

Bid No. CP 19-001

Ad Date: 12/26/18

Bid Date: 1/25/19

CONTRACT DOCUMENTS

Bid No. CP19-001

Willbrooke Trail and Pocket Park Construction

Nancy Harris, Mayor
Marsha Anderson Bomar, Post 1
Kirkland Carden, Post 2



Billy Jones, Post 3
Kelly Kelkenberg, Post 4
Greg Whitlock, Post 5

**CITY OF DULUTH
3167 MAIN STREET
DULUTH, GEORGIA 30096**

NOTICE TO CONTRACTORS

Sealed bids will be received by the City of Duluth, Georgia, in the Office of the City Clerk, 3167 Main Street, Duluth, GA 30096 until 1:55 p.m. local time, Friday, January 25, 2019 for:

CP 19-001
Willbrooke Trail and Pocket Park Construction

This pedestrian improvement project consists of clearing & grubbing, grading, minor storm drain installation, sidewalk ramp installations, 8' concrete trail construction, landscaping, lighting, and roadway traffic calming improvements.

Bids received after the stated time will not be accepted.

A non-mandatory preproposal conference will be held on the second floor of City Hall, 3167 Main Street, Duluth, GA 30096, in the Executive Conference Room on Wednesday, January 9, 2019 at 11:00am local time.

At 2:00 p.m. local time on Friday, January 25, 2019, the bids will be publicly opened and read aloud. Bid opening will take place on the second floor of City Hall, 3167 Main Street, Duluth, GA 30096, in the Executive Conference Room.

One complete original hard copy **and** one complete digital copy shall be submitted and shall include:

1. Completed Bid Form
2. Bid Bond, Certified Check or Cashier's Check
3. Corporate Certificate
4. Oath of Successful Bidder
5. Occupational Tax Certificate
6. Contractor Affidavit and Agreement (E-verify)
7. Public Benefit Application Affidavit
8. Drug Free Workplace Certification
9. W-9 Form
10. References
11. List of Subcontractors
12. Schedule of Items

Bidding Documents are available for viewing at the Duluth City Hall, Planning and Zoning Office, 2nd Floor, 3167 Main Street, Duluth, GA 30096. A complete digital set of plans and documents may be downloaded free of charge from the City's website at

https://www.duluthga.net/about_duluth/notices_and_rfp_s/requests_for_proposals.php

The City of Duluth does not discriminate on the basis of disability in the admission or access to its programs or activities. Any requests for reasonable accommodations required by

individuals to fully participate in any open meeting, program or activity of the City should be directed to Teresa Lynn, City Clerk, City of Duluth, 770-476-3434.

All suppliers must submit with bid, a bid bond, certified check or cashier's check in the amount of five percent (5%) of the total bid. **Failure to submit a bid bond with the proper rating will result in the bid being deemed non-responsive.** Successful supplier will be required to meet insurance requirements, submit a one hundred percent (100%) performance bond and a one hundred percent (100%) payment bond. Insurance and Bonding Company must be licensed to do business by the Georgia Secretary of State, authorized to do business in Georgia by The Georgia Insurance Department, listed in the Department of Treasury's Publication of Companies holding Certificates of Authority as Acceptable Surety on Federal Bonds and as acceptable reinsuring companies. **The bid bond, payment bond, and performance bond must have an A.M. Best rating of A-5 or higher.**

Individuals, firms and businesses seeking an award of a City of Duluth contract may not initiate or continue any verbal or written communications regarding a solicitation with any City officer, elected official, employee or other City representative without permission of the City Clerk named in the solicitation between the date of the issuance of the solicitation and the date of the final contract award by the Duluth City Council. Violations will be reviewed by the City Clerk. If determined that such communication has compromised the competitive process, the offer submitted by the individual, firm or business may be disqualified from consideration for award.

Questions regarding Bidding Documents, Drawings and Specifications should be directed to Margie Pozin, PE, City Engineer, at mpozin@duluthga.net no later than Friday, January 11, 2019. No phone calls, please.

The written bid documents supersede any verbal or written prior communications between the parties.

Award will be made to the lowest responsible and responsive bidder. The City of Duluth reserves the right to reject any or all bids, to waive technicalities, and to make an award as deemed in its best interest. Where the City provides forms for bid schedule and bond submissions, these forms must be used without exception. Any deducts to the bid must be itemized by the line item number in the bid schedule or the City will apply the deduct as it deems appropriate.

Award notification will be posted after award on the City's website, www.duluthga.net and the Georgia State Procurement Registry at <https://ssl.doas.state.ga.us/PRSapp/>.

Bids in the case of Corporations not chartered in Georgia, must be accompanied by proper certification stating that said Corporation is authorized to do business in the State of Georgia.

No Bidder may withdraw his Bid within sixty (60) days after the actual date of the opening thereof.

The Bidding Documents consist of the following, including all addenda issued therewith and forms referenced therein:

- Notice To Contractors
- Section I - Bid
- Section II - Contract Documents

SECTION I

BID

TABLE OF CONTENTS

- Bid Form
- Bid Bond
- Corporate Certificate
- Oath of Successful Bidder
- Occupational Tax Certificate
- Contractor Affidavit and Agreement
- Affidavit Verifying Status for City Public Benefit Application
- Drug Free Workplace Certification
- W-9 Form
- References
- List of Subcontractors
- Schedule of Items

BID FORM

To: OFFICE OF THE CITY CLERK
3167 MAIN STREET
DULUTH, GA 30096

In compliance with your Notice to Contractors, the undersigned, hereinafter termed the Bidder, proposes to enter into a Contract with the City of Duluth, to provide the necessary machinery, tools, apparatus, and other means of construction, and all materials and labor specified in the Contract, or called for by the Drawings, or necessary to complete the Work in the manner therein specified within the time specified, as therein set forth, for:

CP 19-001 Willbrooke Trail and Pocket Park Construction

The Bidder has carefully examined and fully understands the Contract, Plans, Specifications, and other Documents hereto attached, and has made a personal examination of the Site of the proposed Work, and 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 Duluth 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, 2013 Edition, General Conditions, Supplements thereto (Published and Not Published) and Special Provisions modifying them. All materials used in the process of completion of the work included in the contract will be furnished from Georgia Department of Transportation certified suppliers only.

It is the intent of this Bid to include all items of construction and all Work indicated on the Drawings and called for in the Specifications.

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

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

The Bidder further proposes and agrees hereby to promptly commence the Work with adequate forces and equipment within ten (10) calendar days from receipt of Notice to Proceed, and to complete the work on project CP 19-001 Willbrooke Trail and Pocket Park Construction, within 45 calendar days.

If said work is not completed within the time stated, the Contractor shall be liable and hereby agrees to pay the City as liquidated damages and not as a penalty, (1) \$500 per available day

for failure to complete the work in 45 calendar days on project CP 19-001 Willbrooke Trail and Pocket Park Construction; (2) \$1000 per available day for landscaping work completed on or after March 16, 2019. Liquidated damages for item (2), landscaping, will continue until the landscaping portion of the project is complete. Liquidated damages for item (1), overall schedule, will continue until substantial completion of the project.

If this bid shall be accepted by the City of Duluth 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 Duluth may at its option, determine that the undersigned abandoned the Contract and thereupon this bid shall be null and void, and the sum stipulated in the attached Bid Bond or certified check shall be forfeited to the City as liquidated damages.

Bidder acknowledges receipt of the following addenda:

<u>Addendum No.</u>	<u>Date Received</u>
_____	_____
_____	_____
_____	_____
_____	_____

Bidder further declares that the full name and resident address of all persons and parties interested in the foregoing bid as principals, are as follows:

Signed, sealed, and dated this _____ Day of _____,

Bidder: _____ (Seal)
Company Name

Bidder Mailing Address:

By: _____

Title: _____

City of Duluth, Georgia

BID BOND

KNOW ALL MEN BY THESE PRESENT: that

(Name of Contractor)

(Address of Contractor)

a _____
(Corporation, Partnership or Individual)

hereinafter called Principal, and

(Name of Surety)

(Address of Surety)

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

The City of Duluth, GA

(Name of Obligee)

3167 Main Street, Duluth, GA 30096

(Address of Obligee)

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

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

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

NOW, THEREFORE, the conditions of this obligation are such that if the bid be accepted, the Principal shall within ten days after receipt of notification of the acceptance, execute a Contract in accordance with the Bid and upon the terms, conditions, and prices set forth in the form and manner required by the City of Duluth, Georgia, and execute a sufficient and satisfactory Performance Bond and Payment Bond payable to the City of Duluth, Georgia, each in an amount of 100% of the total Contract Price, in form and with security satisfactory to said City of Duluth, Georgia, and otherwise, to be and remain in full force and virtue in law, and the Surety shall, upon failure of the Principal to comply with any or all of the foregoing requirements within the time specified above, immediately pay to the City of Duluth, Georgia, upon demand, the

amount hereof in good and lawful money of the United States of America, not as a penalty, but as liquidated damages.

