**INVITATION TO BID**
**21-014**
**ROBERTS DRIVE SIDEWALK PROJECT TS171**
**BID DUE DATE & OPENING:**
**WEBEX**
**OCTOBER 8, 2020, 2:00 P.M.**
**JOIN BY PHONE ONLY**
**+1-650-215-5226 United States Toll**
**Meeting number (access code): 163 879 1105**
**Meeting password: 98997742**

**NON MANDATORY PRE BID CONFERENCE**
**WEBEX**
**SEPTEMBER 17, 2020, 10:00 A.M.**
**JOIN BY PHONE ONLY**
**+1-650-215-5226 United States Toll**
**Meeting number (access code): 163 312 3831**
**Meeting password: 55392897**

**QUESTIONS DUE**
**SEPTEMBER 24, 2020, 5:00 P.M.**
**Bids shall only be accepted online through the Bonfire Portal at:**
https://sandysprings.bonfirehub.com/projects/view/31224
**Any proposal submitted in any other format (email, paper, fax, mail, etc.) will not be accepted for any reason.**

**GENERAL INFORMATION:**

1. All communications regarding this solicitation must be with the assigned Procurement Agent, Delores Hill, purchasing@sandyspringsga.gov.

2. All questions or requests for clarification must be sent via Bonfire under Message - Opportunity Q&A: https://sandysprings.bonfirehub.com/projects/view/31224 Questions are due **no later than September 24, 2020, 5:00 p.m**. Questions received after this date and time may not be answered.

3. Questions and clarifications will be answered in the form of an addendum. Any addenda, schedule changes and other important information regarding the solicitation related to this solicitation will be posted on Bonfire website at https://sandysprings.bonfirehub.com/projects/view/31224 It is the Offeror's responsibility to check the Bonfire portal for any addendum or other communications related to this solicitation.

4. The form of contract ("Model Contract") the City intends to execute with the selected contractor is included for your review.

5. The City of Sandy Springs reserves the right to reject all bids and to waive technicalities and informalities, and to make award in the best interest of the City of Sandy Springs.

6. The City of Sandy Springs is not responsible for any technical difficulties. It is highly recommended that all potential contractors submit their quotes prior to the due date of this solicitation.

**TERMS & CONDITIONS**

1. All applicable Federal and State of Georgia laws and City of Sandy Springs ordinances, licenses and regulations of all agencies having jurisdiction shall apply to Offerors throughout and are incorporated herein.

2. Professionals requiring special licenses shall be licensed in the State of Georgia, and shall be responsible for those portions of the work as may be required by law.

3. No bid shall be accepted from, and no contract will be awarded to, any person, firm, or corporation that (i) is in arrears to the City with respect to any debt, (ii) is in default with respect to any obligation to the City, or (iii) is deemed irresponsible or unreliable by the City.

4. The City shall be able to request of an Offeror satisfactory evidence that it has the necessary financial resources to accomplish the requirements of the contract.

5. From the date this ITB is issued until a firm is selected, Offerors are not allowed to communicate with any staff or elected officials of the City regarding this solicitation, except at the direction of Delores Hill, Procurement Agent in charge of this solicitation. Any unauthorized contact may disqualify the Offeror from further consideration. Contact information for the single point of contact is as follows:
   Delores Hill, Procurement Agent
   City of Sandy Springs
   1 Galambos Way
   Sandy Springs, Georgia 30328
   Email: purchasing@sandyspringsga.gov

6. While the City has every intention to make an award as a result of this solicitation, issuance of the ITB in no way constitutes a commitment by the City to award and execute a contract. Upon a determination such actions would be in its best interest, the City, in its sole discretion, reserves the right to:
   - **a.** Cancel or terminate this ITB at any time. A notice of cancellation will be issued. If the RFP is cancelled, the City will not reimburse any Offeror for preparation of its Proposal. Proposals may be returned upon request if unopened;
   - **b.** Reject any or all Proposals received, make a contract award based directly on the Proposals received in the best interest of the City, in its sole discretion, or enter into further discussions with one (1) or more Offerors;
   - **c.** Waive and/or amend any undesirable, inconsequential, or inconsistent provisions/specifications of this RFP which would not have significant impact on any Proposal;
   - **d.** Make partial award or no award if it is in the best interest of the City to do so; and
   - **e.** Terminate any contract if the City determines adequate funds are not available.

**DEFINITIONS**

SSPWD: Sandy Springs Public Works Department

GDOT: Georgia Department of Transportation

ADA: Americans with Disabilities Act. The federal act that gives civil rights protections to the disabled similar to those provided to individuals based on race, color, sex, national origin, age and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services and telecommunications.

CONTRACT DOCUMENTS: Contract Agreement. General Conditions, Appendices, Special Provisions, Technical Specifications, Drawings and Plans, Bidding Documents, Exhibits

EA: Each

GAL: Gallon

LF: Lineal Feet

LS: Lump Sum

SY: Square Yard

TN: Ton

OWNER: City of Sandy Springs

Contractor: The Prime Contractor for the Construction

Project. DOL: U.S. Department of Labor

**SCOPE OF WORK**

The Contractor shall provide the necessary machinery, tools, apparatus, other means of construction, and all materials and labor specified in the Contract Documents or as necessary to complete the City of Sandy Springs Project **TS171, Roberts Drive Sidewalk Project**, to install approximately 1,020 LF of sidewalk, drainage system which includes but not limited to 210 LF 18" RCP along the west side of Roberts Drive, 100 LF of enhanced swale and associated improvements. The scope of work also includes pavement restoration over any damaged and/or removed pavement. The contractor must perform at least 51% of work, and must be Pre-qualified Prime Contractor listed by the Georgia Department of Transportation.

Unless otherwise directed, all work performed shall be in accordance with the Georgia Department of Transportation *Standard Specifications, Construction of Transportation Systems* (current edition) – **SEE ALSO <u>EXHIBIT H, "SPECIAL PROVISIONS"</u>, PROVIDED WITH "REQUESTED FOR BID" DOCUMENTS.** All materials used in the process of completion of the work included in the Contract will be furnished from Georgia Department of Transportation certified suppliers only or as directed by the Engineer.

There is no City furnished equipment to be installed by the contractor. Disturbed area shall be replaced with sod of existing conditions. Water service meter relocation will be by City of Atlanta Watershed Contractor. The water meter elevation adjustments will by the Contractor. The Contractor must coordinate water service meter relocation with the COA Watershed Contractor during construction and provide traffic control during relocation.

Any contract quantities above the plan quantities will be placed as directed by Engineer. Any quantities paid for under the "miscellaneous construction" pay item will be placed as directed by Engineer and the contractor will provide a quote for review by the Engineer prior to execution of work.

1. There is no City furnished equipment to be installed by the contractor.

2. Bonds will be required for this project

## BIDDING INSTRUCTIONS

**Failure to submit the following bid documents may result in the bid being deemed non-responsive and the bid shall be rejected:**

City Bid Form
City Qualification Signature and Certification Form
Reference Form
Bid Schedule
Bid Price Certification
Everify Affidavit under O.C.G.A. 13-10-91(b)(1)
Addenda Acknowledgment
Bid Bonds
Subcontractor List

**Upon award of contract the following items shall also be submitted:**

Certification of Sponsor Drug Free Workplace
Georgia Security Immigration Compliance Act Affidavit
Certificate of Insurance
Notice to Contractors Compliance with Electrical Safety Provisions
Affidavit verifying Status for City Public Benefit Application
Corporate Certificate
Payment Bond
Performance Bond

**BID FORM**
**(Bidder to sign and return)**

**TO: PURCHASING MANAGER**
**CITY OF SANDY SPRINGS**
**SANDY SPRINGS, GEORGIA 30350**

**Ladies and Gentlemen:**

In compliance with your Invitation To Bid, the undersigned, hereinafter termed the Bidder, proposes to enter into a Contract with the City of Sandy Springs, Georgia, to provide the necessary machinery, tools, apparatus, other means of construction, and all materials and labor specified in the Contract Documents or as necessary to complete the Work in the manner therein specified within the time specified, as therein set forth, for:

**ITB #21-014 Roberts Drive Sidewalk Project TS171**

The Bidder has carefully examined and fully understands the Contract, Specifications, and other documents hereto attached, has made a personal examination of the Site of the proposed Work, has satisfied himself as to the actual conditions and requirements of the Work, and hereby proposes and agrees that if his bid is accepted, he will contract with the City of Sandy Springs in full conformance with the Contract Documents.

Unless otherwise directed, all work performed shall be in accordance with the Georgia Department of Transportation Standard *Specifications, Construction of Transportation Systems* (current edition). All materials used in the process of completion of the work included in the Contract will be furnished from Georgia Department of Transportation certified suppliers only.

It is the intent of this Bid to include all items of construction and all Work called for in the Specifications, or otherwise a part of the Contract Documents.

In accordance with the foregoing, the undersigned proposes to furnish and construct the items listed in the attached Bid schedule for the unit prices stated.

The Bidder agrees that the cost of any work performed, materials furnished, services provided or expenses incurred, which are not specifically delineated in the Contract Documents but which are incidental to the scope, intent, and completion of the Contract, shall be deemed to have been included in the prices bid for the various items scheduled.

The Bidder further proposes and agrees hereby to promptly commence the Work with adequate forces and equipment within ten (10) calendar days from receipt of Notice to Proceed and to complete all Work within **one hundred twenty (120) calendar days** from the initial Notice to Proceed.

The Bidder shall be responsible for installing and maintaining the “Best Management Practices” (BMP’s) throughout the term of the project.

If this bid shall be accepted by the City of Sandy Springs and the undersigned shall fail to execute a satisfactory contract in the form of said proposed Contract, and give satisfactory Performance and Payment Bonds, or furnish satisfactory proof of carriage of the insurance required within ten days from the date of Notice of Award of the Contract, then the City of Sandy Springs may, at its option, determine that the undersigned abandoned the Contract and there upon this bid shall be null and void, and the sum stipulated in the attached Bid Bond or certified check shall be forfeited to the City of Sandy Springs as liquidated damages.

Bidder acknowledges receipt of the following addenda:

| Addendum No. | Date Received |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

Bidder further declares that the full name and resident address of Bidder's Principal is as follows:

Signed, sealed, and dated this _____ day of _____

Bidder _____

Company Name

Seal

Bidder Mailing Address:

_____

_____

_____

_____

_____

_____

By: _____

Title: _____

By: _____

Title: _____

**QUALIFICATIONS SIGNATURE AND CERTIFICATION**
**(Bidder to sign and return)**

I certify that this offer is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a proposal for the same materials, supplies, equipment, or services and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of State and Federal Law and can result in fines, prison sentences, and civil damage awards. I agree to abide by all conditions of the proposal and certify that I am authorized to sign this proposal for the proposer. I further certify that the provisions of the Official Code of Georgia Annotated, Sections 45-10-20 et. seq., have not been violated and will not be violated in any respect.

