



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 5/15/2023

Agenda Item: Professional Services Agreement with American Consultant Engineers, LLC for Dalton Mill Line Pathway Location Study

Department: Public Works

Requested By: Chad Townsend

Reviewed/Approved by City Attorney? -----

Cost: \$79,000.00

Funding Source if Not in Budget -----

Please Provide A Summary of Your Request, Including Background Information to Explain the Request:

This request is to approve the Professional Services Agreement with American Consulting Professionals, LLC to provide professional planning services to the City of Dalton (City) for Dalton's Mill Line Pathway Location Study. This study is being performed to establish the optimal initial corridor alignment for Dalton's Mill Line Pathway.

The work is to be completed within 12 weeks of the date of contract execution.

See attached proposal for additional information about the scope of services.

**CITY OF DALTON
PUBLIC WORKS DEPARTMENT**

GENERAL PROFESSIONAL SERVICES AGREEMENT

THIS GENERAL PROFESSIONAL SERVICES AGREEMENT is made and entered into on this 16th day of May, 2023 by and between the City of Dalton, a Georgia Municipal Corporation, hereinafter referred to as "CITY", and American Consulting Engineers of Florida, LLC hereinafter referred to as "CONSULTANT".

WHEREAS, the CITY desires to engage the CONSULTANT to provide professional services; and,

WHEREAS, the CITY finds the proposed Scope of Services and fee proposal attached as exhibit 'A'; and, to be agreeable and thereby engages Consultant pursuant to the terms of this General Professional Services Agreement.

WHEREAS, the CONSULTANT desires to provide said services and agrees to do so for the compensation and upon the terms and conditions hereinafter set forth,

WITNESSETH: That the parties hereto for the considerations hereinafter provided covenant and agree as follows:

1. EMPLOYMENT OF CONSULTANT: The CITY hereby engages the CONSULTANT and the CONSULTANT hereby agrees to perform the professional services hereinafter set forth.

2. PROJECT/SCOPE OF SERVICES: The CONSULTANT shall complete performing the scope of services specified in the CITY's Request for Proposal which is included herein by reference and CONSULTANT's scope and fee proposal attached hereto as Exhibit "A".

3. ADDITIONAL SERVICES: The CONSULTANT shall provide additional services, not specifically provided for in Exhibit "A", upon written request and authorization by the CITY.

4. DATE OF COMMENCEMENT: The CONSULTANT shall commence work on the project on May 22nd, 2023. If no date is provided, then the date of commencement shall be five days from execution of this Agreement.

5. DATE OF COMPLETION: The CONSULTANT shall complete the project on or before October 31st, 2023.

6. CONTRACT SUM: The CITY shall pay to CONSULTANT the total sum of \$ 79,000.00 Dollars for the complete performance of the project in accordance with the terms of this Agreement. In addition, CITY shall pay to CONSULTANT for any authorized additional services performed at the rate or amount provided in the Compensation Schedule attached hereto as Exhibit "B".

7. CONTRACT PENALTY: The CONSULTANT shall pay to the CITY the amount of \$ 100.00 Dollars per calendar day for unexcused delay in completion of the project past the date of completion. CONSULTANT shall be excused for any delays which are out of their control.

8. PAYMENT: The CITY shall pay the contract sum to CONSULTANT upon complete performance of the project pursuant to the terms of this Agreement. CONSULTANT shall provide to CITY an Affidavit from the CONSULTANT stating that CONSULTANT has fully performed all terms of the Agreement. Final payment shall be made no later than 30 days after receipt of said Affidavit. Upon completion of any additional services, said additional services shall be paid within 30 days of receipt of invoice from CONSULTANT. Payment(s) shall be made via electronic funds transfer (EFT).

9. CITY COVENANTS: CITY covenants and agrees:

(a) to provide all available information, data, reports, records and maps to and for which CITY has access, possession, or control which is necessary for CONSULTANT to perform the scope of services provided for herein;

(b) to provide reasonable assistance and cooperation to CONSULTANT in obtaining any information or documentation which is necessary for CONSULTANT to perform the scope of services provided for herein;

(c) to designate a representative authorized to act on the CITY's behalf with respect to the project. Unless otherwise provided, said CITY representative shall be the Director of Public Works;

(d) to permit access to the subject public property and obtain permission to access necessary private property for CONSULTANT to complete the scope of services;

(e) to provide reasonable assistance to CONSULTANT in applying for and obtaining any necessary Federal, State or local government permits for the scope of services;