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

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

ATTEST:

(Principal)

(Principal Secretary)

BY: _____

(SEAL)

(Address)

(Witness as to Principal)

(Address)

(Surety)

ATTEST:

By: _____
(Attorney-in-Fact)

Resident or Nonresident Agent

(SEAL)

(Address)

(Witness as to Surety)

(Address)

NOTE: If Contractor is Partnership, all partners should execute Bond. Surety Companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the Project is located.

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

OATH OF SUCCESSFUL BIDDER

CITY OF DULUTH, GEORGIA

Personally appeared before the undersigned officer duly authorized by law to administer oath

and _____ who, after being first duly sworn, depose and say that they are all the officers, agents, persons, or employees who have acted for or represented (Company Name) _____ in bidding or procuring a Contract with the City of Duluth, Georgia on the following project:

**CP 19-001
Willbrooke Trail and Pocket Park Construction**

and that said _____ has not by (himself, themselves) or through any persons, officers, agents, or employees prevented or attempted to prevent by any means whatsoever competition in such bidding; or by any means whatsoever prevented or endeavored to prevent anyone from making a bid therefore, or induced or attempted to induce another to withdraw a bid for said Work.

By: _____

Signature of Bidder

Name - Typed or Printed

Title

Sworn to and subscribed before me this
_____ day of _____, 20_____ .

Notary Public _____

OCCUPATIONAL TAX CERTIFICATE

OCCUPATIONAL TAX CERTIFICATE

Vendors/Contractors whose business is located within the incorporated boundary of the City of Duluth are to submit a copy of the appropriate Business License.

CURRENT OCCUPATIONAL TAX CERTIFICATE

NUMBER _____

DULUTH NUMBER _____

OTHER _____

RECEIPT IS HEREBY ACKNOWLEDGED OF ADDENDUM NUMBERS:

The undersigned bidder certifies that he/she has received the above listed and marked documents and that failure to acknowledge receipt of any or all addendum, may be cause for disqualifying his/her bid.

By: _____ Date: _____

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 contracting with the City of Duluth has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract, contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the City of Duluth at the time the subcontractor(s) is retained to perform such service.

E-Verify * User Identification Number

Company Name

BY: Authorized Officer or Agent Date
(Contractor Signature)

Title of Authorized Officer or Agent of Contractor

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

_____ DAY OF _____, 20__

Notary Public

My Commission Expires:

* As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is “E-Verify” operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

**Affidavit Verifying Status
for City Public Benefit Application**

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

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

1) _____ I am a United States citizen

OR

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

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

Signature of Applicant:

Date:

Printed Name:

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

* _____
Alien Registration number for non-citizens

Notary Public: _____

My Commission Expires: _____

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

DRUG-FREE WORKPLACE CERTIFICATION

THE UNDERSIGNED CERTIFIES THAT THE PROVISIONS OF CODE SECTIONS 50-24-1 THROUGH 50-24-6 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED, RELATED TO THE “DRUG-FREE WORKPLACE”, HAVE BEEN COMPLIED WITH IN FULL. THE UNDERSIGNED FURTHER CERTIFIES THAT:

1. A DRUG-FREE WORKPLACE will be provided for the employees during the performance of the contract; and
2. Each sub-contractor under the direction of the Contractor shall secure the following written certification:

_____ (Contractor) certifies to the City of Duluth that a DRUG-FREE WORKPLACE will be provided for the employees during the performance of this contract known as _____ (Project) pursuant to paragraph seven (7) of subsection B of Code Section 50-24-3. Also the undersigned further certifies that he/she will not engage in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the contract.

CONTRACTOR

DATE

NOTARY

DATE

Form **W-9**
 (Rev. December 2014)
 Department of the Treasury
 Internal Revenue Service

Request for Taxpayer Identification Number and Certification

**Give Form to the
 requester. Do not
 send to the IRS.**

Print or type See Specific Instructions on page 2.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification; check only one of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶ _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
	5 Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	6 City, state, and ZIP code	
	7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number													
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Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here	Signature of U.S. person ▶ _____	Date ▶ _____
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/fw9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

REFERENCES

The City of Duluth requests a minimum of three, (3) references where work of a **similar size and scope** has been completed **in the last (3) three years**. **DO NOT submit a project list in lieu of this form**. Attaching a list may deem the contractor's bid **non-responsive**.

1. Company Name _____

Brief Description Of Project _____

Completion Date _____

Contact Person _____

Telephone _____ Facsimile _____

E-Mail Address _____

2. Company Name _____

Brief Description Of Project _____

Completion Date _____

Contact Person _____

Telephone _____ Facsimile _____

E-Mail Address _____

3. Company Name _____

Brief Description Of Project _____

Completion Date _____

Contact Person _____

Telephone _____ Facsimile _____

E-Mail Address _____

Company Name _____

Note: Please ensure your reference contact information is current and valid. References will be checked. Incorrect reference information may result in rejection in bid. Failure to return this page may result in rejection of bid.

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:

NAME AND ADDRESS	TYPE OF WORK

Company Name: _____

Failure to return this page may result in rejection of bid.

Schedule of Items

Willbrooke Trail - City of Duluth						
BASE BID						
LINE	GDOT ITEM		QTY	UNIT	UNIT PRICE	COST
0		Mobilization	1	LS		
1	150-1000	Traffic Control	1	LS		
2	165-0010	Maintenance of Temporary Silt Fence, TP A	192	LF		
3	171-0010	Temporary Silt Fence, Type A	192	LF		
4	210-0100	Grading Complete	1	LS		
5		Fill Material (associated with Grading Complete)	510	CY		
6	432-0350	Micro-mill Asphaltic Concrete Pavement, Variable Depth	163	SY		
7	441-0104	Conc Sidewalk, 4"	51	SY		
8	441-5025	Concrete Header Curb, 4 IN, TP 9	60	LF		
9	441-6012	Concrete Curb & Gutter, 6 IN x 24 IN, TP2	87	LF		
10	441-7012	Curb Cut Wheelchair Ramp, Type B	4	EA		
11	441-9500	Concrete Trail Paving, STN FIN, 6 IN	232	SY		
12	610-0300	REM Fence	60	LF		
13	610-2815	REM Conc Sidewalk	57	SY		
14	643-8200	Barrier Fence (Orange), 4ft	134	LF		
15	653-1501	Thermoplastic Solid Traf Stripe, 5 IN, Yellow	270	LF		
16	654-1003	Raised Pvmt Markers, TP 3	20	EA		
17	668-5000	Junction Box	1	EA		
18	700-9300	Sod	430	SY		
19	702-9025	Landscape Mulch	706	SY		
20	708-1000	Plant Topsoil	93	CY		
21	754-5000	Bench	2	EA		
22	999-5200	Detectable Warning Surface	64	SF		
23		Fill Material (associated with Grading Complete)	510	CY		
24		Stamped Colored Concrete Pavement, 6" Thick	75	SY		
25		Concrete Pavement Ramps at Speed Tables, 6" Thick	85	SY		
26		Ped Crossing Signage	2	EA		
27		Non-slip Grate (approx. 24"x72")with concrete fasteners	2	EA		
28		Erosion Control Stabilization Measures (grassing, fertilization, seeding)	1	LS		
29		4" HPE perforated drainage pipe w/ gravel	40	LF		
30		24" RCP	45	LF		
31		24" Dia. Beehive Grate Inlet	1	EA		
32		6' Ht Wooden Privacy Fence	205	LF		
33		Pedestrian Lighting and Service Point	1	LS		

