CITY OF MILTON GEORGIA

CITY OF MILTON INVITATION TO BID
(THIS IS NOT AN ORDER)

Bid Number: **ITB 27-PW01**	**Project Name** **Building Demolitions at One, Two, and Three Verizon Place**
Due Date and Time: November 12, 2026, by 2:00 p.m. EST **Link for virtual bid opening will be posted as a "Communication" under this solicitation listing on the City's procurement portal, BidNet Direct.*	**Number of Pages: 106**

ISSUING DEPARTMENT INFORMATION

Issue Date:
October 15, 2026

City of Milton **Public Works Department** **2006 Heritage Walk** **Milton, GA 30004**	**Phone: 678-242-2500** **Website: *www.miltonga.gov***

INSTRUCTIONS TO BIDDERS

Electronic Submittal: **Bids must be submitted electronically via Milton's BidNet procurement portal/platform at *www.miltonga.gov* If you have not registered as a vendor via BidNet we encourage you to register. There is no cost to join, and you will be notified of any potential bid opportunities with the City of Milton as well as other agencies who are part of the Georgia Purchasing Group.	**Mark Face of Envelope/Package:** **Bid Number: ITB 27-PW01** **Name of Company or Firm** **Special Instructions:** **Deadline for Written Questions** **November 5, 2026 by 5:00 p.m.** **Submit questions online via the BidNet Direct procurement portal at *www.miltonga.gov/finance/bids-rfps***

BIDDERS MUST COMPLETE THE FOLLOWING

Bidder Name/Address:	Authorized Bidder Signatory: (Please print name and sign in ink)
Bidder Phone Number:	Bidder FAX Number:
Bidder Federal I.D. Number:	Bidder E-mail Address:

BIDDERS MUST RETURN THIS COVER SHEET WITH BID RESPONSE

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DEFINITIONS

COMPW: City of Milton Public Works Department

CY: Cubic Yard

GDOT: Georgia Department of Transportation

ENGINEER: The City of Milton Director of Public Works or a duly authorized representative.

ADA: Americans with Disabilities Act

EA: Each

GAL: Gallon

LF: Linear Feet

LM: Linear Mile

LS: Lump Sum

SY: Square Yard

TN: Ton

MUTCD: *Manual on Uniform Traffic Control Devices*

OSHA: Occupational Safety and Health Administration

FHWA: Federal Highway Administration

AASHTO: American Association of State Highway and Transportation Officials

FOB: Free on Board

Invitation to Bid ITB 27-PW01, Building Demolitions at One, Two, and Three Verizon Place

The City of Milton is accepting electronically submitted sealed bids from qualified firms for the Public Works Department in conformance with Title 32, Chapter 4, Article 4, Part 2 of the Official Code of Georgia Annotated. All work will be done in accordance with Georgia Department of Transportation's (GDOT) Standard Drawings, Standard Specifications (current edition), and Pay Items Index as standards and specifications for the construction and completion of the work required. All bidders must comply with all general and special requirements of the bid information and instructions enclosed herein.

Electronically submitted sealed bids will be received no later than **2:00 PM Local Time on November 12, 2026.** Electronic bids shall be submitted online via BidNet Direct, the City's procurement portal, at *www.miltonga.gov/finance/bids-rfps* . Bids received after the above time **will not** be accepted.

At approximately 2:30 P.M. Local Time on the day bids are received the bids will be publicly opened and the bidder's name and total bid amount will be read aloud at: City of Milton City Hall, 2006 Heritage Walk, Milton, GA 30004. **Link for the virtual bid opening will be posted as a "Communication" under this solicitation listing on the City's procurement portal, BidNet Direct.*

Pre-Bid Meeting on November 4, 2026. All contractors attending must be present and signed in by 9:00 am at Building Two and will be led by representatives of the City and Owner. Contractors will be able to access all floors and rooms in each building. Once the entire group has completed the first building we will move to Building One and then Building Three. No questions will be accepted at this event, Contractors must submit questions via Bid-Net Direct, the City's procurement portal.

Questions must also be submitted online in the same manner listed above for bids. **Deadline for questions is November 5, 2026, at 5:00 p.m**. Official answers to questions and potential changes to the ITB (Addendums) will be posted at the same web locations as the ITB on or *about November 6, 2026*. Any other form of interpretation, correction, or change to this ITB will not be binding upon the City. It is the bidder's responsibility to check the websites for potential updates. Please refer to Bid (ITB 22-PW01) and bid name (Building Demolitions at One, Two, and Three Verizon Place) when requesting information.

The City of Milton reserves the right to reject any or all bids and to waive technicalities and informalities, and to make award in the best interest of the City of Milton.

The selected contractor must be able to start work within ten (10) calendar days after the "Notice to Proceed" is issued. The time of completion for the project is to be determined prior to the issuance of the "Notice to Proceed." If weather affects the required completion schedule, The City and selected contractor will negotiate a new completion date. Section 108.08 of the State of Georgia Department of Transportation *Standard Specifications Construction of Transportation Systems* (current edition) shall be applied.

SCHEDULE OF EVENTS

FOR REFERENCE ONLY - DO NOT SUBMIT WITH BID RESPONSE

EVENT	DATE
ITB Issue Date	October 15, 2026
Highly Recommended Pre-Bid Meeting at 9:00 a.m. on	**November 4, 2026**
Deadline for Receipt of Written Questions	5:00 PM on November 5, 2026
Posting of Written Answers by City to Websites on or about	November 6, 2026
ITB DUE	**No Later than 2:00 P.M. on November 12, 2026**
Tentative Contract Award (on/about)	December 7, 2026
Notice to Proceed (on/about)	*To be coordinated with the Contractor*

NOTE: PLEASE CHECK THE CITY WEBSITE (*http://www.miltonga.gov*) FOR ADDENDA AND SCHEDULE UPDATES.

BIDDING INSTRUCTIONS

FAILURE TO RETURN THE FOLLOWING BID DOCUMENTS COULD RESULT IN THE BID BEING DEEMED NON-RESPONSIVE AND BEING REJECTED:

Item	Description	Page(s)
1	Filled out and Signed Invitation to Bid (Cover Sheet)	1
2	Bid Form and Addenda Acknowledgement (2 pages)	11-12
3	Bid Bond (3 pages)	13-15
4	Qualifications Signature and Certification	16
5	List of Subcontractors	17
6	Contractor Affidavit and Agreement (eVerify)	18
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8	Bid Submittal Form (4 pages)	30-33

INFORMATION AND INSTRUCTIONS

The purpose of this solicitation is to enter a unit price "purchasing contract" with one firm to be the primary supplier of Building Demolitions at One, Two, and Three Verizon Place, ITB 27-PW01.

No specification expressed or implied shall be construed as any type of restrictive specification that would limit competition.

Unless clearly shown as "no substitute" or any words to that effect, any items in these contract documents which have been identified, described or referenced by a brand name or trade name are for reference only. Such identification is intended to be descriptive but not restrictive and is to indicate the general quality and characteristics of products that may be offered. Each bid item for which an equivalent item is proposed must be individually identified on the bid sheet with the following information: brand name, model or manufacturer's number or identification regularly used in the trade. Photographs, specifications and cut sheets shall be provided of the proposed alternative. The City shall be the sole judge of the suitability of the proposed alternative and may consider function, design, materials, construction, workmanship, finishes, operating features, overall quality, local service facilities, warranty terms and service or other relevant features.

The City reserves the right to cancel the contract at any time, without cause, with 30 days' written notice.

Title to any supplies, materials, equipment or other personal property shall remain the Contractors' until fully paid for by the City.

All items to be bid FOB, Milton, Georgia. No sales taxes are to be charged.

Any damage to any building or traffic control device, or equipment incurred during the course of work shall be repaired at the Contractor's expense to the complete satisfaction of the City of Milton with no additional expense to the City.

EVALUATION

The City intends to evaluate the ITB on the lowest, responsible and responsive bidder.

Bids may be found nonresponsive at any time during the evaluation or contract process, if any of the required information is not provided; the submitted price is found to be inadequate; or the proposal is not within the specifications described and required in the ITB. If a bid is found to be non-responsive or non-qualified, it will not be considered further.

INSURANCE REQUIREMENTS

Within ten (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-6 or higher and acceptable to the City. Insurance requirements are provided below and included in the CONTRACT AGREEMENT (Section 7.K).

(1) Requirements: The Contractor shall have and maintain in full force and effect for the duration of this Agreement, insurance insuring against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work by the Contractor, its agents, representatives, employees or subcontractors. All policies shall be subject to approval by the City Attorney as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City.

(2) Minimum Limits of Insurance: Contractor shall maintain the following insurance policies with limits no less than:

(a) Comprehensive General Liability of $1,000,000 (one million dollars) limit per single occurrence, $2,000,000 (two million dollars) umbrella, including coverage for bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting therefrom, vandalism, property loss and theft.

(b) Comprehensive Automobile Liability (owned, non-owned, hired) of $1,000,000 (one million dollars) combined single limit per occurrence for bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting therefrom.

(c) Workers' Compensation limits as required by the State of Georgia and Employers Liability limits of $1,000,000 (one million dollars) per accident.

(3) Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the City in writing.

(4) Other Insurance Provisions: The policy is to contain, or be endorsed to contain, the following provisions:

(a) General Liability and Automobile Liability Coverage.

(i) The City and City Parties are to be covered as insureds. The coverage shall contain no special limitations on the scope of protection afforded to the City or City Parties.

(ii) The Contractor's insurance coverage shall be primary noncontributing insurance as respects to any other insurance or self-insurance available to the City or City Parties. Any insurance or self-insurance maintained by the City or City Parties shall be in excess of the Contractor's insurance and shall not contribute with it.

(iii) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City or City Parties.

(iv) Coverage shall state that the Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(v) Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross-liability exclusion.

(vi) The insurer agrees to waive all rights of subrogation against the City and City Parties for losses arising from Work performed by the Contractor for the City for General Liability coverage only.

(b) Workers' Compensation Coverage: The insurer providing Workers' Compensation Coverage will agree to waive all rights of subrogation against the City and City Parties for losses arising from Work performed by the Contractor for the City.

(c) All Coverages:

(i) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

(ii) Policies shall have concurrent starting and ending dates.

(5) Acceptability of Insurers: Insurance is to be placed with insurers authorized to do business in the State of Georgia and with an A.M. Bests' rating of no less than A:VI.

(6) Verification of Coverage: Contractor shall furnish the City with certificates of insurance and endorsements to the policies evidencing coverage required by this clause prior to the start of Work. The certificate of insurance and endorsements shall be on a form utilized by Contractor's insurer in its normal course of business and shall be received and approved by the City within ten (10) days of the Notice of Award. The City reserves the right to require complete, certified copies of all required insurance policies, at any time. The Contractor shall provide proof that any expiring coverage has been renewed or replaced at least two (2) weeks prior to the expiration of the coverage.

(7) Subcontractors: Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated in this Agreement, including but not limited to naming the Parties as additional insureds.

(8) Claims-Made Policies: Contractor shall extend any claims-made insurance policy for at least six (6) years after termination or final payment under the Agreement, whichever is later.

(9) City as Additional Insured and Loss Payee: The City shall be named as an additional insured and loss payee on all policies required by this Agreement, except the City need not be named as an additional insured and loss payee on any Workers' Compensation policy.

BONDING REQUIREMENTS

Each bid must be accompanied with a **BID BOND** (bond only: certified checks or other forms are not acceptable) in an amount equal to five percent (5%) of the base bid, payable to the City of Milton. Said bid bond guarantees the bidder will enter into a contract to construct the project strictly within the terms and conditions stated in this bid and in the bidding and contract documents, should the construction contract be awarded.

The Successful Bidder shall be required to furnish **PAYMENT AND PERFORMANCE BONDS** for the faithful performance on the contract and a bond to secure payment of all claims for materials furnished and/or labor performed in performance of the project, both in amounts equal to one hundred percent (100%) of the base bid price.

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. Bonds shall be on the forms provided by the City and subject to the review and approval of the City Attorney.

Date of Bond must not be prior to date of Contract. If Contractor is a Partnership, all partners shall execute Bond.

OATH

Prior to commencing the Work, the successful bidder shall execute a written oath as required by O.C.G.A. §§ 32-4-122 and 36-91-21(e).

COST OF PREPARING A BID

The costs for developing and delivering responses to this ITB and any subsequent presentations of the proposal as requested by the City are entirely the responsibility of the bidder. The City is not liable for any expense incurred by the bidder in the preparation and presentation of their proposal. All materials submitted in response to this ITB become the property of the City of Milton.

[BIDDERS MUST RETURN THIS FORM WITH BID RESPONSE]

BID FORM and ADDENDA ACKNOWLEDGEMENT

TO: PURCHASING OFFICE
CITY OF MILTON
MILTON, GEORGIA 30004

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 Milton, 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:

Bid Number ITB 27-PW01
Building Demolitions at One, Two, and Three Verizon Place

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 Milton 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).

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.

The Bidder further proposes and agrees hereby to promptly commence the Work with adequate forces within ten (10) calendar days from the Notice to Proceed, and to complete all Work as scheduled.

If weather affects the required completion schedule, the City and selected Bidder will negotiate a new completion date.

Attached hereto is an executed Bid Bond in the amount of _____ Dollars ($ (Five Percent of Amount Bid).

If this bid shall be accepted by the City of Milton 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 Milton 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 shall be forfeited to the City of Milton as liquidated damages.

Bidder acknowledges receipt of the following addenda:

Addendum No.	Date viewed
_____	_____
_____	_____

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

Signed, sealed, and dated this _____ day of _____, 20_____

Bidder _____ (Seal)
Company Name

Bidder Mailing Address:

_____

_____

_____

Signature: _____

Print Name: _____

Title: _____

[BIDDERS MUST RETURN THESE SHEETS WITH BID RESPONSE]
BID BOND

BIDDER (Name and Address):

_____

SURETY (Name and Address of Principal Place of Business):

_____

OWNER (hereinafter referred to as the "City" (Name and Address):
City of Milton, Georgia
ATTN: Purchasing Office
2006 Heritage Walk
Milton, Georgia 30004

BID
BID DUE DATE:
PROJECT (Brief Description Including Location):

_____

BOND
BOND NUMBER:
DATE (Not later that Bid due date):
PENAL SUM: _____
(Words) (Figures)

IN WITNESS WHEREOF, Surety and Bidder, intending to be legally bound hereby to the City, subject to the terms printed below or on the reverse side hereof, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent or representative.

BIDDER

_____(Seal)
Bidder's Name and Corporate Seal

By: _____
Signature and Title:

Attest: _____
Signature and Title:

SURETY

_____(Seal)
Surety's Name and Corporate Seal

By: _____
Signature and Title:
(Attach Power of Attorney)

Attest:_____
Signature and Title:

Note: (1) Above addresses are to be used for giving any notice required by the terms of this Bid Bond.
(2) Any singular reference to Bidder, Surety, the City or any other party shall be considered plural where applicable.

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay to the City upon Default of Bidder the penal sum set forth on the face of this Bond.

2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension of that time agreed to in writing by the City) the executed Agreement required by the Bidding Documents and any performance and payment Bonds required by the Bidding Documents.

3. This obligation shall be null and void if:
   3.1 The City accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension of that time agreed to in writing by the City) the executed Agreement required by the Bidding Documents and any performance and payment Bonds required by the Bidding Documents; or
   3.2 All Bids are rejected by the City; or
   3.3 The City fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension of that time agreed to in writing by Bidder and, if applicable, consented to by Surety when required by paragraph 5 hereof).

4. Payment under this Bond will be due and payable upon Default by Bidder within 30 calendar days after receipt by Bidder and Surety of a written Notice of Default from the City, which Notice will be given with reasonable promptness and will identify this Bond and the Project and include a statement of the amount due.

5. Surety waives notice of, as well as any and all defenses based on or arising out of, any time extension to issue a Notice of Award agreed to in writing by the City and Bidder, provided that the total time, including extensions, for issuing a Notice of Award shall not in the aggregate exceed 120 days from Bid due date without Surety's written consent.

6. No suit or action shall be commenced under this Bond either prior to 30 calendar days after the Notice of Default required in paragraph 4 above is received by Bidder and Surety or later than one year after Bid due date.

7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the State of Georgia.

8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.

9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent or representative who executed this Bond on behalf of Surety to execute, seal and deliver such Bond and bind the Surety thereby.

10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.

11. The term "Bid" as used herein includes a Bid, offer or proposal, as applicable under the particular circumstances.

12. The terms of this Bid Bond shall be governed by the laws of the State of Georgia.

[BIDDERS MUST RETURN THIS FORM WITH BID RESPONSE]

QUALIFICATIONS SIGNATURE AND CERTIFICATION

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, including but not limited to Title 32, Chapter 4, Article 4, Part 2 and Sections 45-10-20 et seq. have not been violated and will not be violated in any respect.

Authorized Signature_____Date_____

Print/Type Name_____

Print/Type Company Name Here_____

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 _____.

This _____ day of _____, 20_____

_____(Seal)
(Signature)

[BIDDERS MUST RETURN THIS FORM WITH BID RESPONSE]

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:_____

[BIDDERS MUST RETURN THIS FORM WITH BID RESPONSE]

CONTRACTOR AFFIDAVIT AND AGREEMENT

STATE OF GEORGIA
CITY OF MILTON

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 Milton 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:

_____
eVerify Number

_____
Date of Authorization

_____
Name of Contractor

Building Demolitions at One, Two, and Three Verizon Place
Name of Project

City of Milton, Georgia
Name of Public Employer

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

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

Signature of Authorized Officer or Agent

_____
Printed Name and Title of Authorized Officer or Agent

_____

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

_____
NOTARY PUBLIC

[NOTARY SEAL]

My Commission Expires:

_____

DISCLOSURE FORM

This form is for disclosure of campaign contributions and family member relations with City of Milton officials/employees.

Please complete this form and return as part of your bid package when it is submitted.

Name of Bidder _____

Name and the official position of the Milton Official to whom the campaign contribution was made (Please use a separate form for each official to whom a contribution has been made in the past two (2) years.)

_____

List the dollar amount/value and description of each campaign contribution made over the past two (2) years by the Applicant/Opponent to the named Milton Official.