Authorized Signature_____Date_____

Print/Type Name_____

Email Address _____

Print/Type Company Name Here_____

**REQUEST FOR REFERENCES**
**INVITATION TO BID #21-014**
**Roberts Drive Sidewalk Project TS171**

All references must be from customers for whom your company has provided projects completed in the **last five years of similar scope and services** as the specifications of Invitation to Bid #21-014 Roberts Drive Sidewalk Project TS171

References for: _____

(Company Name)

1. Company _____

Street Address _____

City, State & Zip _____

Contact Person Name_____ Phone_____

Email address_____

Describe specific job performed and date: _____

_____

2. Company_____

Street Address _____

City, State & Zip _____

Contact Person Name_____ Phone_____

Email address_____

Describe specific job performed and date: _____

_____

3. Company _____

Street Address _____

City, State & Zip _____

Contact Person Name _____ Phone _____

Email address_____

Describe specific job performed and date: _____

_____

**BID SCHEDULE**

| TS 171 Roberts Drive Sidewalk | | | | | | |
|---|---|---|---|---|---|---|
| Item No. | Pay Item | Description | Estimated Qty. | Unit | Unit Price | Total Price |
| 1 | 150-1000 | Traffic Control - Project | LUMP | LS | | |
| 2 | 163-0232 | Temporary Grassing | 0.5 | AC | | |
| 3 | 163-0240 | Mulch | 4 | TN | | |
| 4 | 163-0527 | Construct and Remove Rip Rap Check Dams, Stone Plain Rip Rap/Sand Bags | 4 | EA | | |
| 5 | 163-0550 | Construct and Remove Inlet Sediment Trap | 4 | EA | | |
| 6 | 165-0010 | Maintenance of Temporary Silt Fence, TP A | 1200 | LF | | |
| 7 | 165-0041 | Maintenance of Check Dams - All Types | 60 | LF | | |
| 8 | 165-0105 | Maintenance of Inlet Sediment Trap | 4 | EA | | |
| 9 | 169-0020 | Enhanced Dry Swale, No. - 1 | LUMP | LS | | |
| 10 | 171-0010 | Temporary Silt Fence, Type A | 2400 | LF | | |
| 11 | 210-0100 | Grading Complete | LUMP | LS | | |
| 12 | 310-1101 | Graded Aggregate Base Course, Incl. Matl. | 195 | TN | | |
| 13 | 441-0016 | Driveway Concrete, 6 IN TK | 25 | SY | | |
| 14 | 441-0104 | Conc Sidewalk, 4 IN | 505 | SY | | |
| 15 | 441-4020 | Conc Valley Gutter, 6 IN | 30 | SY | | |
| 16 | 441-6216 | Conc Curb & Gutter, 8 IN X 24 IN, TP 2 | 300 | LF | | |
| 17 | 441-6222 | Conc Curb & Gutter, 8 IN X 30 IN, TP 2 | 770 | LF | | |
| 18 | 444-1000 | Sawed Joints in Exist Pavements - PCC | 15 | LF | | |
| 19 | 500-3800 | Class A Concrete, Incl Reinf Steel (Turnup Wall - 4" Wall Cap Included) | 40 | CY | | |
| 20 | 500-3900 | Class B Concrete, Incl Reinf Steel (Turndown Wall ) | 20 | CY | | |
| 21 | 500-9999 | Class B Conc, Base or Pvmt Widening | 10 | CY | | |
| 22 | 550-1180 | Storm Drain Pipe, 18 IN, H 1 - 10 | 210 | LF | | |
| 23 | 603-2181 | Stn Dumped Rip Rap, TP 3, 18 IN | 5 | SY | | |
| 24 | 603-7000 | Plastic Filter Fabric | 5 | SY | | |
| 25 | 610-9001 | Rem Sign | 2 | EA | | |
| 26 | 611-5360 | Reset Highway Sign | 2 | EA | | |
| 27 | 611-8120 | Adjust Water Meter Box to Grade | 2 | EA | | |
| 28 | 611-9999 | Relocate Mailbox | 1 | EA | | |
| 29 | 636-1033 | Highway Signs, TP 1 Matl, Relf Sheeting, TP 9 | 10 | SF | | |
| 30 | 636-1036 | Highway Signs, TP 1 Matl, Relf Sheeting, TP 11 | 20 | SF | | |
| 31 | 636-2070 | Glav Steel Posts, TP 7 | 26 | LF | | |
| 32 | 636-2090 | Glav Steel Posts, TP 9 | 30 | LF | | |
| 33 | 643-8200 | Barrier Fence (Orange), 4 FT | 75 | LF | | |
| 34 | 643-8300 | Fence (Ornamental Fence - Ameristar / Montage | 70 | LF | | |
| 35 | 653-1501 | Thermoplastic Solid Traf Stripe, 5 IN, White | 1,065 | LF | | |
| 36 | 653-1704 | Thermoplastic Solid Traf Stripe, 24 IN, White | 20 | LF | | |
| 37 | 653-1804 | Thermoplastic Solid Traf Stripe, 8 IN, White | 220 | LF | | |
| 38 | 668-2100 | Drop Inlet | 1 | EA | | |
| 39 | 668-2110 | Drop Inlet, GP 1, Addl Depth | 1 | LF | | |
| 40 | 700-7000 | Agricultural Lime | 2 | TN | | |
| 41 | 700-8000 | Fertilizer Mixed Grade | 1 | TN | | |
| 42 | 700-8100 | Fertilizer Nitrogen Content | 20 | LB | | |
| 43 | 999-0001 | Miscellaneous Construction Contingency As Directed By Engineer | ALLOW | | | $25,000.00 |
| | | LANDSCAPING ITEMS | | | | |
| 44 | 700-9300 | Sod | 1,750 | SY | | |
| 45 | 702-0140 | Cercis Canadensis - The Rising Sun Eastern Redbud | 7 | EA | | |
| 46 | 702-0472 | Ilex X Attenuata - Savannah Holly | 16 | EA | | |
| 47 | 702-0477 | Iris SP. - Iris Pseudacorus / Yellow Flag Iris | 37 | EA | | |
| 48 | 702-0719 | Panicum Virgatum - Heavy Metal Switch Grass | 62 | EA | | |
| 49 | 702-0908 | Quercus Shumardii - Shumard Red Oak | 6 | EA | | |
| 50 | 702-9025 | Lanscape Mulch, Pinestraw | 675 | SY | | |
| 51 | 702-9999 | Thelypteris Kunthii / Southern Shield Fern | 31 | EA | | |
| 52 | 708-1000 | Plant Top Soil | 20 | CY | | |
| 53 | | Tennessee Fieldstone Boulders (28 total) | 62 | TON | | |
| 54 | | Tennessee Fieldstone River Rock | 9 | TON | | |
| 55 | | Landscape Fabric | 100 | SY | | |

**Total Bid Price:** _____

**Total Bid Price in Words:** _____

**BID PRICE CERTIFICATION**

In compliance with the attached Specification, the undersigned offers and agrees that if this Bid is accepted, by the City Council within one hundred and twenty (120) days of the date of Bid opening, that he will furnish any or all of the Items upon which Prices are quoted, at the Price set opposite each Item, delivered to the designated point(s) within the time specified in the Bid Schedule.

TOTAL BID PRICE: _____

TOTAL BID PRICE IN WORDS: _____

COMPANY: _____

ADDRESS: _____

AUTHORIZED SIGNATURE: _____

EMAIL ADDRESS: _____

PRINT / TYPE NAME:_____

**EVERIFY 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 City of Sandy Springs 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.G.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 Identification Number

_____

Date of Authorization

_____

Name of Contractor

_____

Name of Project

_____

Name of Public Employer

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

Executed on _____ 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 _____

_____

NOTARY PUBLIC

My Commission Expires: _____

**BID BOND**
**(BID BOND TO BE RETURNED WITH BID)**

KNOW ALL MEN BY THESE PRESENTS, THAT _____ _____
(Name of Contractor)_____
(Address of Contractor) at _____

(Corporation, Partnership and or Individual) hereinafter called Principal, and _____
_____
(Name of Surety)
_____
(Address of Surety

A corporation of the State of _____, and a surety authorized by law to do business in the State of Georgia, hereinafter called Surety, are held and firmly bound unto

The City of Sandy Springs Georgia
1 Galambos Way, Sandy Springs, Georgia 30328

herein after referred to as Obligee, in the penal sum of_____
Dollars ($ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

WHEREAS, the Principal is about to submit, or has submitted, to the City of Sandy Springs, Georgia, a proposal for furnishing materials, labor and equipment for:

**21-014 Roberts Drive Sidewalk Project TS171**

WHEREAS, the Principal desires to file this Bond in accordance with law in lieu of a certified Bidder's check otherwise required to accompany this Proposal.

NOW, THEREFORE, the conditions of this obligation are such that if the bid is accepted, the Principal shall within ten days after receipt of notification of the acceptance execute a Contract in accordance with the Bid and upon the terms, conditions, and prices set forth in the form and manner required by the City of Sandy Springs, Georgia, and execute a sufficient and satisfactory
Performance Bond and Payment Bond payable to the City of Sandy Springs, Georgia, each in an amount of 100% of the total Contract Price, in form and with security satisfactory to said the City of Sandy Springs, Georgia, and otherwise, to be and remain in full force and virtue in law; and the Surety shall, upon failure of the Principal to comply with any or all of the foregoing requirements within the time specified above, immediately pay to the City of Sandy Springs, Georgia, upon demand, the amount hereof in good and lawful money of the United States of America, not as a penalty, but as liquidated damages.

PROVIDED, FURTHER, that Principal and Surety agree and represent that this bond is executed pursuant, to and in accordance with the applicable provisions of the Official Code of Georgia Annotated, as Amended, including, but not limited to, O.C.G.A. § 36-91-1, et. seq., and is intended to be and shall be constructed as a bond in compliance with the requirements thereof.
Signed, sealed, and dated this _____ day of _____A.D., 20____

ATTEST:

_____ _____

(Principal Secretary) (Principal)

(SEAL) BY: _____

_____ _____

(Witness to Principal) (Address)

_____

(Address)

_____

(Surety)

ATTEST

BY: _____

(Attorney-in-Fact) and Resident Agent

_____

(Attorney-in-Fact)

(Seal)

_____

(Address)

_____

(Witness as to Surety)

_____

(Address)

_____

**SUBCONTRACTORS**
**LIST OF SUBCONTRACTORS**

I do _____, do not _____, propose to subcontract some of the work on this project. I propose to Subcontract work to the following subcontractors:

Company Name: _____

**CONTRACT AGREEMENT**

**For**

**ROBERTS DRIVE SIDEWALK TS171**
**("Project")**

**Between**

**CITY OF SANDY SPRINGS, GEORGIA**
**("City")**

**and**

**_____**
**("Contractor")**

**ITB # 21-014**

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**CONTRACT AGREEMENT**

This Agreement is made by and between the City of Sandy Springs, a political subdivision of the State of Georgia (hereinafter referred to as the City) and_____, (hereinafter referred to as the Contractor) under seal for construction of the **Roberts Drive Sidewalk TS171** (hereinafter referred to as the Project);

WHEREAS, the Contractor desires to enter into this Agreement for construction of the Project and has represented to the City that it is qualified **(meaning a Prequalified Prime Contractor listed by the Georgia Department of Transportation, Office of Contract Administration**) and experienced to provide such services necessary for construction of the Project (the City requires that the Contractor comply with all federal, state and local legal requirements imposed on the Project as the result of federal funding and the City has relied on such representation);

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, it is agreed by and between the Contractor and the City as follows:

## ARTICLE I

## THE CONTRACT AND THE CONTRACT DOCUMENTS

### 1.1 The Contract

1.1.1 The Contract between the City and the Contractor, of which this Agreement is a part, consists of the Contract Documents. It shall be effective on the date this Agreement is executed by the last party to execute it**.**

### 1.2 The Contract Documents

1.2.1 The Contract Documents consist of this Agreement, General Conditions, Special Provisions, the Technical Specifications, the Drawings and Plans, Bidding Documents, all Change Orders and Field Orders issued hereafter, the base bid made by the Contractor in response to the City's Invitation for Bid No. 21-014 (the "Bid"), and any other amendments hereto executed by the parties hereafter, together with the following (if any):

_____

_____

_____

Documents not enumerated in this Paragraph 1.2 are not Contract Documents and do not form a part of this Contract**.**

**1.3 Entire Agreement**

1.3.1 The Contract Documents constitute the entire and exclusive agreement between the City and the Contractor with reference to the Project.

**1.4 Subletting, Assignment, or Transfer**

1.4.1 It is understood by the parties to this Agreement that the Work of the Contractor is considered personal by the City. The Contractor agrees not to assign, sublet, or transfer any or all of its interest in this Agreement without prior written approval of the City.

1.4.2 The City reserves the right to review all subcontracts prepared in connection with the Agreement, and the Contractor agrees that it shall submit to the City proposed subcontract documents together with Subcontractor cost estimates for the City's review and written concurrence in advance of their execution.

1.4.3 All subcontracts in the amount of $10,000.00 or more shall include the provisions set forth in this Agreement.

**1.5 No Privity with Others**

1.5.1 Nothing contained in this Contract shall create, or be interpreted to create, privity or any other contractual agreement between the City and any person or entity other than the Contractor.

**1.6 Intent and Interpretation**

1.6.1 The intent of this Contract is to require complete, correct and timely execution of the Work. Any Work that may be required, implied or inferred by the Contract Documents, or any one or more of them, as necessary to produce the intended result shall be provided by the Contractor for the Contract Price, as hereinafter defined.

1.6.2 This Contract is intended to be an integral whole and shall be interpreted as internally consistent. What is required by any one Contract Document shall be considered as required by the Contract.