LINE	GDOT ITEM		QTY	UNIT	UNIT PRICE	COST
34		Granite Rubble Retaining Wall	70	FF		
35		Granite Rubble Columns	2	EA		
36		Southern Sugar Maple -Acer Barbatum	5	EA		
37		Eastern Redbud- Cercis Canadensis	3	EA		
38		Sweet Bay - Magnolia Virginiana	5	EA		
39		Nuttal Oak- Quercus Nuttalli	3	EA		
40		American Beautyberry-Callicarpa Americana	5	EA		
41		Camellia -Camellia Sasanqua	5	EA		
42		Dwarf Fothergilla- Fothergilla Gardenii 'Mt. Airy'	6	EA		
43		Alice Oakleaf Hydrangea Hydrangea Quercifolia 'Alice'	27	EA		
44		Mrs. Schillers Delight Viburnum- Vibernum Obovatum 'Mrs. Schiller's Delight'	21	EA		
45		Winterberry- Ilex Verticillita 'Red Sprite'	3	EA		
46		Inland Sea Oats - Chasmanthium Latifolium	63	EA		
47		Pink Muhly Grass -Muhlenbergia Capillaris	84	EA		
48		White Muhly Grass - Muhlenbergia Capillaris 'White Cloud'	38	EA		
49		Northwind Switchgrass - Panicum Virgatum 'North Wind'	121	EA		
50		Homestead Verbena -Verbena Canadensis 'Homestead Purple'	49	EA		
TOTAL BASE BID:						
ALTERNATE #1						
51		4' wide entrance median with stamped concrete infill, associated striping and raised pavement reflectors (Site 2)	1	LS		
ALTERNATE #2						
52		4' wide median adjacent speed stable, with stamped concrete infill, associated striping and raised pavement reflectors (Site 2)	1	LS		
ADDITIONAL WORK IF ORDERED BY THE ENGINEER						
53		Removal of Unsuitable Material and Replacement with Suitable Earth Material	50	CY		
54		Removal of Unsuitable Material and Replacement with Graded Aggregate Base	50	CY		
55		Removal of Unsuitable Material and Replacement with No. 57 Stone	50	CY		

SECTION II
CONTRACT DOCUMENTS
TABLE OF CONTENTS

- Contract (including insurance requirements)
- Performance Bond
- Payment Bond
- General Conditions
- General Instructions for Bidders
- Special Provisions

SECTION II

CONTRACT

STATE OF GEORGIA

CITY OF DULUTH

CONSTRUCTION CONTRACT - CP 19-001 Willbrooke Trail and Pocket Park Construction

THIS AGREEMENT is made this ____ day of _____, 20____ between _____ (hereinafter called the "Contractor") and the City of Duluth; 3167 Main Street, Duluth, GA 30096 (hereinafter called the "City"). Both parties do mutually agree as follows:

1. **Scope and Cost:** The Contractor agrees to furnish contract documents, labor, supervision, materials, equipment, tools, supplies, disposal, and services necessary to timely and fully perform and complete in a neat, first-class and workmanlike manner and in strict compliance with the Contract Documents, drawings, specifications provided as applicable to the contractor, all of the specific work and services described below. Costs to provide the above scope of work shall be inclusive of taxes, labor, supervision, disposal, materials, equipment, tools, transportation, and any associated written reports.

The Contractor shall commence the Work with adequate force and equipment within (10) ten days from receipt of the Notice to Proceed. The Contractor hereby assumes the entire responsibility and liability for any and all injury to or death of any and all persons, including the Contractor's agents, servants, and employees, and in addition thereto, for any and all damages to property caused by or resulting from or arising out of any act or omission in connection with this Contract or the prosecution of Work hereunder, whether caused by the Contractor or the Contractor's agents, servants, or employees, or by any of the Contractor's subcontractors or suppliers. This Contract, executed in duplicate, constitutes the full agreement between the parties, and the Contractor shall not sublet, assign, transfer, pledge, convey, sell or otherwise dispose of the whole or any part of this Contract or his right, title, or interest therein to any person, firm or corporation without the previous consent of the City in writing.

2. **City Representative:** The Project has been initiated by the City and the Representative for this project is the City Engineer, hereinafter referred to as the "City Representative". The City Representative shall act as the City's representative, assume all duties and responsibilities and have the rights and authority assigned to the City in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

3. **Contract Documents**

3.1 The term "Contract Documents" above includes all portions of the specifications published and/ or advertised by the City for purposes of soliciting bids for this project. This includes, but is not limited to: Instructions to Bidders, Bid Documents, Addenda, Plans, Drawings, Specifications, General and Special Conditions, Guarantees, Contracts, Unit Pricing, Schedules, and all documents and bid forms sent in by

Contractor in response thereof such bids. These documents are attached hereto. The scope of work therefore, may not extend beyond these descriptions as set forth above without proper adjustments and/or opportunity made available so as to properly compensate the contractor for any such scope of work extensions.

3.2 Contractor agrees to perform the contract work to the satisfaction of the City. Contractor agrees to provide and pay for all labor, regardless of craft or jurisdiction, materials, tools, supplies and equipment, except as otherwise provided herein, to perform the work in strict conformity with the contract documents.

4. **Project Duration:** The duration of the project shall be for a period of not more than forty-five (45) calendar days from the Contractor's receipt of the written notice to proceed and a properly executed agreement by both parties. Both documents are part of the official documentation of the said project. Any extension of this time period, including those for weather delay days, must be agreed upon by both parties and executed by a written change order.

5. **Contract sum and payments**

5.1 The total contracted amount is _____ .

5.2 Payments shall be made for work satisfactorily completed after contractor has submitted a pay request to the City unless contractor is in default. The contractor shall submit monthly pay applications to the City for payment until project completion at which time Contractor submit a final pay application and mark it as final. Upon the City's satisfaction that the work is completed in accordance with the Contract Documents, payment for each amount requested will be processed. Once the final pay application is approved and processed, no further pay applications will be accepted.

5.3 Prior to the release of this final payment, Contractor will provide an affidavit showing that its labor, materials and other bills have been paid, along with full release and/or unconditional lien waivers, in a form satisfactory to Contractor and City. If it appears that any labor, material or other bills incurred in the performance of the contract work are not being paid, the City may take such steps as it (in its sole discretion) deems necessary to ensure that the payments will be utilized to pay such bills.

5.4 Final Payment including any and all retainage shall be made to Contractor not later than fifteen (15) days after receipt of the Contractor's final written requisition for payment and acceptance of the final completed project.

5.5 The parties agree that in the event that the Contractor fails to perform within the specified contract period the Contractor shall pay the City liquidated damages and/or default of contract in accordance with the bid form included with the attached solicitation for this project.

6. **Execution of Work**

6.1 The contractor agrees, within ten (10) calendar days after written notification to proceed by City, to commence the contract work in the field, at such points as the City may designate, and to continue diligently in its performance in accordance with the Project Schedule. Time is of the essence of this

contract. If contractor is given reasonable time to perform and fails to do so, any work performed by the City on behalf of the Contractor will be charged back as necessary to cover costs for such work.

- 6.2 Contractor shall promptly provide the City with any scheduling information requested. City may revise any schedule, if necessary, as the work progresses.
- 6.3 Contractor shall cooperate with City and other subcontractors/contractors whose work may interfere with or affect the Contractor's work.
- 6.4 Contractor shall give adequate notices pertaining to its work to the proper authorities and shall secure all necessary licenses and permits to carry on its work; a copy to be provided to City by Contractor prior to the start of contract work.

7. **Compliance with Immigration Laws & Regulations**

- 7.1 The Contractor shall be responsible for complying with the GA Security and Immigration Compliance Act of 2006 (O.C.G.A. §13-10-90 & §13-10-91) and the Rules of the GA Department of Labor implementing the GA Security and Immigration Compliance Act of 2006 (Rules 300-10-1-.01 through 300-10-1-.09). In accordance with these provisions, the Contractor shall complete attached E-Verify form.
- 7.2 The Contractor affirms and agrees that it is currently registered and participates in the federal work authorization program to verify information of all new employees pursuant to O.C.G.A. §13-10-91(b).
- 7.3 The Contractor affirms and agrees that any and all subcontractors that it will use on the above-described project are registered and participate in the federal work authorization program to verify information of all new employees.
- 7.4 Pursuant to O.C.G.A. §50-36-1, Proposer shall provide information regarding citizenship status and shall complete and file with the City the Citizenship Status Affidavit, which is included in the attached project solicitation.
- 7.5 The failure to abide by the provisions and agreements set forth in this Subsection 7 shall constitute a breach and default of this contract.

8. **Insurance**

Prior to the execution of the Contract and at all times that the Contract is in force, the contractor must obtain, maintain and furnish the City of Duluth, Certificates of Insurance from licensed companies doing business in the State of Georgia and acceptable to the City.