10. CONSULTANT's COVENANTS: CONSULTANT covenants and agrees:

(a) to perform the scope of services in a professional manner, using that degree of

care and skill ordinarily exercised by consultants practicing in the same or similar field;

- (b) to use only employees and subcontractors qualified to complete the work and who have sufficient experience in same or substantially similar projects;
- (c) to use only properly licensed employees or subcontractors for any work requiring a specialty or professional license issued by the State of Georgia;
- (d) to designate a representative authorized to act on the CONSULTANT's behalf with respect to the project.
- (e) to use the subject property of the City or third persons in a safe, careful and lawful manner;
- (f) to promptly report in writing to CITY any unsafe or defective condition of the subject property and any adverse site condition, which shall include but not be limited to limited access, extremely dense vegetation, subsurface conditions, damaged property, or existing utilities, that may adversely affect CONSULTANT's ability to complete the scope of services pursuant to this Agreement;
- (g) to promptly report in writing to CITY any damage to or injuries sustained in the course by Consultant, its employees, or subcontractors of its engagement and to promptly repair any damage to the damaged property.
- (h) to keep any property of the CITY or third persons in a clean and orderly condition and to remove any personal property of CONSULTANT upon completion of the project;
- (i) to perform all work on the project in a good and workmanlike manner, free from faults and defects, and in conformance with the terms of this Agreement;
- (j) to determine the appropriate method, details and means of performing the scope of services provided by this Agreement;
- (k) to exercise the ordinary standard of care in complying with the laws, codes, and regulations applicable to the CONSULTANT's services;
- (l) to exercise diligence and to complete delivery of the scope of services in a timely manner consistent with the exercise of due care;
- (m) to attend meetings to make presentations or to otherwise review the progress of the work as set out in the scope of services at the reasonable request of the CITY;

- (n) to prepare and submit to the CITY reports required by the scope of services or upon the written request of the CITY.

11. INDEMNITY: CONSULTANT shall indemnify CITY from and hold CITY harmless against all claims, demands and judgments for loss, damage or injury to person or property, resulting from or incurred by reason of CONSULTANT'S use and occupancy of the property inspected or evaluated by CONSULTANT; or by the negligence, willful act, or errors or omissions with respect to the performance of the professional services of CONSULTANT, its employees, agents, subcontractors, or invitees; including all expenses incurred by CITY as a result thereof including, without limitation, reasonable attorneys' fees, expenses of litigation, and court costs, except if arising from or caused by the sole fault or negligence of CITY or any of CITY's employees, agents or representatives acting on behalf of the CITY.

Additionally, CITY shall not be obligated to indemnify or hold harmless CONSULTANT for any claims arising from the actions or omissions of CONSULTANT or any third party.

Additionally, CONSULTANT agrees that all personal property that may be at any time engaged in the subject property shall be at CONSULTANT's sole risk or at the risk of those claiming through CONSULTANT and that CITY shall not be liable for any damage to or loss of such personal property except if arising from or caused by the sole fault or negligence of CITY.

12. INSURANCE: CONSULTANT agrees to carry at its own expense through the term of this Agreement the types and amounts of insurance required to maintain status as a Vendor of the City of Dalton or as provided herein below, whichever is greater. CONSULTANT shall provide CITY with copies or evidence of such insurance coverage prior to the commencement date of the Agreement. Such insurance policies shall name CITY as an additional insured and shall be issued by such insurance companies and on such forms as may be approved by CITY. Said insurance shall include the following:

- (a) General Liability Coverage - General Liability policy with a minimum limit of \$1,000,000.00 per occurrence for bodily injury and property damage.

- (b) Workers' Compensation Coverage – Workers' Compensation policy with the following minimum limits:

- (1) Workers' Compensation statutory limits per Georgia Law;
- (2) Employer's Liability:
 - a. Bodily Injury by Accident - \$100,000.00
 - b. Bodily Injury by Disease - \$500,000.00 policy limit
 - c. Bodily Injury by Disease - \$100,000.00 each employee.

CONSULTANT shall complete the Workers' Compensation Insurance Affidavit of the City of Dalton to determine if any exemption to Workers' Compensation Insurance is applicable.

- (c) Auto Liability Coverage – Auto Liability policy with a minimum of \$1,000,000.00 limit per occurrence for bodily injury and property damage, if motor vehicle is used

in performance of scope of services. Comprehensive form covering all owned, non-owned, and hired vehicles.