Amount/Value	Description
_____	_____
_____	_____

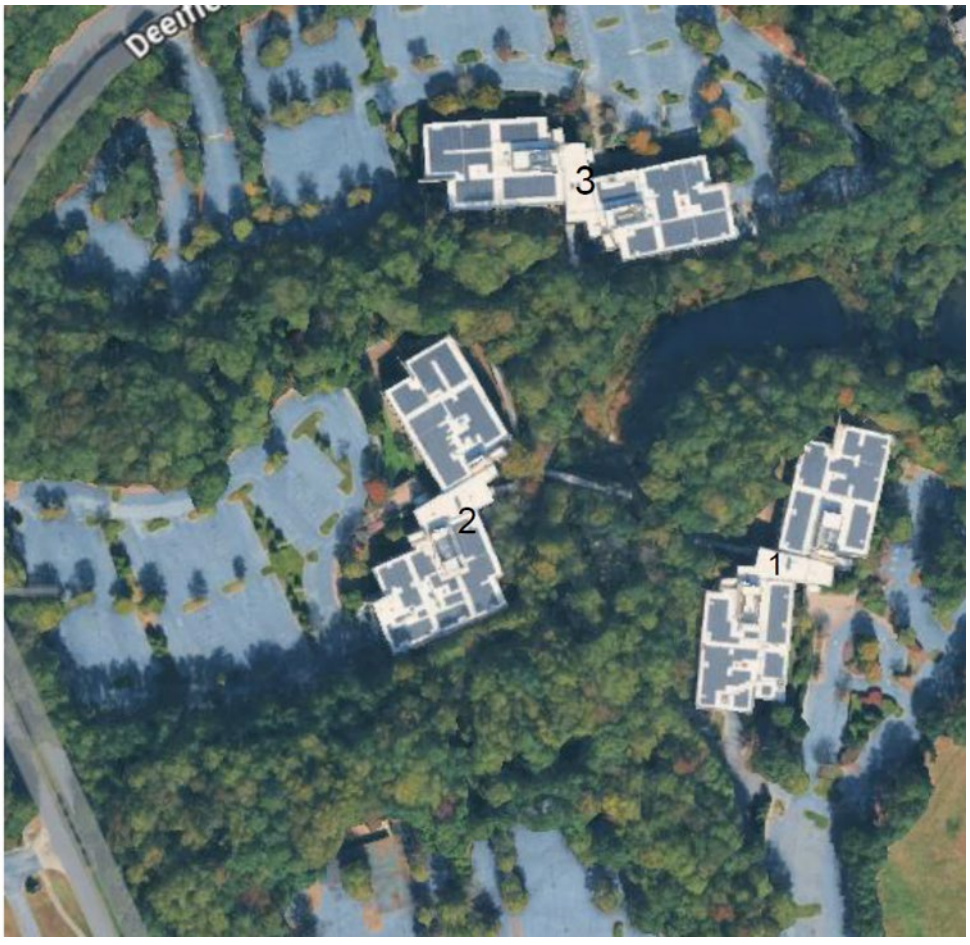
Please list any family member that is currently (or has been employed within the last 9 months) by the City of Milton and your relation:

_____	_____
_____	_____

Pre-Bid Meeting on November 4, 2026. All contractors attending must be present and signed in by 9:00 a.m. at Building Two and will be led by representatives of the City and Owner. Contractors will be able to access all floors and rooms in each building. Once the entire group has completed the first building we will move to Building One and then Building Three. No questions will be accepted at this event, Contractors must submit questions via Bid-Net Direct, the City's procurement portal.

PROJECT SCOPE AND LOCATIONS

Demolition services for three (3) office buildings as shown numbered below. Contractor will follow all City, State, and Federal demolition guidelines and ordinances, and laws. The property, known as One, Two, and Three Verizon Place, is located on the northeast corner of Morris Road and Deerfield Parkway, 34°05'36.9"N 84°16'13.7"W.



1 Verizon Place - 3 story structure measuring 144,219. SF
2 Verizon Place- 3 story structure measuring 144,389. SF
3 Verizon Place- 3 story structure measuring 144,718. SF

Demo and Site plan link:

https://www.miltonga.gov/home/showdocument?id=10441&t=639275057149582936

PROJECT DESCRIPTION

The awarded contractor will be responsible for demolishing and removal of the structures. This includes the buildings, identified retaining walls, and other items called out in this bid document. Erosion control and tree-save fence will be installed along the entire undisturbed buffer for the creeks below grade of the work zone. Estimated quantities will be called out for known items and there will also be an E&SC allowance in the bid. The City is requesting pricing for demolition of all three buildings on the site. The City reserves the right to exclude one or more buildings from the demolition scope and will make that determination before entering into a contract with the lowest responsive and responsible bidder.

SPECIAL PROVISIONS

1. A previously completed Environmental Site Assessment (ESA) was provided for informational purposes only and is available at: *https://www.miltonga.gov/home/showdocument?id=10439&t=639275036008549587* .

   The City is obtaining an updated Phase I ESA, which will be provided before contract award. The bid includes an allowance for removal of items identified in the City's assessment. If removal services are needed, the City and the selected Contractor will negotiate the scope and cost of those services. The City, at its sole discretion, may authorize use of the allowance or procure the services through a separate contract.

2. Bidders shall identify their proposed demolition method on the bid schedule.

3. The Contractor, or a proposed subcontractor for the project, must also have current and valid Asbestos Abatement License from the State of Georgia along with the bid and a minimum of three (3) years of verifiable experience (Contractor and/or Sub-Contractor) in asbestos removal and disposal.

4. If needed: Removal and disposal of all ACM shall be in accordance with the Department of Environmental Quality, the Environmental Protection Agency (EPA), Georgia Environmental Protection Division (EPD), and Occupational Safety and Health Administration (OSHA) guidelines and current laws of the State of Georgia, City of Milton, and all governing Federal regulations.

5. If needed: the Contractor, or his foreman, shall be responsible for asbestos removal/disposal operations involved with asbestos removal/disposal operations and shall be certified by the Georgia Asbestos Licensing and Certification Unit before performing any asbestos removal or disposal work. Chapter 52-1 of the rules of the Asbestos Licensing Board shall apply.

6. If needed: Copies of any environmental permits, hazardous materials disposal certificates, or manifests shall be sent to the Engineer or the Inspector over the project. Please ensure that all applicable documents are forwarded to the department on an ongoing basis. Work performed under this contract shall conform to EPA, EPD, and OSHA requirements. Site clean-up shall also conform to applicable State of Georgia and City of Milton laws, ordinances and codes.

7. The Contractor shall comply with the plans and specifications provided.

8. The Erosion control layout and quantities are estimated quantities. The tree-save and double row of type C silt fence will be laid out with the City Engineer and the Contractor prior to installation. Contractor will be paid by actual quantity used. There are supplemental bid items also called out in the bid as well as an erosion and sediment control allowance.

9. In addition to other standard specifications referenced herein, the bid package includes:
    a. Construction Drawings.
    b. Special Provision 163 – Miscellaneous Erosion Control Items.
    c. Special Provision 165 - Maintenance of Temporary Erosion and Sedimentation Control Devices.
    d. Special Provision 171 – Silt Fence.
    e. Special Provision 700 – Grassing

DEMOLITION

The Contractor shall establish a regulated work area, demark the demolition areas. Create a safety Zone 80' from the building and restrict access to the demolition area. Contractor shall remove and properly dispose of all CFC containing refrigerants / coolants and listed universal waste within the building. The subject buildings shall be demolished via standard mechanical means or alternate methods proposed by the Contractor. All C& D waste material shall be removed from the site to a permitted landfill.

The Contractor will supply industry standard equipment, dumpsters, and dump trucks to complete this work. Contractor's staff shall consist of professional experienced equipment operators and supply qualified and experienced ground staff, spotters, removal drivers.

The Contractor will be responsible for removal and proper disposal of the following items, if present in the building(s) prior to demolition of a building.

Universal Waste

- Fluorescent lamps (mercury)
- HID lamps
- Thermostats (mercury bulbs)
- Exit signs (tritium)
- Batteries (UPS, emergency lights, tenant equipment)
- Smoke detectors

Hazardous Materials

- PCB ballasts
- PCB transformers
- Freon in chillers/RTUs/split systems
- Oils in elevators or compressors
- Housekeeping chemicals / stored materials

Solar Panels

Solar panels are planned to be removed by Seller. If not, the Contractor will remove and dispose of in accordance with all local, state, and federal regulations. **This work would be paid for using the demolition allowance called out in the bid document.**

HAZARDOUS MATERIALS

The City excludes the testing, handling, and disposal of hazardous materials from this proposal. If asbestos, UST tanks, PCB transformers, batteries, or mercury-filled lighting are suspected, these items will be subject to separate testing and disposal costs. **This work would be paid for using the demolition allowance called out in the bid document.**

SILENCE OF SPECIFICATIONS:

The apparent silence of these specifications and any supplemental specifications as to any details, or the omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practices are to prevail and that only materials of first quality and correct type, size and design are to be used. All workmanship is to be first quality. All interpretations of this specification shall be made upon the basis of this statement, with City interpretation to prevail.

PROSECUTION AND PROGRESS

Demolition shall begin no later than ten (10) calendar days following the Notice to Proceed. The Contractor will mobilize with sufficient forces such that all construction identified as part of this contract shall be substantially completed within the calendar days indicated on the Bid Schedule. Inclement weather days will not count against the available calendar days. With the size of this demolition project the City would allow the qualified low bidder the ability to pull off the site if needed. This would be coordinated with the Public Works Manager prior to pulling off. Stipulations to that would be the Contractor cannot leave in the middle of demolishing a building. Once the building is demolished and removed and the site has been safed up and work approved by the City, the Contractor may pull off if needed for an agreed upon timeframe.

Normal workday for this project shall be 9:00 am to 7:00 pm and the normal workweek shall be Monday through Friday. Normal working hours for roadway activities is 9:00 am to 4:00 pm. The City will consider extended workdays or workweeks upon written request by the Contractor on a case-by-case basis. No work will be allowed on City recognized holidays.

The work will require bidder to provide all labor, administrative forces, equipment, materials and other incidental items to complete all required work. The City shall perform a Final Inspection upon completion of all work. The Contractor will be allowed to participate in the Final Inspection. All repairs shall be completed by the Contractor at his expense prior to issuance of Final Acceptance. Except to the extent limited by law, 5% retainage will be held from the total amount due the Contractor until Final Acceptance of work is issued by the City.

The Contractor shall provide all materials, labor, and equipment necessary to perform the work without delay unto completion.

PERMITS AND LICENSES

The Contractor shall procure all permits and licenses, pay all charges, taxes and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work. The Contractor shall obtain a building demolition permit from the City and provide all required documentation to obtain the permit but will not be charged the permit fee and shall not include that fee in the base bid. The Contractor is responsible for obtaining all required inspections.

RODENT ERADICATION

Pre-demolition, the selected contractor shall diligently eradicate all rodents and vermin before demolition and provide a rodent letter from a certified exterminator.

UTILITIES

The City will work with the local utility servicing these structures terminate these services. necessary to the completion of the work. Contractor shall call in locates with GA811. The contractor will follow Fulton County Sewers specifications for demolition of structures with Sanitary Sewers and Grease Traps.

Notification: Notify the Fulton County Department of Public Works at least two days in advance before disconnecting or interrupting any public sewer or water service.

Lateral Capping & Sealing: Disconnected sewer services (laterals) must be cleanly cut, plugged, and sealed per Fulton County standards to prevent groundwater infiltration, soil entry, or sewer gases escaping.

Easement Protection: No heavy machinery, grading, or storage of demolition debris is permitted over recorded sanitary sewer easements without prior county approval.

Inspection & Standards: All repair, capping, or reconnection work must follow Fulton County Standard Details (100–800 Series), using approved materials like PVC (ASTM D3034 SDR35) or ductile iron where required.

PROTECTION AND RESTORATION OF PROPERTY AND LANDSCAPE

The Contractor shall be responsible for the preservation of all public and private property, crops, fishponds, trees, monuments, highway signs and markers, fences, grassed and sodded areas, etc. along and adjacent to the highway, road or street, and shall use every precaution necessary to prevent damage or injury thereto, unless the removal, alteration, or destruction of such property is provided for under the contract. No stone or asphalt chunks shall be left in the right-of-way and screened topsoil shall be placed in all disturbed areas before grassing. Contractor is responsible for ensuring that all permanent grassing shall match the existing grassing.

When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect or misconduct in the execution of the work, or in consequence of the non-execution thereof by the contractor, he shall restore, at his/her own expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding or otherwise restoring as may be directed, or she/he shall make good such damage or injury in an acceptable manner. The Contractor shall correct all disturbed areas before retainage will be released.

TEMPORARY TRAFFIC CONTROL

The Contractor shall, at all times, conduct his work as to assure the least possible obstruction of traffic. The safety and convenience of the general public and the residents along the roadway and the protection of persons and property shall be provided for by the contractor as specified in the State of Georgia, Department of Transportation Standard Specifications Sections 104.05, 107.09 and 150.

Traffic whose origin and destination is within the limits of the project, shall be provided ingress and egress at all times unless otherwise specified by the City. The ingress and egress include entrances and exits VIA driveways at various properties, and access to the intersecting roads and streets. The Contractor shall maintain sufficient personnel and equipment (including flaggers and traffic control signing) on the project at all times, particularly during inclement weather, to ensure that ingress and egress are safely provided when and where needed.

The Contractor shall provide access to emergency vehicles and/or emergency personnel through or around the construction area. Any pavement damaged by such an occurrence will be repaired by the Contractor at no additional cost to the City.

The Contractor shall furnish, install and maintain all necessary and required barricades, signs and other traffic control devices in accordance with the latest MUTCD and GDOT specifications, and take all necessary precautions for the protection of the workers and safety of the public.

All existing signs, markers and other traffic control devices removed or damaged during construction operations will be reinstalled or replaced by the end of the workday at the Contractor's expense. At no time will Contractor remove regulatory signing which may cause a hazard to the public. The Contractor shall provide three (3) variable message boards to be placed at the direction of the City. The message boards will warn approaching traffic to be aware trucks will be entering the road.

SAFETY REQUIREMENTS

The Contractor shall be responsible for the entire site and the construction of the same and provide all the necessary protections as required by laws or ordinances governing such conditions and as required by the Owner or Designer. He/she shall be responsible for any damage to the Owner's property or that of others on the job, by himself/herself, his/her personnel or his/her subcontractors, and shall make good such damages. He/she shall be responsible for and pay for any claims against the Owner arising from such damages.

The Contractor shall provide all necessary safety measures for the protection of all persons on the work. Contractor shall clearly mark or post signs warning of hazards existing and shall barricade excavations and similar hazards. He/she shall protect against damage or injury resulting from falling materials and he/she shall maintain all protective devices and signs throughout the progress of the work.

EROSION CONTROL

It is the responsibility of the Contractor to follow all Federal, State and Local erosion and sediment control laws and specifications. This includes meeting all NPDES guidelines. The contractor shall serve as the Primary Permittee for this project and is responsible for filing the NOI and all necessary fees associated with it.

Erosion and Sediment Control measures shall be installed and maintained by the Contractor throughout the duration of the project. Contractor is responsible for the removal and disposal, off project site, of all installed temporary erosion and sediment control measures when affected areas have been restored to a level where vegetative coverings will minimize erosion. The cost for this will be considered incidental to the project and included in the overall bid.

CLEANUP

All restoration and clean-up work shall be performed daily. The cleanup will be strictly monitored with the close proximity of state waters on the site. Operations shall be suspended if the contractor fails to accomplish restoration and clean-up within an acceptable period of time.

SAFETY

Beginning with mobilization and ending with acceptance of work, the Contractor shall be responsible for providing a clean and safe work environment at the project site. The Contractor shall comply with all OSHA regulations as they pertain to this project.

This project shall follow Georgia Department of Transportation Specifications. The most current GDOT Specifications and shelf Special Provisions apply to all work performed under this contract.

Georgia Asbestos Rules

The Contractor will follow these or the most current guidelines for asbestos abatement if it is determined that there is asbestos or any other hazardous waste it found upon the completion of the City's Environmental Site Assessment.

The Environmental Protection Division enforces several Rules which govern Georgia's asbestos abatement, licensing and disposal industry. The Rules, in their entirety, can be found at epd.georgia.gov/rules-and-laws; however, select requirements are outlined below:

Rules for Air Quality Control

Chapter 391-3-1 incorporates and adopts the National Emission Standards for Hazardous Air Pollutants (NESHAP), Asbestos Revision by reference; Final Rule; Effective November 20, 1990. The following excerpt provides the authority for regulating asbestos emission standards and work practices in Georgia:

Rule 391-3-1-.02(9)(b)7. Emission Standard for Asbestos (Including Work Practices): 40 CFR Part 61 (NESHAP), Subpart M (asbestos), as amended July 20, 2004, is hereby incorporated and adopted by reference.

Applicability: All owners and operators when buildings are public, commercial, industrial; two or more single family residences; a single family residence that is part

of a public, commercial, or industrial project; or a multifamily structure with five or more units.
Basic Requirements: Accredited Asbestos Inspectors must perform thorough inspections for friable and non-friable asbestos-containing materials (ACM); notify EPD and remove all ACM that is friable or will become friable that is found at or above the trigger quantities; wet, package, and label the ACM before removal and keep wet until at disposal site; generate Waste Shipment Record; and notify EPD prior to demolition.

Rules for Asbestos Removal and Encapsulation
Chapter 391-3-14 delineates the requirements for licensing asbestos abatement contractors, fees for abatement projects, project supervisor training requirements, licensing reciprocity, exemptions and enforcement. The following summary provides the authority for regulating asbestos abatement work:
Applicability: All contractors removing or disturbing more than 10 square or 10 linear feet of friable ACM in any type of building or structure.
Basic Requirements: All project supervisors and workers must be trained in approved asbestos training courses; the contractor must have a Georgia Asbestos Contractor License; contractor must submit a completed Project Notification to EPD before removing or disturbing more than the trigger quantities of friable ACM and pay the associated fee; and before and during work must wet and keep wet any ACMs that are or will become friable.

Rules for Solid Waste Management
Chapter 391-3-4 defines asbestos-containing waste and requirements for collection and disposal. The following excerpts provide the authority for regulating *Asbestos-Containing Waste:*
Rule 391-3-4.-01(5) "Asbestos-Containing Waste" means any solid waste containing more than 1 percent, by weight, of naturally occurring hydrated mineral silicates separable into commercially used fibers, specifically the asbestiform varieties of serpentine, chrysotile, cummingtonite-grunerite, amosite, riebeckite, crocidolite, anthophyllite, tremolite, and actinolite, using the method specified in Appendix A, Subpart F, 40 CFR part 763, Section 1.
Rule 391-3-4-.04(8) Asbestos Containing Waste.
(a) Collection.
1. Vehicles used for the transportation of containerized asbestos waste shall have an enclosed carrying compartment or utilize a covering sufficient to contain the transported waste, prevent damage to containers, and prevent release or spillage from the vehicle.
2. Vehicles used to reduce waste volume by compaction shall not be used.
3. Vacuum trucks used to transport waste slurry must be constructed and operated to ensure that liquids do not leak from the truck.

(b) Disposal.

1. Asbestos containing waste is to be disposed of only in a permitted landfill or other facility authorized by the Division for acceptance of asbestos containing waste.
2. Asbestos containing waste shall be sealed in leak-proof containers labeled with: "Caution - Contains Asbestos Fibers - Avoid Opening or Breaking Container - Breathing Asbestos is Hazardous to Your Health."
3. Asbestos containing waste shall be disposed of in such a manner as not to destroy the integrity of the asbestos containing materials containers prior to the placement of cover material. This waste shall be completely covered immediately after deposition with a minimum of six (6) inches of non-asbestos material."