Statutory Workers' Compensation Insurance

- 1. Employers Liability:
 - Bodily Injury by Accident - \$100,000 each accident
 - Bodily Injury by Disease - \$500,000 policy limit
 - Bodily Injury by Disease - \$100,000 each employee
- 2. Commercial General Liability Insurance
 - \$1,000,000 limit of liability per occurrence for bodily injury and property damage

The following additional coverage must apply:
1986 (or later) ISO Commercial General Liability Form
Dedicated Limits per Project Site or Location (CG 25 03 or CG 25 04)
Additional Insured Endorsement (Form B CG 20 10 with a modification for completed operations or a separate endorsement covering Completed Operations)
Blanket Contractual Liability
Broad Form Property Damage
Severability of Interest
Underground, explosion, and collapse coverage
Personal Injury (deleting both contractual and employee exclusions)
Incidental Medical Malpractice
Hostile Fire Pollution Wording

3. Auto Liability Insurance
\$500,000 limit of liability per occurrence for bodily injury and property damage
Comprehensive form covering all owned, non-owned, leased, hired, and borrowed vehicles
Additional Insured Endorsement
Contractual Liability
4. Umbrella Liability Insurance - \$1,000,000 limit of liability
The following additional coverage must apply
Additional Insured Endorsement
Concurrency of Effective Dates with Primary
Blanket Contractual Liability
Drop Down Feature
Care, Custody, and Control - Follow Form Primary
Aggregates: Apply Where Applicable in Primary
Umbrella Policy must be as broad as the primary policy
5. N/A
6. City of Duluth should be shown as an additional insured on General Liability, Auto Liability and Umbrella Liability policies.
7. The cancellation should provide 10 days notice for non-payment and 30 days notice of cancellation.
8. Certificate Holder should read:
City of Duluth
3167 Main Street
Duluth, GA 30096
9. Insurance Company, except Worker' Compensation carrier, must have an A.M. Best Rating of A-5 or higher. Certain Workers' Comp funds may be acceptable by the approval of the Insurance Unit. European markets including those based in London and domestic surplus lines markets that operate on a non-admitted basis are exempt from this requirement provided that the contractor's broker/agent can provide financial data to establish that a market is equal to or exceeds the financial strengths associated with the A.M. Best's rating of A-5 or better.

10. Insurance Company should be licensed to do business by the Georgia Department of Insurance.
11. Certificates of Insurance, and any subsequent renewals, must reference specific bid/contract by project name and project/bid number.
12. The Contractor shall agree to provide complete certified copies of current insurance policy (ies) or a certified letter from the insurance company (ies) if requested by the City to verify the compliance with these insurance requirements.
13. All insurance coverage required to be provided by the Contractor will be primary over any insurance program carried by the City.
14. Contractor shall incorporate a copy of the insurance requirements as herein provided in each and every subcontract with each and every Subcontractor in any tier, and shall require each and every Subcontractor of any tier to comply with all such requirements. Contractor agrees that if for any reason Subcontractor fails to procure and maintain insurance as required, all such required Insurance shall be procured and maintained by Contractor at Contractor's expense.
15. No Contractor or Subcontractor shall commence any work of any kind under this Contract until all insurance requirements contained in this Contract have been complied with and until evidence of such compliance satisfactory to the City of Duluth as to form and content has been filed with the City. The Acord Certificate of Insurance or a preapproved substitute is the required form in all cases where reference is made to a Certificate of Insurance or an approved substitute.
16. The Contractor shall agree to waive all rights of subrogation against the City, the City Council, its officers, officials, employees, and volunteers from losses arising from work performed by the contractor for the City.
17. Special Form Contractors' Equipment and Contents Insurance covering owned, used, and leased equipment, tools, supplies, and contents required to perform the services called for in the Contract. The coverage must be on a replacement cost basis. The City will be included as a Loss Payee in this coverage for City owned equipment, tools, supplies, and contents.
18. The Contractor shall make available to the City, through its records or records of their insurer, information regarding a specific claim related to any City project. Any loss run information available from the contractor or their insurer relating to a City project will be made available to the city upon their request.
19. Compliance by the Contractor and all subcontractors with the foregoing requirements as to carrying insurance shall not relieve the Contractor and all Subcontractors of their liability provisions of the Contract.
20. The Contractor and all Subcontractors are to comply with the Occupational Safety and Health Act of 1970, Public Law 91-956, and any other laws that may apply to this Contract.

21. The Contractor shall at a minimum apply risk management practices accepted by the contractors' industry.

Surety Bonds (If Required)

All of the surety requirements will stay the same except the Surety Company must have the same rating as item 9 above.

9. **Performance and Payment Bond**

9.1 The Contractor agrees to provide Performance and Payment Bonds as specified and set forth in the attached project solicitation. The parties further mutually agree that if at any time after the execution of this contract and the surety bonds attached hereto for its faithful performance, the City shall deem the surety or sureties upon such bond to be unsatisfactory, or if, for any reason, such bond ceases to be adequate to cover the performance of the work, the Contractor shall, at no additional expense to the City, within five days after the receipt of notice from the City to do so, furnish an additional bond or bonds in such form and amount, and with such surety or sureties as shall be satisfactory to the City. In such event, no further payment to the Contractor shall be deemed to be due under this contract until such new or additional security for the faithful performance of the work shall be furnished in a manner and form satisfactory to the City.

9.2 The Contractor shall submit P&P Bonds to the City at the time contracts are signed. The failure to provide the Bond documents shall result in a default of this contract.

10. **Inspection and Approvals**

10.1 Contractor shall notify City and or its representatives when portions of its work are ready for inspection. City shall make reasonable efforts after receiving notice from Contractor, to inspect said scope of work completed. Limitations and/or sizes of such portions of work shall be agreed upon by City and Contractor prior to starting each phase thereof.

10.2 Contractor agrees to "make right" at no additional cost to City any such portion that is determined by City's representatives and inspectors to be incomplete within the bounds of the contract. Contractor shall promptly perform any and all punch list work submitted to it by City.

11. **Termination**

11.1 The City may terminate the contract for failure by the Contractor to comply with the terms and conditions of its contract or failure by the Contractor to correct problems brought to its attention by the City, each of which failures shall constitute a default. In the event of such termination, that Contractor will be paid only those sums due and owing under the contract for performance satisfactorily rendered, subject to offset for damages and other amounts which are, or which may become, due and owing to the City.

11.2 The City, for its convenience and without cause, may terminate this contract whenever the City determines that such termination is in its best interest after giving ten (10) days written notice of such

termination to the Contractor. In the event of a termination for convenience, the City shall pay all amounts due and owing to the Contractor for performance satisfactorily rendered. However, in no event shall the total amounts paid to the Contractor exceed the contract price. The Contractor shall not be reimbursed for any profits which may have been anticipated, but which have not been earned up to the date of termination.

12. Disputes/Resolutions

12.1 Any claims or disputes that may arise, including adjustments to compensation or to time of completion, shall be initiated by written notice within five (5) days after either party becomes aware of the claim or issue in dispute. The parties shall have ten (10) days following such written notice to cure or resolve any dispute. Notwithstanding the foregoing, the failure to provide written notice shall not serve as a bar to an action in law or equity for either party.

12.2 The City and Contractor shall make all reasonable efforts to resolve any and all matters of dispute without the involvement of any third party. However, if such efforts are not successful after a thirty (30) day period, then both parties agree to resolve their claims by filing a Complaint in the Superior Court of Gwinnett County, Georgia. The terms of this Agreement shall be integrated and enforced under the Laws of Georgia.

13. Indemnity

13.1 Contractor assumes full liability for any and all damages, death, or injury of any kind to all person(s), whether employees or otherwise, and property arising out of or in any way connected with its work, and shall to the fullest extent permitted by law defend, indemnify and hold harmless City, and their respective officers, agents, and employees, (herein referred to as Indemnities), from and against any and all claims, losses, suits, damages, legal costs and expenses and otherwise, arising out of or in any way connected with Contractor's work. If any claim or demand is made against City for any matter enumerated herein, any payment due, or thereafter to become due, the Contractor shall be held by City to cover such losses and expenses.

14. Compliance with Laws and Safety Regulations

14.1 All work, labor, safety rules, services and materials to be furnished by Contractor must strictly comply with all applicable federal, state and local laws, rules, regulations, statutes, ordinances and directives (hereinafter "Laws") now in force or hereafter in effect. All work, labor, services or materials necessary to comply with said laws will be furnished by Contractor as part of this Contract without any additional compensation.

14.2 Equal Opportunity Agreement:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or handicapping condition. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, national origin, or handicapping condition. Such action shall include but not be limited to, the following: Employment, upgrading;

- demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provision of this nondiscrimination clause.
- b. The Contractor will, in all solicitations or advertisements for employees placed or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin, or handicapping condition.
 - c. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order 11246, as amended (3 CFR 169 (1979)), and shall post copies of notices in conspicuous places available to employees and applicants for employment.
 - d. The Contractor will comply with all provisions of Executive Order 11246, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor.
 - e. The Contractor will furnish all information and reports required by Executive Order 11246, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
 - f. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246, as amended, or by rules, regulations, or orders of the Secretary of Labor, or as otherwise provided by law.
 - g. The Contractor will include the provisions of paragraphs (1) through (6) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

14.3 Contractor agrees to comply with the Drug Free Work Place Act.

15. **Interpretation**

15.1 This Contract shall be interpreted under the laws of the State of Georgia.

16. **Amendments**

16.1 Any amendments to this contract shall be made in advance in writing and shall not be binding until such amendment is agreed upon and executed by both parties.