1.6.3 When a word, term or phrase is used in this Contract, it shall be interpreted or construed, first, as defined herein; second, if not defined, according to its generally accepted meaning in the construction industry; and third, if there is no generally accepted meaning in the construction industry, according to its common and customary usage.

1.6.4 The words include, includes, or including, as used in this Contract, shall be deemed to be followed by the phrase, without limitation.

1.6.5 The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of this Contract shall not imply that any other, non-specified act,

failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this Contract.

1.6.6 Words or terms used as nouns in this Contract shall be inclusive of their singular and plural forms, unless the context of their usage clearly requires a contrary meaning.

1.6.7 The Contractor shall have a continuing duty to read, carefully study and compare each of the Contract Documents, the shop drawings and the product data and shall give written notice to the City of any inconsistency, ambiguity, error or omission which the Contractor may discover with respect to these documents before proceeding with the affected Work. The issuance or the express or implied approval by the City of the Contract Documents, shop drawings or product data shall not relieve the Contractor of the continuing duties imposed hereby, nor shall any such approval be evidence of the Contractor's compliance with this Contract. HOWEVER, THE CITY MAKES NO REPRESENTATION OR WARRANTY OF ANY NATURE WHATSOEVER TO THE CONTRACTOR CONCERNING THE DOCUMENTS FOR THE PROJECT, INCLUDING THE DRAWINGS AND SPECIFICATIONS FOR THE PROJECT. By the execution hereof, the Contractor acknowledges and represents that it has received, reviewed and carefully examined such documents, has found them to be complete, accurate, adequate, consistent, coordinated and sufficient for construction, and that the Contractor has not, does not, and will not rely upon any representation or warranties by the City concerning such documents as no such representation or warranties have been or are hereby made.

1.6.8 Neither the organization of any of the Contract Documents into divisions, sections, paragraphs, articles, (or other categories), nor the organization or arrangement of the design, shall control the Contractor in dividing the Work or in establishing the extent or scope of the Work to be performed by Subcontractors.

**1.7 Ownership of Contract Documents**

1.7.1 The Contractor may be provided, have access to or become aware of the City's Confidential Information including the City's strategic plans, employee data, customer data and other technical and business information of the City (collectively referred to as the "Confidential Information"). The term Confidential Information includes the deliverables as well as all information generated by the Contractor that contains, references or is derived from the Confidential Information and the Services including, without limitation, the Contractor's summaries, analysis, extracts, working papers and notes relating to the Services and the Deliverables (referred to as the "Working Papers"). The Contractor agrees not to disclose the Confidential Information to third parties without the prior written approval of the City and not to make use of the Confidential Information other than as needed to perform the Services. The Contractor further agrees that it will only disclose the Confidential Information to its personnel on a need-to-know basis solely for the performance of the Services and will protect the Confidential Information with the same degree of care that the Contractor uses to protect its own confidential information, but no less than reasonable care or as the various laws may require or impose.

All Confidential Information as well as other documents, data and information provided to the Contractor by the City is and will remain the property of the City to the extent that it was the property

of the City at the time it was provided to the Contractor.

All Confidential Information shall be returned to the City by the Contractor within five (5) business days of the completion of the Services under this Contract. The Contractor will keep no copies of the Confidential Information except that the Contractor may retain one copy of the Working Papers as required by law, regulation, professional standards or reasonable business practice. If requested by the City, an officer of the Contractor will certify in writing that, to the best of his/her knowledge, information and belief, all Confidential Information and all copies thereof (except for one copy of the Working Papers) have been delivered to the City or destroyed.

The Contract Documents, and each of them, shall remain the property of the City. The Contractor shall have the right to keep one record set of the Contract Documents upon completion of the Project; provided, however, that in no event shall Contractor use, or permit to be used, any or all of such Contract Documents on other projects without the City's prior written authorization.

### 1.8 Hierarchy of Contract Documents

1.8.1 In the event of any conflict, discrepancy, or inconsistency among any of the Contract Documents, the following hierarchy shall control: (a) as between figures given on drawings and the scaled measurements, the figures shall govern; (b) as between large scale drawings and small scale drawings, the large scale shall govern; (c) as between drawings and specifications, the requirements of the specifications shall govern; (d) as between the Contract Agreement and General and the specifications, the requirements of the Contract Agreement shall govern. As set forth hereinabove, any and all conflicts, discrepancies, or inconsistencies shall be immediately reported to the City in writing by the Contractor.

## ARTICLE II

## THE WORK

### 2.1 Contractor Responsibility

2.1.1 The Contractor shall perform all of the Work required, implied or reasonably inferable from, this Contract.

## 2.2 "Work" Defined

2.2.1 The term Work shall mean whatever is done by or required of the Contractor to perform and complete its duties under this Contract, including the following: construction of the whole or a designated part of the Project; furnishing of any required surety bonds and insurance; and the provision or furnishing of labor, supervision, services, materials, supplies, equipment, fixtures, appliances, facilities, tools, transportation, storage, power, permits and licenses required of the Contractor, fuel, heat, light, cooling and all other utilities as required by this Contract. The Work to be performed by the Contractor is generally described in Exhibit A, SCOPE OF SERVICES, attached hereto and incorporated herein.

## 2.3 Review of Work

2.3.1 Authorized representatives of the City, GDOT, and affected federal agencies may at all reasonable times review and inspect the activities and data collected under the terms of the Contract and any amendments thereto, including but not limited to, all reports, drawings, studies, specifications, estimates, maps, and computations, prepared by or for the City.

## 2.4 Workday and Restrictions, Suspension and Interruption

2.4.1 Normal workday for the Work shall be from 8:00 A.M. to 5:00 P.M. and the normal work week shall be Monday through Friday. The City will consider extended workdays or work weeks upon written request on a case-by-case basis. The City may restrict work hours in certain locations or at certain times of the day. No work will be allowed on national holidays (i.e., Memorial Day, July 4$^{th}$, Labor Day, etc.). The City may order the Contractor in writing to suspend, delay or interrupt all or any part of the Work for such period of time as it may determine appropriate for the convenience of the City. The time for completion of the Work shall be extended by the number of days the Work is suspended. The City shall not be responsible for any claims, damages or costs stemming from any delay of the Project.

## 2.5 Work to be performed by the Prime Contract

2.5.1 Tasks constituting of at least fifty-one percent (51%) of the value of this contract must be performed directly by the prime contractor and shall not be sub-contracted to other firms.

2.5.2 The Contractor shall identify which tasks shall be self-performed.

# ARTICLE III

# CONTRACT TIME

## 3.1 Time and Liquidated Damages

3.1.1 The Contractor shall not proceed to furnish such services and the City shall not become obligated to pay for same until a written authorization to proceed ("Notice to Proceed") has been sent

to the Contractor from the City. The Contractor shall commence the Work no later than ten (10) days after the effective date of the Notice to Proceed and shall achieve Substantial Completion of the Work, as hereinafter defined. In order to minimize disruption of City's Paving Schedule, separate completion times are specified for those portions of the work on Roberts Drive. Contractor shall ensure the stormwater installation of B-4 to B-1 to be completed within first forty-five (45) days from Notice to Proceed. Failure to complete the required construction as specified will result in the assessment of Liquidated Damages at the rate of $500 per Calendar day. The completion date for the remainder of the project shall be One Hundred Twenty (120) **Calendar Days** from the date on which the Work is permitted to proceed, through the date set forth for Substantial Completion. This shall constitute the Contract Time. The Work shall be carried on expeditiously, it being understood, however, that this Agreement may be extended or continued in force by the parties hereto in writing as provided herein.
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3.1.2 The Contractor shall pay the City the sum of $500.00 per day for each and every calendar day of unexcused delay in achieving Substantial Completion beyond the date set forth herein for Substantial Completion of the Work. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the City, estimated at or before the time of executing this Contract. When the City reasonably believes that Substantial Completion will be inexcusably delayed, the City shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the City to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving Substantial Completion, or any part thereof, for which the City has withheld payment, the City shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages.

### 3.2 Substantial Completion

3.2.1 Substantial Completion shall mean the stage of the work when Sandy Springs has determined all pay items are sufficiently complete allowing the newly constructed facilities to be used for their intended purpose. Partial use or occupancy of the Project shall not result in the Project being deemed substantially complete, and such partial use or occupancy shall not be evidence of Substantial Completion**.**

### 3.3 Time is of the Essence

3.3.1 All limitations of time set forth in the Contract Documents are of the essence of this Contract.

## ARTICLE IV

## CONTRACT PRICE

### 4.1 The Contract Price

4.1.1 The total contract amount for the Project (the "Contract Price") shall be as set forth in the bid schedule ("Bid Schedule") attached hereto as EXHIBIT B, BID SCHEDULE and incorporated herein. The

total contract amount shall be certified by the Bid Price Certification ("Bid Price Certification") attached hereto as EXHIBIT C, BID PRICE CERTIFICATION and incorporated herein. Payment to the Contractor pursuant to the Bid Schedule is full payment for the complete scope of services. The Contract Price shall not be modified except by Change Order as provided in this Contract.

## ARTICLE V

## PAYMENT OF THE CONTRACT PRICE

### 5.1 Bid Schedule

5.1.1 The Contractor shall invoice and be paid pursuant to the Bid Schedule contained in the Contract Documents.

### 5.2 Payment Procedure

5.2.1 The City shall pay the Contract Price to the Contractor as provided below.

5.2.2 Based upon the Contractor's invoices for payment submitted to the City, the City shall make progress payments to the Contractor on account of the Contract Price.

5.2.3 On or before the **5th** day of each month after commencement of the Work, the Contractor shall submit an invoice for Work satisfactorily completed as evaluated by an inspector representing the City pursuant to the Bid Schedule. The invoice shall be in such form and manner, and with such supporting data and content, as the City may require. Therein, the Contractor may request payment for ninety percent (90%) of that portion of the Contract Price properly allocable to Contract requirements properly provided, labor, materials and equipment properly incorporated into the Work plus ninety percent (90%) of that portion of the Contract Price properly allocable to materials or equipment properly stored on-site (or elsewhere if approved in advance in writing by the City) for subsequent incorporation into the Work, less the total amount of previous payments received from the City. Payment for stored materials and equipment shall be conditioned upon the Contractor's proof satisfactory to the City, that the City has title to such materials and equipment and shall include proof of required insurance. Such invoice shall be signed by the Contractor and shall constitute the Contractor's representation that the Work has progressed to the level for which payment is requested in accordance with the Schedule of Work, that the Work has been properly installed or performed in full accordance with this Contract, and that the Contractor knows of no reason why payment should not be made as requested. Thereafter, the City will review the invoice and may also review the Work at the Project Site or elsewhere to determine whether the quantity and quality of the Work is as represented in the invoice and is as required by this Contract. The City shall make partial payments on account of the Contract Price to the Contractor within thirty (30) days following receipt of each invoice. The amount of each partial payment shall be the amount approved for payment less such amounts, if any, otherwise owing by the Contractor to the City or which the City shall have the right to withhold as authorized by this Contract. The City shall not be precluded from the exercise of any of its rights as set forth in Paragraph 5.3 herein below; PROVIDED, HOWEVER, that when fifty (50) percent of the Contract value, including Change Orders and other additions to the Contract value,

provided for by the Contract Documents is due, and the manner of completion of the Contract Work and its progress are reasonably satisfactory to the City, the City shall withhold no more retainage. At the discretion of the City, and with the approval of the Contractor, the retainage of any Subcontractor may be released separately as the Subcontractor completes its Work. If, however, after discontinuing the retention, the City determines that the Work is unsatisfactory or has fallen behind schedule, retention may be resumed at the previous level. If retention is resumed by the City, the Contractor and Subcontractors shall be entitled to resume withholding retainage accordingly. The rights of the City set forth herein to retainage are in addition to all of the other rights and remedies of the City set forth in this Agreement.

5.2.4 The Contractor warrants that upon submittal of an invoice, all Work for which payments have been received from the City shall be free and clear of liens, claims, security interest or other encumbrances in favor of the Contractor or any other person or entity whatsoever.

5.2.5 The Contractor shall promptly pay each Subcontractor out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount to which such Subcontractor is entitled. In the event the City becomes informed that the Contractor has not paid a Subcontractor as herein provided, the City shall have the right, but not the duty, to issue future checks in payment to the Contractor of amounts otherwise due hereunder naming the Contractor and such Subcontractor as joint payees. Such joint check procedure, if employed by the City, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit the City to repeat the procedure in the future.