Applicability: All detached ACMs, both friable and non-friable, of any quantity from any type of building or structure. All owners and operators of the structures or land and those handling, transporting and disposing of the ACM.

Basic Requirements: All ACM must be collected, placed in leak-proof packaging, labeled, transported in an enclosed or tightly covered vehicle, and deposited in a landfill permitted to accept asbestos.

The following are special provisions prepared specifically for this contract and may be in conflict with parts of the standard specifications. If conflicts are evident the special provisions shall take precedence over the standard specifications

[BIDDERS MUST RETURN THIS FORM WITH BID RESPONSE]
ITB 27-PW01 BID SCHEDULE ~ Page 1 of 4

Supplemental Pricing

The table below is a supplemental pricing schedule. The contractor shall provide pricing for each item in case we run into unknowns or need to expand some of the removal scope. This work would be paid for using the demolition allowance called out in the bid document.

ITEM NUMBER	ITEM DESCRIPTION	UNITS	QUANTITY	UNIT PRICE	TOTAL AMOUNT
150-1000	Traffic Control	LS	1		
441-0104	5' Concrete Sidewalk Class A	SY	1		
610-0355	REM CONC CURB & GUTTER ALL SIZES	LF	1		
610-0815	REM & FILL EXIST SAN SEWER MANHOLE	EA	1		
610-0959	REMOVE PIPE -	LF	1		
610-1700	REM SAN SEWER PIPE -	LF	1		
610-2815	REM CONC SIDEWALK	SY	1		
610-5705	REM CATCH BASIN	EA	1		
610-5715	REM CATCH BASIN, DROP INLET OR JCT BOX	EA	1		
610-6015	REM DROP INLET	EA	1		
700-6910	PERMANENT GRASSING	AC	1		

Demolition Allowance Table

Asbestos & Hazardous Waste Remediation Allowance	LS	1		$200,000.00
Additional Erosion Control Allowance	LS	1		$25,000.00

VERIZON BUILDING DEMO PROJECT					
BUILDING #1					
Pay Item	**Description**	**Unit**	**Quantity**	**Cost/Unit**	**Cost**
	Demolition	LS	1		
163-0232	Temporary Grassing	AC	0.89		
163-0240	Mulch	TN	0		
163-0301	Construct and Remove Construction Exits	EA	1		
163-0550	Construct and Remove Inlet Sediment Trap	EA	2		
165-0010	Maintenance of Temporary Silt Fence, TP A	LF	363		
165-0030	Maintenance of Temporary Silt Fence, TP C	LF	500		
165-0101	Maintenance of Construction Exit	EA	1		
165-0105	Maintenance of Inlet Sediment Trap	EA	2		
165-0310	Maintenance of Construction Exit Tire Wash Area	EA	1		
171-0011	Temporary Silt Fence, Type A	LF	725		
171-0030	Temporary Silt Fence, Type C	LF	1000		
643-8200	Barrier Fence (Orange), 4 FT	LF	500		
700-9300	Permanent Grassing	AC	1.78		
	Allowance 10% of the bid price				
Total					$ -

Print Total Bid Price in Words:_____

[BIDDERS MUST RETURN THIS FORM WITH BID RESPONSE]
ITB 27-PW01 BID SCHEDULE ~ Page 2 of 4

BUILDING #2					
Pay Item	**Description**	**Unit**	**Quantity**	**Cost/Unit**	**Cost**
	Demolition	**SY**	**1**		
163-0232	**Temporary Grassing**	**AC**	**1.04**		
163-0240	**Mulch**	**TN**	**0**		
163-0301	**Construct and Remove Construction Exits**	**EA**	**1**		
163-0550	**Construct and Remove Inlet Sediment Trap**	**EA**	**2**		
165-0010	**Maintenance of Temporary Silt Fence, TP A**	**LF**	**560**		
165-0030	**Maintenance of Temporary Silt Fence, TP C**	**LF**	**775**		
165-0101	**Maintenance of Construction Exit**	**EA**	**1**		
165-0105	**Maintenance of Inlet Sediment Trap**	**EA**	**2**		
165-0310	**Maintenance of Construction Exit Tire Wash Area**	**EA**	**1**		
171-0011	**Temporary Silt Fence, Type A**	**LF**	**475**		
171-0030	**Temporary Silt Fence, Type C**	**LF**	**1550**		
643-8200	**Barrier Fence (Orange), 4 FT**	**LF**	**800**		
700-9300	**Permanent Grassing**	**AC**	**2.07**		
	Allowance 10% of the bid price				
Total					**$ -**

Print Total Bid Price in Words:_____

BUILDING #3					
Pay Item	**Description**	**Unit**	**Quantity**	**Cost/Unit**	**Cost**
	Demolition				
163-0232	**Temporary Grassing**	**AC**	**0.94**		
163-0240	**Mulch**	**TN**	**0**		
163-0301	**Construct and Remove Construction Exits**	**EA**	**1**		
163-0550	**Construct and Remove Inlet Sediment Trap**	**EA**	**4**		
165-0010	**Maintenance of Temporary Silt Fence, TP A**	**LF**	**263**		
165-0030	**Maintenance of Temporary Silt Fence, TP C**	**LF**	**715**		
165-0101	**Maintenance of Construction Exit**	**EA**	**1**		
165-0105	**Maintenance of Inlet Sediment Trap**	**EA**	**4**		
165-0310	**Maintenance of Construction Exit Tire Wash Area**	**EA**	**1**		
171-0011	**Temporary Silt Fence, Type A**	**LF**	**525**		
171-0030	**Temporary Silt Fence, Type C**	**LF**	**1430**		
643-8200	**Barrier Fence (Orange), 4 FT**	**LF**	**750**		
700-9300	**Permanent Grassing**	**AC**	**1.88**		
	Allowance 10% of the bid price				
Total					**$ -**

Print Total Bid Price in Words:_____

[BIDDERS MUST RETURN THIS FORM WITH BID RESPONSE]
ITB 27-PW01 BID SCHEDULE ~ Page 3 of 4

[BIDDERS MUST RETURN THIS FORM WITH BID RESPONSE]
ITB 27-PW01 BID SCHEDULE ~ Page 4 of 4

Total Bid Price for all 3 Buildings: $_____

Print Total Bid Price in Words:_____
(for all 3 Buildings)

Contractor's method of demolition to be used:_____
(for this bid)

Number of days to fully complete project (exclude weather related days): _____

The undersigned, as bidder, declares and represents that it has examined the site of the work and informed himself/herself fully in regard to all conditions pertaining to the place where the work is to be performed, including those conditions affecting the cost of the work and the delivery, handling and storage of materials and equipment. The bidder has examined and read the Bidding Document and has satisfied himself/herself that the Bidding Document is an adequate and acceptable reflection of the work which is required to be performed and that the bidder is willing and able to perform all of the work necessary. The bidder further certifies that no additional information is required to complete the work encompassed by this bid within the cost and schedule established and agreed upon within this bidding document.

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.

COMPANY_____

ADDRESS_____

AUTHORIZED SIGNATURE_____

PRINT/TYPE NAME/TITLE_____

GENERAL CONDITIONS

Unless otherwise directed, all work performed under this contract shall be in accordance with the Georgia Department of Transportation *Standard Specifications, Construction of Transportation Systems* (current edition), and Special Provisions modifying them, except as noted below.

SECTION 101	DEFINITION AND TERMS
Section 101.10 BOARD	Delete as written and substitute the following: CITY COUNCIL OF CITY OF MILTON, GEORGIA
Section 101.14 COMMISSIONER	Delete as written and substitute the following: DIRECTOR OF PUBLIC WORKS, CITY OF MILTON
Section 101.16 CONTRACT	Delete the second paragraph and substitute the following: The Contract Documents shall be composed of the Advertisement for Bid; Notice to Contractors; Form of Bid Proposal; General Conditions; Special Provisions; Detail Specifications, as identified in Section 105.03; Form of Contract; Form of Bond(s); Addenda; the drawings, including all changes incorporated herein before their execution; and also any Change Orders and Supplemental Agreements that are required to complete the construction of The Work in an acceptable manner, including authorized extensions thereof, all of which constitute one instrument. No oral agreement or orders are to be considered as valid or as a part of the Contract.
Section 101.22 DEPARTMENT	Delete as written and substitute the following: PUBLIC WORKS DEPARTMENT CITY OF MILTON
Section 101.24	Delete as written and substitute the

ENGINEER	following: DIRECTOR OF PUBLIC WORKS, CITY OF MILTON, ACTING DIRECTLY OR THROUGH A DULY AUTHORIZED REPRESENTATIVE OF THE DIRECTOR
Section 101.47 STATE HIGHWAY ENGINEER	Delete as written and substitute following: DIRECTOR OF PUBLIC WORKS, CITY OF MILTON, ACTING DIRECTLY OR THROUGH A DULY AUTHORIZED REPRESENTATIVE OF THE DIRECTOR
Section 101.74 SUPPLEMENTAL AGREEMENT	Retain as written and substitute the following: Any Supplemental Agreement that has a dollar value amount that is less than $25,000.00 shall not require the assent of the Surety."
Section 101.84	Add: DIRECTOR OF PUBLIC WORKS CITY OF MILTON

SECTION 102 - BIDDING REQUIREMENTS AND CONDITIONS

Section 102.05 EXAMINATION OF PLANS, SPECIAL PROVISIONS, AND SITE OF THE WORK	Add the following paragraph: "The City will not be responsible for Bidders' errors or misjudgment, nor for any information on local conditions or general laws and regulations."
Section 102.07 REJECTION OF PROPOSALS	Add the following subparagraphs "I. The City reserves the right to reject any and all bids, to waive technicalities, and to make an award as deemed in its best interest. It is understood that all bids are made subject to this Agreement, that the City reserves the right to award the bid to the lowest, responsible Bidder, and in arriving at this decision, full consideration will be given to the reputation of the Bidder, his financial responsibility, and work of this type successfully completed. "J. The City also reserves the right to reject any and all bids from any person, firm, or corporation who is

	in arrears in any debt or obligation to The City of Milton, Georgia."
Section 102.08 PROPOSAL GUARANTY	Substitute the following for the first sentence "No bid will be considered unless it is accompanied by an acceptable bid bond an amount not less than five percent (5%) of the amount bid and made payable to City of Milton, Georgia. Such Bid Bond shall be on the forms provided by the City."
Add Section 102.15 ADDENDA AND INTERPRETATION	Delete in its entirety and substitute the following: Bids shall be submitted on the Bid Form provided by the City. The bid package as described in Notice to Contractors, Page 1 must be submitted with the bid. Failure to do so could result in the omission of pertinent documents and the rejection of the apparent low bid."
Section 102.09 DELIVERY OF PROPOSALS:	Add the following as 102.15: "No interpretation of the meaning of the Contract Documents will be made orally to any Bidder. Any request for such interpretation should be in writing addressed to the Purchasing Department, The City of Milton 2006 Heritage Walk Milton, Ga. 30004. TEL. 678/242-2500, FAX 678/242-2499.Each such interpretation shall be given in writing, separately numbered and dated, and furnished to each interested Bidder. Any request not received in time to accomplish such interpretation and distribution will not be accepted.

SECTION 103 - AWARD OF AWARD AND EXECUTION OF CONTRACT

Section 103.02 AWARD OF CONTRACT	Delete in its entirety and substitute the following: "The contract, if awarded, shall be awarded to the lowest responsible bidder. The City of Milton reserves the right to exercise exclusive discretion as to the responsibility of any bidder.

	The contract shall be executed on the forms attached, will be subject to all requirements of the Contract Document, and shall form a binding Contract between the contracting parties."
Section 103.05 REQUIREMENTS OF BONDS	Delete in its entirety and substitute the CONTRACT following: "At the time of the execution of the contract, and as a part thereof, the successful bidder shall furnish Contract Bond Below: Performance Bond in the full amount of the contract. Payment Bond in the full amount of the contract. Maintenance bond in the amount of one-third (1/3) of the contract. "
Section 103.07 FAILURE TO CONTRACT	Delete in its entirety and substitute the EXECUTE following: "Failure to execute the Contract Performance, Payment or Maintenance Bonds, or furnish satisfactory proof of carriage of the insurance required within ten days after the date of Notice of Award of the Contract, may be just cause for the annulment of the award and for the forfeiture of the proposal guaranty to the City of Milton, not as a penalty, but as liquidation of damages sustained. At the discretion of the City, the award may then be made to the next lowest bidder, may be re-advertised, or may be constructed by City forces. The Contract and Contract bonds shall be executed in quadruplicate."

SECTION 107 - LEGAL REGULATIONS AND RESPONSIBILITY TO THE PUBLIC

Section 107.18 ACQUISITION OF RIGHT OF WAY	Add the following paragraph: "The Contractor shall inspect all easements and rights-of-way to ensure that the City has obtained all land and rights-of-way necessary for completion of the Work to be performed pursuant to the Contract Documents. The Contractor shall comply with all stipulations contained in easements acquired by the Department."

Section 107.21 CONTRACTORS RESPONSIBILITY FOR UTILITY PROPERTY AND SERVICE	Add the following sentence to Paragraph A: "The Contractor is responsible for the location of above and below ground Utilities and structures which may be affected by the Work."
SECTION 109	MEASUREMENT AND PAYMENT
Section 109.07 PARTIAL PAYMENTS	Delete the first sentence of the Second Paragraph under 'A. General" As long as the gross value of completed work is less than 50% of the total Contract amount, or if the Contractor is not maintaining his construction schedule to the satisfaction of the Engineer, the Department shall retain 10% of the gross value of the work that has been completed as indicated by the current estimate certified by the Engineer for payment.
Section 109.08 FINAL PAYMENT	Delete in its entirety and substitute the Following: "Final Payment: Upon completion by the Contractor of the work, including the receipt of any final written submission of the Contractor and the approval thereof by the Department, the CITY will pay the Contractor a sum equal to 100 percent (100%) of the compensation set forth herein, less the total of all previous partial payments, paid or in the process of payment. The Contractor agrees that acceptance of this final payment shall be in full and final settlement of all claims arising against the CITY for work done, materials furnished, costs incurred, or otherwise arising out of this Agreement and shall release the CITY from any and all further claims of whatever nature, whether known or unknown for and on account of said Agreement, and for any and all work done, and labor and materials furnished, in connection with same."

*****NOTICE TO CONTRACTORS*****
EPD AIR QUALITY RULES ON OPEN BURNING REFER TO CHAPTER 391-3-1-02-05

For additional/information, please contact:

Georgia Department of Natural Resources
Environmental Protection Division
Air Protection Branch
4244 International Parkway, Suite 120
Atlanta, GA 30354
404/363-7000; 404/362-2534 – FAX

SAMPLE - CONSTRUCTION SERVICES AGREEMENT
[PROJECT NAME]

This Construction Services Agreement (the "Agreement") is made and entered into this ___ day of ____, **20**___ [INSERT DATE] (the "Effective Date"), by and between the **CITY OF MILTON, GEORGIA**, a municipal corporation of the State of Georgia, acting by and through its governing authority, the Mayor and Milton City Council (hereinafter referred to as the "City"), and _____ [INSERT CONTRACTOR NAME], a _____ [INSERT TYPE OF ENTITY] (hereinafter referred to as the "Contractor"), collectively referred to herein as the "Parties".

W I T N E S S E T H:

WHEREAS, the City desires to retain a contractor to perform services for the construction of a Project, as defined below; and

WHEREAS, the City solicited _____ (bids/proposals) for construction of the Project pursuant to the Request for _____ (Bids/Proposals), dated _____, 20___ [INSERT DATE], attached hereto as **"Exhibit A"** and incorporated herein by reference; and

WHEREAS, the Contractor submitted a complete and timely _____ (bid/proposal), attached hereto as **"Exhibit B"** and incorporated herein by reference, and met all _____ (bid/proposal) requirements such that the City awarded Project Number _____ [INSERT PROJECT NUMBER] to the Contractor; and

WHEREAS, the City finds that specialized knowledge, skills, and training are necessary to perform the Work (defined below) contemplated under this Agreement; and

WHEREAS, the Contractor has represented that it is qualified by training and experience to perform the Work; and

WHEREAS, based upon Contractor's _____ (proposal/bid), the City has selected Contractor as the successful _____ (proposer/bidder), and

WHEREAS, Contractor desires to perform the Work as set forth in this Agreement under the terms and conditions provided in this Agreement; and

WHEREAS, the public interest will be served by this Agreement; and

SAMPLE

WHEREAS, Contractor has familiarized itself with the nature and extent of the Contract Documents, the Project, and the Work, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that may in any manner affect cost, progress or performance of Work, and Contractor is aware that it must be licensed to do business in the State of Georgia.

NOW THEREFORE, for and in consideration of the mutual promises, the public purposes, and the acknowledgements and agreements contained herein and other good and adequate consideration, the sufficiency of which is hereby acknowledged, the Parties hereto do mutually agree as follows:

Section 1. Contract Documents

This Agreement along with the following documents, attached hereto (except as expressly noted otherwise below) and incorporated herein by reference, constitute the "Contract Documents":

A. Request for _____ (Proposals/Bids), attached hereto as **"Exhibit A"**;

B. _____ (Proposal/Bid) Documents from Contractor, dated _____ ____, _____ [INSERT DATE], attached hereto as **"Exhibit B"**;

C. Scope of Work, attached hereto as **"Exhibit C"**;

D. Any required Performance Bond and/or Payment Bond, attached hereto collectively as **"Exhibits D.1 and D.2"**;

E. Noncollusion Affidavit of Prime _____ (Proposer/Bidder), attached hereto as **"Exhibit E"**;

F. Final Affidavit, attached hereto as **"Exhibit F"**;

G. Alien Employment affidavits, attached hereto as **"Exhibits G.1 and G.2"**;

H. Plans, drawings and specifications, attached hereto collectively as **"Exhibit H"**;

I. Additional Payment/Retainage Requirements, attached hereto as **"Exhibit I"**;

J. Key Personnel, attached hereto as **"Exhibit J"**;

K. Contract Administration provisions (if issued), attached hereto as **"Exhibit K"**;

L. General Conditions (if issued), attached hereto as **"Exhibit L"**;

M. Supplementary Conditions (if issued), attached hereto as **"Exhibit M"**;

SAMPLE

N. Notice of Award, attached hereto as **"Exhibit N"**;

O. City of Milton Code of Ethics (codified in the official Code of the City of Milton);

P. The following, which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Change Orders (defined in Section 6 below), other written amendments, and other documents amending, modifying, or supplementing the Contract Documents if properly adopted in writing and executed by the Parties.

Section 2. Project Description; Architect; Engineer; Contract Administrator

A. Project. A general description of the Project is as follows: _____ [INSERT GENERAL PROJECT DESCRIPTION] (the "Project"). A third-party Architect or Engineer (as identified below) □ **has/** □ **has not [check one]** been retained related to this Project.

B. Architect/Engineer (if any).

(i) Architect *[if applicable]*. The Project has been designed by _____ [INSERT ARCHITECT NAME, IF ANY] (hereinafter referred to as the "Architect"). The Architect will have authority to act on behalf of the City only to the extent provided in the Contract Documents, unless otherwise modified in accordance with the provisions of this Agreement.

