any of the items of the work be increased, the bidder proposes to do additional work at the unit prices stated herein; and should the quantities be decreased, the bidder also understands that payment will be made on actual quantities at the unit price bid and will make no claim for anticipated profits for any decrease in the quantities, and that quantities will be determined upon completion of the Work at which time adjustment will be made to the contract amount by direct increase or decrease.

Bidder Pre-Qualification: Pre-qualification of the bidder's for this project is required. Bidders must submit a pre-qualification package containing requested information to the office of Dalton Utilities by **Thursday, February 16, 2023 at 5:00 P.M.**, local time. All applicants submitting pre-qualification documentation will be notified of their status via phone call to the contact person listed in the package by **Friday, February 18, 2023 at 5:00pm.** Only bids submitted by properly pre-qualified bidders will be opened.

Mandatory Pre-Bid Meeting: A mandatory pre-bid meeting will be held at Dalton Utilities for all properly pre-qualified bidders. This meeting will be held on **Thursday, February 2, 2023 at 10:00 A.M.** in the upstairs auditorium at the Dalton Utilities' Administration Building located at 1200 V.D. Parrott Jr. Parkway in Dalton, Georgia. This meeting is mandatory and if a properly pre-qualified bidder does not attend on time, then Dalton Utilities will not open a bid from this contractor.

Time Allotted: All work as specified herein shall be complete by **December 31, 2023.**

Bids: Bids shall be in the form of a firm and fixed price for the scope of work articulated in project documentation. Unit prices provided by bidders shall be applicable in the event of a change to the scope of work authorized by the Owner. Complete the bid sheet (Section 3) and provide a total bid price for the project based on the assumed units. This bid is for all labor and equipment necessary to install the natural gas infrastructure as shown on the plan. All materials for the project will be furnished by Dalton Utilities except for erosion control materials.

Contractor's License: All bidders must possess any and all licenses and permits as may be required by applicable federal, state and/or local law/ordinances. The Georgia Utility Contractor License Number shall be written on the face of the bid.

Bid Bond: A bid bond will be required in the amount of \$250,000.00.

Performance and Payment Bond: A contract performance bond in the amount of \$250,000.00 and a payment bond, in an amount of \$250,000.00, will be required of the successful bidder.

Withdrawal of Bids: Except as provided in O.C.G.A. Section 36-91-43, no submitted bid may be withdrawn for a period of sixty (60) days after the scheduled closing time for the receipt of bids.

Additional Instructions to Bidders, Drawings, Specifications and Contract Documents: Additional instructions to bidders, drawings, specifications, and other contract documents may be examined at Dalton Utilities, Engineering Services, 1200 V.D. Parrott Jr. Parkway, Dalton, Georgia. Drawings, Specifications and Contract Documents may be obtained at Dalton Utilities' website www.dutil.com or in person at Dalton Utilities, 1200 V.D. Parrott Jr. Parkway, Dalton, Georgia 30722.

Acceptance or Rejection of Bids: The right is reserved to accept or reject any and all bids and to waive technicalities and informalities.

Statutory Requirements: Notwithstanding any provision of this advertisement, all proposals must also comply with the minimum applicable requirements of Chapter 91 of Title 36 of the Official Code of Georgia Annotated.

THE BOARD OF WATER, LIGHT AND SINKING FUND
COMMISSIONERS OF THE CITY OF DALTON, GEORGIA

By: Tom Bundros, Chief Executive Officer

Section 2 – Instruction to Bidder

Bids received until **10:00 A.M.**, Local Time, **Wednesday, February 22, 2023**

Instructions to Bidders

I. Definitions:

Unless otherwise defined in this document, capitalized terms have the meaning defined in the Contract.

II. Evaluation of Bidders:

The Contract will be awarded pursuant to O.C.G.A. Section 36-91-21 to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids. A responsible bidder is a person or entity that has the capability in all respects to perform fully and reliably the Contract requirements as determined by Dalton Utilities (“Owner”). A responsive bidder is a person or entity that has submitted a bid that conforms in all material respects to the requirements set forth in the invitation for bids as determined by Owner. Factors to be considered may include, but are not necessarily limited to the following:

A. Determination of Contract Awardee:

The Owner reserves the right to award the project to the Contractor who presents a bid that is determined to be the best overall value to the Owner. **This does not guarantee award of the project to the lowest bidder.** Award of this contract will be based on a combination of price, schedule, previous experience on similar projects, references from other sources having employed the contractor and all other requirements detailed in this document and all contract documents. The owner will determine which is the lowest responsible and responsive bidder based on:

1. Completeness: The completeness and regularity of the bid form.
2. Exclusions: Bid form without exclusions, alternatives or special conditions.
3. Contract Time: The project ends on December 31, 2023.

B. Qualifications of Bidders:

Each bidder must submit as part of its bid proposal a completed Statement of Bidder’s Qualifications.

The bidder must maintain a permanent place of business.

The bidder must have adequate technical experience on similar projects of comparable size.

The bidder must have sufficient resources (including but not limited to labor, equipment, and financial resources) to complete the Project by the Completion Date and maintain timely progress as determined by the Owner. The bidder should consider existing commitments in determining adequate personnel and equipment availability throughout the Project so as to stay on schedule and finish all Work by the Completion Date.

The bidder shall possess all necessary certifications for the bidder as an entity, for individuals in its employ, and for all associated equipment to complete the Project by the Completion Date. Any reference made to necessary certifications includes but is not limited to conforming to the standards of all applicable technical society, organization, body, code and standards. In a case where the Owner establishes a more stringent qualification, the more stringent qualification shall prevail. In addition, necessary certifications shall include all applicable requirements of local codes, utilities, and any other authorities having jurisdiction regarding the Projects. The bidder must have a damage prevention program in place providing for coordination of excavating with the Utilities Protection Center of Georgia and have the provisions for a readily available location for the excavation permit on site for the particular excavation. This information shall be delivered in writing prior to commencement of Work on the Project.

The bidder shall have all necessary licenses and permits to complete the Project by the Completion Date. All licenses and permits must give the bidder authority to perform the Work including similar licensing for reference in the bidder's State of origin.

If the Contract is awarded to the bidder, the bidder must obtain and maintain insurance coverage of the types and amounts set forth in the Construction Contract.

III. Interpretation of Drawings and Specifications:

If any Bidder has any question as to the true meaning of the scope of any part of the Work, it shall submit to the Owner a written request for an interpretation thereof. The entity submitting the request will be responsible for its prompt delivery in ample time for an interpretation to be issued before the bid opening date. Questions must be received by **5:00 P.M. on Monday, February 13, 2023** and answers to the questions will be given by **5:00 PM on Wednesday, February 15, 2023**. Interpretations of the documents will be made only by addendum, and a copy of the addendum will be made available to each entity receiving a set of the documents. The Owner will not be responsible for other interpretations of the documents. The bids shall be opened publicly, and evaluated by the Owner without discussion with the bidders.

IV. Complete Work Required:

The specifications, the Drawings and all Contract Documents are essential parts of the Contract. Application requirements occurring in one are as binding as though occurring in all. All requirements are intended to be complementary, and to describe and provide for the complete work.