5.2.6 No progress payment, nor any use or occupancy of the Project by the City, shall be interpreted to constitute an acceptance of any Work not in strict accordance with this Contract.

**5.3 Withheld Payment**

5.3.1 The City may decline to make payment, may withhold funds, and, if necessary, may demand the return of some or all of the amounts previously paid to the Contractor, to protect the City from loss because of:

(a) defective Work not remedied by the Contractor or, in the opinion of the City, unlikely to be remedied by the Contractor;

(b) claims of third parties against the City or the City's property;

(c) failure by the Contractor to pay Subcontractors or others in a prompt and proper fashion;

(d) evidence that the balance of the Work cannot be completed in accordance with the Contract for the unpaid balance of the Contract Price;

(e) evidence that the Work will not be completed in the time required for substantial or final completion;

(f) persistent failure to carry out the Work in accordance with the Contract;

(g) damage to the City or a third party to whom the City is, or may be, liable.

In the event that the City makes written demand upon the Contractor for amounts previously paid by the City as contemplated in this Subparagraph 5.3.1, the Contractor shall promptly comply with such demand**.**

**5.4 Punch List**

5.4.1 When the Contractor believes that the Work is substantially complete, the Contractor shall so notify the City in writing. If the City deems the work is substantially complete, the City shall make a preliminary final inspection of the Project and shall submit to the Contractor a list of items to be completed or corrected (the "Punch List"). The Contractor shall complete all items on the Punch List within twenty-one (21) calendar days from the date of issuance of the Punch List by the City. If the Contractor is already in liquidated damages, as herein provided, prior to beginning the Punch List, then liquidated damages will be postponed for the twenty-one (21) calendar days. Once the twenty-one (21) calendar days expire, then liquidated damages will continue to accrue. In any case, once the twenty-one (21) calendar days expire after the Punch List is submitted to the Contractor, then liquidated damages will be assessed.

**5.5 Completion and Final Payment**

5.5.1 When all of the Work is finally complete and the Contractor is ready for a final inspection, the Contractor shall notify the City thereof in writing. Thereupon, the City will make final inspection of the Work and, if the Work is complete in full accordance with this Contract and this Contract has been fully performed, the Contractor is entitled to the remainder of the unpaid Contract Price as hereinafter provided in Subparagraph 5.5.3. Guarantees required by the Contract shall commence on the date of final completion of the Work.

5.5.1.1 If the Contractor fails to achieve final completion within the time fixed therefor by the City, the Contractor shall pay the City the sum of $_____500.00_ (as stipulated in GDOT Standard Specifications 108.08) per day for each and every calendar day of unexcused delay in achieving final completion beyond the date set forth herein for final completion of the Work. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the City, estimated at or before the time of executing this Contract. When the City reasonably believes that final completion will be delayed without excuse, the City shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the City to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving final completion, or any part thereof, for which the City has withheld payment, the City shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages.

5.5.2 The Contractor shall not be entitled to final payment unless and until it submits to the City all documents required by the Contract, including, but not limited to, its affidavit that all payrolls, invoices for materials and equipment, and other liabilities connected with the Work for which the City, or the City's property might be responsible, have been fully paid or otherwise satisfied; releases and waivers of lien from all Subcontractors of the Contractor and of any and all other parties required by the City; consent of Surety, if any, to final payment. If any third party fails or refuses to provide a release of claim or waiver of lien as required by the City, the Contractor shall furnish a bond satisfactory to the City to discharge any such lien or indemnify the City from liability.

5.5.3 Upon a determination by an inspector representing the City that the Work is complete in full accordance with this Contract, the City shall pay the Contractor an amount sufficient to increase total payments to the Contractor to one hundred percent (100%) of the Contract Price less two hundred percent (200%) of the reasonable cost as determined by the City for completing all incomplete Work, correcting and bringing into conformance all defective and nonconforming Work, and handling all unsettled claims.

The City shall make final payment of all sums due the Contractor within thirty (30) days of final completion of the Project as determined by an inspector representing the City.

5.5.4 Acceptance of final payment shall constitute a waiver of all claims against the City by the Contractor except for those claims previously made in writing against the City by the Contractor, pending at the time of final payment, and identified in writing by the Contractor as unsettled at the time of its request for final payment.

## ARTICLE VI

## THE CITY

### 6.1 City Responsibility

6.1.1 Excluding permits and fees normally the responsibility of the Contractor, the City shall obtain all approvals, easements, and the like required for construction and shall pay for necessary assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

### 6.2 Right to Stop Work

6.2.1 If the Contractor persistently fails or refuses to perform the Work in accordance with this Contract, the City may order the Contractor to stop the Work, or any described portion thereof, until the cause for stoppage has been corrected no longer exists, or the City orders that Work be resumed. In such event, the Contractor shall immediately obey such order.

### 6.3 City's Right to Carry Out Work

6.3.1 If the City determines to order the Contractor to stop the Work under the provisions

of Paragraph 6.2, the City shall provide notice to the Contractor and the Contractor's surety under the performance bond that they have seven (7) days to provide adequate assurance to the City that the cause of such stoppage will be eliminated or corrected and provide the City with a plan to remedy the cause of such Work stoppage. If the Contractor and the surety fail within seven (7) days of such Work stoppage to provide such assurance, then the City may, without prejudice to any other rights or remedies the City may have against the Contractor, proceed to carry out the remedies necessary to eliminate or correct the cause of such Work stoppage. Upon proceeding to perform or cause to be performed any corrective actions, the City shall provide notice to the Contractor and the surety of action being taken by the City. In such a situation, an appropriate Change Order shall be issued deducting from the Contract Price the cost of correcting the subject deficiencies. If the unpaid portion of the Contract Price is insufficient to cover the amount due the City, the Contractor and the surety shall be responsible for paying the difference to the City.

## ARTICLE VII

## THE CONTRACTOR

### 7.1 Duties with Respect to Documents

7.1.1 The Contractor is again reminded of its continuing duty set forth in Subparagraph 1.6.7. The Contractor shall perform no part of the Work at any time without adequate Contract Documents or, as appropriate, approved shop drawings, product data or samples for such portion of the Work. If the Contractor performs any of the Work knowing it involves a recognized error, inconsistency or omission in the Contract Documents without such notice to the City, the Contractor shall bear responsibility for such performance and shall bear the cost of correction.

### 7.2 Manner of Performance

7.2.1 The Contractor shall perform the Work strictly in accordance with this Contract.

### 7.3 Supervision

7.3.1 The Contractor shall supervise and direct the Work using the Contractor's best skill, effort and attention. The Contractor shall be responsible to the City for any and all acts or omissions of the Contractor, its employees and others engaged in the Work on behalf of the Contractor.

### 7.4 Compliance

7.4.1 Equal Employment Opportunity

During performance of this Agreement, Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender, national origin, age, disability, or military or veteran status, or any other status or classification protected by applicable federal, state and local laws. This practice shall apply to all terms and conditions of employment, including but not limited to, hiring, placement, promotion, termination, layoff, recall, transfer, leave of absence, compensation, and training.

Contractor shall undertake equal employment opportunity efforts to ensure that applicants and employees are treated without regard to their race, color, religion, sex, sexual orientation, gender, national origin, age, disability, or military or veteran status, or any other status or classification protected by applicable federal, state and local laws. Contractor's equal employment opportunity efforts shall include, but not be limited to, all terms and conditions of employment, including but not limited to, hiring, placement, promotion, termination, layoff, recall, transfer, leave of absence, compensation, and training.

Contractor will, in all solicitations or advertisements for employees placed by, or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, sex, sexual orientation, gender, national origin, age, disability, or military or veteran status, or any other status or classification protected by applicable federal, state and local laws.

Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by the Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

7.4.2 The Contractor's performance of the Work shall comply with all federal and state legal requirements imposed on GDOT including specifically, but not limited to, the provisions governing GDOT's authority to contract, Sections 32-2-60 through 32-2-77 of the Official Code of Georgia Annotated; GDOT's Rules and Regulations Governing the Prequalification of Prospective Bidders, Chapter 672-5; and GDOT's Standard Specifications, Construction of Transportation Systems (current edition), and Special Provisions modifying them, except as noted in the General Conditions to the Contract including in the Contract Documents. The Contractor shall require all subcontracts for construction of the Project to incorporate the requirements of this Subparagraph.

7.4.3 The Contractor shall comply with and shall require its Subcontractors to comply with the regulations for compliance with Title VI of the Civil Rights Act of 1964, as amended, and 23 CFR 200, as stated in EXHIBIT D, NOTICE TO CONTRACTORS - COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, attached hereto and incorporated herein.

7.4.4 The Contractor shall certify that the provisions of Section 50-24-1 through 50-24-6 of the Official Code of Georgia Annotated relating to the "Drug-Free Workplace Act" have been complied with in full, in the form attached hereto as EXHIBIT E, CERTIFICATION OF SPONSOR - DRUG-FREE

WORKPLACE, and incorporated herein.

7.4.5 The Contractor shall execute a certification and shall cause all Subcontractors to execute a certification in the form of EXHIBIT F, CERTIFICATION OF CONTRACTOR – GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT, attached hereto and incorporated herein. Pursuant to the certification, Contractor agrees to comply with all applicable requirements of the Georgia Security and Immigration Compliance Act of 2006 as codified in O.C.G.A. Sections 13-10-90 and 13-10-91 and regulated in Chapter 300-10-1 of the Rules and Regulations of the State of Georgia, "Public Employers, Their Contractors and Subcontractors Required to Verify New Employee Work Eligibility Through a Federal Work Authorization Program," accessed at *http://www.dol.state.ga.us*.

7.4.6 The Contractor shall comply with and shall require its Subcontractors to comply with Section 25-9-1, et seq. of the Georgia Code Annotated, "Georgia Utility Facility Protection Act", CALL BEFORE YOU DIG 1-800-282-7411.

7.4.7 The Contractor shall comply with and shall cause its Subcontractors to comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330), as supplemented by Department of Labor Regulations (29 CFR Part 5).

7.4.8 The Contractor shall comply with and shall cause its Subcontractors to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented in Department of Labor Regulations (29 CFR, Part 3).

7.4.9 The Contractor acknowledges and agrees that the failure to complete appropriate certifications or the submission of a false certification as required herein shall result in the termination of this Agreement as provided in Article XII herein.

**7.5 Warranty**

7.5.1 The Contractor warrants to the City that all labor furnished to progress the Work under this Contract will be competent to perform the tasks undertaken, that the product of such labor will yield only first-class results, that materials and equipment furnished will be of good quality and new unless otherwise permitted by this Contract, and that the Work will be of good quality, free from faults and defects and in strict conformance with this Contract. All Work not conforming to these requirements may be considered defective. Unless otherwise specified in this Contract, acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the City's rights under any warranty or guarantee. The Contractor shall remedy all defects in the Work and pay for damage to the Work and/or to other City property resulting from defective Work, which shall appear within a minimum period of one (1) year from the date of acceptance of the Work under this Contract, unless a longer period is specified. The one (1) year warranty period shall begin after any repairs are performed, if needed.

**7.6 Permits, Inspections, Fees and Licenses**

Except as otherwise provided herein, the Contractor shall obtain and pay for all permits, inspections,

fees and licenses necessary and ordinary for the Work. The Contractor shall comply with all lawful requirements applicable to the Work and shall give and maintain any and all notices required by applicable law, ordinance, or regulation pertaining to the Work.

**7.7 Supervision**

7.7.1 The Contractor shall employ and maintain at the Project Site only competent supervisory personnel. Absent written instruction from the Contractor to the contrary, the superintendent shall be deemed the Contractor's authorized representative at the Project Site and shall be authorized to receive and accept any and all communications from the City.