(ii) Engineer *[if applicable]*. The Project has been designed by _____ [INSERT ENGINEER NAME, IF ANY] (hereinafter referred to as the "Engineer"). The Engineer will have authority to act on behalf of the City only to the extent provided in the Contract Documents, unless otherwise modified in accordance with the provisions of this Agreement.

C. Contract Administrator. The Contract Administrator for this Agreement shall be: _____ [INSERT CONTRACT ADMINISTRATOR NAME – specify the City, Architect, Engineer, or other entity fulfilling this role].

Section 3. The Work

A. The Work. The Work to be completed under this Agreement (the "Work") includes, but shall not be limited to, the work described in the Scope of Work provided in **"Exhibit C"**, attached hereto and incorporated herein by reference. The Work includes all material, labor, insurance, tools, equipment, machinery, water, heat, utilities, transportation, facilities, services and any other miscellaneous items and work reasonably inferable from the Contract Documents. The term

SAMPLE

"reasonably inferable" takes into consideration the understanding of the Parties that some details necessary for proper execution and completion of the Work may not be shown on the drawings or included in the specifications or Scope of Work, but they are a requirement of the Work if they are a usual and customary component of the Work or are otherwise necessary for proper and complete installation and operation of the Work. Contractor shall complete the Work in strict accordance with the Contract Documents. In the event of any discrepancy among the terms of the various Contract Documents, the provision most beneficial to the City, as determined by the City in its sole discretion, shall govern.

B. Notice to Proceed. The City will issue a Notice to Proceed, which Notice to Proceed shall state the dates for beginning Work ("Commencement Date") and the Expected Date of Final Completion (defined in Section 4(A) below). Unless otherwise approved, the Contractor shall perform its obligations under this Agreement as expeditiously as is consistent with reasonable skill and care and the orderly progress of the Work.

C. Plans; Drawings and Specifications. The plans, drawings and specifications provided in **"Exhibit H",** attached hereto, are hereby acknowledged by the Parties and incorporated herein by reference.

D. Shop Drawings, Product Data, and Samples. Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents, but must be in conformity therewith. The purpose of their submittal is to demonstrate, for those portions of the Work for which submittals are required by the Contract Documents, the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents.

(i) "Shop Drawings" are drawings, diagrams, schedules and other data specifically prepared for the Work by the Contractor or a subcontractor, sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

(ii) "Product Data" are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

(iii) "Samples" are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

The Contractor shall review for compliance with the Contract Documents and shall approve and submit to the Contract Administrator Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the City or of separate contractors. By approving and submitting

SAMPLE

Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Contract Administrator without action. The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved in writing by the Contract Administrator, provided that submittals that are not required by the Contract Documents may be returned without action.

The Work shall be completed in accordance with approved submittals, provided that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Contract Administrator's approval of Shop Drawings, Product Data, Samples or similar submittals, unless the Contractor has specifically informed the Contract Administrator in writing of such deviation at the time of submittal and (1) the Contract Administrator has given written approval to the specific deviation as a minor change in the Work, or (2) a written Change Order has been issued and approved to authorize the deviation. The Contract Administrator's approval of the Shop Drawings, Product Data, Samples or similar submittals shall not relieve the Contractor of responsibility for errors or omissions therein.

The Contractor shall, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, direct the Contract Administrator's attention to any additional revisions included other than those requested by the Contract Administrator on previous submittals. In the absence of such written notice drawing the Contract Administrator's attention to such additional revisions, the Contract Administrator's approval of a resubmission shall not apply to such additional revisions.

The Contractor shall maintain at the Project site(s) one record copy of the Contract Documents in good order and marked currently to record field changes and selections made during construction and one record copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These documents shall be available to the City and Contract Administrator and shall be delivered to the Contract Administrator or City upon completion of the Work.

Section 4. <u>Contract Term; Liquidated Damages; Expedited Completion; Partial Occupancy or Use</u>

A. <u>Contract Term</u>. The term of this Agreement ("Term") shall commence on the Effective Date and continue until the earlier of the Expected Date of Final Completion or the proper termination and non-renewal of this Agreement (provided

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that certain obligations, including but not limited to Warranty obligations, will survive termination/expiration of this Agreement). Contractor warrants and represents that it will perform its Work in a prompt and timely manner, which shall not impose delays on the progress of the Work. The Contractor shall commence Work pursuant to this Agreement within five (5) business days of the Commencement Date provided by the City, and the Parties intend that all Work shall be completed on or before _____, 20___ [INSERT DATE OF EXPECTED COMPLETION – **NOTE DEFINED TERMS IN "EXHIBIT I" RELATED TO SAME**] (the "Expected Date of Final Completion"). Every effort will be made by Contractor to shorten this period. If the Term of this Agreement continues beyond the calendar year in which this Agreement is executed, the Parties agree that this Agreement, as required by O.C.G.A. § 36-60-13, shall terminate absolutely and without further obligation on the part of the City on December 31 each calendar year of the Term [□ unless this box is checked, in which case the Agreement shall terminate absolutely and without further obligation on the part of the City at the end of the City's fiscal year each year of the Term], and further, that this Agreement shall automatically renew on January 1 of each subsequent calendar year [□ unless this box is checked, in which case the Agreement shall automatically renew on the first day of each subsequent City fiscal year of the Term] absent the City's provision of written notice of non-renewal to Contractor at least five (5) calendar days prior to the end of the then current calendar year [or fiscal year, as applicable]. Title to any supplies, materials, equipment, or other personal property shall remain in Contractor until fully paid for by the City.

B. Time is of the Essence; Liquidated Damages. Contractor specifically acknowledges that TIME IS OF THE ESSENCE of this Agreement and that City will suffer financial loss if the Work is not completed in accordance with the deadlines specified in Section 4(A) above and within the Contract Documents. The City and Contractor also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the City if the Work is not completed within the specified times. Accordingly, instead of requiring any such proof, the City and Contractor agree that, as liquidated damages for delay (but not as a penalty), the Contractor shall pay to the City **_____ and 00/100 Dollars ($ .00)** [INSERT DAILY LIQUIDATED DAMAGES AMOUNT] for each and every calendar day that expires after a deadline provided in the Contract Documents.

C. Expediting Completion. The Contractor is accountable for completing the Work within the time period provided in the Contract Documents. If, in the judgment of the City, the Work is behind schedule and the rate of placement of work is inadequate to regain scheduled progress to ensure timely completion of the entire Work or a separable portion thereof, the Contractor, when so informed by the City, shall immediately take action to increase the rate of work placement by:

(1) An increase in working forces;

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(2) An increase in equipment or tools;
(3) An increase in hours of work or number of shifts;
(4) Expediting delivery of materials; and/or
(5) Other action proposed if acceptable to City.

Within five (5) calendar days after such notice from City that the Work is behind schedule, the Contractor shall notify the City in writing of the specific measures taken and/or planned to increase the rate of progress. The Contractor shall include an estimate as to the date of scheduled progress recovery. Should the City deem the plan of action inadequate, the Contractor shall take additional steps to make adjustments as necessary to its plan of action until it meets with the City's approval and such approval is provided in writing by the City.

D. Partial Occupancy or Use. The City may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement between the City and Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the City and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. Immediately prior to such partial occupancy or use, the City, Contractor and Contract Administrator shall jointly inspect the area to be occupied, or portion of the Work to be used, in order to determine and record the condition of the Work. Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

Section 5. Contractor's Compensation; Time and Method of Payment

A. Maximum Contract Price. The total amount paid under this Agreement as compensation for Work performed and reimbursement for costs incurred shall not, in any case, exceed $_____.__ [INSERT MAXIMUM CONTRACT PRICE] (the "Maximum Contract Price"), except as outlined in Section 6 below. The compensation for Work performed shall be based upon _____ [SPECIFY HOURLY RATE, FLAT FEE, UNIT PRICES, OR OTHER BASIS], and Contractor represents that the Maximum Contract Price is sufficient to perform all of the Work set forth in and contemplated by this Agreement.

B. Additional Payment Requirements. Additional payment requirements are included as **"Exhibit I"**, attached hereto and incorporated herein by reference.

SAMPLE

C. Material Deviations. Any material deviations in tests or inspections performed, or times or locations required to complete such tests or inspections, and like deviations from the Work described in this Agreement shall be clearly communicated to the City *before* charges are incurred and shall be handled through written Change Orders, as described in Section 6 below. Whenever the Contract Administrator considers it necessary or advisable, it shall have authority to require inspection or testing of the Work. However, neither this authority of the Contract Administrator nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Contract Administrator to the Contractor, subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

D. Taxes. The City is a governmental tax-exempt entity and shall not be responsible for paying any taxes on any materials or services provided for herein. At Contractor's request, City shall provide evidence of its tax-exempt status. To the extent, if any, that the City furnishes tangible personal property to Contractor for incorporation into the Project, Contractor shall be responsible for paying the amount of tax owed for such tangible personal property.

Section 6. Change Orders

A. Change Order Defined. A "Change Order" means a written modification of the Contract Documents, signed by representatives of the City and the Contractor with appropriate authorization.

B. Right to Order Changes. The City reserves the right to order changes in the Work to be performed under this Agreement by altering, adding to, or deducting from the Work. All such changes shall be incorporated in written Change Orders and executed by the Contractor and the City. Such Change Orders shall specify the changes ordered and any necessary adjustment of compensation and completion time. If the Parties cannot reach an agreement on the terms for performing the changed work within a reasonable time to avoid delay or other unfavorable impacts as determined by the City in its sole discretion, the City shall have the right to determine reasonable terms, and the Contractor shall proceed with the changed work.

C. Change Order Requirement. Any work added to the scope of this Agreement by a Change Order shall be executed under all the applicable conditions of this Agreement. No claim for additional compensation or extension of time shall be recognized, unless contained in a written Change Order duly executed on behalf of the City and the Contractor.

D. Authority to Execute Change Order. The City Manager has authority to execute, without further action of the Milton City Council, any number of Change Orders so long as their total effect does not materially alter the terms of this Agreement or materially increase the Maximum Contract Price, as set forth in Section 5(A) above.

SAMPLE

Any such Change Orders materially altering the terms of this Agreement, or any Change Order affecting the price where the Maximum Contract Price (as amended) is in excess of $50,000, must be approved by resolution of the Milton City Council.

E. Minor Changes in the Work. The Contract Administrator will have the authority to order minor changes in the Work not involving adjustment in the Maximum Contract Price or extension of the Term and not inconsistent with the intent of the Contract Documents. Such changes shall be affected by written order signed by the Contract Administrator. The Contractor shall carry out such written orders promptly. If the minor changes subsequently may affect adjustments in the Maximum Contract Price or the Term, the changes shall then be converted to a written Change Order by the requesting Party.

Section 7. Covenants of Contractor

A. Ethics Code; Conflict of Interest.

(i) Contractor agrees that it shall not engage in any activity or conduct that would result in a violation of the City of Milton Code of Ethics or any other similar law or regulation. Contractor certifies that to the best of his knowledge no circumstances exist which will cause a conflict of interest in performing the Work. Should Contractor become aware of any circumstances that may cause a conflict of interest during the Term of this Agreement, Contractor shall immediately notify the City. If the City determines that a conflict of interest exists, the City may require that Contractor take action to remedy the conflict of interest or terminate the Agreement without liability. The City shall have the right to recover any fees paid for services rendered by Contractor when such services were performed while a conflict of interest existed if Contractor had knowledge of the conflict of interest and did not notify the City within five (5) business days of becoming aware of the existence of the conflict of interest.

(ii) Contractor and the City acknowledge that it is prohibited for any person to offer, give, or agree to give any City employee or official, or for any City employee or official to solicit, demand, accept, or agree to accept from another person, a gratuity of more than nominal value or rebate or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor. The Contractor and the City further acknowledge that it is prohibited for any payment, gratuity, or offer of employment to be made by or on behalf of a sub-consultant under a contract to the prime Contractor or higher tier sub-

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consultant, or any person associated therewith, as an inducement for the award of a subcontract or order.

B. Meetings. The Contractor is required to meet with the City's personnel, or designated representatives, to resolve technical or contractual problems that may occur during the Term of this Agreement at no additional cost to the City. Meetings will occur as problems arise and will be coordinated by the City or the Contract Administrator. The Contractor will be given a minimum of three (3) full business days' notice of meeting date, time, and location. Face-to-face meetings are desired. However, at the Contractor's option and expense, a conference call meeting may be substituted. Consistent failure to participate in problem resolution meetings, two consecutive missed or rescheduled meetings, or failure to make a good faith effort to resolve problems, may result in termination of the contract for cause.

C. Expertise of Contractor. Contractor accepts the relationship of trust and confidence established between it and the City, recognizing that the City's intention and purpose in entering into this Agreement is to engage an entity with the requisite capacity, experience, and professional skill and judgment to provide the Work in pursuit of the timely and competent completion of the Work undertaken by Contractor under this Agreement. The Contractor agrees to use its best efforts, skill, judgment, and abilities to perform its obligations and to further the interests of City and the Project in accordance with City's requirements and procedures, and Contractor shall employ only persons duly qualified in the appropriate area of expertise to perform the Work described in this Agreement.

D. Proper Execution by Contractor. Contractor agrees that it will perform its services in accordance with the usual and customary standards of the Contractor's profession or business and in compliance with all federal, state, and local laws, regulations, codes, ordinances, or orders applicable to the Project, including, but not limited to, O.C.G.A. § 50-5-63, any applicable records retention requirements, and Georgia's Open Records Act (O.C.G.A. § 50-18-70, *et seq.*). Any additional work or costs incurred as a result of error and/or omission by Contractor as a result of not complying with the Contract Documents or not meeting the applicable standard of care or quality, including but not limited to those of repeated procedures and compensation for the Contract Administrator's services or expenses, will be provided at Contractor's expense and at no additional cost to the City. This provision shall survive termination of this Agreement.

It is the Contractor's responsibility to be reasonably aware of all applicable laws, statutes, ordinances, building codes, and rules and regulations. If the Contractor observes that portions of the Contract Documents are at variance therewith, the Contractor shall promptly notify the Contract Administrator and the City in writing of any portions of the Contract Documents that are at variance with the applicable laws, statutes, ordinances, building codes, and rules and regulations.

The Contractor's duties shall not be diminished by any approval by the City or

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Contract Administrator of Work completed or produced; nor shall any approval by the City or Contract Administrator of Work completed or produced release the Contractor from any liability therefor, it being understood that the City is ultimately relying upon the Contractor's skill and knowledge in performing the Work required under the Contract Documents.

Organization of the specifications into divisions, sections and articles, and arrangement of drawings shall not control the Contractor in dividing the Work among subcontractors or in establishing the extent of Work to be performed by any trade.

E. Familiarity with the Work.

(i) *Contractor Familiarity with Work.* Contractor represents that it has familiarized itself with the nature and extent of the Contract Documents, the Work, work site(s), locality, and all local conditions, laws and regulations that in any manner may affect cost, progress, performance, or furnishing of the Work. Since the Contract Documents are complementary, before starting each portion of the Work, the Contractor shall carefully study and compare the various Contract Documents, site conditions, authorities, tests, reports and studies relative to that portion of the Work, as well as the information furnished by the City, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the Project site(s) affecting it. Contractor represents and agrees that it has correlated the results of all such observations, examinations, investigations, explorations, tests, reports, and studies with the terms and conditions of the Contract Documents. These obligations are for the purpose of facilitating construction by the Contractor and are not for the purpose of discovering errors, omissions, inconsistencies, or ambiguities in the Contract Documents; however, any errors, inconsistencies, omissions, or ambiguities discovered by the Contractor shall be reported promptly to the Contract Administrator and City in writing. Contractor represents that it has given the City written notice of all errors, omissions, inconsistencies, or ambiguities that the Contractor has discovered in the Contract Documents so far, and the written resolution thereof by the City is acceptable to the Contractor. Further, Contractor acknowledges that its obligation to give notice of all such errors, omissions, inconsistencies, or ambiguities shall be continuing during the Term of this Agreement. Any failure on the part of the Contractor to notify the Contract Administrator and City in writing of any errors, omissions, inconsistencies, or ambiguities in the Contract Documents that Contractor discovered or reasonably should have discovered shall result in a waiver and full release by the Contractor of any future arguments or defenses based on such errors, omissions, inconsistencies, or ambiguities against the City. Further, if the Contractor fails to perform its obligations pursuant to this paragraph, the Contractor shall pay such costs and damages to the City as

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would have been avoided if the Contractor had performed such obligations.

(ii) *Inspection of Prior Work.* If part of the Contractor's Work depends for proper execution or results upon construction or operations by a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Contract Administrator apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the City's or separate contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable, and Contractor shall be responsible for all costs and damages resulting from its failure to report reasonably discoverable defects.

(iii) *Contractor Requests for Information*. If, with undue frequency (as determined by the City in its sole discretion), the Contractor requests information that is obtainable through reasonable examination and comparison of the Contract Documents, site conditions, and previous correspondence, interpretations or clarifications, the Contractor shall be liable to the City for reasonable charges from the Contract Administrator for the additional services required to review, research and respond to such requests for information.

F. Supervision, Inspection and Construction Procedures. The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Agreement, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety therefor and, except as stated below, shall be fully and solely responsible for the jobsite safety for such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the City and Contract Administrator and shall not proceed with that portion of the Work without further written instructions from the City or Contract Administrator as approved in writing by the City.

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of this Agreement. The Contractor shall take reasonable precautions for the safety of, and shall provide reasonable protection to prevent damage, injury or loss to: (a) employees and other persons who may be affected, (b) the Work and materials and equipment to be incorporated therein, whether in storage on or off the Project site(s), under care, custody or control of the Contractor or Contractor's

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subcontractors or sub-subcontractors, and (c) other property at the Project site(s) or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction. The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel. If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the Project site(s) by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the City and Contract Administrator in writing.

G. Tests and Inspections. Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, or ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made promptly at an appropriate time to avoid unreasonable delay in the Work. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the City, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Contract Administrator timely notice of when and where tests and inspections are to be made so that the Contract Administrator may be present for such procedures. Required permits or certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and delivered to the Contract Administrator within ten (10) calendar days of issuance.

H. Budgetary Limitations. Contractor agrees and acknowledges that budgetary limitations are not a justification for breach of sound principals of Contractor's profession and industry. Contractor shall take no calculated risk in the performance of the Work. Specifically, Contractor agrees that, in the event it cannot perform the Work within the budgetary limitations established without disregarding sound principals of Contractor's profession and industry, Contractor will give written notice immediately to the City.