16.2 No change orders shall be binding unless reduced to writing and agreed upon by both parties in writing.

17. **Public Convenience and Safety:**

Contractor may not commence work prior to proper construction signage being posted.

18. **Pre-construction Conference:** The Contractor shall attend a pre-construction conference with the City Staff prior to commencing any work.

19. **Drug Free Work Place:** The Contractor is required to certify a drug-free workplace for all employees including subcontractors.

20. **Work Stoppage:** In the event of the discovery of significant archaeological remains, construction shall be stopped and the City shall notify the Georgia Department of Natural Resources of the discovery. In this context, to be "significant", such remains would have to be able to provide important and non-redundant information that could not be obtained from other sources. The City shall notify the Georgia Department of Natural Resources of the discovery of intact cultural features such as, but not limited to, foundations and wells. The construction shall remain stopped until the Georgia Department of Natural Resources has completed their evaluation of the remains.

21. **Work Hours:** Work hours are 8:00am to 5:00pm on weekdays . No weekend work.

IN WITNESS WHEREOF, THE City and Contractor have executed this contract consisting of ____ pages and the Attachments/Exhibits/Statements/Affidavits (if any) on the day and year first above written, by their proper officers or agents, duly authorized in the premises.

CONTRACTOR:

CITY:

CITY OF DULUTH

By: _____

By: _____

Printed Name and Title

Printed Name and Title

Federal I.D. Number: _____

(Seal)

Notary Public

Notary Public

In the presence of: _____

In the presence of: _____

Subscribed and sworn to before me

Subscribed and sworn to before me

This ____ day of _____, 20__

This ____ day of _____, 20__

My Commission expires: _____

My Commission expires: _____

In the County of _____

In the County of _____

CITY OF DULUTH, GEORGIA

BOND # _____

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENT: that

(Name of Contractor)

(Address of Contractor)

a _____
(Corporation, Partnership or Individual)

hereinafter called Principal, and

(Name of Surety)

(Address of Surety)

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

City of Duluth, GA
(Name of Obligee)

3167 Main Street, Duluth, GA 30096
(Address of Obligee)

hereinafter referred to as Obligee, are held and firmly bound unto said Obligee and all persons doing work or furnishing skill, tools, machinery, supplies, or material under or for the purpose of the Contract hereinafter referred to, in the penal sum of _____

_____ Dollars

(\$ _____) in lawful money of the United States, for the payment of which sum will and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

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

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

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

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

(Signatures Next Page)

CITY OF DULUTH, GEORGIA

ATTEST:

(Principal Secretary)

(SEAL)

(Witness as to Principal)

(Address)

(Principal)

By: _____

(Address)

(Surety)

By: _____
(Attorney-in-Fact)

ATTEST:

Resident or Nonresident Agent

(SEAL)

(Witness as to Surety)

(Address)

(Address)

BONDING AGENT CONTACT INFO

Print Name _____

Company Name _____

E-Mail _____

Phone _____

NOTE: If Contractor is Partnership, all partners should execute Bond. Surety Companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the Project is located.

CITY OF DULUTH, GEORGIA

BOND # _____

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENT: that

(Name of Contractor)

(Address of Contractor)

a _____
(Corporation, Partnership or Individual)

hereinafter called Principal, and

(Name of Surety)

(Address of Surety)

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

City of Duluth

(Name of Obligee)

3167 Main Street, Duluth, GA 30096

(Address of Obligee)

hereinafter called Obligee;

for the use and protection of all subcontractors and all persons supplying labor, services, skill, tools, machinery, materials and/or equipment in the prosecution of the work provided for in the contract hereinafter referred to in the full and just sum of _____

Dollars

(\$_____) in lawful money of the United States, for the payment of which sum, will and truly to be made, the Principal and Surety bind themselves, their, and each of their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

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

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

CITY OF DULUTH, GEORGIA

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

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

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

Unless such person shall have given notice to the Principal within ninety (90) days after such person did, or performed the last of the work or labor, or furnished the last of the materials, services, skill, tools, machinery and/or equipment for which claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials, services, skill, tools, machinery and/or equipment were furnished, or for whom the work or labor was done or performed. Such a notice shall be served by mailing the same by registered mail, postage prepaid, in an envelope addressed to the Principal, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the State in which the aforesaid project is located, save that such service need not be made by a public officer, and a copy of such notice shall be delivered to the Obligee, to the person and at the address provided for in the Contract, within five (5) days of the mailing of the notice to the Principal.

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

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

[Signatures Next Page]

CITY OF DULUTH, GEORGIA

ATTEST:

(Principal Secretary)

(SEAL)

(Witness as to Principal)

(Address)

ATTEST:

Resident or Nonresident Agent

(SEAL)

(Witness as to Surety)

(Address)

(Principal)

By: _____

(Address)

(Surety)

By: _____
(Attorney-in-Fact)

(Address)

BONDING AGENT CONTACT INFO

Print Name _____

Company Name _____

E-Mail _____

Phone _____

NOTE: If Contractor is Partnership, all partners should execute Bond. Surety Companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the Project is located.

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, 2013 Edition, Supplemental thereto (Published and Not Published) and Special Provisions modifying them, except as noted below.

Modification of Standard Specifications

SECTION 101

DEFINITION AND TERMS

Section 101.14 COMMISSIONER

Delete as written and substitute the following:
THE CITY OF DULUTH

Section 101.22 DEPARTMENT

Delete as written and substitute the following:
THE CITY OF DULUTH

Section 101.24 ENGINEER

Delete as written and substitute the following:
THE CITY OF DULUTH, ENGINEER, ACTING
DIRECTLY OR THROUGH HIS/HER DULY
AUTHORIZED REPRESENTATIVE.

SECTION 102 BIDDING REQUIREMENTS AND CONDITIONS

Section 102.01 PREQUALIFICATION OF BIDDERS

Delete in its entirety and substitute the following:

Before submitting a bid in excess of \$2,000,000, the Bidder shall have been prequalified with the Georgia Department of Transportation and received a Certificate of Qualification in accordance with the Rules and Regulations approved and adopted by the State Transportation Board. Bidders submitting bids of \$2,000,000 or less shall have been registered with the Georgia Department of Transportation. In addition, the aggregate total amount a Non-prequalified Bidder may have under contract shall not exceed \$4,000,000.

Bidders intending to consistently submit Proposals shall prequalify at least once every two years. However, qualifications may be changed during that period upon the submission of additional favorable reports or upon unsatisfactory performance. In addition, the Georgia Department of Transportation reserves the right at any time to require the Contractor to furnish a current financial and experience statement.

Bidders may be required to submit additional evidence setting forth qualifications which entitle him to considerations as a responsible Contractor. This may include:

- A complete listing of all work currently under contract and its current status
- A full listing of all work to be self-performed and to be completed by subcontractors on this project

- A listing of available equipment for use on this work, including the type, size and location of equipment
- A listing of available personnel, both supervisors and operators, for use on this project including the current projects that these personnel are assigned.

Section 102.05 EXAMINATION OF PLANS, SPECIFICATIONS, 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:

"K. 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 responsive and 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.

L. 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 Duluth, Georgia."

Section 102.08 PROPOSAL GUARANTY

Substitute the following for the first sentence:

"No bid will be considered unless it is accompanied by a certified check or acceptable bid bond in an amount not less than five percent (5%) of the amount bid and made payable to the City of Duluth, GA. Such Bid Bond shall be on the forms provided by the City."

Section 102.09 DELIVERY OF PROPOSALS

Delete in its entirety and substitute the following:

"Bids should be submitted in duplicate (one printed and signed original and one identical digital copy) in a sealed envelope of sufficient size with the following clearly typed or printed on the outside:

City of Duluth, Office of the City Clerk
Bid for Construction
Bid Number
Date and Hour of Bid Opening
Company Name

Bid shall be submitted on the Bid Form provided by the City.

The bid package as described in Notice to Contractors, Page I-1 should be submitted with the bid. Failure to do so may result in the rejection of the bid."

Section 102.11 PUBLIC BID

Delete in its entirety and substitute the following:

"Bid results will be posted on the City's website after contract award is complete."