**7.8 Schedules**

7.8.1 The Contractor shall submit to the City on a weekly basis a Schedule of Work to be performed for the next two (2) weeks. The Schedule of Work must be delivered to the City each Thursday no later than 12:00 noon. The Contractor's Schedule of Work shall be prepared in such form, with such detail, and supported by such data as the City may require. The City reserves the right to prohibit Work on any section of the Project not included in the weekly Schedule of Work. The Schedule of Work must accurately represent the intended Work and cannot be vague or broad, such as listing all Work in the Contract. The violation of this provision by the Contractor shall constitute a material breach of this Contract. THE PARTIES SPECIFICALLY AGREE THAT ANY FLOAT CONTAINED IN THE SCHEDULES SHALL BELONG TO THE PROJECT AND IN NO EVENT SHALL THE CONTRACTOR MAKE CLAIM FOR ANY ALLEGED DELAY, ACCELERATION, OR EARLY COMPLETION SO LONG AS THE PROJECT IS COMPLETED WITHIN THE CONTRACT TIME. Strict compliance with the requirements of this Paragraph is a condition precedent for payment to the Contractor, and failure by the Contractor to strictly comply with said requirements shall constitute a material breach of this Contract.

**7.9 Contract to be maintained at Project Site**

The Contractor shall continuously maintain at the Project Site, for the benefit of the City, one record copy of this Contract marked to record on a current basis changes, selections and modifications made during construction. Additionally, the Contractor shall maintain at the Project Site for the City the approved shop drawings, product data, samples and other similar required submittals. Upon final completion of the Work, all of these record documents shall be delivered to the City.

**7.10 Shop Drawings, Product Data and Samples**

7.10.1 Shop drawings, product data, samples and other submittals from the Contractor do not constitute Contract Documents. Their purpose is merely to demonstrate the manner in which the Contractor intends to implement the Work in conformance with information received from the Contract Documents.

7.10.2 The Contractor shall not perform any portion of the Work requiring submittal and review of shop drawings, product data or samples unless and until such submittal shall have been approved by the City. Approval by the City, however, shall not be evidence that Work installed pursuant thereto

conforms with the requirements of this Contract.

**7.11 Cleaning the Project Site and the Project**

7.11.1 The Contractor shall keep the Project Site reasonably clean during performance of the Work. Upon final completion of the Work, the Contractor shall clean the Project Site and the Project and remove all waste, together with all of the Contractor's property from the Project Site.

**7.12 Access to Work**

7.12.1 Access to the Work shall be given to the City, GDOT and any affected federal agency requiring access to the Work at all times from commencement of the Work through final completion. The Contractor shall take whatever steps necessary to provide access when requested.

**7.13 Indemnity**

7.13.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the City and GDOT, their boards, officials, directors, officers, employees, representatives, agents, and volunteers from and against all liability, claims, damages, losses and expenses, including attorneys' fees, arising out of or resulting from performance of the Work, provided that such liability, claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such liability, claim, damage, loss or expense is caused in part by a party indemnified hereunder.

7.13.2 In claims against any person or entity indemnified under this Paragraph 7.13 by an employee of the Contractor, a Subcontractor, any one directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 7.13 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

7.13.3 The Contractor shall ensure that the provisions of this Paragraph 7.13 are included in all contracts and subcontracts for the performance of Work under this Agreement.

**7.14 Means, Methods, Techniques, Sequences, Procedures and Safety**

7.14.1 The Contractor is fully responsible for, and shall have control over, all construction means, methods, techniques, sequences, procedures and safety, and shall coordinate all portions of the Work required by the Contract Documents. The Contractor shall confine its apparatus, material and the operations of its workers to limits/requirements indicated by law, ordinances, permits, codes and any restrictions of the City, and shall not unreasonably encumber the premises with its materials or supplies.

The Contractor shall adequately protect its own property from damage, will protect the City's property from damage or loss, and will take all necessary precautions during the progress of the work to protect all persons and the property of others from injury or damage. The Contractor shall take all precautions for the safety of employees, and shall comply with all applicable provisions of Federal, State and local safety laws, building codes and any restrictions of the City to prevent accidents or injury to persons on, about, or adjacent to the premises where work is being performed.

The Contractor shall erect and properly maintain at all times as required by the conditions, service and work, all necessary safeguards for the protection of its employees, the Contractor's employees, and the public, and shall post signs warning against potential hazards.

**7.15 Separate Contracts**

7.15.1 The City reserves the right to perform work on the premises with its own forces or by the use of other contractors. In such event, the Contractor shall fully cooperate with the City and such other contractors and shall coordinate, schedule and manage its work so as not to hinder, delay or otherwise interfere with the separate work of the City or other contractors.

**7.16 Maintenance of Contract Cost Records**

7.16.1 The Contractor shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred on the Project and used in support of its Bid and shall make such material available at all reasonable times during the period of the Contract, and for three (3) years from the date of final payment under the Contract, for inspection by GDOT and any reviewing agencies, and copies thereof shall be furnished upon request. The Contractor agrees that the provisions of this Subparagraph shall be included in any agreement it may make with any Subcontractor, assignee, or transferee.

## ARTICLE VIII

## CONTRACT ADMINISTRATION

**8.1 Claims by the Contractor**

8.1.1 All Contractor claims shall be initiated by written notice and claim to the City. Such written notice and claim must be furnished within seven (7) days after occurrence of the event, or the first appearance of the condition, giving rise to the claim.

8.1.2 Pending final resolution of any claim of the Contractor, the Contractor shall diligently proceed with performance of this Contract and the City shall continue to make payments to the Contractor in accordance with this Contract. The resolution of any claim under this Paragraph 8.1 shall be reflected by a Change Order executed by the City and the Contractor.

8.1.3 **Claims for Concealed and Unknown Conditions** -- Should concealed and unknown

conditions encountered in the performance of the Work (a) below the surface of the ground or (b) in an existing structure be at variance with the conditions indicated by this Contract, or should unknown conditions of an unusual nature differing materially from those ordinarily encountered in the area and generally recognized as inherent in Work of the character provided for in this Contract, be encountered, the Contract Price shall be equitably adjusted by Change Order upon the written notice and claim by either party made within seven (7) days after the first observance of the condition. As a condition precedent to the City having any liability to the Contractor for concealed or unknown conditions, the Contractor must give the City written notice of, and an opportunity to observe, the condition prior to disturbing it. The failure by the Contractor to make the written notice and claim as provided in this Subparagraph shall constitute a waiver by the Contractor of any claim arising out of or relating to such concealed or unknown condition.

8.1.4 **Claims for Additional Costs** -- If the Contractor wishes to make a claim for an increase in the Contract Price, as a condition precedent to any liability of the City therefor, the Contractor shall give the City written notice of such claim within seven (7) days after the occurrence of the event, or the first appearance of the condition, giving rise to such claim. Such notice shall be given by the Contractor before proceeding to execute any additional or changed Work. The failure by the Contractor to give such notice prior to executing the Work shall constitute a waiver of any claim for additional compensation.

8.1.4.1 In connection with any claim by the Contractor against the City for completion in excess of the Contract Price, any liability of the City shall be strictly limited to direct costs incurred by the Contractor and shall in no event include indirect costs or consequential damages of the Contractor. The City shall not be liable to the Contractor for claims of third parties, including Subcontractors, unless and until liability of the Contractor has been established therefor in a court of competent jurisdiction.

8.1.5 **Claims for Additional Time** -- If the Contractor is delayed in progressing any task which at the time of the delay is then critical or which during the delay becomes critical, as the sole result of any act or neglect to act by the City or someone acting in the City's behalf, or by changes ordered in the Work, unusual delay in transportation, unusually adverse weather conditions not reasonably anticipatable, fire or any causes beyond the Contractor's control, then the date for achieving Substantial Completion of the Work shall be extended upon the written notice and claim of the Contractor to the City, for such reasonable time as the City may determine. Any notice and claim for an extension of time by the Contractor shall be made not more than seven (7) days after the occurrence of the event or the first appearance of the condition giving rise to the claim and shall set forth in detail the Contractor's basis for requiring additional time in which to complete the Project. In the event the delay to the Contractor is a continuing one, only one notice and claim for additional time shall be necessary. If the Contractor fails to make such claim as required in this Subparagraph, any claim for an extension of time shall be waived.

**8.1.6 Extension of Contract Time for Unusually Adverse Weather Conditions Not Reasonably Anticipated**

8.1.6.1 The parties hereto recognize that work performed outside will at times be subject to adverse

weather conditions. Further, the parties hereto agree that usual weather conditions include adverse weather that may impact scheduled work and that time has been factored in to the Contract Time to account for such adverse weather. Cumulative to the provisions of subparagraph 8.1.5 of this Contract Agreement, Contract Time may be extended for unusually adverse weather conditions that prevent the performance of scheduled work. For the avoidance of doubt, "scheduled work" shall only include work impacted by adverse weather that was made part of the most recent Schedule of Work submitted to and accepted by the City pursuant to subparagraph 7.8.1. For the further avoidance of doubt, "unusually adverse" shall only mean days in excess of the days factored in to the Contract Time for usual adverse weather for each month as follows: January (7 days), February (6 days), March (5 days), April (3 days), May (3 days), June (2 days), July (1 day), August (3 days), September (3 days), October (2 days), November (4 days), and December (5 days). Contract Time may not be extended for days lost due to adverse weather conditions within these limits. In addition to the requirements set forth in Subparagraph 8.1.5, the Contractor's written notice and claim for extension of time shall include a description of the adverse weather, the nature and extent of the delay caused by such weather, official weather reports, and other supporting documentation as the City may reasonably require. To extent that any of the terms and conditions set forth in this paragraph are in conflict with any of the terms and conditions of subparagraph 8.1.5, the terms and conditions of this paragraph shall govern and control.

## ARTICLE IX

## SUBCONTRACTORS

### 9.1 Definition

9.1.1 A Subcontractor is an entity which has a direct contract with the Contractor to perform a portion of the Work.

### 9.2 Award of Subcontracts

9.2.1 Upon execution of the Contract, the Contractor shall furnish the City, in writing, the names of persons or entities proposed by the Contractor to act as a Subcontractor on the Project. The City shall promptly reply to the Contractor, in writing, stating any objections the City may have to such proposed Subcontractor. The Contractor shall not enter into a Subcontract with a proposed Subcontractor with reference to whom the City has made timely objection. The Contractor shall not be required to subcontract with any party to whom the Contractor has objection.

9.2.2 All subcontracts shall afford the Contractor rights against the Subcontractor which correspond to those rights afforded to the City against the Contractor herein, including those rights afforded to the City by Subparagraph 12.2.1 below.

9.2.3 All subcontracts shall comply with the requirements of Paragraph 7.4 above.

9.2.4 All subcontractors including DBE firms are to be GDOT registered subcontractors or prequalified contractors.

## ARTICLE X

## CHANGES IN THE WORK

### 10.1 Changes Permitted

10.1.1 Changes in the Work within the general scope of this Contract, consisting of additions, deletions, revisions, or any combination thereof, may be ordered without invalidating this Contract, by Change Order or by Field Order.

10.1.2 Changes in the Work shall be performed under applicable provisions of this Contract and the Contractor shall proceed promptly with such changes.

### 10.2 Change Order Defined

10.2.1 Change Order shall mean a written order to the Contractor executed by the City, issued after execution of this Contract, authorizing and directing a change in the Work or an adjustment in the Contract Price or the Contract Time, or any combination thereof. The Contract Price and the Contract Time may be changed only by Change Order.

### 10.3 Changes in the Contract Price

10.3.1 Any change in the Contract Price resulting from a Change Order shall be determined as follows by mutual agreement between the City and the Contractor as evidenced by (1) the change in the Contract Price being set forth in the Change Order, (2) such change in the Contract Price, together with any conditions or requirements related thereto, being initialed by both parties and (3) the Contractor's execution of the Change Order.

10.3.2 If unit prices are provided in the Contract, and if the quantities contemplated are so changed in a proposed Change Order that application of such unit prices to the quantities of Work proposed will cause substantial inequity to the City or to the Contractor, the applicable unit prices shall be equitably adjusted.

### 10.4 Effect of Executed Change Order

10.4.1 The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work, this Contract as thus amended, the Contract Price and the Contract Time. The Contractor, by executing the Change Order, waives and forever releases any claim against the City for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order.

### 10.5 Notice to Surety; Consent

10.5.1 The Contractor shall notify and obtain the consent and approval of the Contractor's surety with reference to all Change Orders if such notice, consent or approval are required by the Contractor's surety or by law. The Contractor's execution of the Change Order shall constitute the Contractor's warranty to the City that the surety has been notified of and consents to, such Change Order and the surety shall be conclusively deemed to have been notified of such Change Order and to have expressly consented thereto.