I. City's Reliance on the Work. The Contractor acknowledges and agrees that the City does not undertake to approve or pass upon matters of expertise of the Contractor and that therefore, the City bears no responsibility for Contractor's Work performed under this Agreement. The Contractor acknowledges and agrees that the acceptance of Work by the City is limited to the function of determining whether there has been compliance with what is required to be produced under this

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Agreement. The City will not, and need not, inquire into adequacy, fitness, suitability or correctness of Contractor's performance. Contractor further agrees that no approval of designs, plans, or specifications by any person, body, or agency shall relieve Contractor of the responsibility for adequacy, fitness, suitability, and correctness of Contractor's Work under professional and industry standards, or for performing services under this Agreement in accordance with sound and accepted professional and industry principles.

J. Contractor's Reliance on Submissions by the City. Contractor must have timely information and input from the City in order to perform the Work required under this Agreement. Contractor is entitled to rely upon information provided by the City, but Contractor shall be required to provide immediate written notice to the City if Contractor knows or reasonably should know that any information provided by the City is erroneous, inconsistent, or otherwise problematic.

K. Uncovering and Correction of Work. If a portion of the Work is covered contrary to the Contract Administrator's request or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Contract Administrator, be uncovered for examination by the Contract Administrator and be replaced at the Contractor's expense without change in the Agreement Term.

If a portion of the Work has been covered which the Contract Administrator has not specifically requested to examine prior to its being covered or which the Contract Documents did not require to remain uncovered until examined, the Contract Administrator may request to see such Work, and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the City's expense, which expense shall be agreed upon in writing prior to being incurred. If such Work is not in accordance with the Contract Documents, correction shall be at the Contractor's expense, unless the condition was caused by the City, in which event the City shall be responsible for payment of such costs including reasonable charges, if any, by the Contract Administrator for additional service, which expense shall be agreed upon in writing prior to being incurred.

If the City prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the City may do so instead of requiring its removal and correction, in which case the Maximum Contract Price will be reduced as appropriate and equitable. Such adjustment shall be affected whether or not final payment has been made.

L. Clean Up. Contractor shall keep the Project site(s) and surrounding area free from accumulation of waste materials or rubbish caused by operations under this Agreement. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials. If the Contractor fails to clean up as provided in the Contract Documents, the City may do so, and the cost thereof shall

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be charged to the Contractor.

M. Contractor's Representative. _____ [INSERT NAME OF CONTRACTOR'S REPRESENTATIVE] shall be authorized to act on Contractor's behalf with respect to the Work as Contractor's designated representative.

N. Independent Contractor. Contractor hereby covenants and declares that it is engaged in an independent business and agrees to perform the Work as an independent contractor and not as the agent or employee of the City. Nothing contained in this Agreement shall be construed to make the Contractor, or any of its employees, servants or subcontractors, an employee, servant or agent of the City for any purpose. The Contractor agrees to be solely responsible for its own matters relating to the time and place the Work is performed and the method used to perform such Work; the instrumentalities, tools, supplies, and/or materials necessary to complete the Work; hiring of subcontractors, agents, or employees to complete the Work; and the payment of employees, including benefits and compliance with Social Security, withholding, and all other regulations governing such matters. The Contractor agrees to be solely responsible for its own acts and those of its subordinates, employees, and subcontractors during the life of this Agreement. There shall be no contractual relationship between any subcontractor or supplier and the City by virtue of this Agreement with the Contractor. Any provisions of this Agreement that may appear to give the City the right to direct Contractor as to the details of the services to be performed by Contractor or to exercise a measure of control over such services will be deemed to mean that Contractor shall follow the directions of the City with regard to the results of such services only. It is further understood that this Agreement is not exclusive, and the City may hire additional entities to perform Work related to this Agreement.

Inasmuch as the City and the Contractor are independent of each other, 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 of the Contractor to do so, unless specifically authorized, in advance and in writing, to do so, and then only for the limited purpose stated in such authorization. The Contractor shall assume full liability for any contracts or agreements the Contractor enters into on behalf of the City without the express knowledge and prior written consent of the City.

O. Responsibility of Contractor and Indemnification of City. The Contractor covenants and agrees to take and assume all responsibility for the Work rendered in connection with this Agreement. The Contractor shall bear all losses and damages directly or indirectly resulting to it and/or the City on account of the performance or character of the Work rendered pursuant to this Agreement. To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold

SAMPLE

harmless the City and the City's elected and appointed officials, officers, boards, commissions, employees, representatives, consultants, servants, agents, attorneys and volunteers (individually an "Indemnified Party" and collectively "Indemnified Parties") from and against any and all claims, suits, actions, judgments, injuries, damages, losses, costs, expenses and liability of any kind whatsoever, including, but not limited to, attorney's fees and costs of defense ("Liabilities"), which may arise from or be the result of alleged willful, negligent, or tortious act or omission arising out of the Work, performance of contracted services, or operations by the Contractor, any subcontractor, anyone directly or indirectly employed by the Contractor or subcontractor, or anyone for whose acts the Contractor or subcontractor may be liable, regardless of whether or not the act or omission is caused in part by a party indemnified hereunder. This indemnity obligation does not include Liabilities caused by or resulting from the sole negligence of an Indemnified Party. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this provision.

In any and all claims against an Indemnified Party, by any employee of the Contractor, its subcontractor, anyone directly or indirectly employed by the Contractor or subcontractor, or anyone for whose acts the Contractor or subcontractor may be liable, the indemnification obligation set forth in this provision shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any subcontractor under workers' or workmen's compensation acts, disability benefit acts, or other employee benefit acts. This obligation to indemnify, defend, and hold harmless the Indemnified Party(ies) shall survive expiration or termination of this Agreement, provided that the claims are based upon or arise out of actions or omissions that occurred during the performance of this Agreement.

P. Insurance.

(1) Requirements: The Contractor shall have and maintain in full force and effect for the duration of this Agreement, insurance insuring against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work by the Contractor, its agents, representatives, employees or subcontractors. All policies shall be subject to approval by the City as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City Manager.

(2) Minimum Limits of Insurance: Contractor shall maintain the following insurance policies with coverage and limits no less than:

(a) *Commercial General Liability*: $1,000,000 (one million dollars) combined single limit per occurrence $2,000,000 (two million dollars) aggregate comprehensive/extended/enhanced Commercial

SAMPLE

General Liability policy with coverage including bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting therefrom, damage to premises/operations, products/completed operations, independent consultants and contractual liability (specifically covering the indemnity), broad-from property damage, and underground, explosion and collapse hazard. This coverage may be achieved by using an excess or umbrella policy. The policy or policies must be on "an occurrence" basis ("claims made" coverage is not acceptable).

(b) *Commercial Automobile Liability (owned, non-owned, hired)*: $1,000,000 (one million dollars) combined single limit per occurrence $2,000,000 (two million dollars) aggregate for comprehensive Commercial Automobile liability coverage (owned, non-owned, hired) including bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting therefrom.

(c) *Professional Liability*: $1,000,000 (one million dollars) limit Professional Liability policy for claims arising out of professional services and caused by the Contractor's errors, omissions, or negligent acts ***(required if any professional services will be provided).***

(d) *Workers' Compensation and Employers' Liability*: Workers' Compensation policy with limits as required by the State of Georgia and Employers' Liability limits of $1,000,000 (one million dollars) per occurrence or disease. (If Contractor is a sole proprietor, who is otherwise not entitled to coverage under Georgia's Workers' Compensation Act, Contractor must secure Workers' Compensation coverage approved by both the State Board of Workers' Compensation and the Commissioner of Insurance. The amount of such coverage shall be the same as what is otherwise required of employers entitled to coverage under the Georgia Workers' Compensation Act. Further, the Contractor shall provide a certificate of insurance indicating that such coverage has been secured and that no individual has been excluded from coverage.)

(e) *Builder's Risk Insurance*: Contractor shall provide a Builder's Risk Insurance Policy to be made payable to the City and Contractor, as their interests may appear. The policy amount shall be equal to 100% of the Maximum Contract Price, written on a Builder's Risk "All Risk," or its equivalent. The policy shall provide, or be endorsed to provide, as follows: "The following may occur without diminishing, changing, altering or otherwise affecting the coverage and protection afforded the insured under this policy: i) Equipment

SAMPLE

may be delivered to the insured premises and installed in place ready for use; and ii) Partial or complete occupancy by City; and iii) Performance of Work in connection with construction operations insured by the City, by its agents or lessees, or other contractors of the City or using agency." The insurance coverage shall include extended coverage, and providing coverage for transit, with sub-limits sufficient to insure the full replacement value of the property or equipment removed from its site and while located away from its site until the date of final acceptance of the Work.

(f) *Commercial Umbrella Liability Coverage*: $_____ (_____) [INSERT AMOUNT OF COVERAGE REQUIRED, IF ANY] per occurrence shall be provided and will apply over all liability policies, without exception, including but not limited to Commercial General Liability, Commercial Automobile Liability, Employers' Liability, and Professional Liability.

[THE CITY MAY WANT TO INCLUDE OTHER INSURANCE REQUIREMENTS, DEPENDING UPON THE TYPE OF PROJECT AT ISSUE. PARTICULARLY, THE CITY MAY WANT TO CONSIDER REQUIRING DEMOLITION LIABILITY INSURANCE OR POLLUTION LIABILITY INSURANCE.]

(3) Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the City in writing so that the City may ensure the financial solvency of the Contractor; self-insured retentions should be included on the certificate of insurance.

(4) Other Insurance Provisions: Each policy shall contain, or be endorsed to contain, the following provisions respectively:

(a) General Liability, Automobile Liability and Umbrella Liability Coverage.

(i) *Additional Insured Requirement*. The City and City's elected and appointed officials, officers, boards, commissioners, employees, representatives, consultants, servants, agents and volunteers (individually "Insured Party" and collectively "Insured Parties") shall be named as additional insureds as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, leased, or used by the Contractor; automobiles owned, leased, hired, or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Insured Parties.

SAMPLE

Nothing contained in this section shall be construed to require the Contractor to provide liability insurance coverage to any Insured Party for claims asserted against such Insured Party for its sole negligence.

(ii) *Primary Insurance Requirement*. The Contractor's insurance coverage shall be primary noncontributing insurance as respects to any other insurance or self-insurance available to the Insured Parties. Any insurance or self-insurance maintained by the Insured Parties shall be in excess of the Contractor's insurance and shall not contribute with it.

(iii) *Reporting Requirement*. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Insured Parties.

(iv) *Separate Coverage*. Coverage shall state that the Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to limits of insurance provided.

(v) *Defense Costs/Cross Liability*. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion.

(vi) *Subrogation*. The insurer shall agree to waive all rights of subrogation against the Insured Parties for losses arising from Work performed by the Contractor for the City.

(b) Workers' Compensation Coverage: The insurer providing Workers' Compensation Coverage will agree to waive all rights of subrogation against the Insured Parties for losses arising from Work performed by the Contractor for the City.

(c) All Coverages:

(i) *Notice Requirement*. Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, or canceled except after thirty (30) calendar days prior written notice (or 10 calendar days if due to non-payment) has been given to the City. The City reserves the right to accept alternate notice terms and provisions, provided they meet the minimum requirements under Georgia law.

SAMPLE

(ii) *Starting and Ending Dates*. Policies shall have concurrent starting and ending dates.

(iii) *Incorporation of Indemnification Obligations*. Policies shall include an endorsement incorporating the indemnification obligations assumed by the Contractor under the terms of this Agreement, including but not limited to Section 7(O) of this Agreement.

(5) Acceptability of Insurers: The insurance to be maintained by Contractor must be issued by a company licensed or approved by the Insurance Commissioner to transact business in the State of Georgia. Such insurance shall be placed with insurer(s) with an A.M. Best Policyholder's rating of no less than "A-" and with a financial rate of Class VII or greater. The Contractor shall be responsible for any delay resulting from the failure of its insurer to provide proof of coverage in the proscribed form.

(6) Verification of Coverage: Contractor shall furnish to the City for City approval certificates of insurance and endorsements to the policies evidencing all coverage required by this Agreement prior to the start of work. Without limiting the general scope of this requirement, Contractor is specifically required to provide an endorsement naming the City as an additional insured when required. The certificates of insurance and endorsements for each insurance policy are to be on a form utilized by Contractor's insurer in its normal course of business and are to be signed by a person authorized by that insurer to bind coverage on its behalf, unless alternate sufficient evidence of their validity and incorporation into the policy is provided. The City reserves the right to require complete, certified copies of all required insurance policies at any time. The Contractor shall provide proof that any expiring coverage has been renewed or replaced prior to the expiration of the coverage.

(7) Subcontractors: Contractor shall either (1) ensure that its insurance policies (as described herein) cover all subcontractors and the Work performed by such subcontractors or (2) ensure that any subcontractor secures separate policies covering that subcontractor and its Work. All coverage for subcontractors shall be subject to all of the requirements stated in this Agreement, including, but not limited to, naming the Insured Parties as additional insureds.

(8) Claims-Made Policies: Contractor shall extend any claims-made insurance policy for at least six (6) years after termination or final payment under the Agreement, whichever is later, and have an effective date which is on or prior to the Effective Date.

SAMPLE

(9) Progress Payments: The making of progress payments to the Contractor shall not be construed as relieving the Contractor or its subcontractor or insurance carriers from providing the coverage required in this Agreement.

Q. Bonds. In public works construction contracts valued at more than one hundred thousand dollars ($100,000.00) or road construction/maintenance contracts valued at five thousand dollars ($5,000.00) or more, or in any other instance where the City has elected to include such bond requirements as exhibits to this Agreement, the Contractor shall provide Performance and Payment bonds on the forms attached hereto as **"Exhibits D.1 and D.2"** and with a surety licensed to do business in Georgia and listed on the Treasury Department's most current list (Circular 570 as amended). Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under this Agreement, the Contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made.

R. Assignment of Agreement. The Contractor covenants and agrees not to assign or transfer any interest in, or delegate any duties of this Agreement, without the prior express written consent of the City. As to any approved subcontractors, the Contractor shall be solely responsible for reimbursing them, and the City shall have no obligation to them.

S. Employment of Unauthorized Aliens Prohibited – *E-Verify Affidavit*. Pursuant to O.C.G.A. § 13-10-91, the City shall not enter into a contract for the physical performance of services unless:

(1) the Contractor shall provide evidence on City-provided forms, attached hereto as **"Exhibits G.1 and G.2"** (affidavits regarding compliance with the E-Verify program to be sworn under oath under criminal penalty of false swearing pursuant to O.C.G.A. § 16-10-71), that it and its subcontractors have registered with, are authorized to use and use 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, and that they will continue to use the federal work authorization program throughout the contract period, **or**

(2) the Contractor provides evidence that it is not required to provide an affidavit because it is an *individual* licensed pursuant to Title 26 or Title 43 or by the State Bar of Georgia and is in good standing.

The Contractor hereby verifies that it has, prior to executing this Agreement, executed a notarized affidavit, the form of which is provided in **"Exhibit G.1"**, and submitted such affidavit to City or provided the City with evidence that it is an individual not required to provide such an affidavit because it is licensed and in good standing as noted in sub-subsection (2) above. Further, Contractor hereby agrees to comply with the requirements of the federal Immigration Reform and

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Control Act of 1986 (IRCA), P.L. 99-603, O.C.G.A. § 13-10-91 and Georgia Department of Labor Rule 300-10-1-.02.

In the event the Contractor employs or contracts with any subcontractor(s) in connection with the covered contract, the Contractor agrees to secure from such subcontractor(s) attestation of the subcontractor's compliance with O.C.G.A. § 13-10-91 and Rule 300-10-1-.02 by the subcontractor's execution of the subcontractor affidavit, the form of which is attached hereto as **"Exhibit G.2",** which subcontractor affidavit shall become part of the contractor/subcontractor agreement, or evidence that the subcontractor is not required to provide such an affidavit because it is licensed and in good standing as noted in sub-subsection (2) above. If a subcontractor affidavit is obtained, Contractor agrees to provide a completed copy to the City within five (5) business days of receipt from any subcontractor.

Where Contractor is required to provide an affidavit pursuant to O.C.G.A. § 13-10-91, the City Manager or his/her designee shall be authorized to conduct an inspection of the Contractor's and Contractor's subcontractors' verification process at any time to determine that the verification was correct and complete. The Contractor and Contractor's subcontractors shall retain all documents and records of their respective verification process for a period of five (5) years following completion of the contract. Further, where Contractor is required to provide an affidavit pursuant to O.C.G.A. § 13-10-91, the City Manager or his/her designee shall further be authorized to conduct periodic inspections to ensure that no City Contractor or Contractor's subcontractors employ unauthorized aliens on City contracts. By entering into a contract with the City, the Contractor and Contractor's subcontractors agree to cooperate with any such investigation by making their records and personnel available upon reasonable notice for inspection and questioning. Where a Contractor or Contractor's subcontractors are found to have employed an unauthorized alien, the City Manager or his/her designee may report same to the Department of Homeland Security. The Contractor's failure to cooperate with the investigation may be sanctioned by termination of the contract, and the Contractor shall be liable for all damages and delays occasioned by the City thereby.

Contractor agrees that the employee-number category designated below is applicable to the Contractor. [Information only required if a contractor affidavit is required pursuant to O.C.G.A. § 13-10-91.] [DESIGNATE/MARK APPROPRIATE CATEGORY]

____ 500 or more employees.
____ 100 or more employees.
____ Fewer than 100 employees.

Contractor hereby agrees that, in the event Contractor employs or contracts with any subcontractor(s) in connection with this Agreement and where the

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subcontractor is required to provide an affidavit pursuant to O.C.G.A. § 13-10-91, the Contractor will secure from the subcontractor(s) such subcontractor(s') indication of the above employee-number category that is applicable to the subcontractor.

The above requirements shall be in addition to the requirements of State and federal law and shall be construed to be in conformity with those laws.

T. Records, Reports and Audits.

(1) Records:

(a) Books, records, documents, account legers, data bases, and similar materials relating to the Work performed for the City under this Agreement ("Records") shall be established and maintained by the Contractor in accordance with applicable law and requirements prescribed by the City with respect to all matters covered by this Agreement. Except as otherwise authorized or required, such Records shall be maintained for at least three (3) years from the date that final payment is made to Contractor by City under this Agreement. Furthermore, Records that are the subject of audit findings shall be retained for three (3) years or until such audit findings have been resolved, whichever is later.

(b) All costs claimed or anticipated to be incurred in the performance of this Agreement shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.

(2) Reports and Information: Upon request, the Contractor shall furnish to the City any and all Records in the form requested by the City. All Records stored on a computer database must be of a format compatible with the City's computer systems and software.

(3) Audits and Inspections: At any time during normal business hours and as often as the City may deem necessary, Contractor shall make available to the City or City's representative(s) for examination all Records. The Contractor will permit the City or City's representative(s) to audit, examine, and make excerpts or transcripts from such Records. Contractor shall provide proper facilities for City or City's representative(s) to access and inspect the Records, or, at the request of the City, shall make the Records available for inspection at the City's office. Further, Contractor shall permit the City or City's representative(s) to observe and inspect any or all of

SAMPLE

Contractor's facilities and activities during normal hours of business for the purpose of evaluating Contractor's compliance with the terms of this Agreement. In such instances, the City or City's representative(s) shall not interfere with or disrupt such activities.