V. Pre-qualification Submittal:

The bidder shall provide Corporate experience including:

- The applicant has operated under the current corporate name for the last 4 years.
- Provide name, address and telephone number of applicant's corporate headquarters, relevant regional office (s) and subsidiaries, if any. Provide name, title and biographical summary of all corporate officers.
- Provide Georgia State Utility Contractor's identification number.
- The applicant has sufficient bonding capacity to provide performance and payment bonds, both in the amount of \$250,000.00.
- Provide statement of bonding capacity, bonding company and insurance agent contact person and telephone numbers.
- The applicant has access to adequate equipment to complete the project. Provide a statement that the applicant has never failed to complete a project. If this is not the case, explain. The applicant has a history of completing projects consistently on time and within the bid amount.
- Provide a statement that the applicant has not been involved in liquidated damages in the past 5 years or served the Owner with a claim for additional compensation prepared by an attorney or a claims consultant, excluding routing change order requests. If this is not the case, explain.
- The applicant has a history of not being involved in litigation against Owners or Engineering Firms. The applicant should provide a statement that they have not been involved in litigation as a plaintiff against the Owner or Engineering Firm in the past 5 years. If this is not the case, explain.
- The applicant has available project management personnel with at least two years' experience on projects with the technical characteristics to complete the project.
- Provide experience for proposed on-site field superintendent who would supervise and be in charge of the project. Experience can be from previous employment but must be pertinent to technical requirements of the project.
- If your firm is the successful bidder, key personnel must be actively involved in the day-to-day operations of construction of the project.
- List all other projects currently under contract, the current contract amounts and scheduled completion.
- Bidder will be required to have a DOT Anti-Drug and Alcohol Misuse Plan and an Operator Qualification Plan and provide the procedures used for Operator Qualifications to the Owner no later than **Thursday, February 16, 2023 by 5:00 P.M.**, unless a pre-qualification package has already been approved by the Owner within the past 12 months.

The applicant's pre-qualification package should be signed by an officer of the company. No bid shall be opened unless the bidder has been approved by Dalton Utilities prior to the bid opening date. If the bid is submitted by a joint venture, all parties to the joint venture must individually satisfy the pre-qualification requirements.

This package shall be sent to the Owner at Dalton Utilities, 1200 V.D. Parrott Jr. Pkwy, Dalton, Ga. 30722, Attention: David Keaton, Manager of Energy Engineering. The package must be received by the Owner no later than **5:00 P.M. on Thursday, February 16, 2023.**

Applicants will be advised of their pre-qualification status by **5:00 P.M. on, Friday, February 17, 2023**

Section 3 – Bid

Project Description: **RFP FOR THE 2023 NATURAL GAS SYSTEM RELIABILITY
UPGRADES**

Proposal of _____
(here in after called “Bidder”),

To: The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton, Georgia.

Gentlemen:

The Bidder, in compliance with your Advertisement for Bids for the construction of this project, having examined the Drawings and Specifications with related documents and the site of the proposed work, and being familiar with all of the conditions surrounding the construction of the proposed project including the availability of materials and labor, hereby proposes to furnish all labor and equipment to construct the project in accordance with the Contract Documents, within the time set forth therein, and at the unit prices as reflected on page 10 of this document. These prices are to cover all expenses including overhead and profit incurred in performing the work required under the Contract Documents, of which this proposal is a part.

Bidder hereby agrees to commence work under this contract on or before a date to be specified in written Notice to Proceed of the Owner and to fully complete the project by **December 31, 2023** thereafter as stipulated in the Specifications.

Bidder agrees to perform all necessary work as described in the Specifications and shown on the Plans to complete the Project as specified including all appurtenant and accessory work for the attached price(s).

The attached price(s) shall include all labor, equipment, supplies, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for. Bidder agrees that, should the scope of work to be performed change during the project and those changes are accepted by both parties as outlined in the construction contract, additional work will be completed at or below mentioned unit rates.

Bidder understands that the Owner reserves the right to reject any or all Bids and to waive any informality in the bidding.

The Bidder agrees that this Bid shall be good and may not be withdrawn for a period of 60 calendar days after the scheduled closing time for receiving Bids.

Upon receipt of written notice of the acceptance of this Bid, Bidder will execute the formal contract attached within twenty (20) calendar days and deliver surety bonds and certificate(s) of insurance as required by the Contract Documents. The Bid security attached in the sum of \$250,000.00 is to become the property of the Owner in the event the contract and bond are not executed within the time above set forth, as liquidated damages for the delay and additional expense to the Owner caused thereby.

Respectfully submitted:

By _____

Signature

Title _____

Business Address

ATTEST:

Name _____

(Please Type)

Title _____

(SEAL)

Note: Attest for corporation secretary; for a partnership by another partner; for an individual By a Notary.

Section 3
Lump Sum Bid Sheet for
2023 NATURAL GAS SYSTEM RELIABILITY UPGRADES

GAS MAIN/SERVICE

1.)	2,500	LF	2" HDPE Pipe by open cut	\$ _____	\$ _____
2.)	10,000	LF	2" HDPE Pipe by directional drill	\$ _____	\$ _____
3.)	1,500	LF	4" HDPE Pipe by open cut	\$ _____	\$ _____
4.)	3,500	LF	4" HDPE Pipe by directional drill	\$ _____	\$ _____
5.)	900	LF	4" Steel Pipe by open cut	\$ _____	\$ _____
6.)	900	LF	4" Steel Pipe by directional drill	\$ _____	\$ _____
7.)	4,500	LF	Services HDPE 2" or less	\$ _____	\$ _____
				SUBTOTAL	\$ _____

EXTRA WORK ITEMS

8.)	10	CY	Open Cut Rock Removal by Hydraulic Hammer	\$ _____	\$ _____
9.)	10	LF	Directional Drill With Pneumatic Head (Rock)	\$ _____	\$ _____
10.)	1,500	Hrs.	Crew Time	\$ _____	\$ _____
			Foreman	\$ _____	
			Tech A	\$ _____	
			Tech B	\$ _____	
11.)	10	LF	Seed & Straw for Erosion Prevention	\$ _____	\$ _____
12.)	120	Hrs.	Welder	\$ _____	\$ _____
				SUBTOTAL	\$ _____

TOTAL BID FOR MAIN AND SERVICE IMPROVEMENTS \$ _____

Crews will consist of 3 men, excavator, dump truck, air compressor, mud vac and required tools.

NOTE: Allowance items are for additional work ordered by the owner

Contractor unit prices are all inclusive and should cover all items detailed in the scope of work.

Welder onsite only when needed. Erosion control materials such as grass seed, straw, etc. are to be provided by contractor.

Section 4 – General Conditions, Plans and Specifications

Contractors Obligations:

The Contractor shall, in good workmanlike manner, perform all work and furnish all machinery, equipment, facilities and means except as herein otherwise expressly specified, necessary and proper to complete all work required by the Construction Documents and any and all supplemental plans and drawings of the work, and in accordance with the directions of the Owner as given from time to time during the progress of the work. The Contractor shall furnish, erect, maintain, and remove such permanent and temporary construction work may be required. The Contractor alone shall be responsible for the safety, efficiency, and adequacy of its methods, workmanship, and for any damage which may result from its failure or its improper construction, maintenance, or operation. The Contractor shall observe, comply with, and be subject to all terms, conditions, requirements, and limitations of the Contract Document Specifications, and shall do, carry on, and complete the entire work to the satisfaction of the Owner.

Note: The Contractor shall immediately notify the Owner upon becoming aware of any circumstances/factors that may negatively impact the Project Completion Date or bid amount so that the circumstances/factors can be reviewed/evaluated and a joint corrective action plan be developed.

Owners Authority:

The Owner shall determine the amount, quality, acceptability, and fitness of the several kinds of work and materials. The Owner shall decide the meaning and intent of any portion of the Contract Documents where the same may be in dispute. The Owner's decisions shall be final and conclusive, except as herein otherwise expressly provided.

Any difference or conflicts in regard to the work, which may arise between the Contractor under this Construction Contract and other contractors performing work for the Owner, shall be determined by the Owner.

The Owner is not, in any way, responsible for the construction means, controls, techniques, sequences, procedures, or construction safety.

Time Period for Performance of the Work:

The time period for completion of the work is specified in the Construction Contract. Additionally, the Contractor shall comply with specified order of work requirements and intermediary completion dates as specified below for specific tasks to be accomplished as part of the overall Project. Meeting the overall Completion Date as well as any task-specific completion dates are ESSENTIAL CONDITIONS of this Contract. Work shall begin on the agreed date specified in the Notice to Proceed. The Contractor shall deploy labor, materials and equipment such that work is prosecuted regularly, diligently, and without interruption at a rate of progress that will ensure

meeting all final or task specific completion dates. Specified order of work requirements and intermediary completion dates are as follows:

- Once commenced, this work shall be completed in the shortest time possible such that the disturbance time period is minimized and the project can be inspected, a punch list developed and completed, as-built drawings provided and the project designated as complete by the Owner. Disturbed areas shall be backfilled, finish graded, grassed and seeded as soon as possible such that the area is “stabilized” as soon as possible.