## ARTICLE XI

## UNCOVERING AND CORRECTING WORK

### 11.1 Uncovering Work

11.1.1 If any of the Work is covered contrary to the City's request or to any provisions of this Contract, it shall, if required by the City, be uncovered for the City's inspection and shall be properly replaced at the Contractor's expense without change in the Contract Time.

11.1.2 If any of the Work is covered in a manner not inconsistent with Subparagraph 11.1.1 above, it shall, if required by the City, be uncovered for the City's inspection. If such Work strictly conforms with the provisions of this Contract, costs of uncovering and proper replacement shall by Change Order be charged to the City. If such Work does not strictly conform with the provisions of this Contract, the Contractor shall pay the costs of uncovering and proper replacement.

### 11.2 Correcting Work

11.2.1 The Contractor shall immediately proceed to correct Work rejected by the City as defective or failing to conform to this Contract. The Contractor shall pay all costs and expenses associated with correcting such rejected Work, including any additional testing and inspections, and reimbursement to the City for services and expenses made necessary thereby, if any.

11.2.2 If within one (1) year after Substantial Completion of the Work any of the Work is found to be defective or not in accordance with this Contract, the Contractor shall correct it promptly upon receipt of written notice from the City. This obligation shall survive final payment by the City and termination of this Contract. With respect to Work first performed and completed after Substantial Completion, this one (1) year obligation to specifically correct defective and nonconforming Work shall be extended by the period of time which elapses between Substantial Completion and final completion of the subject Work.

11.2.3 Nothing contained in this Paragraph 11.2 shall establish any period of limitation with respect to other obligations which the Contractor has under this Contract. Establishment of the one (1) year time period in Subparagraph 11.2.2 relates only to the duty of the Contractor to specifically correct the Work.

### 11.3 City May Accept Defective or Nonconforming Work

11.3.1 If the City chooses to accept defective or nonconforming Work, the City may do so. In such event, the Contract Price shall be reduced by the greater of (a) the reasonable cost of removing and correcting the defective or nonconforming Work, and (b) the difference between the fair market value of the Project as constructed and the fair market value of the Project had it not been constructed in such a manner as to include defective or nonconforming Work. If the remaining portion of the unpaid Contract Price, if any, is insufficient to compensate the City for its acceptance of defective or nonconforming Work, the Contractor shall, upon written demand from the City, pay the City such remaining compensation for accepting defective or nonconforming Work.

## ARTICLE XII

## CONTRACT TERMINATION

### 12.1 Termination by the Contractor

12.1.1 If the Work is stopped for a period of ninety (90) days by an order of any court or other public authority, or as a result of an act of the government, through no fault of the Contractor or any person or entity working directly or indirectly for the Contractor, the Contractor may, upon ten (10) days' written notice to the City, terminate performance under this Contract and recover from the City payment for the actual reasonable expenditures of the Contractor (as limited in Subparagraph 10.3.2 above) for all Work executed and for materials, equipment, tools, construction equipment and machinery actually purchased or rented solely for the Work, less any salvage value of any such items.

12.1.2 If the City shall persistently or repeatedly fail to perform any material obligation to the Contractor for a period of fifteen (15) days after receiving written notice from the Contractor of its intent to terminate hereunder, the Contractor may terminate performance under this Contract by written notice to the City. In such event, the Contractor shall be entitled to recover from the City as though the City had terminated the Contractor's performance under this Contract for convenience pursuant to Subparagraph 12.2.1 hereunder.

### 12.2 Termination by the City

12.2.1 For Convenience

12.2.1.1 The City may for any reason whatsoever terminate performance under this Contract by the Contractor for convenience. The City shall give written notice of such termination to the Contractor specifying when termination becomes effective.

12.2.1.2 The Contractor shall incur no further obligations in connection with the Work and the Contractor shall stop Work when such termination becomes effective. The Contractor shall also terminate outstanding orders and subcontracts. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The City may direct the Contractor to assign

the Contractor's right, title and interest under terminated orders or subcontracts to the City or its designee.

12.2.1.3 The Contractor shall transfer title and deliver to the City such completed or partially completed Work and materials, equipment, parts, fixtures, information and Contract rights as the Contractor has.

12.2.1.4

(a) The Contractor shall submit a termination claim to the City specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the City. If the Contractor fails to file a termination claim within one (1) year from the effective date of termination, the City shall pay the Contractor an amount derived in accordance with sub-paragraph (c) below.

(b) The City and the Contractor may agree to the compensation, if any, due to the Contractor hereunder.

(c) Absent agreement to the amount due to the Contractor, the City shall pay the Contractor the following amounts:

(i) Contract prices for labor, materials, equipment and other services accepted under this Contract;

(ii) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the Work, and in terminating the Contractor's performance, plus a fair and reasonable allowance for overhead and profit thereon (such profit shall not include anticipated profit or consequential damages); provided however, that if it appears that the Contractor would have not profited or would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any;

(iii) Reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Subparagraph 12.2.1.2 of this Paragraph. These costs shall not include amounts paid in accordance with other provisions hereof.

The total sum to be paid the Contractor under this Subparagraph 12.2.1 shall not exceed the total Contract Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

12.2.2 **For Cause**

12.2.2.1 If the Contractor persistently or repeatedly refuses or fails to prosecute the Work in a timely

manner, supply enough properly skilled workers, supervisory personnel or proper equipment or materials, or if it fails to make prompt payment to Subcontractors or for materials or labor, or persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise is guilty of a substantial violation of a material provision of this Contract, then the City may by written notice to the Contractor and the surety, without prejudice to any other right or remedy, terminate the employment of the Contractor and take possession of the Project Site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and may proceed to carry out the remedies necessary to finish the Work by whatever methods it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished.

12.2.2.2 If the unpaid balance of the Contract Price exceeds the cost of finishing the Work, including compensation for additional services and expenses made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the City. This obligation for payment shall survive the termination of the Contract.

12.2.2.3 In the event the employment of the Contractor is terminated by the City for cause pursuant to Subparagraph 12.2.2 and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under Subparagraph 12.2.1 and the provisions of Subparagraph 12.2.1 shall apply.

## ARTICLE XIII

## INSURANCE

### 13.1 Insurance Requirements

13.1.1 Prior to beginning Work on the Project, the Contractor shall procure and maintain for the duration of this Contract, and for one (1) years thereafter, at its sole cost and expense such insurance as will fully protect it and the City and the City's boards, officials, directors, officers, employees, representatives, agents, and volunteers from incidents, accidents and claims for personal injury, bodily injury, and property damage which may arise from or in connection with the performance of the work and for the Contractor's professional liability (errors and omissions) under this Contract, whether such services and work are performed by the Contractor, its agents, representatives, employees, or by any subcontractor or any tier directly employed or retained by either. The following is the minimum insurance and limits that the Contractor must maintain. If the Contractor maintains higher limits than the minimums shown below, the City requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

All of the insurance herein specified shall be written on a form acceptable to the City and shall be A.M. Best Company rated A X or greater. See EXHIBIT G, INSURANCE REQUIREMENTS attached hereto and incorporated herein.

13.1.2 All such insurance shall remain in effect until final payment is made and the Project is accepted by the City. If the Contractor receives notice of non-renewal or material adverse change of

any of the required coverages, the Contractor shall promptly advise the City in writing. Failure of the Contractor to promptly notify the City on non-renewal or material adverse change of any of the required coverages terminates the Agreement as of the date that the Contractor should have given notification to the City. The insurance policies shall contain or be endorsed to contain, the following provisions:

(a) A provision that coverage afforded under such policies shall not expire, be canceled or altered without at least thirty (30) days prior written notice to the City.

(b) Workers' Compensation and Employer's Liability and Property insurance policies shall contain a waiver of subrogation in favor of the City and the City's boards, officials, directors, officers, employees, representatives, agents, and volunteers.

(c) Commercial General Liability, Automobile Liability Contractors' Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) insurance policies shall include an endorsement making the City and the City's boards, officials, directors, officers, employees, representatives, agents, and volunteers Additional Insureds under such policies.

A copy of these endorsements shall be provided to the City.

Certificates of Insurance showing that such coverage is in force shall be filed under this Contract by the Contractor to the City.

The obligations for the Contractor to procure and maintain insurance shall not be construed to waive or restrict other obligations and it is understood that insurance in no way limits liability of the Contractor whether or not same is covered by insurance.

13.1.3 If the City has any objections to the coverage afforded by or provisions of the insurance required to be purchased and maintained by the Contractor, the City will notify the Contractor thereof within twenty (20) days of the date of delivery of such certificates to the City.

13.1.4 The Contractor shall provide to the City such additional information in respect of insurance provided by it as the City may reasonably request. The right of the City to review and comment on certificates of insurance is not intended to relieve the Contractor of his responsibility to provide insurance coverage as specified nor to relieve the Contractor of his liability for any claims which might arise.

13.1.5 The Contractor agrees to require its Subcontractors to obtain insurance complying with the requirements the requirements of the Contract Documents.

## ARTICLE XIV

## DISPUTES

No civil action with respect to any dispute, claim or controversy arising out of or relating to this Contract may be commenced without first giving fourteen (14) calendar days written notice to Sandy Springs of the claim and the intent to initiate a civil action.

## ARTICLE XV

## INDEPENDENT CONTRACTOR

### 15.1 Relationship between Contractor and City

15.1.1 The Contractor shall perform the services under this Agreement as an independent contractor and nothing contained herein shall be construed to be inconsistent with such relationship or status. Nothing in this Agreement shall be interpreted or construed to constitute the Contractor or any of its agents or employees to be the agent, employee or representative of the City. Inasmuch as the City and the Contractor are contractors independent of one another, neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other, unless otherwise expressly agreed to in writing signed by both parties hereto. The Contractor agrees not to represent itself as the City's agent for any purpose to any party or to allow any employee or agent of the Contractor to do so, without specific prior written authorization from the City, and then only for the limited purpose stated in such authorization.

15.1.2 The Contractor shall assume full liability for any contracts or agreements that the Contractor enters into on behalf of the City without the express knowledge and prior written authorization of the City.

## ARTICLE XVI

## COVENANT AGAINST CONTINGENT FEES

### 16.1 Warranty by Contractor

16.1.1 Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for any fee, commission, percentage, brokerage or contingent fee, gift or other consideration, excepting bona fide employees maintained by Contractor for the purpose of securing business and that Contractor has not received any non-City fee related to this Agreement without the prior written consent of the City.

16.1.2 For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability or at its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of any such fee, commission, percentage, brokerage or contingent fee, gift

or other consideration.

## ARTICLE XVII

## MISCELLANEOUS

### 17.1 Governing Law

17.1.1 The Contract shall be administered and interpreted under the laws of the State of Georgia. Jurisdiction of litigation arising from this Agreement shall be in Georgia. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in full force and effect.

Whenever reference is made in the Agreement to standards or codes in accordance with which work is to be performed, the edition or revision of the standards or codes current on the effective date of this Agreement shall apply, unless otherwise expressly stated.

### 17.2 Successors and Assigns

17.2.1 The City and Contractor bind themselves, their successors, assigns and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in this Contract. The Contractor shall not assign this Contract without written consent of the City.

### 17.3 Surety Bonds

17.3.1 The Contractor shall furnish separate performance and payment bonds to the City. Each bond shall set forth a penal sum in an amount not less than the Contract Price. Each bond furnished by the Contractor shall incorporate by reference the terms of this Contract as fully as though they were set forth verbatim in such bonds. In the event the Contract Price is adjusted by Change Order executed by the Contractor, the penal sum of both the performance bond and the payment bond shall be deemed increased by like amount. The performance and payment bonds furnished by the Contractor shall be in form suitable to the City and shall be executed by a surety, or sureties, reasonably suitable to the City. Bonds shall be issued by a corporate surety appearing on the Treasury Department's most current list (Circular 570, as amended) and be authorized to do business in the State of Georgia. The date of the bond must not be prior to the date of the Agreement. If the Contractor is a partnership, all partners shall execute the bond.