U. Confidentiality. Contractor acknowledges that it may receive confidential information of the City and that it will protect the confidentiality of any such confidential information and will require any of its subcontractors, contractors, and/or staff to likewise protect such confidential information. The Contractor agrees that confidential information it receives or such reports, information, opinions, or conclusions that Contractor creates under this Agreement shall not be made available to, or discussed with, any individual or organization, including the news media, without prior written approval of the City. Contractor shall exercise reasonable precautions to prevent the unauthorized disclosure and use of City information whether specifically deemed confidential or not.

Contractor acknowledges that the City's disclosure of documentation is governed by Georgia's Open Records Act, and Contractor further acknowledges that, if Contractor submits records containing trade secret information and if Contractor wishes to keep such records confidential, Contractor must submit and attach to such records an affidavit affirmatively declaring that specific information in the records constitutes trade secrets pursuant to Article 27 of Chapter 1 of Title 10, and the Parties shall follow the requirements of O.C.G.A. § 50-18-72(a)(34) related thereto.

V. Licenses, Certifications and Permits. The Contractor covenants and declares that it has obtained all diplomas, certificates, licenses, permits, or the like required of the Contractor by any and all national, state, regional, county or local boards, agencies, commissions, committees or other regulatory bodies in order to perform the Work contracted for under this Agreement; provided that some permits or licenses related to the Project may be obtained as part of the Work and shall be obtained as required. The Contractor shall secure and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work, which are customarily secured after execution of the Agreement and which are legally required. Contractor shall furnish copies of such permits, licenses, etc. to the City within ten (10) days after issuance.

W. Key Personnel. All of the individuals identified in **"Exhibit J"**, attached hereto, are necessary for the successful completion of the Work due to their unique expertise and depth and breadth of experience. There shall be no change in Contractor's Project Manager or members of the Project team, as listed in **"Exhibit J"**, without written approval of the City. Contractor recognizes that the composition of this team was instrumental in the City's decision to award the Work to Contractor and that compelling reasons for substituting these individuals must be demonstrated for the City's consent to be granted. Any substitutes shall be persons of comparable or superior expertise and experience. Failure to comply with

SAMPLE

the provisions of this paragraph shall constitute a material breach of Contractor's obligations under this Agreement and shall be grounds for termination.

X. Authority to Contract. The Contractor covenants and declares that it has obtained all necessary approvals of its board of directors, stockholders, general partners, limited partners, or similar authorities to simultaneously execute and bind Contractor to the terms of this Agreement, if applicable.

Y. Ownership of Work. All reports, designs, drawings, plans, specifications, schedules, work product, and other materials, including those in electronic form, prepared or in the process of being prepared for the Work to be performed by the Contractor ("Materials") shall be the property of the City, and the City shall be entitled to full access and copies of all Materials in the form prescribed by the City. Any Materials remaining in the hands of the Contractor or subcontractor upon completion or termination of the Work shall be delivered immediately to the City whether or not the Project or Work is commenced or completed, provided, however, that Contractor may retain a copy of any deliverables for its records. The Contractor assumes all risk of loss, damage or destruction of or to Materials. If any Materials are lost, damaged, or destroyed before final delivery to the City, the Contractor shall replace them at its own expense. Any and all copyrightable subject matter in all Materials is hereby assigned to the City, and the Contractor agrees to execute any additional documents that may be necessary to evidence such assignment.

Z. Nondiscrimination. During the performance of this Agreement, the Contractor agrees as follows:

1. *Compliance with Regulations.* The Contractor shall comply with the Regulations, hereinafter defined, relative to nondiscrimination in federally-assisted programs of the Department of Transportation (the "DOT"), Title 49, Code of Federal Regulations, part 21, as they may be amended from time to time (the "Regulations"), which are herein incorporated by reference and made a part of this Agreement.

2. *Nondiscrimination.* The Contractor, with regard to the Work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of employees or subcontractors, including procurement of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.

3. *Solicitations for Subcontracts, Including Procurement of Materials and Equipment.* In all solicitations either by competitive bidding or negotiations made by the Contractor for Work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Agreement and the Regulations relative to nondiscrimination on the ground of race, color, sex, or national origin.

SAMPLE

4. *Information and Reports.* The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, and other sources of information and its facilities as may be determined by the County, GDOT, 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 County, or GDOT or the Federal Highway Administration, as appropriate, and shall set forth what efforts it has made to obtain such information.

5. *Sanctions for Noncompliance.* In the event of the Contractor's noncompliance with the nondiscriminatory provision of this Agreement, County shall impose contract sanctions as it or GDOT or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

(a) Withholding of payments to the Contractor under the Agreement until Contractor complies; and/or

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

6. *Incorporation of Provisions.* The Contractor shall include the provisions of paragraphs (1) through (5) in every subcontract, procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issue thereto.

The Contractor shall take such action with respect to any subcontractor or procurement as the County or GDOT or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctioning noncompliance: Provided, however, that in the event a Contractor becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the County to enter into such litigation to protect the interest of the County and, in addition, the Contractor may request the Georgia Department of Transportation to enter into such litigation to protect the interests of the State and the United States to enter into such litigation to protect the interests of the United States.

Section 8. Covenants of the City

A. Right of Entry. The City shall provide for right of entry for Contractor and Contractor's equipment as required for Contractor to complete the Work; provided that Contractor shall not unreasonably encumber the Project site(s) with materials or equipment.

B. City's Representative. _____ [INSERT CITY'S REPRESENTATIVE] shall be authorized to act on the City's behalf with respect to the Work as the City's designated representative on this Project; provided that any changes to the Work or the terms of this Agreement must be approved as provided in Section 6 above.

Section 9. Final Project Documents; Warranty

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A. Final Project Documents. Prior to final payment, Contractor shall deliver to City a written assignment of all warranties, guaranties, certificates, permits, and other documents, including without limitation, all contractors' and manufacturers' warranties. At such time, Contractor shall also deliver to the City copies of all as-built drawings, operations, and maintenance manuals, and any other pertinent documents relating to the construction and operation of the Work that is not otherwise in the possession of the City.

B. Warranty. The Contractor warrants to the City and the Contract Administrator that materials and equipment furnished under the Agreement will be of good quality and new, unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, is considered defective. This warranty excludes remedy for damage or defect caused by abuse by the City or modifications to the Work not executed by the Contractor or an employee/subcontractor/sub-subcontractor thereof.

Except as may be otherwise specified or agreed, the Contractor shall repair or replace all defects in materials, equipment, or workmanship appearing within _____ year(s) [INSERT WARRANTY PERIOD] (the "Warranty Period") from the date of Final Completion (as defined in **"Exhibit I",** attached hereto and incorporated herein by reference) at no additional cost to the City. Further, Contractor shall provide all maintenance services, including parts and labor, for _____ year(s) [INSERT MAINTENANCE PERIOD] (the "Maintenance Period") from the date of Final Completion at no additional cost to the City. An inspection shall be conducted by the City or its representative(s) near the completion of the respective Warranty Period/Maintenance Period to identify any issues that must be resolved by the Contractor. After the expiration of the Maintenance Period, City shall be responsible for repairing issues resulting from normal wear and tear and shall be responsible for general maintenance of the equipment; however, expiration of any Warranty Period or Maintenance Period shall not affect the Contractor's continued liability under an implied warranty of merchantability and fitness. All warranties implied by law, including fitness for a particular purpose and suitability, are hereby preserved and shall apply in full force and effect beyond any Warranty Period or Maintenance Period. City may purchase additional maintenance services from the Contractor upon a written proposal for such services being executed by authorized representatives of both Parties, and upon execution, such proposal for additional services shall be incorporated herein by this reference.

Section 10. Termination

A. For Convenience. The City may terminate this Agreement for convenience at any time upon providing written notice thereof to Contractor at least seven (7) calendar days in advance of the termination date.

SAMPLE

B. For Cause. The Contractor shall have no right to terminate this Agreement prior to completion of the Work, except in the event of City's failure to pay the Contractor within thirty (30) calendar days of Contractor providing the City with notice of a delinquent payment and an opportunity to cure. The City may terminate this Agreement for cause as provided in Section 11 of this Agreement. The City shall give Contractor at least seven (7) calendar days' written notice of its intent to terminate the Agreement for cause and the reasons therefor, and if Contractor, or its Surety, fails to cure the default within that period, the termination shall take place without further notice. The City shall then make alternative arrangements for completion of the Project.

C. Statutory Termination. In compliance with O.C.G.A. § 36-60-13, this Agreement shall be deemed terminated as provided in Section 4(A) of this Agreement. Further, this Agreement shall terminate immediately and absolutely at such time as appropriated or otherwise unobligated funds are no longer available to satisfy the obligation of the City.

D. Payment. Provided that no damages are due to the City for Contractor's failure to perform in accordance with this Agreement, and except as otherwise provided herein, the City shall, upon termination for convenience or statutory termination, pay Contractor for Work performed prior to the date of termination in accordance with Section 5 herein. The City shall have no further liability to Contractor for such termination. At its sole discretion, the City may pay Contractor for additional value received as a result of Contractor's efforts, but in no case shall said payment exceed any remaining unpaid portion of the Maximum Contract Price.

If this Agreement is terminated for cause, the City will make no further payment to the Contractor or its Surety until the Project is completed and all costs of completing the Project are paid. If the unpaid balance of the amount due the Contractor, according to this Agreement, exceeds the cost of finishing the Project, City shall provide payment to the Contractor (or its Surety) for services rendered and expenses incurred prior to the termination date, provided that such payment shall not exceed the unpaid balance of the amount otherwise payable under this Agreement minus the cost of completing the Project. If the costs of completing the Project exceed the unpaid balance, the Contractor or its Surety shall pay the difference to the City.

E. Assumption of Contracts. The City reserves the right in termination for cause to take assignment of all contracts between the Contractor and its subcontractors, vendors, and suppliers. The City will promptly notify the Contractor of the contracts the City elects to assume. Upon receipt of such notice, the Contractor shall promptly take all steps necessary to affect such assignment.

F. Conversion to Termination for Convenience. If the City terminates this Agreement for cause and it is later determined that the City did not have grounds to do so, the

SAMPLE

termination will be converted to and treated as a termination for convenience under the terms of Section 10(A) above.

G. Requirements Upon Termination. Upon termination, the Contractor shall: (1) promptly discontinue all services, cancel as many outstanding obligations as possible if requested to do so by the City, and not incur any new obligations, unless the City directs otherwise; and (2) promptly deliver to the City all data, drawings, reports, summaries, and such other information and materials as may have been generated or used by the Contractor in performing this Agreement, whether completed or in process, in the form specified by the City.

H. Reservation of Rights and Remedies. The rights and remedies of the City and the Contractor provided in this Section are in addition to any other rights and remedies provided under this Agreement or at law or in equity.

Section 11. City's Rights; Contractor Default

A. City Rights Related to the Work.

(i) *City's Right to Stop the Work.* If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, as required by the Contract Administrator, or persistently fails to carry out Work in accordance with the Contract Documents, the City may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the City to stop the Work shall not give rise to a duty on the part of the City to exercise this right for the benefit of the Contractor or any other person or entity. Such a stoppage of Work shall not extend the Expected Date of Final Completion of the Work.

(ii) *City's Right to Carry Out the Work.* If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven (7) calendar day period after receipt of written notice from the City to commence and/or continue correction of such default or neglect with diligence and promptness, the City may, without prejudice to other remedies the City may have, correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including City's expenses and compensation for the Architect/Engineer's and/or Contract Administrator's additional services (if any) made necessary by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the City.

B. Contractor Default. For the purposes of this Agreement, Contractor shall be in default if any of the following occur during the Term of this Agreement: (a) a failure to fulfill in a timely and proper manner Contractor's obligations under this Agreement; (b) Contractor violates any of the material provisions, agreements, representations or

SAMPLE

covenants of this Agreement or any applicable city, state, or federal laws, which do not fall within the force majeure provisions of this Agreement; (c) the Contractor becomes insolvent or unable to pay its debts as they mature, or makes an assignment for the benefit of creditors, or files a bankruptcy petition under the United States Bankruptcy Code; or (d) Contractor is the subject of a judgment or order for payment of money, which judgment or order exceeds $100,000 and is no longer subject to appeal or, in the opinion of the City, would be fruitless to appeal and where (i) such judgment or order shall continue un-discharged or unpaid for a period of thirty (30) calendar days, (ii) an insurer acceptable to the City has not acknowledged that such judgment or order is fully covered by a relevant policy of insurance, or (iii) the City is otherwise reasonably satisfied that such judgment or order is not likely to be satisfied or complied with within sixty (60) calendar days of its issuance.

In the event of Contractor's default under this Agreement, the City shall send written notice to the Contractor setting forth the specific instances of the default and providing the Contractor with at least seven (7) calendar days to cure or otherwise remedy the default to the reasonable satisfaction of the City. If the default is not remedied during the stated cure period, then the City may, at its election: (a) in writing terminate the Agreement in whole or in part; (b) cure such default itself and charge the Contractor for the costs of curing the default against any sums due or which become due to the Contractor under this Agreement; and/or (c) pursue any other remedy then available, at law or in equity, to the City for such default.

Section 12. Construction Administration

If a Contract Administrator other than the City has been hired in relation to the Project, the Contract Administrator's administration of the construction of the Project shall be as described in **"Exhibit K"**, attached hereto. The Contractor agrees to the construction administration provisions contained in **"Exhibit K."**

Section 13. Miscellaneous

A. Complete Agreement. This Agreement, including all of the Contract Documents, constitutes the complete agreement between the Parties and supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter of this Agreement. No other agreement, statement, or promise relating to the subject matter of this Agreement not contained in this Agreement or the Contract Documents shall be valid or binding. This Agreement may be modified or amended only by a written document signed by representatives of both Parties with appropriate authorization.

B. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia without regard to choice of law principles. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the rules, regulations, statutes and laws of the State of Georgia will control. Any action or suit related to this Agreement shall be brought in the

SAMPLE

Superior Court of Fulton County, Georgia or the U.S. District Court for the Northern District of Georgia – Atlanta Division, and Contractor submits to the jurisdiction and venue of such court.

C. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

D. Invalidity of Provisions; Severability. Should any article(s) or section(s) of this Agreement, or any part thereof, later be deemed illegal, invalid or unenforceable by a court of competent jurisdiction, the offending portion of the Agreement should be severed, and the remainder of this Agreement shall remain in full force and effect to the extent possible as if this Agreement had been executed with the invalid portion hereof eliminated, it being the intention of the Parties that they would have executed the remaining portion of this Agreement without including any such part, parts, or portions that may for any reason be hereafter declared invalid.

E. Business License. Prior to commencement of the Work to be provided hereunder, Contractor shall apply to the City for a business license, pay the applicable business license fee, and maintain said business license during the Term of this Agreement, unless Contractor provides evidence that no such license is required.

F. Notices.

(1) *Communications Relating to Day-to-Day Activities.*

All communications relating to the day-to-day activities of the Work shall be exchanged between _____ [INSERT CONTACT NAME] for the City and _____ [INSERT CONTACT NAME] for the Contractor.

(2) *Official Notices.*

All other notices, requests, demands, writings, or correspondence, as required by this Agreement, shall be in writing and shall be deemed received, and shall be effective, when (1) personally delivered, or (2) on the third calendar day after the postmark date when mailed by certified mail, postage prepaid, return receipt requested, or (3) upon actual delivery when sent *via* national overnight commercial carrier to the Party at the addresses given below, or at a substitute address previously furnished to the other Party by written notice in accordance herewith:

NOTICE TO CITY shall be sent to:

City of Milton
Attn: Procurement Manager

SAMPLE

2006 Heritage Walk
Milton, Georgia 30004

NOTICE TO CONTRACTOR shall be sent to:

_____
_____
_____

G. Waiver of Agreement. No failure by the City to enforce any right or power granted under this Agreement, or to insist upon strict compliance by Contractor with this Agreement, and no custom or practice of the City at variance with the terms and conditions of this Agreement shall constitute a general waiver of any future breach or default or affect the City's right to demand exact and strict compliance by Contractor with the terms and conditions of this Agreement. Further, no express waiver shall affect any term or condition other than the one specified in such waiver, and that one only for the time and manner specifically stated.

H. Survival. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, confidentiality obligations, warranties, and insurance maintenance requirements.

I. Sovereign Immunity. Nothing contained in this Agreement shall be construed to be a waiver of the City's sovereign immunity or any individual's qualified good faith or official immunities.

J. No Personal Liability. Nothing herein shall be construed as creating any individual or personal liability on the part of any of City's elected or appointed officials, officers, boards, commissions, employees, representatives, consultants, servants, agents, attorneys or volunteers. No such individual shall be personally liable to the Contractor or any successor in interest in the event of any default or breach by the City or for any amount which may become due to the Contractor or successor or on any obligation under the terms of this Agreement. Likewise, Contractor's performance of services under this Agreement shall not subject Contractor's individual employees, officers, or directors to any personal liability, except where Contractor is a sole proprietor. The Parties agree that their sole and exclusive remedy, claim, demand, or suit shall be directed and/or asserted only against Contractor or the City, respectively, and not against any elected or appointed official, officers, boards, commissions, employees, representatives, consultants, servants, agents, attorneys and volunteers.

K. Force Majeure. Neither the City nor Contractor shall be liable for their respective non-negligent or non-willful failure to perform or shall be deemed in default with respect to the failure to perform (or cure a failure to perform) any of their respective duties or obligations under this Agreement or for any delay in such performance due to: (i) any cause beyond their respective reasonable control; (ii) any act of God;

SAMPLE

(iii) any change in applicable governmental rules or regulations rendering the performance of any portion of this Agreement legally impossible; (iv) earthquake, fire, explosion, or flood; (v) strike or labor dispute, excluding strikes or labor disputes by employees and/or agents of Contractor; (vi) delay or failure to act by any governmental or military authority; or (vii) any war, hostility, embargo, sabotage, civil disturbance, riot, insurrection, or invasion. In such event, the time for performance shall be extended by an amount of time equal to the period of delay caused by such acts, and all other obligations shall remain intact.

L. Headings. All headings herein are intended for convenience and ease of reference purposes only and in no way define, limit, or describe the scope or intent thereof, or of this Agreement, or in any way affect this Agreement.

M. No Third Party Rights. This Agreement shall be exclusively for the benefit of the Parties and shall not provide any third parties with any remedy, claim, liability, reimbursement, cause of action or other right.

N. Successors and Assigns. Subject to the provision of this Agreement regarding assignment, each Party binds itself, its partners, successors, assigns, and legal representatives to the other Party hereto, its partners, successors, assigns, and legal representatives with respect to all covenants, agreements, and obligations contained in the Contract Documents.

O. Agreement Construction and Interpretation. Contractor represents that it has reviewed and become familiar with this Agreement and has notified the City of any discrepancies, conflicts or errors in the Contract Documents. The Parties hereto agree that, if an ambiguity or question of intent or interpretation arises, this Agreement is to be construed as if the Parties had drafted it jointly, as opposed to being construed against a Party because it was responsible for drafting one or more provisions of the Agreement. In the interest of brevity, the Contract Documents may omit modifying words such as “all” and “any” and articles such as “the” and “an,” but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

P. Material Condition. Each term of this Agreement is material, and Contractor’s breach of any term of this Agreement shall be considered a material breach of the entire Agreement and shall be grounds for termination or exercise of any other remedies available to the City at law or in equity.