ADD Section 102.19 ADDENDA AND INTERPRETATION

"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 City Engineer, Margie Pozin, PE, at mpozin@duluthga.net. Any request not received in time to accomplish such interpretation and distribution may not be accepted. No phone calls, please."

SECTION 103 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 responsive and responsible bidder. The City of Duluth 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.

The Contract will be awarded by the City, if at all, within 90 calendar days after the opening of the Bids, unless the successful Bidder agrees in writing to a longer period for the Award.

The Award of Contracts involving work financed entirely or in part by Federal funds is conditioned upon the concurrence of the Federal agency involved. No bid will be negotiated or adjusted.

Single as well as multiple bids for the Project will be opened and read. If only one bid is received on the Project and the amount of that bid is equal to or less than the City's cost estimate for the Project, that bid may be used.

If only one bid is received and the amount of that bid exceeds the City's cost estimate for the Project, the City may, at its option, award the contract, or reject the bid and readvertise, perform the work itself, or abandon the Project.

The successful Bidder will be notified by letter to the address shown on his Bid that his Bid has been accepted and that he has been awarded the Contract.

Award to the successful bidder will be made public on the City's website."

103.04 RETURN OF PROPOSAL GUARANTY:

Delete in its entirety and substitute the following:

“All Bid Guaranties may be retained until the Contract and Contract Bond have been signed and approved. Early release of Bid Guaranties, only from unsuccessful bidders, will be considered if a request is made in writing.”

SECTION 103.06 EXECUTION AND APPROVAL OF CONTRACT:

Delete in its entirety and substitute the following:

“The Contract shall be signed by the successful Bidder and returned within 15 calendar days after the date of the letter transmitting the Contract to the Bidder. No Contract shall be considered as effective until it has been fully executed by all of the parties.”

Section 103.07 FAILURE TO EXECUTE CONTRACT

Delete in its entirety and substitute the following:

"Failure to execute the Contract, Contract Performance and Payment Bond, or furnish satisfactory proof of carriage of the insurance required within 15 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 bid guaranty to the City of Duluth, 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 responsible Bidder, or the Work may be re-advertised or constructed by City forces. The Contract and Contract bonds shall be executed in duplicate."

SECTION 104 - SCOPE OF WORK

SECTION 104.03.A - AUTHORITY TO MAKE CHANGES:

Delete the second paragraph and substitute the following:

“Whenever an alteration in character of work involves a substantial change in the nature of the design or in the type of construction or materially increases or decreases the cost of performance, a Supplemental Agreement acceptable to both parties shall be executed before work is started on such alteration, except that in the absence of a Supplemental Agreement acceptable to both parties, the Engineer may direct that the work be done either by Force Account or at existing Contract prices subject to the provisions of Sub-Section 105.13. Any Force Account Agreement must be in writing, specifying the terms of payment, signed by the City and agreed to in writing by the Contractor.

All work shall be performed as directed and in accordance with the Specifications.”

SECTION 105 - CONTROL OF WORK

105.13 CLAIMS FOR ADJUSTMENTS AND DISPUTES:

Retain as written and add the following to Sub-Section 105.13.B.7:

“Stand-By Rate will be 50 percent of the operating rate.”

SECTION 107 LEGAL REGULATIONS AND RESPONSIBILITY TO THE PUBLIC

Section 107.15 RESPONSIBILITY FOR DAMAGE CLAIMS

Delete the paragraph and substitute the following:

“The Contractor shall indemnify and save harmless the City, the engineer, and their agents and employees, from all suits, actions, or claims of any character brought because of any injuries or damage received or sustained by any person, persons, or property on account of the operations of the said Contractor; or on account of or in consequence of any neglect in safe-guarding The Work; or through use of unacceptable materials in constructing The Work; or because of any act of omission, neglect or misconduct of said Contractor; or because of any claims or amounts recovered from any infringements of patent, trademark, or copyright; or from any claims or amounts arising or recovered under the Workmen’s Compensation Act, or any other law, ordinance, order, or decree; and so much of the money due the said Contractor under and by virtue of his Contract as may be considered necessary by the City for such purpose may be withheld for the use of the City; or, in case no money is due, his surety may be held until such suit or suits, action or actions, claim or claims for injuries or damages as aforesaid shall have been settled and suitable evidence to that effect furnished to the City; except that money due the Contractor will not be withheld when the Contractor produces satisfactory evidence that he is adequately protected by public liability and property damage insurance.”

Section 107.18 ACQUISITION OF RIGHT OF WAY

Add the following paragraph:

"The Contractor shall inspect all easements and rights-of-way to insure 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 108 - PROSECUTION AND PROGRESS

108.01 SUBLETTING OF CONTRACT

Retain this Section as written and add the following:

“In accordance with the provisions stated above, the following items are designated Specialty Items whenever they appear in the Contract:

- All Grassing Items
- All Fencing Items
- All Highway Lighting Items
- All Highway Sign Items
- All Guardrail Items (Except Bridge Handrail)
- All Utility Items
- All Comfort and Convenience Facilities in Rest Areas
- All Landscaping Items
- All Pressure Grouting, Slab Removal and Replacement
- All Permanent Traffic Markings
- All Signal Systems
- All Railroad Trackwork above Sub-ballast
- Construction Layout

The cost of the above items will be subtracted from the original Contract Amount and the subsequent balance used to determine the percent limitation mentioned above.

If the Contractor elects to sublet a Specialty Item, no work on any such Specialty Items shall be begun without prior approval of the necessary Subcontract.

The Contractor's cost for Construction Layout shall be fully documented prior to deduction from the original Contract amount.

Contractor providing utility work must have a current valid Utility Contractors License.”

108.02 NOTICE TO PROCEED:

Retain as written except as follows:

Delete the second paragraph which begins "Within 10 calendar days " and substitute the following:

“Within 10 calendar days after the Notice to Proceed has been issued, the Contractor shall begin the work. Contract Time charges for Available Day and Calendar Day projects will begin on the date the Contractor starts to work, or 10 days after the Notice to Proceed, whichever comes first. For Completion Date Projects Contract Time charges shall begin on the day after the Notice to Proceed.

The Engineer has the authority to suspend the Work wholly or in part, for as long as he may deem necessary, because of unsuitable weather, or other conditions considered unfavorable for continuing the Work, or for as long as he may deem necessary by reason of failure of the Contractor to carry out orders given, or to comply with any provision of the Contract. If the performance of all or any portion of the Work is suspended or delayed by the Engineer, in writing, for an unreasonable period of time (not originally anticipated, customary, or inherent to

the construction industry) and the Contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the Contractor shall submit to the Engineer, in writing, a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.

Upon receipt, the Engineer will evaluate the Contractor's request. If the Engineer agrees that the cost and/or time required for the performance of the Contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of, and not the fault of, the Contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the Engineer will make an adjustment (excluding profit) and modify the Contract in writing accordingly. The Engineer will notify the Contractor of his/her determination whether or not an adjustment of the Contract is warranted.

No contract adjustment will be allowed unless the Contractor has submitted the request for adjustment within the time prescribed.

No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided for or excluded under any other term or condition of this Contract."

SECTION 109 MEASUREMENT AND PAYMENT

Section 109.07 PARTIAL PAYMENTS

Delete the second Paragraph under "A. General"

ADD the following to "A. General"

"1. The Department shall retain 10% of the gross value of the completed work as indicated by the current estimate certified by the Engineer for payment.

2. There will be no consideration for reduction of retainage until Final Payment as defined in 109.08."

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."

- A. INTEREST: In the event the Contractor fails to execute the Final Supplemental Agreement as prepared by the City because he disputes the amount of the final payment as stated therein, the amount due the Contractor shall be deemed by the Contractor and the Department to be an unliquidated sum and no interest shall accrue or be payable on the sum finally determined to be due to the Contractor for any period prior to final determination of such sum, whether such determination be by agreement of the Contractor and the Department or by final judgment of the proper court in the event of litigation between the Department and the Contractor. The Contractor specifically waives and renounces any and all rights it may have under Section 13-6-13 of the Official Code of Georgia and agrees that in the event suit is brought by the Contractor against the Department for any sum claimed by the Contractor under the Contract, for delay damages resulting from a breach of contract, for any breach of contract or for any extra or additional work, no interest shall be awarded on any sum found to be due from the Department to the Contractor in the final judgment entered in such suit. All final judgments shall draw interest at the legal rate, as specified by law. Also, the Contractor agrees that notwithstanding any provision or provisions of Chapter 11 of Title 13 of the Official Code of Georgia that the provisions of this contract control as to when and how the Contractor shall be paid for The Work. Further, the Contractor waives and renounces any and all rights it may have under Chapter 11 of Title 13 of the Official Code of Georgia.”