Project Schedule:

The Contractor shall upon request deliver to the Owner a Proposed Project Schedule outlining the order of Work and associated timeframes such that the required scope of Work can be successfully completed by the completion date. The Proposed Project Schedule shall incorporate any intermediary deadlines for completion of particular items of Work as outlined herein. This Project Schedule shall be in a form satisfactory to the Owner, showing at least the proposed dates of commencement and completion of each milestone identified between the owner and the contractor during the planning process. This Project Schedule is subject to review and approval by the Owner. The Contractor shall submit an updated progress schedule at each scheduled progress meeting such that progress can be routinely monitored and tracked.

Environmental, Health and Safety:

The Contractor shall perform all necessary action at all times during the construction period to ensure the protection of all persons performing Work on the Project, the general public and the environment. In emergencies affecting the safety of persons, the work or property at the Project site or adjacent thereto, the Contractor, without special instruction or authorization from the Owner, shall act to prevent threatened damage, injury or loss. The Contractor shall make prompt written notice to the Owner of any changes in the work or deviations from the Contract Documents caused thereby. Safety and health facilities and procedures shall be in accordance with the requirements of the National Occupational Safety and Health Act of 1970, as amended. The Contractor shall comply with the Department of Labor's Safety and Health Regulations for construction promulgated under the National Occupational Safety and Health Act of 1970, as amended (P. L. 91-596), and under Section 107 of the Contract Work Hours and Safety Standard Act (P. L. 91-54).

All construction debris and construction waste shall be properly stored and disposed in accordance with applicable Federal, State and Local regulations/ordinances. All chemicals used during Project construction or furnished for Project operation, whether herbicide, pesticide, disinfectant or of other classification, must show approval of either EPA or USDA. Use of all such chemicals and disposal of residue shall be in strict conformance with manufacturer’s instructions and applicable Federal, State and Local regulations/ordinances.

The Contractor shall originate, review and, at all times during the construction period, comply with all requirements of an Erosion, Sedimentation and Pollution Control Plan. Upon review of the Plan and prior to starting Work, the Owner and the Contractor shall jointly complete the required Notice of Intent provided in the Contract Documents. At the pre-construction meeting, the

Contractor shall provide the Owner with a copy of the Company's Environmental, Health and Safety Program and a Project specific plan as to how the Contractor is to complete the Project in a safe and environmentally protective manner.

Laws of the Place:

The Contractor shall complete the Project in accordance with the applicable national, state, county, and municipal laws, ordinances, and regulations. The Contractor shall keep itself fully informed of those laws, ordinances, and regulations which would, in every way, affect those engaged and employed in the Project, the materials used in the Project, and the conduct of the Project; and the Contractor shall keep itself fully informed of all orders and decrees of bodies and tribunals having jurisdiction and authority over the Project. If discrepancies or inconsistencies, or both, should be discovered in the Construction Documents, in relation to laws, ordinances, regulations, orders, and decrees, the Contractor shall forthwith report the fact, in writing, to the Owner. The Contractor shall protect and indemnify the Owner, its officers, agents, and employees, against claims and liabilities arising from, or based on, the violation of those laws, ordinances, regulations, orders, and decrees, whether by the Contractor or by its employees, agents or subcontractors.

Licensing/Permits:

The Contractor shall have all necessary licenses and permits to complete the Project by the Completion Date. All licenses and permits must provide the Contractor authority to perform the Work including similar licensing for reference in the Contractor's state of origin. This includes any permits required by local government authorities. Subcontractors are required to have a current Georgia Utility Contractor's License.

Certifications:

The Contractor shall possess all necessary certifications for the Contractor as an entity, for individuals in its employ, and for all associated equipment to complete the Project by the Completion Date. Necessary certifications include but are not limited to conforming to the standards of all applicable technical societies, organizations, bodies, codes and standards. All materials shall meet or exceed these necessary certifications including material fabrication. In a case where the Owner establishes a more stringent qualification, the more stringent qualification shall prevail. In addition, necessary qualifications shall include all applicable requirements of local codes, utilities, and any other authority having jurisdiction.

Competent Labor:

The Contractor shall only employ competent and skilled personnel to perform the Work. The Contractor shall at all times have a superintendent who is satisfactory to the Owner and who is capable of acting as the Contractor's agent on this work. This superintendent shall receive instructions from the Owner or its authorized representative. The superintendent shall have full authority to execute the orders and directions of the Owner without delay, and to promptly supply materials, tools, plant equipment, and labor as may be required. The Contractor shall upon demand by Owner, immediately remove that superintendent, foreman, and/or workman whom the Owner may consider to be incompetent or undesirable, or both.

Materials, Services and Facilities:

The Contractor acknowledges that except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all labor, tools, equipment, transportation, superintendence, temporary construction of every nature, and all other services and facilities of every nature whatsoever necessary to, complete, deliver the Work within the specified time.

Materials and equipment shall be stored in a manner to insure the preservation of their quality and fitness for the work. Contractor shall provide the Owner's inspector with confirmation that authorization was granted from any property owner prior to storing any Project materials on private property. Owner's inspector may verify such authorization with the property owners.

Extras:

Without invalidating the Construction Contract, the Owner may order extra work or make changes by altering, adding to or deducting from the Work and the consent of the Surety being first obtained where necessary or desirable. All Work bid upon shall be paid for at the price stipulated in the Proposal, and no claims for any extra Work or materials shall be allowed unless the Work is ordered in writing by the Owner and the price is stated in such order.

Owner's Right to Withhold Certain Amounts and Make Application Thereof:

The Contractor agrees that he will indemnify and save the Owner harmless from all claims growing out of the lawful demands of subcontractors, laborers, workmen, mechanics, material men, and furnishers of machinery and parts thereof, equipment, power tools, and all supplies including commissary, incurred in the furtherance of the performance of the Construction Contract. The Contractor shall furnish satisfactory evidence that all obligations of the nature herein above designated have been paid, discharged, or waived. If the Contractor fails so to do, then the Owner, may after having served written notice on the said Contractor, either directly pay said unpaid bills, or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged, whereupon payment to the Contractor shall be resumed, in accordance with the terms of the Construction Contract, but in no event shall the provisions of this sentence be construed to impose any obligations upon the Owner to either the Contractor or its Surety. The Owner shall not be liable to the Contractor for any such payments made in good faith.

Changes/Deviations from Plans and Specifications:

Should the Contractor encounter, or the Owner discover, during the progress of the Work, conditions at the site materially differing from those shown on the Drawings or indicated in the Specifications, or unknown conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Drawings and Specifications, the attention of the Owner shall be called immediately to such conditions before they are disturbed. The Owner shall thereupon promptly investigate the conditions, and if it finds that they do so materially differ, the Contract shall be modified, with the written approval by the Owner, to provide for any increase or decrease of costs or difference in time resulting from such conditions. No changes in Work shall be made without prior written approval by the Owner.

The Contractor shall proceed with the performance of any changes in the Work so ordered in the field by the Owner unless the Contractor believes said change entitles it to a change in Contract price and/or time, in which event the Contractor shall give the Owner written notice thereof within

seven days after receipt of the field order and shall not execute the field change pending the execution of a Change Order unless the change is for accident prevention as cited herein.

Upon request, the Contractor shall furnish the Owner an itemized breakdown of the quantities and prices used in computing the value of any change that might be ordered. Source point documentation of claimed costs is required. In figuring these changes, instructions for measurement of quantities set forth in the Specifications shall be followed.