Q. Use of Singular and Plural. Words or terms used as nouns in the Agreement shall be inclusive of their singular and plural forms, unless the context of their usage clearly requires contrary meaning.

IN WITNESS WHEREOF, the City and the Contractor have executed this Agreement effective as of the Effective Date first above written.

SAMPLE

[SIGNATURES ON FOLLOWING PAGE]

SAMPLE

CONTRACTOR: _____
[INSERT CONTACTOR NAME]

By: _____

Print Name: _____

Its: [CIRCLE ONE]
President/Vice President (Corporation)
General Partner (Partnership/Limited Partnership)
Member/Manager (LLC)
Owner (Sole Proprietorship/Individual)

[CORPORATE SEAL]
(required if corporation)

Attest/Witness:

_____

Print Name: _____

Its: _____
((Assistant) Corporate Secretary if corporation)

CITY OF MILTON, GEORGIA

By: _____
Joe Lockwood, Mayor

[CITY SEAL]

Attest:

_____

Print Name:_____
Its: City Clerk

Approved as to form:

_____
City Attorney

SAMPLE

“EXHIBIT A”

[INSERT REQUEST FOR _____ (PROPOSALS/BIDS)]

SAMPLE

"EXHIBIT B"

[INSERT _____ (PROPOSAL/BID) DOCUMENTS FROM CONTRACTOR]

SAMPLE

“EXHIBIT C”

[INSERT SCOPE OF WORK –
May reference agreed upon Scope of Work from “Exhibit A” or “Exhibit B” or insert new negotiated/agreed upon Scope of Work]

SAMPLE

"EXHIBITS D.1 AND D.2"

[Exhibits D.1 and D.2 must be required and attached to this Agreement:

(1) For any public works construction contract valued at more than one hundred thousand dollars ($100,000.00), or

(2) For any road construction contract valued at five thousand dollars ($5,000.00) or more, or

(3) In any other instance where the City has elected to include such bond requirements in that particular Agreement.]

SAMPLE

"EXHIBIT D.1"

PERFORMANCE BOND

CITY OF MILTON, GEORGIA

KNOW ALL MEN BY THESE PRESENTS THAT _____ (as CONTRACTOR, hereinafter referred to as the "Principal"), and _____ (as SURETY COMPANY, hereinafter referred to as the "CONTRACTOR'S SURETY"), are held and firmly bound unto City of Milton, Georgia (as OWNER, hereinafter referred to as the "City"), for the use and benefit of the City, in the sum of _____ Dollars ($_____.__), lawful money of the United States of America, for the payment of which the Principal and the Contractor's Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered, or is about to enter, into a certain written agreement with the City for the construction of a project known as _____ (hereinafter referred to as "the PROJECT"), which agreement is incorporated herein by reference in its entirety (hereinafter referred to as the "CONTRACT"),.

NOW THEREFORE, the conditions of this obligation are as follows:

1. That if the Principal shall fully and completely perform each and all of the terms, provisions and requirements of the Contract, including and during the period of any warranties or guarantees required thereunder, and all modifications, amendments, changes, deletions, additions, and alterations thereto that may hereafter be made, and if the Principal and the Contractor's Surety shall indemnify and hold harmless the City from any and all losses, liability and damages, claims, judgments, liens, costs and fees of every description,

SAMPLE

including but not limited to, any damages for delay, which the City may incur, sustain or suffer by reason of the failure or default on the part of the Principal in the performance of any and all of the terms, provisions, and requirements of the Contract, including all modifications, amendments, changes, deletions, additions, and alterations thereto, and any warranties or guarantees required thereunder, then this obligation shall be void; otherwise to remain in full force and effect;

2. In the event of a failure of performance of the Contract by the Principal, which shall include, but not be limited to, any breach or default of the Contract:

   a. The Contractor's Surety shall commence performance of its obligations and undertakings under this Bond no later than thirty (30) calendar days after written notice from the City to the Contractor's Surety; and

   b. The means, method or procedure by which the Contractor's Surety undertakes to perform its obligations under this Bond shall be subject to the advance written approval of the City.

The Contractor's Surety hereby waives notice of any and all modifications, omissions, additions, changes, and advance payments or deferred payments in or about the Contract, and agrees that the obligations undertaken by this Bond shall not be impaired in any manner by reason of any such modifications, omissions, additions, changes, and advance payments or deferred payments. The Parties further expressly agree that any action on this Bond may be brought within the time allowed by Georgia law for suit on contracts under seal.

IN WITNESS WHEREOF, the Principal and Contractor's Surety have hereunto affixed their corporate seals and caused this obligation to be signed by their duly authorized officers or attorneys-in-fact, as set forth below.

SAMPLE

CONTRACTOR ("Principal"):

_____

By: _____ (signature)

_____ (print)

Title: _____ (SEAL)

Date: _____

Attest:

_____ (signature)

_____ (print)

Title: _____

Date:_____

CONTRACTOR'S SURETY:

_____

By: _____ (signature)

_____ (print)

Title: _____ (SEAL)

Date: _____

Attest:

_____ (signature)

_____ (print)

Title: _____

Date:_____

(ATTACH SURETY'S POWER OF ATTORNEY)

SAMPLE

"EXHIBIT D.2"

PAYMENT BOND

CITY OF MILTON, GEORGIA

KNOW ALL MEN BY THESE PRESENTS THAT _____ (as CONTRACTOR, hereinafter referred to as the "Principal"), and _____ (as SURETY COMPANY, hereinafter referred to as the "CONTRACTOR'S SURETY"), are held and firmly bound unto City of Milton, Georgia (as OWNER, hereinafter referred to as the "City"), for the use and benefit of any "Claimant," as hereinafter defined, in the sum of _____ Dollars ($_____.__), lawful money of the United States of America, for the payment of which the Principal and the Contractor's Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered, or is about to enter, into a certain written agreement with the City for the construction of a project known as _____ (hereinafter referred to as "the PROJECT"), which agreement is incorporated herein by reference in its entirety (hereinafter referred to as the "CONTRACT").

NOW THEREFORE, the condition of this obligation is such that if the Principal shall promptly make payment to any Claimant, as hereinafter defined, for all labor, services, and materials used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise to remain in full force and effect.

A "Claimant" shall be defined herein as any Subcontractor, person, Party, partnership, corporation, or other entity furnishing labor, services, or materials used or reasonably required for

SAMPLE

use in the performance of the Contract, without regard to whether such labor, services, or materials were sold, leased, or rented, and without regard to whether such Claimant is or is not in privity of the Contract with the Principal or any Subcontractor performing Work on the Project.

In the event of any claim made by the Claimant against the City, or the filing of a Lien against the property of the City affected by the Contract, the Contractor's Surety shall either settle or resolve the Claim and shall remove any such Lien by bond or otherwise as provided in the Contract.

The Parties further expressly agree that any action on this Bond may be brought within the time allowed by Georgia law for suit on contracts under seal.

IN WITNESS WHEREOF, the Principal and Contractor's Surety have hereunto affixed their corporate seals and caused this obligation to be signed by their duly authorized officers, as set forth below.

[SIGNATURES ON FOLLOWING PAGE]

SAMPLE

CONTRACTOR:

_____

By: _____ (signature)

_____ (printed)

Title: _____ (SEAL)

Date: _____

Attest:

_____ (signature)

_____ (printed)

Title: _____

Date:_____

CONTRACTOR'S SURETY:

_____

By: _____ (signature)

_____ (printed)

Title: _____ (SEAL)

Date: _____

Attest:

_____ (signature)

_____ (printed)

Title: _____

Date:_____

(ATTACH SURETY'S POWER OF ATTORNEY)

SAMPLE

"EXHIBIT E"

NONCOLLUSION AFFIDAVIT OF PRIME (PROPOSER/BIDDER)

STATE OF _____
COUNTY OF _____

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

(1) He is _____(Owner, Partner, Officer, Representative, or Agent) of _____ (the "_____" (Proposer/Bidder)) that has submitted the attached _____ (Proposal/Bid);

(2) He is fully informed respecting the preparation and contents of the attached _____ (Proposal/Bid) and of all pertinent circumstances respecting such _____ (Proposal/Bid);

(3) Such _____ (Proposal/Bid) is genuine and is not a collusive of sham _____ (Proposal/Bid);

(4) Neither the said _____ (Proposer/Bidder) nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, included in this affidavit, has in any way colluded, conspired, connived, or agreed, directly or indirectly, with any other _____ (Proposer/Bidder), firm or person to submit a collusive or sham _____ (Proposal/Bid) in connection with the Contract for which the attached _____ (Proposal/Bid) has been submitted or to refrain from _____ (proposing/bidding) in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other _____ (Proposer/Bidder), firm or person to fix the price or prices in the attached _____ (Proposal/Bid) or of any other _____ (Proposer/Bidder), or to fix any overhead, profit or cost element of the _____ (Proposal/Bid) price of any other _____ (Proposer/Bidder) or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against the City of Milton or any person interested in the proposed Contract; and,

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

(6) _____ (Proposer/Bidder) has not directly or indirectly violated any law, ordinance or regulation related to the _____ (Proposal/Bid).

_____
Signature of Authorized Officer or Agent

_____
Printed Name and Title of Authorized Officer or Agent

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

_____
Notary Public

[NOTARY SEAL]

My Commission Expires:
_____

SAMPLE

"EXHIBIT F"

FINAL AFFIDAVIT

STATE OF _____
COUNTY OF _____

TO CITY OF MILTON, GEORGIA

I, _____, hereby certify that all suppliers of materials, equipment and service, subcontractors, mechanics, and laborers employed by _____ or any of its subcontractors in connection with the construction of _____ for City of Milton, Georgia have been paid and satisfied in full as of _____, 20_____, and that there are no outstanding obligations or claims of any kind for the payment of which City of Milton, Georgia on the above named project might be liable, or subject to, in any lawful proceeding at law or in equity.

_____
Signature

_____
Title

Personally appeared before me this ____ day of _____, 20____._____, who under oath deposes and says that he is _____ of the firm of _____, that he has read the above statement, and that to the best of his knowledge and belief same is an exact true statement.

_____
Notary Public

[NOTARY SEAL]

My Commission Expires

_____

SAMPLE

"EXHIBIT G.1"

STATE OF _____
COUNTY OF _____

CONTRACTOR AFFIDAVIT AND AGREEMENT

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 Milton 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

_City of Milton, Georgia_____
Name of Public Employer

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

_____
Signature of Authorized Officer or Agent

_____
Printed Name and Title of Authorized Officer or Agent

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

_____
Notary Public

[NOTARY SEAL]

My Commission Expires:
_____

SAMPLE

"EXHIBIT G.2"

SUBCONTRACTOR AFFIDAVIT

STATE OF _____
COUNTY OF _____

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with _____ (name of contractor) on behalf of the City of Milton 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 subcontractor will continue to use the federal work authorization program throughout the contract period, and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the subcontractor with the information required by O.C.G.A. § 13-10-91(b). Additionally, the undersigned subcontractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the contractor within five (5) business days of receipt. If the undersigned subcontractor receives notice that a sub-subcontractor has received an affidavit from any other contracted sub-subcontractor, the undersigned subcontractor must forward, within five (5) business days of receipt, a copy of the notice to the contractor.

Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

_____
Federal Work Authorization User Identification Number

_____
Date of Authorization

_____
Name of Subcontractor

_____
Name of Project

City of Milton, Georgia
Name of Public Employer

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

Executed on _____ ___, 201__ 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 _____,201__.

_____
NOTARY PUBLIC

[NOTARY SEAL]

My Commission Expires:

_____

SAMPLE

“EXHIBIT H”

[REFERENCE APPLICABLE PLANS, DRAWINGS, AND SPECIFICATIONS FROM “EXHIBIT A” OR “EXHIBIT B” OR INSERT APPLICABLE PLANS, DRAWINGS AND SPECIFICATIONS HERE]

SAMPLE

“EXHIBIT I”

[INSERT APPROPRIATE ADDITIONAL PAYMENT TERMS
DEPENDING UPON PROJECT DESCRIPTION]

SAMPLE

ADDITIONAL PAYMENT TERMS

[INSERT LANGUAGE BELOW FOR PROJECT (1) VALUED AT MORE THAN $150,000.00 OR (2) LONGER THAN 45 DAYS IN DURATION – OTHER THAN A WATER AND SEWER CONSTRUCTION CONTRACT]

A. Defined Terms. Terms used in this Agreement shall have their ordinary meaning, unless otherwise defined below or elsewhere in the Contract Documents.

(i) "Substantial Completion" means when the Work or designated portion thereof is complete in accordance with the Contract Documents so that any remaining Work includes only (1) Minor Items that can be completed or corrected within the following thirty (30) calendar days, (2) Permitted Incomplete Work that will be completed by the date agreed upon by the Parties, and (3) any Warranty Work. Substantial Completion shall require complete operation of all applicable building systems including, but not limited to, mechanical, electrical, plumbing, fire protection, fire alarm, telecom, data, security, elevators, life safety, and accessibility (if any).

(ii) "Minor Item" means a portion or element of the Work that can be totally complete within thirty (30) calendar days.

(iii) "Permitted Incomplete Work" means Work that is incomplete through no fault of the Contractor, as determined by the City in its sole discretion.

(iv) "Final Completion" means when the Work has been completed in accordance with terms and conditions of the Contract Documents.

B. Payment for Work Completed and Costs Incurred. City agrees to pay the Contractor for the Work performed and costs incurred by Contractor upon certification by the Contract Administrator and the City that the Work was actually performed and costs actually incurred in accordance with this Agreement. Payment shall be based on the value of the Work completed, as provided in the Contract Documents, plus the value of materials and equipment suitably stored, insured, and protected at the construction site, and, only if approved in writing by the City (which approval shall be given at the sole discretion of the City), such materials and equipment suitably stored, insured, and protected off site at a location approved by the City in writing, less retainage (as described below). Compensation for Work performed and reimbursement for costs incurred shall be paid to the Contractor upon receipt and approval by the City of invoices setting forth in detail the Work performed and costs incurred, along with all supporting documents required by the Contract Documents or requested by the City to process the invoice. Invoices shall be submitted on a monthly basis, and such invoices shall reflect costs incurred versus costs budgeted. Each invoice shall be accompanied by an Interim Waiver and Release upon Payment (or a Waiver and Release upon final payment in the case of the invoice for final payment) procured by the Contractor from all subcontractors in accordance with O.C.G.A. § 44-14-366.

The City shall pay the Contractor within thirty (30) calendar days after approval of the

SAMPLE

invoice by City staff, less any retainage as described in Section D below. No payments will be made for unauthorized work. Payment will be sent to the designated address by U. S. Mail only; payment will not be hand-delivered, though the Contractor may arrange to pick up payments directly from the City or may make written requests for the City to deliver payments to the Contractor by Federal Express delivery at the Contractor's expense.

C. Evaluation of Payment Requests. The Contract Administrator will evaluate the Contractor's applications for payment and will either issue to the City a Certificate for Payment (with a copy of the Contractor's application for payment) for such amount as the Contract Administrator determines is properly due, or notify the Contractor and City in writing of the Contract Administrator's reasons for withholding certification in whole or in part. The Contract Administrator may reject Work that does not conform to the Contract Documents and may withhold a Certificate of Payment in whole or in part, to the extent reasonably necessary to protect the City. When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

Even following a Certificate of Payment, the City shall have the right to refuse payment of any invoice or part thereof that is not properly supported, or where requests for payment for Work or costs are in excess of the actual Work performed or costs incurred, or where the Work product provided is unacceptable or not in conformity with the Contract Documents, as determined by the City in its sole discretion. The City shall pay each such invoice or portion thereof as approved, provided that neither the approval or payment of any such invoice, nor partial or entire use or occupancy of the Project by the City, shall be considered to be evidence of performance by the Contractor to the point indicated by such invoice, or of receipt or acceptance by the City of Work covered by such invoice, where such work is not in accordance with the Contract Documents.

D. Final Payment and Retainage. The City and Contractor shall comply with the provisions of O.C.G.A. § 13-10-80. The Contractor through each invoice may request payment of no more than ninety percent (90%) of that portion of the Work completed during the term covered by such invoice until fifty percent (50%) of the Maximum Contract Price, as may be adjusted, is due and the manner of completion of the Work and its progress are reasonably satisfactory to the City. Payment for the remaining ten percent (10%) of Work completed and covered by such invoices shall be retained by the City until Substantial Completion. Once fifty percent (50%) of the Maximum Contract Price, as may be adjusted, is due and the manner of completion of the Work and its progress are reasonably satisfactory to the City, no additional retainage shall be withheld, except as provided below. All amounts retained by the City shall be held as a lump sum until Substantial Completion of the Work, regardless of earlier completion of individual component(s) of the Work; provided, however, that, at the discretion of the City and with the written approval of the Contractor, the retainage of each subcontractor may be released separately as the subcontractor completes his or her work.

If, 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

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withholding retainage accordingly. At Substantial Completion of the Work and as the Contract Administrator determines the Work to be reasonably satisfactory, the City shall, within 30 days after the invoice and other appropriate documentation as may be required by the Contract Documents are provided to the City, pay the retainage to the Contractor. If at that time there are any remaining incomplete Minor Items or Permitted Incomplete Work, an amount equal to 200 percent of the value of each Minor Item or Permitted Incomplete Work, as determined by the Contract Administrator in its sole discretion, shall be withheld until such item, items or work are completed. The reduced retainage shall be shared by the Contractor and subcontractors as their interests may appear.

The Contractor shall, within ten (10) days from its receipt of retainage from the City, pass through payments to subcontractors and shall reduce each subcontractor's retainage in the same manner as the Contractor's retainage is reduced by the City; provided, however, that the value of each subcontractor's work complete and in place equals fifty percent (50%) of his or her subcontract value, including approved Change Orders and other additions to the subcontract value; provided, further, that the work of the subcontractor is proceeding satisfactorily and the subcontractor has provided or provides such satisfactory reasonable assurances of continued performance and financial responsibility to complete his or her work including any warranty work as the Contractor in his or her reasonable discretion may require, including, but not limited to, a payment and performance bond. The subcontractor shall, within ten (10) days from the subcontractor's receipt of retainage from the Contractor, pass through payments to lower tier subcontractors and shall reduce each lower tier subcontractor's retainage in the same manner as the subcontractor's retainage is reduced by the Contractor; provided, however, that the value of each lower tier subcontractor's work complete and in place equals fifty percent (50%) of his or her subcontract value, including approved Change Orders and other additions to the subcontract value; provided, further, that the work of the lower tier subcontractor is proceeding satisfactorily and the lower tier subcontractor has provided or provides such satisfactory reasonable assurances of continued performance and financial responsibility to complete his or her work including any warranty work as the subcontractor in his or her reasonable discretion may require, including, but not limited to, a payment and performance bond.