SEQUENCE OF OPERATIONS

I. GENERAL:

- A. 107.07 - Public Convenience and Safety, is expanded or modified as follows:

Traffic whose origin or destination is within the limits of the Project shall be provided ingress and egress at all times unless otherwise stipulated in Part VI below. The ingress and egress is to include entrance and exit via driveways at the various properties and access to intersecting roads, streets, and interchange ramps. The Contractor shall maintain sufficient personnel and equipment on the Project at all times, particularly during inclement weather, to insure that ingress and egress are provided when and where needed.

No resident shall be denied vehicular access to their property for any length of time other than that which is absolutely necessary, and as determined the Engineer.

II. ORDER OF WORK:

- A. The Contractor shall plan and prosecute the work such that disruption to personal property is held to a practical minimum.

All construction areas abutting lawns and yards of residential property shall be restored promptly. Backfilling of each drainage structure or section of curb and gutter, sidewalk, or driveway shall be accomplished as soon as adequate strength is obtained. Finishing, dressing and grassing shall be accomplished immediately thereafter as a continuous operation within each area being constructed with emphasis placed on completing each individual yard or frontage. Care shall be taken to provide positive drainage to avoid ponding or concentration runoff.

- B. Specific reference is made to Article 104.05 of the Standard Specifications - Maintenance During Construction, which is expanded or modified as follows:

All outfall ditches, channel relocations, detention basins, critical storm drainage structures, etc., shall be constructed prior to the beginning of grading operations so that the best possible drainage will be in effect during construction of the Project.

- C. Grading, grassing, and erosion control shall be a continuous operation to the extent that no embankment or backslope will be left unmulched and/or ungrassed, and/or unprotected, so as to cause siltation beyond the right of way of the Project.

- D. Rock, boulders or debris removed during construction shall not be left on the project in any area where they may be subject to a vehicle running off the road and striking them.
- E. Specific reference is made to Sub-Section 107.09 -Barricades, Danger, Warning and Detour Signs, which is expanded or modified as follows:

Work causing constriction of traffic flow shall not be performed at two different locations on the same side of the roadway within 1/2 mile section in rural areas or within a 500-foot section on urban construction.

Work shall be performed on only one side of the existing roadway at any time within any 1/2 mile section.

When not in use, all striped barrels, signs, or other traffic control devices shall be either masked or removed and faced so as not to confuse the traveling public.

- F. When all or portions of a project are to be constructed under traffic the following requirements will apply:
 - 1. Contractor's Vehicles: The Contractor's vehicles will be required to travel with the normal traffic flow.
 - 2. In order to provide the greatest possible convenience to the public in accordance with the Sub-Section 107.07, the Contractor shall remove all lane closure markings and devices immediately when lane closure work is completed or temporarily suspended for any length of time. Temporary lane closures within the neighborhood will be permitted as needed during work hours, provided contractor has adequate traffic control in place to ensure safe access for all pedestrians and vehicles.
 - 3. Painted Traffic Stripe, Section 652, Thermoplastic Traffic Stripe, Section 653, and Raised Pavement Markers, Section 654: The installation work on these items shall be scheduled as early as possible in the Sequence of Operations. Reference is made to Section 150 for Temporary Striping.
 - 4. Cleaning Up and Finishing: At the end of work each day the Contractor will be required to remove all debris, stockpiled materials, equipment, tools and any other hazards on the pavement to a safe location as far as practical from the travel lane, so as not to block sight distance at any intersecting road or driveway. It may be necessary for the Contractor to provide additional protection for these areas in the form of additional barrels, barricades, temporary barrier or any other means necessary to protect the safety of the traveling public along the project limits. No separate payment will be made for any additional safety measures. This work to be included in price bid for Traffic Control.

- a. All areas within the limits of the Project, which are determined by the Engineer to be unnecessarily damaged, due either directly or indirectly to the process of construction, shall be cleaned up, redressed and grassed. All surplus materials shall be removed and disposed of as required. This is not a payment item and shall be done without additional compensation.

III. EQUIPMENT NOISE:

All equipment used on the Work shall come equipped with factory installed mufflers or manufacturer's recommended equivalent in good condition. These mufflers shall be maintained in good condition throughout the life of the Contract. Contractor may not work outside of work hours specified in the contract. Work is to be completed within a residential subdivision and contractor must be sensitive to the needs of the residents and neighbors.

IV. SPECIAL CONDITIONS:

- A. In accordance with Section 105.07 of the Georgia Department of Transportation Standard Specifications and all current Supplemental Specifications, cooperation between contractors and coordination of construction will be required.
- B. Prior to placement of temporary or permanent pavement markings, pre-lining of all areas must be approved by the City Engineer, and will be coordinated by the Contractor through the Project Inspector assigned to the Project or directly with the Engineer if no inspector was assigned. The Contractor will provide all necessary temporary traffic control and lane closures to allow for prelining to be accomplished as directed by the engineer.
- C. The Contractor shall provide off road parking areas within the construction zone and away from the intersecting streets or roads. The unauthorized parking of employees' vehicles and/or equipment will not be permitted along the shoulders or adjacent to the active traffic on any road or street in the City. It will be the Contractor's responsibility to prevent the violation of this provision. Failure to comply with the terms of this provision will result in the suspension of the work.
- D. Access to the Project, including parking and work areas, is to be determined and agreed upon at the project preconstruction meeting.
- E. Use of subdivision streets, as a haul route will not be permitted unless special permission is granted by the City of Duluth.

V. ENFORCEMENT:

In the event that compliance with the objectives stated herein are not achieved, the Engineer in charge of the work will close down all operations being performed, except

erosion control and traffic control. The Engineer may also withhold any payments due, when necessary, until all requirements herein have been met.

VI. MEASUREMENT AND PAYMENT:

There will be no separate measurement or payment for the work described herein, and all costs, direct or indirect, of complying with the requirements of this Special Provision shall be included in the overall bid submitted or as "Traffic Control - Lump Sum".

VII. STAGE CONSTRUCTION:

In order to follow good construction procedures and minimize inconvenience to the traveling public, it will be necessary to maintain traffic through the construction areas where practical. This will be accomplished by utilizing existing roadways and staging construction.

1. The Contractor is responsible for erecting and maintaining all barricades and signs in accordance with MUTCD. Costs to be included in price bid for traffic control.
2. The Contractor will notify the City of Duluth two (2) weeks in advance of any lane closings so a public announcement can be made.
3. Access is to be provided to the adjacent areas along the project at all times.

UTILITY CONFLICTS

Utility facilities in place on the property at 3545 McClure Woods Drive will be capped at their respective meters and/or removed prior to park construction by the demo contractor who removed the original structure prior to this contract. The only remaining utility on site at that property will be power. Contractor is responsible for coordinating with Ga Power before and during construction such that power is available to and/or restored to the site in working condition for the lighting and security camera needs, per the plans.

Utility facilities located near the isolated areas of roadway improvement and sidewalk ramp work will need to be marked in advance of the project. Special care is required of the contractor to keep all utility facilities intact. Contractor is responsible for coordinating directly with each facility as needed.

It will be the Contractor's responsibility to conform with all the requirements of the Specifications as they relate to cooperation with utility owners and the protection of utility installations that exist on the Project. The Contractor's attention is directed to the requirements of Section 107, Legal Regulations and Responsibility to the Public, with particular attention to Article 107.21.

It shall be the responsibility of the Contractor to coordinate his work with any work to be performed by others in any right of way clearance and arrange a schedule of operations that will allow for completion of the Project without undue delay. Where stage construction is required it shall be the Contractor's responsibility to notify the utility owner when each stage of work is completed and the site is available for utility work to proceed.

Information concerning utility facilities known to exist within the project limits, including the list of owners, is shown on the plans.

Should relocation be required, it shall be the responsibility of the Contractor to determine the estimated time for relocation and adjustment of facilities of all utility companies and to consider in his bid all such relocations and adjustments.

In accordance with Article 105.06 of the Specifications, the Department shall not be liable for payment of any costs due to utility delays, inconvenience or damage sustained by the Contractor due to interference of any utilities or appurtenances, or the operation of moving them. Delays by utilities will continue to be considered by the Department in charging Contract Time in accordance with Article 107.21G

The Contractor will not be paid for any delays or extra expense caused by utility facilities, obstructions, or any other items not being removed or relocated to clear construction in advance of his work.