Charges or credits for the Work covered by the approved change shall be determined by one or more, or a combination of the following methods. All charges or credits must be pre-approved in writing by the Owner.

Unit Prices

Unit prices contained in extra work items or as subsequently approved. The unit prices shall include allowances for overhead and profit. This is the Owner preferred method.

Lump Sum

An agreed upon lump sum to include all labor, equipment, overhead and profit.

Actual Cost

The actual cost, verified by daily approved time sheets, to include all labor, materials, equipment, overhead and profit.

Claims for Extra Cost:

No claim for extra work or cost shall be allowed, unless the same was done in pursuance of a prior written approval by the Owner and the claim is presented with the first estimate after the changed or extra work is done.

Any Work necessary to be performed after regular working hours, on Sundays, or legal holidays, shall be performed without additional expense to the Owner.

Inspection and Testing of Materials:

Unless otherwise specifically provided for in the Specifications, the inspection and testing of material and finished articles to be incorporated in the Work at the Project site shall be made by bureaus, laboratories, or agencies arranged for by the Contractor and as approved by the Owner. The Contractor shall furnish all such extra quantities of materials and items as may be required for testing, and shall deliver it to the laboratory. The cost of furnishing and delivering samples to the laboratory shall be paid for by the Contractor.

Where the Detailed Specifications calls for certified copies of mill or shop tests to establish conformance of certain materials with the Specifications, it shall be the responsibility of the Contractor to assure the delivery of such certifications to the Owner.

No materials or finished articles shall be incorporated in the Work until such materials and finished articles have passed the required tests. The Contractor shall promptly segregate and remove rejected material and finished articles from the site of the work.

The testing and approval of materials by the laboratory or laboratories approved by the Owner shall not relieve the Contractor of any of its obligations to fulfill its Contract and warranty of workmanship and materials. The Contractor may, at its option, and at its expense, cause such other tests to be conducted, as it may deem necessary to assure suitability, strength, and durability of any material or finished articles.

"Or Equal" Clause:

Whenever a material or article required is specified or shown on the Plans by using the name of the proprietary product or of a particular manufacturer or vendor, any material or article which will meet the design criteria and is equal in function and durability may be submitted to the engineer for approval. The engineer will determine if the material or article can be substituted for the named product. Equipment named in the proposal section of the contract documents shall be furnished as named.

Pre-Construction Meeting/Notice to Proceed:

Upon signing of the Contract Documents, a pre-construction meeting shall be scheduled by the Owner. At or before this pre-construction meeting, the Notice to Proceed will be provided to the Contractor and specific administrative, technical and logistical issues associated with the Project shall be discussed. The Contractor shall provide the Owner the following at the pre-construction meeting:

1. Copies of all required licenses, permits and certifications or a plan acceptable to the Owner for obtaining said licenses, permits and certifications.
2. A copy of the Contractor's Environmental, Health and Safety Program.
3. A copy of the Contractor's Damage Prevention Program
4. Proposed Project Schedule and order of work meeting the requirements specified herein.

Progress Meetings:

Regular progress meetings will occur between the Owner and the Contractor to routinely assess progress and proactively resolve issues until the project is complete to the satisfaction of the Owner. A frequency (monthly) and schedule for progress meetings will be established at the pre-construction meeting.

Inspection:

The Contractor shall furnish the Owner with every reasonable facility for ascertaining whether or not the Work performed and materials used are in accordance with the requirements and intent of the Specifications and Drawings. All work shall be performed with inspection by the Owner or his representative. Failure by the Owner to reject defective Work and materials shall neither prevent later rejection when those defects are discovered, nor obligate the Owner to accept defective Work. The representatives of all state, local, and federal regulatory agencies will have access to the Work whenever it is in preparation or progress, and the Contractor shall provide proper facilities for such access and inspection. Where special safety equipment is required for inspection, the inspector shall be furnished this equipment by the Contractor.

Authority and Duties of Owner's Inspector(s):

Owner's inspector(s) ("Inspector") shall be authorized to inspect all work done and all materials furnished, including preparation, fabrication, and manufacture of the materials to be used. The Inspector shall inform the Contractor of failures of the Work and/or materials to conform to the Drawings and Specifications. The Inspector may reject materials or suspend Work until questions at issue can be decided by the Owner. The presence of the Inspector shall in no way lessen the responsibility of the Contractor. The Inspector's failure to notify the Contractor of failures of the Work and/or materials to conform to the Drawings

and Specifications shall not relieve the Contractor of any liability for faulty Work and/or materials provided by the Contractor.

Rejection of Work and Materials:

All materials furnished or Work done which is not in accordance with the Specifications and Drawings will be rejected. Such materials or Work, which have been rejected, shall be immediately removed. Work shall then be done and materials furnished in accordance with the Specifications and Drawings. If the Contractor fails to remove the Work and materials within forty-eight hours after having been ordered to do so, the Owner shall have the authority to immediately suspend the Contractor's Work. The Owner shall also have the authority to supply personnel and materials, at the cost and expense of the Contractor, in order to remove that Work and/or those materials, which are found not to be in accordance with the Specifications and/or Drawings.

Defective Materials and Work:

The inspection of the Work shall not relieve the Contractor of any of its obligations to fulfill the Contract. Defective Work shall be corrected even though the Work and materials have been previously inspected by the Owner and accepted or estimated for payment. Previous failure by the Owner to condemn improper materials and/or workmanship shall not be considered a waiver of defects, nor will this previous failure to condemn improper materials prevent the Owner at any time subsequently from recovering damages for Work actually defective.

Corrections:

Should any portion of the Drawings and Specifications be obscure or in dispute, they shall be referred to the Owner who shall decide as to the true meaning and intent. The Owner shall also have the right to correct errors and omissions at any time when those corrections are necessary for the proper fulfillment of the Drawings and Specifications.

Disagreement:

Should any disagreement or difference arise as to the estimate, quantities, or classifications, or as to the meaning of the Drawings and/or Specifications, on any point concerning the character, acceptability, and nature of the several kinds of work and materials and construction thereof, the decisions of the Owner shall be final, conclusive, and binding upon all parties to the Construction Contract.

Land and Rights-of-Way:

The Owner will furnish all land and rights-of-way necessary for the carrying out of this Construction Contract. The Contractor shall take every precaution to inconvenience as little as possible the owners or tenants of adjacent property. Public highways shall not be obstructed in such a way to cut off traffic. The Contractor shall, at its own expense, repair any damage or injury to either private or public property during progress of the Work.

Sanitary Facilities:

Necessary sanitary facilities shall be the responsibility of the Contractor. No temporary sanitary facilities shall be located on private property without first obtaining property owner permission and providing such to the Owner's inspector. Facilities shall be maintained in a sanitary condition, and in strict accordance with local regulations. No unsanitary act shall be committed outside sanitary facilities.

Roads, Streets, Driveways and Walks:

Access to all driveways, entrances, parking lots, buildings and equipment shall be available at all times. All driveways, roads, streets, and walks shall be maintained in good condition at all times. If damage occurs, repairs shall be affected immediately. Cleaning, either by washing or sweeping or combination thereof, shall be employed at whatever frequency necessary to keep driveways, roads, streets and walks clean of mud, dirt and other construction debris. Streets, roads and drives used by the Contractor for access to and from material storage areas job site shall be protected from damage in excess of that caused by the normal traffic of vehicles used for, or in connection with, construction work. All access drives shall have a construction apron to prevent material carry-over onto public roads and streets.

Flagging/Signage/Protective Works:

The Contractor shall furnish and install all necessary temporary works for the protection of the Work and the general public including trained flagmen, warning signs, barricades, and lights at night. The Contractor shall provide signage at all times at the location of Work identifying the Contractor and that the Contractor is performing Work for the Owner.

Existing Utility Protection:

The Owner has determined the proposed work may be in conflict with existing infrastructure. The Contractor shall be responsible for proper notification to the Utility Protection Center prior to any excavation and maintaining a copy of the excavation permit associated with each particular excavation such that it is readily available for review/inspection at the job site. The Contractor shall be prepared to repair any lines damaged during construction to maintain service to existing customers at all times. The cost for this work shall be included in the prices provided.