- (d) Professional Services Errors & Omissions Coverage – Professional Services E&O policy with a minimum of \$1,000,000.00 per claim.

14. ASSIGNMENT: CONSULTANT may not assign all or any portion of the Agreement without the prior written permission of CITY.

15. SUBCONTRACTOR: The CONSULTANT shall provide written notice to CITY of CONSULTANT'S intent to use a subcontractor for any portion of the project. CITY shall be entitled to reject any subcontractor it deems not qualified to complete the project. Any subcontractor approved for work on the project shall abide by any and all terms of this Agreement.

16. NON-WAIVER OF DEFAULT: The failure or delay by either party hereto to enforce or exercise at any time any of the rights or remedies or other provisions of this Agreement shall not be construed to be a waiver thereof, nor affect the validity of any part of this Agreement or the right of either party thereafter to enforce each and every such right or remedy or other provision. No waiver of any default or breach of the Agreement shall be held to be a waiver of any other default and breach.

17. NOTICES: Any notice required or permitted to be given under this Agreement or by law shall be deemed to have been given if reduced to writing and delivered in person or mailed by certified mail, return receipt requested, postage prepaid to the party who is to receive such notice.

Such notice to CITY shall be mailed to: City of Dalton
ATTN: City Administrator
P.O. Box 1205
Dalton, GA 30722-1205

Such notice to CONSULTANT shall be mailed to: American Consulting Engineers of Florida, LLC
2818 Cypress Ridge Boulevard, Suite 200
Wesley Chapel, Florida 33544-6302

When so mailed, the notice shall be deemed to have been given as of third (3rd) day after the date it was mailed. The addresses may be changed by giving written notice thereof to the other party.

18. CONTRACT DOCUMENTS: The Agreement shall include the advertisement or invitation to provide a proposal, Instructions to Bidders, sample forms, the Addenda relating to bidding and proposal requirements, and any other written information provided by the CITY in anticipation of receiving bids or proposals, if any, except as specifically excluded herein, and the

CONSULTANT'S bid or proposal. The terms of this Agreement shall supersede any terms in the above-referenced documents in direct conflict with the terms of this Agreement.

Additionally, the Contract Documents and all drawings, plans, specifications and other related construction or service related documents shall be the sole property of the CITY. The CONSULTANT shall be permitted to retain copies thereof for its records and for its future professional services.

Additionally, CITY shall be authorized to rely upon all documents, whether in hard copy or electronic format, provided by CONSULTANT. Any changes to the material terms of any document shall be clearly identified and noted to CITY.

19. VENDOR: CONSULTANT shall register and remain active as a Vendor of the CITY by completing the City of Dalton Vendor Packet and fully comply with any and all requirements of said Vendor during the term of this Agreement.

20. TERMINATION OF CONTRACT: In the event that CONSULTANT defaults or neglects to perform work on the project in accordance with the terms of this Agreement, CITY may terminate this Agreement by providing written notice of termination. Prior to termination of this Agreement for default, CITY shall provide written notice to CONSULTANT of any default and provide CONSULTANT ten (10) days to correct said default or deficiency,

21. MISCELLANEOUS PROVISIONS:

(a) Governing Law; Venue. This Agreement is being executed and delivered in the State of Georgia and shall be construed and enforced in accordance with the laws of Georgia. The exclusive jurisdiction and venue for any action arising out of this Agreement shall be the Superior Court of Whitfield County Georgia, and the parties hereby waive any and all objections or defenses thereto.

(b) Successors and Assigns. This Agreement and the respective rights and obligations of the parties hereto shall inure to the benefit of and be binding upon the successors and permitted assigns of the parties. CONSULTANT shall not assign its rights or obligations under this Agreement without the prior written consent of the CITY.

(c) Severability of Invalid Provisions. If any provision of this Agreement shall be deemed invalid, void or unenforceable, the remaining provisions hereof shall not be affected or impaired, and such remaining provisions shall remain in full force and effect.

(d) Complete Agreement; Amendments. This Agreement constitutes the entire agreement between the parties hereto; it supersedes all previous understandings and agreements between the parties, if any, and no oral or implied representation or understanding shall vary its terms, and it may not be amended except by written instrument executed by both parties hereto.

(e) Remedies Cumulative. All rights, powers, and privileges conferred hereunder upon

the parties hereto shall be cumulative, but not restrictive to those given by law.