It is mutually agreed by the parties hereto that if at any time after execution of this Agreement and the surety bonds for its faithful performance, the City shall deem the surety or sureties upon such bonds to be unsatisfactory, or if for any reason such bonds cease to be adequate to cover the performance of the Work, the Contractor shall, at its expense, within five (5) days after receipt of notice from the City to do so, furnish an additional bond or bonds in such form and amount and with such surety or sureties as shall be satisfactory to the City. In such event, no further payment to the Contractor shall be deemed due under this Agreement until such new or additional security for the faithful performance of the Work shall be furnished in manner and form satisfactory to the City.

**17.4 Notices**

**If to the City:**

Andrea Surratt, City Manager
1 Galambos Way
Sandy Springs, Georgia 30328

**With copies to:**

Dan Lee, City Attorney
1 Galambos Way
Sandy Springs, Georgia 30328

**If to Contractor:**

Contractor Contact, Title
Address
City, State Zip

**With copies to:**

_____
_____
_____
_____

**IN WITNESS WHEREOF**, the parties hereto, acting through their duly authorized agents, have signed and sealed this Agreement.

**CITY OF SANDY SPRINGS, GEORGIA**

By: _____
Andrea Surratt, City Manager

_____
Date of Execution

ATTEST:

By: _____
City Clerk

(SEAL)

Approved as to Form:

By: _____
City Attorney

**CONTRACTOR**

_____
Date of Execution

By: _____
Name:

_____
(Typed or printed name)

_____
Title

ATTEST:

By: _____
Secretary for Corporation

(SEAL)

_____
Witness

Executed in originals of one (1).

**EXHIBIT A**
**TO CONTRACT AGREEMENT**

**SCOPE OF SERVICES**

**EXHIBIT B**
**TO CONTRACT AGREEMENT**

**BID SCHEDULE**

**EXHIBIT C**
**TO CONTRACT AGREEMENT**

**BID PRICE CERTIFICATION**

In compliance with the attached Specification, the undersigned offers and agrees that if this Bid is accepted, by the City Council within one hundred and twenty (120) days of the date of Bid opening, that he will furnish any or all of the Items upon which Prices are quoted, at the Price set opposite each Item, delivered to the designated point(s) within the time specified in the Bid Schedule.

TOTAL BID PRICE: _____

TOTAL BID PRICE IN WORDS: _____

COMPANY: _____

ADDRESS: _____

AUTHORIZED SIGNATURE: _____

EMAIL ADDRESS: _____

PRINT / TYPE NAME:_____

**EXHIBIT D**
**TO CONTRACT AGREEMENT**

**NOTICE TO CONTRACTORS**
**COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

During the performance of this Contract, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

1. Compliance with Regulations: The Contractor will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of the Contract.

2. Nondiscrimination: The Contractor, with regard to the work performed by it afterward and prior to completion of the contract work, will not discriminate on the ground of race, color, sex, or national origin in the selection and retention of subcontracts including procurements of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when contract covers a program set forth in Appendix B of the Regulations. In addition, the Contractor will not participate either directly or indirectly in discrimination prohibited by 23 CFR 710.405 (b).

3. Solicitations for subcontracts, including procurements of materials and equipment: In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Contract and the Regulations relative to nondiscrimination on the ground of race, color, national origin or sex.

4. Information and Reports: The Contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the Department of Transportation shall impose

such Contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

(a) withholding of payments to the Contractors under the Contract until the Contractor complies, and/or

(b) Cancellation, termination or suspension of the Contract, in whole or in part.

6. Incorporation of Provisions: The Contractor will include the provisions of paragraph (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, orders or instruction issued pursuant thereto. The Contractor will take such action with respect to any subcontract or procurement as the Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as result of such direction, the Contractor may request the State to enter into such litigation to protect the interests of the State, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

**EXHIBIT E**
**TO CONTRACT AGREEMENT**

**CERTIFICATION OF SPONSOR**
**DRUG-FREE WORKPLACE**

I hereby certify that I am a principal and duly authorized representative of _____, ("Contractor"), whose address is _____, _____, _____ _____, and I further certify that:

(1) The provisions of Section 50-24-1 through 50-24-6 of the Official Code of Georgia Annotated, relating to the "Drug-Free Workplace Act" have been complied with in full; and

(2) A drug-free workplace will be provided for Contractor's employees during the performance of the Agreement; and

(3) Each Subcontractor hired by Contractor shall be required to ensure that the subcontractor's employees are provided a drug-free workplace. Contractor shall secure from that subcontractor the following written certification: "As part of the subcontracting agreement with Contractor, _____ certifies to Contractor that a drug-free workplace will be provided for the Subcontractor's employees during the performance of this Agreement pursuant to paragraph (7) of subsection (b) of the Official Code of Georgia Annotated, Section 50-24-3"; and

(4) The undersigned will not engage in unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the Agreement.

CONTRACTOR:

Date: _____ Signature: _____
Title: _____

**EXHIBIT F**
**TO CONTRACT AGREEMENT**

**CERTIFICATION OF CONTRACTOR**
**GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT**

I hereby certify that I am a principal and duly authorized representative of _____, ("Contractor"), whose address is _____, _____, _____ _____.

Contractor hereby agrees to comply with all applicable provisions and requirements of the Georgia Security and Immigration Compliance Act of 2006 (the "Act"), as codified in O.C.G.A. Sections 13-10-90 and 13-10-91 and regulated in Chapter 300-10-1 of the Rules and Regulations of the State of Georgia, "Public Employers, Their Contractors and Subcontractors Required to Verify New Employee Work Eligibility Through a Federal Work Authorization Program," accessed at *http://www.dol.state.ga.us*, as further set forth below.

Contractor agrees to verify the work eligibility of all of newly hired employees through the U.S. Department of Homeland Security's *Employment Eligibility Verification (EEV) / Basic Pilot Program*, accessed through the Internet at *https://www.vis-dhs.com/EmployerRegistration*, in accordance with the provisions and timeline found in O.C.G.A. 13-10-91 and Rule 300-10-1-.02 of the Rules and Regulations of the State of Georgia. As of July 1, 2007, the verification requirement applies to contractors and subcontractors with five-hundred (500) or more employees.

Contractor understands that the contractor and subcontractor requirements of the Act apply to contracts for, or in connection with, the physical performance of services within the State of Georgia.

Contractor understands that the following contract compliance dates set forth in the Act apply to the Contract Agreement, pursuant to O.C.G.A. 13-10-91:

On or after July 1, 2007, to public employers, contractors, or subcontractors of 500 or more employees;

On or after July 1, 2008, to public employers, contractors, or subcontractors of 100 or more employees; and

On or after July 1, 2009, to all other public employers, their contractors, and subcontractors.

To document the date on which the Act is applicable to Contractor, and to document Contractor's compliance with the Act, the undersigned agrees to initial one of the three (3) lines below

indicating the employee number category applicable to Contractor, and to submit the indicated affidavit with the Contract Agreement if the Contractor has 500 or more employees.

Contractor has:

____ 500 or more employees [Contractor must register with the *Employment/Eligibility Verification/Basic Pilot Program* and begin work eligibility verification on July 1, 2007];

____ 100-499 employees [Contractor must register with the *Employment Eligibility Verification/Basic Pilot Program* and begin work eligibility verification by July 1, 2008]; or

____ 99 or fewer employees [Contractor must begin work eligibility verification by July 1, 2009].

Contractor further agrees to require O.C.G.A. Sections 13-10-90 and 13-10-91 compliance in all written agreements with any subcontractor employed by Contractor to provide services connected with the Contract Agreement, as required pursuant to O.C.G.A. 13-10-91.

Contractor agrees to obtain from any subcontractor that is employed by Contractor to provide services connected with the Contract Agreement, the subcontractor's indication of the employee number category applicable to the subcontractor.

Contractor agrees to secure from any subcontractor engaged to perform services under this Contract an executed "Subcontractor Affidavit," as required pursuant to O.C.G.A. 13-10-91 and Rule 300-10-1-.08 of the Rules and Regulations of the State of Georgia, which rule can be accessed at *http://www.dol.state.ga.us*.

Contractor agrees to maintain all records of the subcontractor's compliance with O.C.G.A. Sections 13-10-90 and 13-10-91 and Chapter 300-10-1 of the Rules and Regulations of the State of Georgia.

CONTRACTOR:

Date: _____ Signature: _____

Title: _____

**EXHIBIT G**
**TO CONTRACT AGREEMENT**

**INSURANCE REQUIREMENTS**

Within 10 days of Notice of Award, and at all times that this Contract is in force, the Contractor shall obtain, maintain and furnish the City Certificates of Insurance from licensed companies doing business in the State of Georgia with an A.M. Best Rating A-10 or higher and acceptable to the City covering:

1. Workers' Compensation & Employer's Liability Insurance. Workers' Compensation Insurance in compliance with the applicable Workers' Compensation Act(s) of the state(s) wherein the work is to be performed or where jurisdiction could apply in amounts required by statutes. Employer's Liability Insurance, with limits of liability of not less than $1,000,000 per accident for bodily injury or disease.

2. Commercial General Liability Insurance, including contractual liability insurance, product and completed operations, personal and advertising injury, and any other type of liability for which this Contract applies with limits of liability of not less than $1,000,000 each occurrence / $2,000,000 policy aggregate for personal injury, bodily injury, and property damage. Commercial General Liability Insurance shall be written on an "occurrence" form.

3. Automobile Liability Insurance with limits of liability of not less than $1,000,000 per accident for bodily injury and property damage if automobiles are to be used in the delivery of or in the completion of services and work or driven onto the City's property. Insurance shall include all owned, non-owned and hired vehicle liability.

4. Umbrella Insurance with limits of liability excess of Employer's Liability Insurance, Commercial General Liability Insurance and Automobile Liability Insurance in the amount of not less than $3,000,000.

5. Contractors' Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits not less than $1,000,000 per occurrence or claim, and $2,000,000 policy aggregate.

6. Professional (Errors and Omissions) Insurance- For Professional Services and for all Design/Build Projects with limits of liability of not less than $3,000,000 per occurrence or claim / $3,000,000 policy aggregate. Such policy shall also include coverage for losses arising from the breach of information security or cyber liability (including Errors & Omissions, Security and Privacy Liability and Media Liability), whether combined with the Professional Liability policy or placed as a separate policy, but carrying the same limits of liability. Such coverage shall insure damage, injury and loss caused by error, omission or negligent acts, including all prior acts without limitation, related to the professional services to be provided under this Contract. The policy shall be amended to include independent contractors providing professional services on behalf of or at the direction of the Contractor. The definition of Contractual Liability shall be amended to state that liability under a contract of professional services is covered. Further, coverage shall be afforded for fraudulent acts, misappropriation of trade secrets, internet professional services, computer attacks, personal injury, regulatory actions, wrongful acts, contractual liability, privacy policy, and insured versus insured. The Contractor shall ensure that coverage

under this policy continues for a period of thirty-six (36) months after completion of services.

7. Fidelity Bond (Employee Dishonesty) in the sum of not less than $50,000.

All such insurance shall remain in effect until final payment is made and the Project is accepted by the City. If the Contractor receives notice of non-renewal or material adverse change of any of the required coverages, the Contractor shall promptly advise the City in writing. Failure of the Contractor to promptly notify the City on non-renewal or material adverse change of any of the required coverages terminates the Agreement as of the date that the Contractor should have given notification to the City. The insurance policies shall contain or be endorsed to contain, the following provisions:

(a) A provision that coverage afforded under such policies shall not expire, be canceled or altered without at least thirty (30) days prior written notice to the City.
(b) Workers' Compensation and Employer's Liability and Property insurance policies shall contain a waiver of subrogation in favor of the City and the City's boards, officials, directors, officers, employees, representatives, agents, and volunteers.
(c) Commercial General Liability, Automobile Liability Contractors' Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) insurance policies shall include an endorsement making the City and the City's boards, officials, directors, officers, employees, representatives, agents, and volunteers Additional Insureds under such policies.

A copy of these endorsements shall be provided to the City.

Certificates of Insurance showing that such coverage is in force shall be filed under this Contract by the Contractor to the City.

The obligations for the Contractor to procure and maintain insurance shall not be construed to waive or restrict other obligations and it is understood that insurance in no way limits liability of the Contractor whether or not same is covered by insurance.

Certificate Holder should read: The City of Sandy Springs, 1 Galambos Way, Sandy Springs, Georgia 30328.