At the pre-construction meeting, the Contractor shall provide the Owner a copy of the Contractor's Damage Prevention Program outlining how the Contractor intends to protect existing utilities during construction.

Any damage done to existing utility lines, drains, power and telephone cable, poles, and structures of every nature, not indicated to be replaced and/or abandoned shall be repaired or replaced by the Contractor at its own expense. The approximate position of certain known underground lines and structures are shown on the Drawings according to available information. Existing small lines are not shown. The Contractor shall locate, excavate and expose all existing underground lines in advance of trenching and other construction operations. Where connections are to be made at underground structures and pipelines, elevations and locations shall be verified prior to construction of the pertinent Work. Where underground utilities or obstructions are encountered which conflict with the new Work, the location and/or alignment of the new or existing lines may be changed to avoid interference upon written approval of the engineer or Owner.

Interruption of Service:

All Work shall be performed in such a manner so as to minimize and/or eliminate service interruptions to the Owner’s customers. The Contractor shall coordinate all utility work through the Owner and all service interruptions must be reviewed and planned in advance with the Owner. The Contractor shall perform any Work requiring outages during periods of low customer demand, some night work and weekend work may be required at the request of the Owner.

Blasting:

If the scope of the Project requires blasting or the Contractor contemplates conducting blasting at some point during the project, the Contractor shall obtain additional insurance to cover such work in an appropriate dollar amount to be determined by the Owner. In addition, a pre-blast survey shall be conducted on all utility structures and substructures checking for leaks, service connections in the vicinity, and potential problems that might arise from blast disturbances. Seismic recorders must be set up at all structures in the vicinity determined by the pre-blast survey to be possibly affected from blasting conforming to all local, state and federal codes. Immediately after blasting is completed, a post-blast survey will be conducted on all utility related structures and substructures checking for leaks, service interruptions and facility weakening caused by blasting.

Housekeeping:

The Contractor shall keep Project locations and material storage areas clean and orderly at all times. Trash, construction debris, litter etc. shall not be allowed to accumulate. Clean-up shall occur on a frequent enough basis to ensure the aforementioned is achieved.

Before the work is considered as complete all rubbish and unused material related to the Work must be removed and the premises left in a condition satisfactory to the Owner. Streets, curbs, crosswalks, pavements, sidewalks, fence, and other public and private property disturbed or damaged shall be restored to their former condition or better on an on-going basis by the Contractor at no additional cost to the Contractor. This shall be done prior to the final inspection and any discrepancies noted on the inspection must be completed before final payment.

As-Built Drawings:

The Contractor shall provide to the Owner a complete set of as-built drawings for the Work performed. The as-built drawings shall be provided on an ongoing basis throughout the Project as agreed during the pre-construction meeting. Final payment will be withheld until the Contractor has provided the Owner as-built drawings meeting the requirements specified herein

Acceptance of Work and Final Payment:

Before final acceptance of the Work and payment to the Contractor the following requirements shall be complied with:

Final Inspection:

Upon written notice from the Contractor that final Work is ready for inspection, the Owner will make a final inspection of the Work, and shall notify the Contractor of instances where its Work fails to comply with the Contract Drawings and/or Specifications via creation and distribution of a “Punch List” of work remaining to be completed and/or deficiencies requiring remedy. The

Contractor shall immediately make such corrections as are necessary to make the Work comply with the Contract Drawings and Specifications to the satisfaction of the Owner.

Liens:

Final acceptance of the Work will not be granted and the final payment will not be due or payable until the Contractor has furnished the Owner proper and satisfactory evidence under oath that all claims for labor and materials employed or used in the construction of the Work under the Construction Contract have been settled, and that no legal claims can be filed against the Owner for such labor or materials.

Final Payment:

Upon completion of all clean up, alterations and repairs required by the final inspection or operating test, the satisfactory completion of the operating test, and upon submitting proper and satisfactory evidence to the Owner that all claims have been settled, the Owner will issue a certificate of final acceptance of the Work. The Contractor shall then prepare his final payment. After review and approval by the Owner, the payment shall then become due net 30 days.

Acceptance of Final Payment:

The acceptance of payment by the Contractor regarding the final payment shall operate as a release to the Owner from all claims and liabilities to the Contractor for all Work done or materials furnished, or for any act of the Owner or its agents affecting the Work.

Section 5 – Construction Contract

This construction contract (“Contract”) is made and entered into on the day of “insert day, month and year” by and between THE BOARD OF WATER, LIGHT AND SINKING FUND COMMISSIONERS OF THE CITY OF DALTON, D/B/A DALTON UTILITIES, hereinafter called the “Owner” and “Contractor Name”, hereinafter called the “Contractor”.

WITNESSETH:

That for in consideration of the mutual covenants and agreements herein contained and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do agree as follows:

1. Definitions. As used in this Contract, the following terms are defined as follows:
 - A. “Contract Documents” mean and include the following (and all exhibits and amendments thereto):
 - (i) Advertisement for Bids;
 - (ii) Instructions to Bidder;
 - (iii) Bid;
 - (iv) General Conditions, Plans and Specifications;
 - (v) Construction Contract;
 - (vi) Non-Collusion Affidavit of Prime Bidder;
 - (vii) Statement of License Certificate;
 - (viii) Performance Bond;
 - (ix) Payment Bond;
 - (x) E-Verify Affidavit;
 - (xi) Drawings;
 - B. “Completion Date” means the date that the Contractor has completed all of its Work regarding the Project and all of the certifications and affidavits have been executed in compliance with the Contract Documents.
 - C. “Project” means the Regulator Rehab Project as previously described in the Contract Documents.
 - D. “Work” means all tools, equipment, installation labor, testing and all other services necessary for the completion of the Project.

2. Performance of Work by Contractor. The Contractor shall perform all of the Work described in the Contract Documents and comply with the terms therein for the price set forth in the Notice of Award, as may be modified by Change Orders. All Work performed by the Contractor shall be subject to the inspection and approval of the Owner.

3. Changes from Plans and Specifications. Any and all changes from the Contract Plans and Specifications shall be approved by the Owner prior to any changes in the Work being performed.

Any and all changes from the Contract Plans and Specifications that result in a change in the scope of work to be performed shall be approved by the Owner in writing by a written Change Order Form, executed by the Owner and Contractor prior to any changes in the Work being performed. For the purpose of this section, a change in the scope of the Work to be performed occurs whenever there is a change in the total price of the Contract or the scheduled Completion Date.

4. Time Period for Performance of Work. The Contractor will perform all Work in a good and workman like manner. The project will end on December 31, 2023. Work shall begin on the date specified in the Notice to Proceed. The Contractor shall deploy labor, materials, and equipment such that Work is prosecuted regularly, diligently and uninterrupted, at a rate of progress that will ensure meeting all final or task specific completion dates.

5. Bonds.

A. Performance Bond. The Contractor shall provide a performance bond approved by the Owner in the amount of at least the total amount payable by the terms of this Contract and shall be increased as the total amount payable pursuant to this Contract is increased. The Contractor shall be required to maintain the performance bond in the amount of \$250,000.00 until the expiration of the warranty period.

B. Payment Bond. The Contractor shall provide a payment bond in the amount of \$250,000.00 payable by the terms of this Contract as may be amended, for the use and protection of all subcontractors, and all persons supplying labor and equipment in the performance of this Contract.

6. Compliance with Laws, Regulations, and Contractor Requirements. The Contractor will comply with all applicable laws and with all the requirements of any and all federal, state, and local authorities having jurisdiction over said Work or any matters connected therewith. Contractor will also comply with all requirements contained in General Requirements and Conditions of the Plans and Specifications.