Final payment of any retained amounts to the Contractor shall be made after certification by the Contract Administrator that the Work has been satisfactorily completed and is accepted in accordance with the Agreement and Contract Documents.

Neither final payment nor any remaining retainage shall become due until the Contractor submits to the Contract Administrator (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the City or City property might be responsible or encumbered (less amounts withheld by City) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance, required by the Contract Documents to remain in force after final payment, is currently in effect and will not be canceled or allowed to expire until at least thirty (30) calendar days prior written notice has been given to the City; (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by

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the Contract Documents, (4) consent of surety, if any, to final payment, (5) a release or waiver of liens, claims, security interests, and encumbrances by all subcontractors and material suppliers, and (6), if required by the City, other data establishing payment or satisfaction of obligations, such as receipts, to the extent and in such form as may be designated by the City. If a subcontractor or material supplier refuses to furnish a release or waiver as required by the City, the Contractor may furnish a bond satisfactory to the City to indemnify the City against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the City all money that the City may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

Acceptance of final payment by the Contractor, a subcontractor or material supplier shall constitute a waiver of claims by that payee, except those claims previously made in writing and identified by that payee as unsettled at the time of final application for payment.

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ADDITIONAL PAYMENT TERMS

[INSERT LANGUAGE BELOW FOR ANY PROJECT RELATING TO THE INSTALLATION, EXTENSION, IMPROVEMENT, MAINTENANCE OR REPAIR OF ANY WATER OR SEWER FACILITY AND INVOLVING RETAINAGE]

A. Defined Terms. Terms used in this Agreement shall have their ordinary meaning, unless otherwise defined below or elsewhere in the Contract Documents.

(i) "Substantial Completion" means when the Work or designated portion thereof is complete in accordance with the Contract Documents so that any remaining Work includes only (1) Minor Items that can be completed or corrected within the following thirty (30) calendar days, (2) Permitted Incomplete Work that will be completed by the date agreed upon by the Parties, and (3) any Warranty Work. Substantial Completion shall require complete operation of all applicable building systems including, but not limited to, mechanical, electrical, plumbing, fire protection, fire alarm, telecom, data, security, elevators, life safety, and accessibility (if any).

(ii) "Minor Item" means a portion or element of the Work that can be totally complete within thirty (30) calendar days.

(iii) "Permitted Incomplete Work" means Work that is incomplete through no fault of the Contractor, as determined by the City in its sole discretion.

(iv) "Final Completion" means when the Work has been completed in accordance with terms and conditions of the Contract Documents.

B. Payment for Work Completed and Costs Incurred. City agrees to pay the Contractor for the Work performed and costs incurred by Contractor upon certification by the Contract Administrator and the City that the Work was actually performed and costs actually incurred in accordance with this Agreement. Payment shall be based on the value of the Work completed, as provided in the Contract Documents, plus the value of materials and equipment suitably stored, insured, and protected at the construction site, and, only if approved in writing by the City (which approval shall be given at the sole discretion of the City), such materials and equipment suitably stored, insured, and protected off site at a location approved by the City in writing, less retainage (as described below). Compensation for Work performed and reimbursement for costs incurred shall be paid to the Contractor upon receipt and approval by the City of invoices setting forth in detail the Work performed and costs incurred, along with all supporting documents required by the Contract Documents or requested by the City to process the invoice. Invoices shall be submitted on a monthly basis, and such invoices shall reflect costs incurred versus costs budgeted. Each invoice shall be accompanied by an Interim Waiver and Release upon Payment (or a Waiver and Release upon Final Payment in the case of the invoice for final payment) procured by the Contractor from all subcontractors in accordance with O.C.G.A. § 44-14-366.

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The City shall pay the Contractor within thirty (30) calendar days after approval of the invoice by City staff, less any retainage as described in Section D below. No payments will be made for unauthorized work. Payment will be sent to the designated address by U. S. Mail only; payment will not be hand-delivered, though the Contractor may arrange to pick up payments directly from the City or may make written requests for the City to deliver payments to the Contractor by Federal Express delivery at the Contractor's expense.

C. Evaluation of Payment Requests. The Contract Administrator will evaluate the Contractor's applications for payment and will either issue to the City a Certificate for Payment (with a copy of the Contractor's application for payment) for such amount as the Contract Administrator determines is properly due, or notify the Contractor and City in writing of the Contract Administrator's reasons for withholding certification in whole or in part. The Contract Administrator may reject Work that does not conform to the Contract Documents and may withhold a Certificate of Payment in whole or in part, to the extent reasonably necessary to protect the City. When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

   Even following a Certificate of Payment, the City shall have the right to refuse payment of any invoice or part thereof that is not properly supported, or where requests for payment for Work or costs are in excess of the actual Work performed or costs incurred, or where the Work product provided is unacceptable or not in conformity with the Contract Documents, as determined by the City in its sole discretion. The City shall pay each such invoice or portion thereof as approved, provided that neither the approval or payment of any such invoice, nor partial or entire use or occupancy of the Project by the City, shall be considered to be evidence of performance by the Contractor to the point indicated by such invoice, or of receipt or acceptance by the City of Work covered by such invoice, where such work is not in accordance with the Contract Documents.

D. Final Payment and Retainage. The City and Contractor shall comply with the provisions of O.C.G.A. § 13-10-81. The Contractor through each invoice may request payment of no more than ninety percent (90%) of the gross value of the Work completed during the term covered by such invoice until fifty percent (50%) of the Maximum Contract Price, as may be adjusted, is due and the manner of completion of the Work and its progress are reasonably satisfactory to the City. Payment for the remaining ten percent (10%) of Work completed and covered by such invoices shall be retained by the City until Substantial Completion. Once fifty percent (50%) of the Maximum Contract Price, as may be adjusted, is due and the manner of completion of the Work and its progress are reasonably satisfactory to the City, no additional retainage shall be withheld, except as provided below. All amounts retained by the City shall be held as a lump sum until Substantial Completion of the Work, regardless of earlier completion of individual component(s) of the Work; provided, however, that, at the discretion of the City and with the written approval of the Contractor, the retainage of each subcontractor may be released separately as the subcontractor completes his or her work. Retainage shall be invested at the current market rate, and any interest earned on the retained amount by the City shall be paid to the Contractor when the Project has been completed within the time limits specified and within the Maximum Contract Price (as amended).

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If, 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. At Substantial Completion of the Work and as the Contract Administrator determines the Work to be reasonably satisfactory, the City shall, within 30 days after the invoice and other appropriate documentation as may be required by the Contract Documents are provided to the City, pay the retainage to the Contractor. If at that time there are any remaining incomplete Minor Items or Permitted Incomplete Work, an amount equal to 200 percent of the value of each Minor Item or Permitted Incomplete Work, as determined by the Contract Administrator in its sole discretion, shall be withheld until such item, items or work are completed. The reduced retainage shall be shared by the Contractor and subcontractors as their interests may appear.

The Contractor shall, within ten (10) days from its receipt of retainage from the City, pass through payments to subcontractors and shall reduce each subcontractor's retainage in the same manner as the Contractor's retainage is reduced by the City; provided, however, that the value of each subcontractor's work complete and in place equals fifty percent (50%) of his or her subcontract value, including approved Change Orders and other additions to the subcontract value; provided, further, that the work of the subcontractor is proceeding satisfactorily and the subcontractor has provided or provides such satisfactory reasonable assurances of continued performance and financial responsibility to complete his or her work including any warranty work as the Contractor in his or her reasonable discretion may require, including, but not limited to, a payment and performance bond. The subcontractor shall, within ten (10) days from the subcontractor's receipt of retainage from the Contractor, pass through payments to lower tier subcontractors and shall reduce each lower tier subcontractor's retainage in the same manner as the subcontractor's retainage is reduced by the Contractor; provided, however, that the value of each lower tier subcontractor's work complete and in place equals fifty percent (50%) of his or her subcontract value, including approved Change Orders and other additions to the subcontract value; provided, further, that the work of the lower tier subcontractor is proceeding satisfactorily and the lower tier subcontractor has provided or provides such satisfactory reasonable assurances of continued performance and financial responsibility to complete his or her work including any warranty work as the subcontractor in his or her reasonable discretion may require, including, but not limited to, a payment and performance bond.

Final payment of any retained amounts to the Contractor shall be made after certification by the Contract Administrator that the Work has been satisfactorily completed and is accepted in accordance with the Agreement and Contract Documents. Payment to the Contractor of interest earned on the retained amounts shall be made after certification by the Contract Administrator that the Work has been completed within the time specified and within the Maximum Contract Price.

Neither final payment nor any remaining retainage shall become due until the Contractor submits to the Contract Administrator (1) an affidavit that payrolls, bills for materials and

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equipment, and other indebtedness connected with the Work for which the City or City property might be responsible or encumbered (less amounts withheld by City) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance, required by the Contract Documents to remain in force after final payment, is currently in effect and will not be canceled or allowed to expire until at least 30 calendar days prior written notice has been given to the City; (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) a release or waiver of liens, claims, security interests, and encumbrances by all subcontractors and material suppliers, and (6), if required by the City, other data establishing payment or satisfaction of obligations, such as receipts, to the extent and in such form as may be designated by the City. If a subcontractor or material supplier refuses to furnish a release or waiver as required by the City, the Contractor may furnish a bond satisfactory to the City to indemnify the City against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the City all money that the City may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

Acceptance of final payment by the Contractor, a subcontractor or material supplier shall constitute a waiver of claims by that payee, except those claims previously made in writing and identified by that payee as unsettled at the time of final application for payment.

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ADDITIONAL PAYMENT TERMS

[INSERT LANGUAGE BELOW FOR ANY PROJECT VALUED AT BETWEEN $10,000.01 AND $150,000.00 AND WITH A DURATION OF 45 DAYS OR LESS – OTHER THAN A WATER AND SEWER CONSTRUCTION CONTRACT]

A. Defined Terms. Terms used in this Agreement shall have their ordinary meaning, unless otherwise defined below or elsewhere in the Contract Documents.

(i) "Final Completion" means when the Work has been completed in accordance with terms and conditions of the Contract Documents.

B. Payment for Work Completed and Costs Incurred. City agrees to pay the Contractor for the Work performed and costs incurred by Contractor upon certification by the Contract Administrator and the City that the Work was actually performed and costs actually incurred in accordance with this Agreement. Compensation for Work performed and reimbursement for costs incurred shall be paid to the Contractor upon receipt and approval by the City of invoices setting forth in detail the Work performed and costs incurred, along with all supporting documents required by the Contract Documents or requested by the City to process the invoice. Invoices shall be submitted on a monthly basis, and such invoices shall reflect costs incurred versus costs budgeted. Each invoice shall be accompanied by an Interim Waiver and Release upon Payment (or a Waiver and Release upon Final Payment in the case of the invoice for final payment) procured by the Contractor from all subcontractors in accordance with O.C.G.A. § 44-14-366.

The City shall pay the Contractor within thirty (30) calendar days after approval of the invoice by City staff, less any retainage as described in Section D below. No payments will be made for unauthorized work. Payment will be sent to the designated address by U. S. Mail only; payment will not be hand-delivered, though the Contractor may arrange to pick up payments directly from the City or may make written requests for the City to deliver payments to the Contractor by Federal Express delivery at the Contractor's expense.

C. Evaluation of Payment Requests. The Contract Administrator will evaluate the Contractor's applications for payment and will either issue to the City a Certificate for Payment (with a copy of the Contractor's application for payment) for such amount as the Contract Administrator determines is properly due, or notify the Contractor and City in writing of the Contract Administrator's reasons for withholding certification in whole or in part. The Contract Administrator may reject Work that does not conform to the Contract Documents and may withhold a Certificate of Payment in whole or in part, to the extent reasonably necessary to protect the City. When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

Even following a Certificate of Payment, the City shall have the right to refuse payment of any invoice or part thereof that is not properly supported, or where requests for payment for Work or costs are in excess of the actual Work performed

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or costs incurred, or where the Work product provided is unacceptable or not in conformity with the Contract Documents, as determined by the City in its sole discretion. The City shall pay each such invoice or portion thereof as approved, provided that neither the approval or payment of any such invoice, nor partial or entire use or occupancy of the Project by the City, shall be considered to be evidence of performance by the Contractor to the point indicated by such invoice, or of receipt or acceptance by the City of Work covered by such invoice, where such work is not in accordance with the Contract Documents.

D. Final Payment and Retainage. The Contractor through each invoice (except the final invoice) may request payment for no more than ninety percent (90%) of that portion of the Work completed during the term covered by each invoice as agreed upon by the Contract Administrator or the City. All amounts retained by the City shall be held as a lump sum until Final Completion of all Work, regardless of earlier completion of individual component(s) of the Work. The final payment issued by the City shall include all amounts retained by the City under this paragraph, subject to any deviations in the Work or Change Orders executed pursuant this Agreement.

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"EXHIBIT J"
KEY PERSONNEL

The following individuals are designated as Key Personnel under this Agreement and, as such, are necessary for the successful prosecution of the Work:

Individual	**Position**
	_____, Project Manager

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"EXHIBIT K"

[INSERT TERMS GOVERNING CONTRACT ADMINISTRATION]

[IF THE CITY WILL BE ADMINISTERING THE CONTRACT ITSELF, NOTE THAT HERE]

[INSERT AGREEMENT WITH CONTRACT ADMINISTRATOR AS DETERMINED APPROPRIATE OR WHERE SUCH AGREEMENT PROVIDES ADDITIONAL GUIDANCE REGARDING INTERACTIONS BETWEEN THE CONTRACTOR AND CONTRACT ADMINISTRATOR]

[INSERT LANGUAGE BELOW WHERE SOME ENTITY OTHER THAN THE CITY WILL SERVE AS THE CONTRACT ADMINISTRATOR]

A. Communications. Except as otherwise provided in the Contract Documents or when direct communications have been specifically authorized, the City and the Contractor shall endeavor to communicate with each other through the Contract Administrator about matters arising out of or relating to the Agreement. The Contract Administrator's decisions in matters relating to aesthetic effect shall be final if consistent with the intent of this Agreement.

B. Submittals. The Contract Administrator will review and approve or take other appropriate action upon the Contractor's submittals, such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

C. Contractor Responsibilities Unchanged. THE DUTIES, OBLIGATIONS, AND RESPONSIBILITIES OF THE CONTRACTOR UNDER THIS AGREEMENT SHALL IN NO MANNER WHATSOEVER BE CHANGED, ALTERED, DISCHARGED, RELEASED, OR SATISFIED BY ANY DUTY, OBLIGATION, OR RESPONSIBILITY OF THE CONTRACT ADMINISTRATOR, ARCHITECT, ENGINEER OR ANY OTHER PARTY HIRED BY THE CITY. THE CONTRACTOR IS NOT A THIRD-PARTY BENEFICIARY OF ANY AGREEMENT BY AND BETWEEN THE CITY AND ANY OTHER PARTY. IT IS EXPRESSLY ACKNOWLEDGED AND AGREED THAT THE DUTIES OF THE CONTRACTOR TO THE CITY ARE INDEPENDENT OF, AND ARE NOT DIMINISHED BY, ANY DUTIES OF THE CONTRACT ADMINISTRATOR, ARCHITECT, ENGINEER OR ANY OTHER PARTY TO THE CITY.

SAMPLE

“EXHIBIT L”

[INSERT GENERAL CONDITIONS (IF ISSUED)]

SAMPLE

"EXHIBIT M"

[INSERT SUPPLEMENTARY CONDITIONS (IF ISSUED)]

[The following supplementary conditions shall be included (in addition to any others issued) for any entirely City-funded road construction/maintenance Project:]

Contractor Responsibility for Project and Worksite During Construction

1. Maintenance of Worksite: The Contractor shall maintain the Project and the surrounding worksite from the Commencement Date until Final Completion of the Project. Such maintenance duties include, but shall not be limited to, continuous and effective prosecution of the Work day by day with adequate equipment and forces to ensure that the roadway or structures within the Project worksite are kept in satisfactory condition at all times. All existing guard rail, signs, pavement, pavement markings, bridge handrail, traffic control devices and other safety appurtenances that are not subject to removal or relocation in the completion of the Work shall also be maintained in a safe and satisfactory condition. The Contractor shall not allow vegetative growth at any time to obstruct signs, delineation, traffic movements, or sight distance. The Contractor shall, as necessary to keep the worksite clean and clear of all litter and debris, clean up and remove litter and debris. The Contractor shall, at intervals not to exceed 6 months, remove all weeds from around guard rail, barrier, poles, standards, utility facilities, and other structures, and cut or trim trees, bushes, or tall grass. These requirements shall apply to all areas within the Project worksite (i.e., the Project termini and lateral limits). All maintenance costs during construction and before the Work is accepted will be included in the Maximum Contract Price (and any individual flat fee or unit prices), and the Contractor will not be paid any additional compensation for such maintenance services.

2. Repair of Worksite and Private Property In the Case of Damage: From the Commencement Date until the Final Completion, the Contractor shall take every precaution against injury or damage to any part of the Project and the surrounding worksite by any cause whatsoever. The Contractor shall rebuild, repair, restore, and make good all injuries or damages to any portion of the Project or the worksite (with the exception of injury or damage caused by the sole negligence of the Owner) before Final Completion and shall bear the expense thereof. In case of suspension of Work from any cause whatsoever, the Contractor shall be responsible for the Project and shall take such precautions as may be necessary to prevent damage to the Project, provide for normal drainage and shall erect any necessary temporary structures, signs, or other facilities at its expense. Where the City elects to carry out a portion of the Work, in accordance with Section 11(A)(ii) of the Agreement, the City will determine if certain precautions are unnecessary and may be waived in that instance. The Contractor shall also take every precaution against injury or damage to private property in or around the worksite and shall repair or replace any private property damaged (directly or indirectly) by the Work. For purposes of progress payments and retainage calculation, and except where otherwise approved by the City in writing, damage to the Project or the

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worksite shall be repaired to the satisfaction of the City before the Work shall be deemed to have increased in value such that any further progress payments are due to the Contractor. Further, except where otherwise approved by the City in writing, any damage to private property in or around the worksite, which damage is caused by the Contractor, shall be repaired or otherwise addressed to the satisfaction of the City before the Work shall be deemed to have increased in value such that any further progress payments are due to the Contractor.

3. Roadway Maintenance and Repair Duties in Relation to Traffic Activity: If the Project requires that traffic be maintained through the Project worksite during the prosecution of the Work, the Contractor shall assume all responsibility for damage to the Project and surrounding worksite caused by such traffic until Final Completion of the Work. If the Work requires that traffic be relocated to an alternate roadway or the Project is constructed on a new location, the Contractor shall be responsible for all damage to the Project and the worksite until the City directs that the Project be opened to traffic. At that time, the Contractor will no longer be responsible for traffic-related damage to the Project or worksite other than damage attributable to the Contractor's actions or inadequate construction.

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“EXHIBIT N”

[INSERT NOTICE OF AWARD]