**EXHIBIT H**
**TO CONTRACT AGREEMENT**
**SPECIAL PROVISIONS**

**EXHIBIT I**
**TO CONTRACT AGREEMENT**

**NOTICE TO CONTRACTORS**
**COMPLIANCE WITH ELECTRICAL SAFETY PROVISIONS**
**(Bidder to sign and return)**

I hereby certify that I am a principal and duly authorized representative of _____, ("Contractor"), whose address is _____, _____, _____ _____, and I further certify that:

(1) The provisions of Section 46-3-30 of the Official Code of Georgia Annotated, relating to the "High Voltage Safety Act" will be complied with in full; and

(2) The provisions of OSHA 29CFR1910.333(c) relating to work near high voltage power lines; and

(3) The provisions of Part 4 of the National Electrical Safety Code.

(3) The Contractor shall be required to ensure that each subcontractor hired is in compliance with the provisions listed above.

CONTRACTOR:

Date: _____ Signature: _____
Title: _____

**EXHIBIT J**
**TO CONTRACT AGREEMENT**
**AFFIDAVIT VERIFYING STATUS FOR CITY PUBLIC BENEFIT APPLICATION**

By executing this affidavit under oath, as an applicant for a City of Sandy Springs, Georgia Business License or Occupation Tax Certificate, Alcohol License, Taxi Permit, execution of contract or other public benefit as referenced in O.C.G.A. Section 50-36-1, I am stating the following with respect to my application for a City of Sandy Springs license/permit and/or contract for

[Name of natural person applying on behalf of individual, business, corporation, partnership, or other private entity]

1) _____ I am a United States citizen

**OR**

2) _____ I am a legal permanent resident 18 years of age or older or I am an otherwise qualified alien or non-immigrant under the Federal Immigration and Nationality Act 18 years of age or older and lawfully present in the United States.*

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of Code Section 16-10-20 of the Official Code of Georgia.

Signature of Applicant: _____ Date: _____

Printed Name: _____

*Alien Registration number for non-citizens _____

****PLEASE INCLUDE A COPY OF YOUR PERMANENT RESIDENT CARD, EMPLOYMENT AUTHORIZATION, GREEN CARD, OR PASSPORT WITH A COPY OF YOUR DRIVER'S LICENSE IF YOU ARE A LEGAL PERMANENT RESIDENT (#2).**

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE _____ DAY OF _____.

Notary Public: _____

My Commission Expires: _____

*Note: O.C.G.A. § 50-36-1(e)(2) requires that aliens under the federal Immigration and Nationality Act, Title 8 U.S.C., as amended, provide their alien registration number. Because legal permanent residents are included in the federal definition of "alien", legal permanent residents must also provide their alien registration number. Qualified aliens that do not have an alien registration number may supply another identifying number below:

_____

**EXHIBIT K**
**TO CONTRACT AGREEMENT**
**EVERIFY 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 City of Sandy Springs 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.G.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 Identification Number

_____
Date of Authorization

_____
Name of Contractor

_____
Name of Project

_____
Name of Public Employer

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

Executed on _____ 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 _____

_____

NOTARY PUBLIC

My Commission Expires: _____

**EXHIBIT L**
**TO CONTRACT AGREEMENT**

**CORPORATE CERTIFICATE**

I, _____, certify that I am the Secretary of the Corporation named as Contractor in the foregoing bid; that _____ who signed said bid in behalf of the Contractor, was then (title)_____ of said Corporation; that said bid 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 ___Georgia_____.

This _____ day of _____, 2020.

(Seal)

_____
(Signature)

**EXHIBIT M**
**TO CONTRACT AGREEMENT**

**ADDENDUMS**

**EXHIBIT N**
**TO CONTRACT AGREEMENT**

**SURETY BONDS**

**BID BOND**
**(BID BOND TO BE RETURNED WITH BID)**

KNOW ALL MEN BY THESE PRESENTS, THAT _____

_____

(Name of Contractor)_____
(Address of Contractor) at

_____

(Corporation, Partnership and or Individual) hereinafter called Principal, and _____

_____
(Name of Surety)

_____
(Address of Surety

A corporation of the State of _____, and a surety authorized by law to do business in the State of Georgia, hereinafter called Surety, are held and firmly bound unto

City of Sandy Springs Georgia
1 Galambos Way Sandy Springs, GA. 30328

herein after referred to as Obligee, in the penal sum of_____ Dollars ($ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

WHEREAS, the Principal is about to submit, or has submitted, to the City of Sandy Springs, Georgia, a proposal for furnishing materials, labor and equipment for:

***Roberts Drive Sidewalk TS171***

WHEREAS, the Principal desires to file this Bond in accordance with law in lieu of a certified Bidder's check otherwise required to accompany this Proposal.

NOW, THEREFORE, the conditions of this obligation are such that if the bid is accepted, the Principal shall within ten days after receipt of notification of the acceptance execute a Contract in accordance with the Bid and upon the terms, conditions, and prices set forth in the form and manner required by the City of Sandy Springs, Georgia, and execute a sufficient and satisfactory Performance Bond and Payment Bond payable to the City of Sandy Springs, Georgia, each in an amount of 100% of the total Contract Price, in form and with security satisfactory to said the City of Sandy Springs, Georgia, and otherwise, to be and remain in full force and virtue in law; and

the Surety shall, upon failure of the Principal to comply with any or all of the foregoing requirements within the time specified above, immediately pay to the City of Sandy Springs, Georgia, upon demand, the amount hereof in good and lawful money of the United States of America, not as a penalty, but as liquidated damages.

PROVIDED, FURTHER, that Principal and Surety agree and represent that this bond is executed pursuant, to and in accordance with the applicable provisions of the Official Code of Georgia Annotated, as Amended, including, but not limited to, O.C.G.A. § 36-91-1, et. seq., and is intended to be and shall be constructed as a bond in compliance with the requirements thereof.
Signed, sealed, and dated this _____ day of _____A.D., 20____

ATTEST:

_____ _____
(Principal Secretary) (Principal)

(SEAL) BY: _____

_____ _____
(Witness to Principal) (Address)

_____
(Address)

_____
(Surety)

ATTEST

BY: _____
(Attorney-in-Fact) and Resident Agent

_____
(Attorney-in-Fact)

(Seal)

_____
(Address)

_____
(Witness as to Surety)

_____
(Address)

_____

**PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS: THAT

_____
(Name of Contractor)

_____
(Address of Contractor)

a _____
(Corporation, Partnership or Individual)

_____

Hereinafter called Principal, and

_____
(Name of Surety)

_____
(Address of Surety)

A Corporation of the State of _____ and a surety authorized by law to do business in the State of Georgia, hereinafter called Surety, are held and firmly bound unto

The City of Sandy Springs. Georgia
1 Galambos Way, Sandy Springs, Ga. 30328

hereinafter referred to as Obligee; are held firmly bound unto said Obligee and all persons doing work or furnishing skill, tools, machinery, supplies, or material under or for the purpose of the Contract hereinafter referred to, in the penal sum of:
_____Dollars ($ _____ ) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

The condition of this obligation is such, as whereas the Principal entered into a certain contract, hereto attached, with the Obligee, dated for:

***Roberts Drive Sidewalk TS171***

NOW THEREFORE, the conditions of this obligation are such that if the above bound Principal shall well, truly, fully and faithfully perform said contract according to its terms, covenants, conditions, and agreements of said contract during the original term of said contract and any extensions thereof that may be granted by the oblige, with or without notice to the Surety, and during the life of any guaranty required under the contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreement of any and all duly authorized modifications of said contract that may hereafter be made, then his obligation shall be void, otherwise to remain in full force and effect.

PROVIDED FURTHER, that said Surety to this Bond, for value received, hereby stipulates and agrees that no change, extension of time, alterations, or additions to the terms of the Contract or to the Work to be performed thereunder shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alterations, or additions to the terms of the Contract or to the work to be performed hereunder.

PROVIDED, FURTHER, that Principal and Surety agree and represent that this bond is executed pursuant to and in accordance with the applicable provisions of the Official Code of Georgia Annotated, as Amended, including but not limited to, O.C.G.A. § 36-91-1 et. seq., and is intended to be and shall be construed as a bond in compliance with the requirements thereof.

Signed, sealed, and dated this _____ day of _____A.D., 20____

ATTEST:

_____ _____

(Principal Secretary) (Principal)

(SEAL)

BY: _____

_____

(Witness to Principal)

_____

(Address)

_____

(Surety)

ATTEST BY:

_____

Attorney-in-Fact) and Resident Agent

_____

(Attorney-in-Fact)

(Seal) _____

(Address)

_____

(Witness as to Surety)

_____

(Address)

**PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS: THAT _____
(Name of Contractor)

_____
(Address of Contractor)

a _____
(Corporation, Partnership or Individual)

_____
Hereinafter called Principal, and

_____
(Name of Surety)

_____
(Address of Surety)

a Corporation of the State of _____ and a surety authorized by law to do business in the State of Georgia, hereinafter called Surety, are held and firmly bound unto

The City of Sandy Springs Georgia
1 Galambos Way, Sandy Springs, Georgia 30328

hereinafter referred to as Obligee; for the use and protection of all subcontractors and all persons supplying labor, services, skill, tools, machinery, materials and/or equipment in the prosecution of the work provided for in the contract herein after referred to in the full and just sum of _____Dollars ($_____) in lawful money of the United States, for the payment of which sum well and truly to be made, the Principal and Surety bind themselves, their, and each of their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of this obligation is such, as whereas the Principal entered into a certain contract hereto attached, with the Obligee, dated _____ for:

***Roberts Drive Sidewalk TS171***

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall well, truly, and faithfully perform said Contract in accordance to its terms, covenants, and conditions, and shall promptly pay all persons furnishing labor, materials, services, skill, tools, machinery and/or equipment for use in the performance of said Contract, then this obligation shall be void; otherwise, it shall remain in full force and effect.

All persons who have furnished labor, materials, services, skill, tools, machinery and/or equipment for use in the performance of said Contract shall have a direct right of action on this Bond, provided payment has not been made in full within ninety (90) days after the last day on

which labor was performed, materials, services, skill, tools, machinery, and equipment furnished or the subcontract completed.

PROVIDED FURTHER, that said Surety to this Bond, for value received, hereby stipulates and agrees that no change, extension of time, alterations, or additions to the terms of the Contract or to the Work to be performed there under shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alterations, or additions to the terms of the Contract or to the work to be performed there under.

PROVIDED, HOWEVER, that no suit or action shall be commenced hereunder by any person furnishing labor, materials, services, skill, tools, machinery, and/or equipment having a direct contractual relationship with a subcontractor, but no contractual relationship express or implied with the Principal:

Unless such person shall have given notice to the Principal within One Hundred and Twenty (120) days after such person did, or performed the last of the work or labor, or furnished the last of the materials, services, skill, tools, machinery and/or equipment for which claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials, services, skill, tools, machinery and/or equipment were furnished, or for whom the work or labor was done or performed. Such a notice shall be served by mailing the same by registered mail, postage prepaid, in an envelope addressed to the Principal, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the State in which the aforesaid project is located, save that such service need not be made by a public officer, and a copy of such notice shall be delivered to the Obligee, to the person and at the address provided for in the Contract, within five (5) days of the mailing of the notice to the Principal.

PROVIDED, FURTHER, that any suit under this bond must be instituted before the expiration of one (1) year after the acceptance of the public works covered by the Contract by the proper authorities.

PROVIDED, FURTHER, that Principal and Surety agree and represent that this bond is executed pursuant to and in accordance with the applicable provisions of the Official Code of Georgia Annotated, as Amended, including, but not limited to, O.C.G.A. § 36-91-1, et. seq., and is intended to be and shall be construed as a bond in compliance with the requirements thereof.

Signed, sealed, and dated this _____ day of _____A.D., 20____

ATTEST:

_____ _____

(Principal Secretary) (Principal)

(SEAL) BY: _____

_____ _____

(Witness to Principal) (Address)

_____

(Address)

_____

(Surety)

ATTEST BY: _____

(Attorney-in-Fact) and Resident Agent

_____

(Attorney-in-Fact)

(Seal)

_____

(Address)

_____

(Witness as to Surety)

_____

(Address)

_____

**EXHIBIT O**
**TO CONTRACT AGREEMENT**

**SUBCONTRACTORS**
**LIST OF SUBCONTRACTORS**

I do _____, do not _____, propose to subcontract some of the work on this project. I propose to Subcontract work to the following subcontractors:

Company Name:_____