7. Payment for Work Performed. The owner will pay only for Work completed in accordance with prices detailed in the bid and as otherwise herein stated. The Contractor shall submit invoice not later than the tenth day of each month to the Owner for the Work completed during the preceding month and will attach to such invoices a detailed summary of the Work completed during the preceding month and the Contract period to date in a format prescribed by the Owner at the pre-construction meeting. Should the Owner not prescribe a format, the Contractor shall present the Owner with a format for review and approval prior to the first invoice being submitted. All Work covered by partial payments made shall thereupon become the sole property of the Owner, but this provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of materials and Work upon which payments have been

made or the restoration of any damaged work or as a waiver of the right of the Owner to require the fulfillment of all of the terms of the Contract.

Within 30 days after the receipt and approval of the invoices, the Owner will pay the Contractor for the Work covered by said invoices and completed in accordance with this Contract less any applicable retainage as discussed below in Section 8. Contractor agrees to and hereby does waive all rights to interest on retainage.

8. Retainage. The Owner shall retain a maximum of ten percent (10%) of each progress payment described in Section 6 of this Agreement. However, the Owner shall not, except as set forth hereinafter, withhold any additional retainage when fifty percent (50%) of the total Contract price, including Change Orders and other additions to the Contract, is due and the manner of completion of the Work and its progress are reasonably satisfactory to the Owner. If after discontinuing the retention, the Owner determines that the Work is unsatisfactory or has fallen behind schedule, the Owner may resume retention at the previous retention percentage level.

9. Non-Exclusivity. It is understood and agreed that this Agreement is not exclusive and that the Owner shall have the right to employ other persons or entities to perform work for it similar to that herein provided for and shall also have the right to perform such work for itself.

10. Warranty. The Contractor warrants and guarantees for a period of one (1) year from the Completion Date that the Contractor's Work is free from any and all defects. The Contractor shall promptly make all repairs or other corrections necessary as a result of said defects, including repairs to any other portion of the Project that are necessitated by said defects. If the Contractor fails to promptly make such repairs or corrections, the Owner may make, or contract with a third party to make, said repairs or corrections, and charge the Contractor the cost incurred by the Owner. The Contractor's Performance Bond shall remain in full force and effect during the warranty period. This Section shall survive the termination of this Agreement.

11. Insurance: The Contractor shall provide to the Owner proof and scope of insurance coverage in the form of a certificate of insurance currently in force. The Contractor shall maintain said insurance coverage during the entire time period of the Contractor's performance of this Contract and warranty period. The certificate of insurance must list The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton, Georgia d/b/a Dalton Utilities as an additional named insured. The insurance shall not be cancelled or materially altered unless at least 30 days prior written notice has been given to the Owner. This coverage must include but is not limited to:

A. Worker's Compensation Insurance: Worker's Compensation for every person engaged in any work on the Project.

B. General Liability: Comprehensive General Liability for products and completed operations shall be XC, U, and the ISO Broadform General Liability endorsement or its equivalent. This coverage shall include:

1. Bodily Injury Insurance in an amount not less than \$1,000,000 for bodily injury, including accidental death, to any one person, and subject to the same limit for each person, in an amount not less than \$2,000,000 on account of one accident.

2. Property Damage Insurance in an amount not less than \$1,000,000 for any one damage claim, and in an aggregate amount up to \$2,000,000 during a period of 12 months.

3. Automobile Liability including bodily injury and property damage of aforesaid amount.

4. Owner's Protective Liability Insurance to be issued in the name of the Owner for liability and property damage in an amount to be determined by the owner.

5. Umbrella Policy to provide for increase in coverage of basic policies to an amount not less than \$5,000,000.

6. Builder's Risk or Installation Floater Insurance for fire and increase of coverage in the amount at all times at least equal to the amount paid on account of work and materials to be set up in the names of Owner and Contractor as their interest may appear.

12. Indemnification: The Contractor shall indemnify and hold harmless the Owner and its agents and employees from and against all claims, damages, losses and expenses including claims for consultants' and attorneys' fees, arising out of or resulting from the failure to perform the Work in a good and workmanlike manner by the Contractor, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable.

In any and all claims against the Owner, or any of its agents or employees, by any employee of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any subcontractor under worker's compensation acts, disability benefit acts or other employee benefits acts.

13. Termination of Contract. In the event the Contractor shall violate any of the provisions of this Contract or any of the other Contract Documents, or if the quality or quantity of the Work performed is, in the sole judgment of the Owner, substandard or unsatisfactory, the Owner shall have the right to terminate this Contract upon 10 days written notice to the Contractor. If this Contract is terminated by the Owner pursuant to the provisions of this Section, Contractor shall be responsible for payment of all damages incurred by the Owner as a result of said termination, including but not limited to the cost of completing the Work on the Project.

14. Other Remedies. If the Contractor defaults under any of the provisions of the Contract Documents, the Owner shall be entitled to pursue all remedies permitted by law, including but not limited to those remedies set forth elsewhere in the Contract Documents. All remedies of the Owner are cumulative and non-exclusive.

15. Approval of Subcontractors. The Contractor acknowledges and agrees that any person, firm or other party to whom it is proposed to award a subcontract under this Contract must be approved in writing by the Owner prior to the subcontractor performing any work on the Project.

16. Entire Agreement. This Contract and the Contract Documents constitute the entire agreement between the parties hereto with respect to its subject matter and there are no representations, warranties, agreements, undertakings or conditions, express or implied, except as set forth herein. In the event of any conflict between the provisions of the Contract and the other Contract Documents, the provisions of the Contract control.

17. Modification to Agreement. This Contract may not be amended, supplemented or otherwise modified except by written instrument signed by each of the parties hereto.

18. Notices. Any notices or other communications required or permitted to be given and instruments referred to herein must be given in writing and personally delivered or mailed by prepaid certified mail to the following addresses:

If to Owner: Dalton Utilities
Attn: CEO
1200 V.D. Parrott, Jr. Parkway
P.O. Box 869
Dalton, GA 30722- 0869

If to Contractor: Attn:

Any such notice or other communication shall be deemed to have been given (whether actually received or not) on the day it is mailed (postmarked) or personally delivered as aforesaid. Any party may change its address for purposes of this Contract by giving notice of said change to the other parties pursuant to this Section.

19. Non-Waiver. No delay or failure by either party to exercise any right under this Contract, and no partial or single exercise of that right shall constitute a waiver of that or any other right, unless otherwise expressly provided herein.

20. Severability. Every provision of this Contract is intended to be severable, and, if any term or provision is determined to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Contract.

21. Governing Law. This Contract shall be deemed to have entered into in and shall be construed in accordance with and governed by the laws of the State of Georgia.

22. Binding Effect. The provisions of this Contract shall be binding upon and shall insure to the benefit of each of the parties hereto and their respective and permitted successors and assigns.

23. Time is of the Essence. Time is of the essence of each and every provision of this Contract.

24. No Third-Party Beneficiaries. Except as may be otherwise expressly provided in this Contract, nothing contained herein, express or implied, is intended to, nor shall it (1) confer on any entity other than the parties hereto and their respective and permitted, successors and assigns, any rights, remedies, obligations under or by reason of this Contract.

25. Captions. The sections and captions contained herein are for convenience and reference only, and are not intended to define, extend, extend, or limit any provision of this Contract.

26. Confidentiality. To the extent not prohibited by law, the Contractor shall keep confidential the terms of the Contract Documents.

27. Assignment. This Contract may not be assigned by the Contractor without the prior written consent of the Owner.

28. No partnership. This Contract shall not be interpreted or construed to create an association, joint venture, partnership, or employer-employee relationship between the Parties, nor to impose any such obligations or liability on either party. Furthermore, neither party shall have any right, power, or authority to enter into any agreement or undertaking for or on behalf of, to act as, or be an agent or representative of, or to otherwise bind the other party.

29. Counterparts. This Contract may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Contract under their respective seals on the day and date first above written in two (2) counterparts, each of which shall without proof or accounting for the other counterparts be deemed an original Agreement.