(f) Time is of the Essence. Time is of the essence of this Agreement in each and all of its provisions.

(h) Confidentiality. All information and documentation regarding the project and the CONSULTANT's services shall be maintained in confidence and shall not be disclosed to any third party by CONSULTANT, without CITY's written authorization, except as may be required by the Georgia Open Records Act. CONSULTANT shall promptly notify CITY of any third party request for said information or documentation prior to any disclosure. CITY agrees that the technical methods, design details, techniques and pricing data contained in any material submitted by CONSULTANT pertaining to this Agreement shall be considered confidential and proprietary, and shall not be disclosed to any third party, except as may be required by the Georgia Open Records Act.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

CONSULTANT: American Consulting Engineers of Florida, LLC

By: _____

Title: _____

CITY: CITY OF DALTON, GEORGIA

By: _____
MAYOR

Attest: _____
CITY CLERK

March 23, 2023

Chad Townsend
City of Dalton Public Works Director
City of Dalton Public Works
535 North Elm Street
Dalton, Georgia, 30721

Re: Dalton's Mill Line Pathway Location Study
Scope and Fee Proposal

Dear Chad:

American Consulting Professionals, LLC and Landis Evans + Partners (Consultant) agrees to provide professional planning services to the City of Dalton (City) for Dalton's Mill Line Pathway Location Study. This study is being performed to establish the optimal initial corridor alignment for Dalton's Mill Line Pathway. The initially articulated goal for the pathway is to provide a family-friendly pathway connection from Dalton's Burr Performing Arts Park to the southernmost trail head of the Mill Line along Mill Creek which provides access to Haig Mill Lake Park. Importantly, the Mill Line Pathway will provide opportunity for popular recreational use, stimulate property redevelopment with a target of mixed-use developments, and provide a spine corridor for ultimate linkages of community assets to serve Dalton residents and attract visitors.

Scope of Services

Establish Goals and Objectives (\$12,000) – 2 Weeks

The Consultant shall facilitate a meeting of City staff and any additional stakeholders (limit total group to nine persons) to establish the ultimate pathway's goals and objectives for its performance and benefits to the City and its community of users. The goals and objectives will include the finalization of potential end points for the study facility. This working session shall be on a single evening with the concluding goals and objectives as the work product.

Establish Evaluative Criteria (\$4,000) – 1 Week

The Consultant shall propose criteria representing the established goals and objectives to aid in prioritizing the corridor or route alternatives. We anticipate up to seven evaluative criteria, including a cost per mile criterion. Examples of expected criteria include: either the Pedestrian/Bicycle/Pathway Level of Service Model (from the Highway Capacity and Quality of Service Manual); simplified Latent Demand (from FHWA Best Practices for Quantifying Non-motorized Demand); adjoining land re-development potential; easement potential/land cost; etc. The City Administrator shall review and approve the criteria.

Identify Potential Corridors/Routes (\$19,000) – 3 Weeks

Collaboratively, up to four corridors may be identified for candidacy. These shall originate in the downtown at the Burr Performing Arts Park terminate at the Haig Mill Lake Park in the north. Among the candidate alignments shall be one which provides connectivity to the Mount Rachel Trail and Eagle Walk Trail.

Collect and Compile Data; Evaluate Candidate Corridors (\$30,500) – 4 Weeks

The City shall provide, and the Consultant team shall compile - or collect where needed - data to perform the evaluation of the candidate corridors according to the previously established criteria. The City shall provide all traffic count data.

American Consulting Professionals, LLC

243 N Hamilton Street, Suite 2 • Dalton, Georgia 30720 • 706.508.4029 • www.acp-americas.com

Report Results and Present Recommendations (\$13,500) – 2 Weeks

Compile results in easy-to-understand evaluative matrix. Identify the emergent recommended corridor alignment. Briefly document the process in a ten-page (max) summary report.

The services described herein will be performed for the costs for \$79,000 according to schedule shown above for each task component.

Please note the address of our Corporate office is as follows:

American Consulting Engineers of Florida, LLC
2818 Cypress Ridge Boulevard, Suite 200
Wesley Chapel, Florida 33544-6302
Phone: 813-435-2600

Please do not hesitate to contact me if you have any questions,

Sincerely,

American Consulting Professionals, LLC

A handwritten signature in blue ink, appearing to read "Scott M. Korpi".

Scott Korpi, PE
Principal

cc: Project File