ATTEST: (As to Contractor)

CONTRACTOR

(Insert Name of Contractor)

By: _____ L.S.

Title: _____

(SEAL)

ATTEST:

Chief Energy Services Officer

WATER, LIGHT AND SINKING FUND
COMMISSION CITY OF DALTON,
GEORGIA

By: _____ L.S.

(SEAL)

Date: _____

Tom Bundros
Chief Executive Officer

Section 6 – Non-Collusion Affidavit of Prime Bidder

STATE OF GEORGIA

COUNTY OF WHITFIELD

_____, being first duly sworn, deposes and says that:

He is _____ of _____, the Bidder that has submitted the attached Bid;

He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

Such Bid is genuine and is not a collusive or sham Bid;

Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this Affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Board of Water, Light and Sinking Funding Fund Commissioners of the City of Dalton or any person interested in the proposed Contract; and

The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this Affiant.

(Signed) _____
(Signature on File)

(Title) _____

Subscribed and Sworn to before me this ____ day of _____, 2023.

(Signature on File) (Notary Public)

My Commission Expires: _____
(SEAL)

Section 7 – Statement of License Certificate

Each Contractor bidding shall fill in and sign the following:

This is to certify that _____ (“Contractor”) has fully complied with all the requirements of the Georgia State Construction Industry Licensing Board Laws and Rules. The Contractor’s license number, other information outlined in the Instructions for Bidders, expiration date, and that part of classification applying to the bid shall appear on the envelope containing the Bid, otherwise the Bid will not be considered.

The Georgia State Construction Industry Licensing Board issued to the Contractor, Certificate No. _____, expires on _____.

Signed _____

Name _____

Title _____

(Signature on File) (Notary Public)

(SEAL)

Section 8 – Corporate Certificate

I, _____ certify that I am the Secretary of the corporation named as Contractor in the foregoing proposal; that _____
_____, who signed said proposal in behalf of the Contractor was then _____ of said corporation; that said proposal was duly signed for and in behalf of said corporation by authority of its Board of Directors, and is within the scope of its corporate powers; that said corporation is organized under the laws of the State of _____ and its registered and in good standing with the _____ Secretary of State.

This _____ day of _____, 20__.

(SEAL)

Section 9 -Performance Bond

KNOW ALL MEN BY THESE PRESENTS, CONTRACTOR NAME AND ADDRESS (hereinafter called the “Principal”) and **SURETY NAME AND ADDRESS** (hereinafter called the “Surety”) are held and firmly bound unto The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton, Georgia d/b/a Dalton Utilities (hereinafter called the “Owner”) and its successors and assigns, in the penal sum of **(\$250,000.00)**, lawful money of the United States of America, for the payment of which the Principal and the Surety bind themselves, their administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered, or is about to enter, into a certain written contract with the Owner, dated _____, **2023** which is incorporated hereby by reference in its entirety (hereinafter called the “**Construction Contract**”), for the **DALTON UTILITIES – 2023 NATURAL GAS RELIABILITY UPGRADES**, more particularly described in the Construction Contract (hereinafter called the “**Project**”); and

NOW, THEREFORE, the conditions of this obligation are as follows, that if the Principal shall fully and completely perform all the undertakings, covenants, terms, conditions, warranties, and guarantees contained in the Construction Contract, including all modifications, amendments, changes, deletions, additions, and alterations thereto that may hereafter be made, then this obligation shall be void; otherwise, it shall remain in full force and effect.

Whenever the Principal shall be, and declared by the Owner to be, in default under the Construction Contract, the Surety shall promptly remedy the default as follows:

1. Complete the Construction Contract in accordance with the terms and conditions;
or
2. Obtain a bid or bids for completing the Construction Contract in accordance with its terms and conditions, and upon determination by the Surety and the Owner of the lowest responsible bidder, arrange for a contract between such bidder and Owner and make available as the work progresses (even though there should be a default or succession of defaults under the Construction Contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the penal sum set forth in the first paragraph hereof, as may be adjusted, and the Surety shall make available and pay to the Owner the funds required by this Paragraph prior to the payment of the Owner of the balance of the contract price, or any portion thereof. The term “balance of the contract price,” as used in this paragraph, shall mean the total amount payable by the Owner to the Contractor under the Construction Contract, and any amendments thereto, less the amount paid by the Owner to the Contractor; or, at the option of the Owner,

3. Allow Owner to complete the work and reimburse the Owner for all reasonable costs incurred in completing the work.

In addition to performing as required in the above paragraphs, the Surety shall indemnify and hold harmless the Owner from any and all losses, liability and damages, claims, judgments, liens, costs and fees of every description, including reasonable attorney's fees, litigation costs and expert witness fees, which the Owner may incur, sustain, or suffer by reason of the failure or default on the part of the Principal in the performance of any or all of the terms, provisions, and requirements of the Construction Contract, including any and all amendments and modifications thereto, or incurred by the Owner in making good any such failure of performance on the part of the Principal.

The Surety shall commence performance of its obligations and undertakings under this Bond promptly and without delay, after written notice from the Owner to Surety.

The Surety hereby waives notice of any and all modifications, omissions, additions, changes, alterations, extensions of time, changes in payment terms, and any other amendments in or about the Construction Contract, and agrees that the obligations undertaken by this bond shall not be impaired in any manner by reason of any such modifications, omissions, additions, changes, alterations, extensions of time, change in payment terms, and amendments.

The Surety hereby agrees that this Bond shall be deemed amended automatically and immediately, without formal or separate amendments hereto, upon any amendment to the Construction Contract, so as to bind the Principal and the Surety to the full and faithful performance of the Construction Contract as so amended or modified, and so as to increase the penal sum to the adjusted Contract Price of the Construction Contract.

No right of action shall accrue on this Bond to or for the use of any person, entity, or corporation other than the Owner and any other obligee named herein, or their executors, administrators, successors or assigns.

This Bond is intended to comply with O.C.G.A. Section 36-91-50, and shall be interpreted so as to comply with the minimum requirements thereof. However, in the event the express language of this Bond extends protection to the Owner beyond that contemplated by O.C.G.A. Section 36-91-50, or any other statutory law applicable to this Project, then the additional protection shall be enforced in favor of the Owner, whether or not such protection is found in the applicable statutes.

IN WITNESS WHEREOF the undersigned have caused this instrument to be executed and their respective corporate seals to be affixed and attested by their duly authorized representatives this ____ day of _____, 2023.

CONTRACTOR

By: _____
Title: _____

Attest: _____ (SEAL)
Title: _____

SURETY

By: _____
Title: _____

By: _____
Title: _____

By: _____
Title: _____

Attest: _____
(SEAL)

Title: _____

[Attach Power of Attorney]

Section 10 Payment Bond

KNOW ALL MEN BY THESE PRESENTS, CONTRACTOR NAME AND ADDRESS (hereinafter called the “Principal”) and **SURETY NAME AND ADDRESS** (hereinafter called the “Surety”) are held and firmly bound unto The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton, Georgia d/b/a Dalton Utilities (hereinafter called the “Owner”) and its successors and assigns, in the penal sum of **(\$250,000.00)**, lawful money of the United States of America, for the payment of which the Principal and the Surety bind themselves, their administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered, or is about to enter, into a certain written contract with the Owner, dated _____, **2023** which is incorporated hereby by reference in its entirety (hereinafter called the “Construction Contract”), for the **DALTON UTILITIES – 2023 NATURAL GAS SYSTEM RELIABILITY UPGRADES** project, more particularly described in the Construction Contract (hereinafter called the “Project”);

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall promptly make payment to all persons working on or supplying labor or equipment under the Construction Contract, and any amendments thereto, with regard to labor or equipment furnished and used in the Project, and with regard to labor or equipment furnished but not so used, then this obligation shall be void; but otherwise it shall remain in full force and effect.

1. A “Claimant” shall be defined herein as any subcontractor, person, party, partnership, corporation or other entity furnishing labor, services, or equipment used, or reasonably required for use, in the performance of the Construction Contract, without regard to whether such labor, services, or equipment were sold, leased or rented, and without regard to whether such Claimant is or is not in privity of contract with the Principal or any subcontractor performing work on the Project, including, but not limited to, the following labor, services or equipment: water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Construction Contract.
2. In the event a Claimant files a claim against the Owner, or the property of the Owner, and the Principal fails or refuses to satisfy or discharge it promptly, the Surety shall satisfy or discharge the claim promptly upon written notice from the Owner, either by bond or as otherwise provided in the Construction Contract.
3. The Surety hereby waives notice of any and all modifications, omissions, additions, changes, alterations, extensions of time, changes in payment terms, and any other amendments in or about the Construction Contract and agrees that the obligations undertaken by this Bond shall not be impaired in any manner by reason of any such modifications, omissions, additions, changes, alterations, extensions of time, changes in payment terms, and amendments.
4. The Surety hereby agrees that this Bond shall be deemed amended automatically and immediately, without formal or separate amendments hereto, upon any amendment or modification to the Construction Contract, so as to bind the Principal and Surety, jointly and severally, to the full payment of any Claimant under the Construction Contract, as amended or

modified, provided only that the Surety shall not be liable for more than the penal sum of the Bond, as specified in the first paragraph hereof.

5. This Bond is made for the use and benefit of all persons, firms and corporations who or which may furnish any equipment or perform any labor for or on account of the construction to be performed or supplied under the Construction Contract, and any amendments thereto, and they and each of them may sue hereon.

6. No action may be maintained on this Bond after one (1) year from the date the last services, labor or equipment were provided under the Construction Contract by the Claimant prosecuting said action.

7. This Bond is intended to comply with O.C.G.A. Section 36-91-90, and shall be interpreted so as to comply with the minimum requirements thereof. However, in the event the express language of this Bond extends protection to the Owner beyond that contemplated by O.C.G.A. Section 36-91-90, or any other statutory law applicable to this Project, then the additional protection shall be enforced in favor of the Owner, whether or not such protection is found in the applicable statutes.

Section 11 - E-VERIFY AFFIDAVIT

Purpose & Scope

Effective January 1, 2010, new regulations went into effect that impact business transactions with all public employers in the state of Georgia. As a public employer, Dalton Utilities is required to comply with these regulations. Specifically, pursuant to the Georgia Security and Immigration Compliance Act (SB 529), Dalton Utilities is required to participate in the E-Verify program to verify the employment eligibility of all employees. Additionally, all contractors and subcontractors providing services to Dalton Utilities, as well as contractors and subcontractors wishing to do business with Dalton Utilities must also participate in the E-Verify program.

Compliance

To comply with the new law, all contractors and subcontractors are required to complete the appropriate attached affidavit (included in this attachment). In this affidavit, the contractors and subcontractors will certify to Dalton Utilities that they will use E-Verify to confirm the employment eligibility of all new hires. This statute specifically prohibits Dalton Utilities from entering into any contract if the contractor or subcontractor does not complete this affidavit. Additionally, this affidavit will become a permanent part of any RFP process which ends in a contract.

Responsibilities

Contractors are required to submit the completed affidavit to Dalton Utilities and the affidavit will be maintained as part of the contractor's permanent record. Contractors are also required to obtain affidavits from all subcontractors they do business with in connection with Dalton utilities projects, however, these affidavits are not turned into Dalton utilities. The contractor is solely responsible for obtaining these affidavits and maintaining them as part of the contractor's records. The affidavits must have an original or "fresh ink" signature and notarization. Therefore, Dalton Utilities is unable to accept faxed or emailed affidavits.

Audits

The Commission of Labor has the authority to randomly audit public employers to determine compliance. In the event that a public employer fails to comply with this provision, the appropriations committee of each house of the General Assembly may consider this failure to comply when setting the budget and appropriations. Therefore Dalton utilities is committed to doing business with only contractors who comply with the guidelines set out in the appropriate attached affidavit.

CONTRACTOR AFFIDAVIT UNDER O.C.G.A. §13-10-91(B)(1)

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. §13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of the Water, Light and Sinking Fund Commission of the City of Dalton, Georgia d/b/a Dalton Utilities has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. §13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.C.A. §13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User ID# (E-Verify #)

Date of Authorization

Name of Contractor

Physical Address of Contractor

Name of Project

Invoice # _____

Water, Light and Sinking Fund, D/B/A Dalton Utilities

Name of Public Employer

<u>FOR INTERNAL USE ONLY</u>
P O#/Contract Name _____
Total Amount \$ _____
Amount of (PPS) Physical Performance of Service \$ _____

Affidavit Obtained by: _____

I hereby declare under penalty of perjury that the foregoing is true and correct.
Executed on _____, ____, 20__ in _____ (city), _____ (state).

Signature of Authorized Officer or Agent

Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME
ON THIS THE ____ DAY OF _____, 20__.

NOTARY PUBLIC
My Commission Expires: _____

SUBCONTRACTOR AFFIDAVIT UNDER O.C.G.A. §13-10-91(B)(3)

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. §13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with _____ (name of contractor) on behalf of the Water, Light and Sinking Fund Commission of the City of Dalton, Georgia d/b/a Dalton Utilities has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in OC.G.A. §13-10-91. Furthermore, the undersigned subcontractor will continue to use the federal work authorization program throughout the contract period and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the subcontractor with the information required by O.C.G.A. §13-10-91(b). Additionally, the undersigned subcontractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the contractor within five business days of receipt. If the undersigned subcontractor receives notice of receipt of an affidavit from any sub-subcontractor that has contracted with a sub-subcontractor to forward, within five business days of receipt, a copy of such notice to the contractor. Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User ID# (E-Verify #)

Date of Authorization

Name of Contractor

Physical Address of Contractor

Name of Project

Invoice # _____

Water, Light and Sinking Fund, D/B/A Dalton Utilities

Name of Public Employer

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

Executed on _____, ____, 20__ in _____ (city), _____ (state).

Signature of Authorized Officer or Agent

Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME
ON THIS THE ____ DAY OF _____, 20__.

NOTARY PUBLIC
My Commission Expires: _____

FOR INTERNAL USE ONLY
P O#/Contract Name _____
Total Amount \$ _____
Amount of (PPS) Physical Performance of Service \$ _____

Affidavit Obtained by: _____

SUB-SUBCONTRACTOR AFFIDAVIT UNDER O.C.G.A. §13-L0-91(B)(4)

By executing this affidavit, the undersigned sub-subcontractor verifies its compliance with O.C.G.A. §13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract for _____ (name of subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract) and _____ (name of contractor) on behalf of the Water, Light and Sinking Fund Commission of the City of Dalton, Georgia d/b/a Dalton Utilities has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. §13-10-91. Furthermore, the undersigned sub-subcontractor will continue to use the federal work authorization program throughout the contract period and the undersigned sub-subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the sub-subcontractor with the information required by O.C.G.A. §13-10-91(b). The undersigned sub-subcontractor shall submit, at the time of such contract, this affidavit to _____ (name of subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract). Additionally, the undersigned sub-subcontractor will forward notice of the receipt of any affidavit from a sub-subcontractor to _____ (name of subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract). Sub-subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User ID# (E-Verify #)

Date of Authorization

Name of Contractor

Physical Address of Contractor

Name of Project

Invoice #

Water, Light and Sinking Fund, D/B/A Dalton Utilities

Name of Public Employer

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

Executed on _____, ____, 20__ in _____ (city), _____ (state).

Signature of Authorized Officer or Agent

Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME
ON THIS THE ____ DAY OF _____, 20__.

NOTARY PUBLIC
My Commission Expires: _____

<u>FOR INTERNAL USE ONLY</u>
P O#/Contract Name _____
Total Amount \$ _____
Amount of (PPS) Physical Performance of Service \$ _____

Affidavit Obtained by: _____