The Contractor will be required to locate and reference all water meters and water valves within the construction limits. The reference points are to be located so that the references will not be disturbed and the location of the meters and valves can be re-established. A permanent written record of the reference points will be made and a copy will be furnished to the Engineer. Access to fire hydrants will be maintained at all times. All water valves that are to remain in the areas of construction are to be checked after asphaltic concrete has been placed to ensure access at all times.

Georgia law requires that a telephone call or adequate notice must be given 3 days before work is to begin. The notice will remain in effect for 10 working days from the date the Utilities Protection Center is notified. In the Atlanta Area, the Contractor is to call 811 and throughout Georgia the Contractor is to call 1-800-282-7411.

The contractor's attention is directed to the plan set for the name of the utility owners and the type of facilities involved.

*****ATTENTION*****

FAILURE TO RETURN THE FOLLOWING DOCUMENTS MAY RESULT IN BID BEING DEEMED NON-RESPONSIVE AND AUTOMATIC REJECTION:

1. **FAILURE TO USE CITY BID SCHEDULE.**
2. **FAILURE TO RETURN APPLICABLE COMPLIANCE SHEETS/SPECIFICATION SHEETS.**
3. **FAILURE TO RETURN APPLICABLE ADDENDA.**
4. **FAILURE TO PROVIDE INFORMATION ON ALTERNATES OR EQUIVALENTS.**
5. **THE CITY SHALL BE THE SOLE DETERMINANT OF TECHNICALITY VS. NON-RESPONSIVE BID.**
6. **FAILURE TO PROVIDE BID BOND, WHEN REQUIRED, WILL RESULT IN BID BEING DEEMED NON-RESPONSIVE AND AUTOMATIC REJECTION. BOND REQUIREMENTS ARE CLEARLY STATED ON THE INVITATION TO BID. IF YOU NEED CLARIFICATION, CONTACT THE CITY ENGINEER.**
7. **FAILURE TO PROVIDE CONTRACTOR AFFIDAVIT AND AGREEMENT, WHEN REQUIRED, MAY RESULT IN BID BEING DEEMED NON-RESPONSIVE AND AUTOMATIC REJECTION. CONTRACTOR AFFIDAVIT AND AGREEMENT IS NOT REQUIRED ON ALL BIDS. IF YOU NEED CLARIFICATION, CONTACT THE CITY ENGINEER.**

**CITY OF DULUTH
GENERAL INSTRUCTIONS FOR BIDDERS, TERMS AND CONDITIONS**

I. PREPARATION OF BIDS

- A. Each bidder shall examine the drawings, specifications, schedule and all instructions. Failure to do so will be at the bidder's risk, as the bidder will be held accountable for their bid response.
- B. Each bidder shall furnish all information required by the bid form or document. Each bidder shall sign the bid and print or type his or her name on the schedule. The person signing the bid must initial erasures or other changes. An authorized agent of the company must sign bids.
- C. Individuals, firms and businesses seeking an award of a City of Duluth contract may not initiate or continue any verbal or written communications regarding a solicitation with any City officer, elected official, employee or other City representative without permission of the City Clerk, between the date of the issuance of the solicitation and the date of the final contract award by the City Council. Violations will be reviewed by the City Clerk. If determined that such communication has compromised the competitive process, the offer submitted by the individual, firm or business may be disqualified from consideration for award.
- D. Sample contracts (if pertinent) are attached. These do NOT have to be filled out with the bid/proposal submittal, but are contained for informational purposes only. If awarded, the successful bidder(s) will be required to complete them prior to contract execution.
- E. Effective, July 1, 2013 and in accordance with the Georgia Illegal Reform and Enforcement, an original signed, notarized and fully completed Contractor Affidavit and Agreement should be included with your bid/proposal submittal, if the solicitation is for the physical performance of services for all labor or service contract(s) that exceed \$2,499.99 (except for services performed by an individual who is licensed pursuant to Title 26, Title 43, or the State Bar of Georgia). Failure to provide the Contractor Affidavit and Agreement with your bid/proposal submittal may result in bid/proposal being deemed non-responsive and automatic rejection.

II. DELIVERY

- A. Each bidder should state time of proposed delivery of goods or services.
- B. Words such as "immediate," "as soon as possible," etc. shall not be used. The known earliest date or the minimum number of calendar days required after receipt of order (delivery A.R.O.) shall be stated (if calendar days are used, include Saturday, Sunday and holidays in the number).

III. EXPLANATION TO BIDDERS

Any explanation desired by a bidder regarding the meaning or interpretation of the invitation for bids, drawings, specifications, etc. must be requested by the question cutoff deadline stated in the solicitation in order for a reply to reach all bidders before the close of bid. Any information given to a prospective bidder concerning an invitation for bid will be furnished to all prospective bidders as an addendum to the invitation if such information is necessary or if the lack of such information would be prejudicial to uninformed bidders. The written bid documents supersede any verbal or written communications between parties. Receipt of addenda shall be acknowledged in the bid. It is the bidder's responsibility to ensure that they have all applicable addenda prior to bid submittal. This may be accomplished by visiting our website at www.duluthga.net. Questions may be directed in writing to mpozin@duluthga.net. No phone calls, please.

IV. SUBMISSION OF BIDS

- A. Bids shall be enclosed in sealed envelopes, addressed to the City of Duluth, City Clerk with the name of the bidder, the date and hour of opening and the invitation to bid number on the face of the envelope. Telegraphic/faxed bids will not be considered. Any addenda should be enclosed in the sealed envelopes as well.
- B. ADD/DEDUCT: Add or deduct amounts indicated on the outside of the envelope are allowed and must be itemized by the line item number in the bid schedule or the City will apply the deduct as it deems appropriate. Amount shall be clearly stated and should be initialed by an authorized company representative.
- C. Samples of items, when required, must be submitted within the time specified and, unless otherwise specified by the City, at no expense to the City. Unless otherwise specified, samples will be returned at the bidder's request and expense if items are not destroyed by testing.
- D. Items offered must meet required specifications and must be of a quality, which will adequately serve the use and purpose for which intended.
- E. Full identification of each item bid upon, including brand name, model, catalog number, etc. must be furnished to identify exactly what the bidder is offering. Manufacturer's literature may be furnished.
- F. The bidder must certify that items to be furnished are new and that the quality has not deteriorated so as to impair its usefulness.
- G. Unsigned bids will not be considered except in cases where bid is enclosed with other documents, which have been signed. The City will determine this.
- H. The City of Duluth is exempt from federal excise tax and Georgia sales tax with regard to goods and services purchased directly by the City. Suppliers and contractors are responsible for federal excise tax and sales tax, including taxes

for materials incorporated in city construction projects. Suppliers and contractors should contact the State of Georgia Sales Tax Division for additional information.

- I. Information submitted by a bidder in the bidding process shall be subject to disclosure after the public opening in accordance with the Georgia Open Records Act. Each page of proprietary information must be identified. Entire bid may not be deemed proprietary.

V. WITHDRAWAL OF BID DUE TO ERRORS

The bidder shall give notice in writing of his claim of right to withdraw his bid without penalty due to an error within two (2) business days after the conclusion of the bid opening procedure. Bids may be withdrawn from consideration if the price was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of the bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and material used in the preparation of the bid sought to be withdrawn. The bidder's original work papers shall be the sole acceptable evidence of error and mistake if he elects to withdraw his bid. If a bid is withdrawn under the authority of this provision, the lowest remaining responsive bid shall be deemed to be low bid.

No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

Supplier has up to forty-eight (48) hours to notify the City of Duluth, City Clerk of an obvious clerical error made in calculation of bid in order to withdraw a bid after bid opening. Withdrawal of bid for this reason must be done in writing within the forty-eight (48) hour period. Suppliers who fail to request withdrawal of bid by the required forty-eight (48) hours shall automatically forfeit bid bond. Bid may not be withdrawn otherwise.

Bid withdrawal is not automatically granted and will be allowed solely at the City's discretion.

VI. TESTING AND INSPECTION

Since tests may require several days for completion, the City reserves the right to use a portion of any supplies before the results of the tests are determined. Cost of inspections and tests of any item, which fails to meet the specifications, shall be borne by the bidder.

VII. F.O.B. POINT

Unless otherwise stated in the invitation to bid and any resulting contract, or unless qualified by the bidder, items shall be shipped F.O.B. Destination. The seller shall

retain title for the risk of transportation, including the filing for loss or damages. The invoice covering the items is not payable until items are delivered and the contract of carriage has been completed. Unless the F.O.B. clause states otherwise, the seller assumes transportation and related charges either by payment or allowance.

VIII. PATENT INDEMNITY

The contractor guarantees to hold the City, its agents, officers or employees harmless from liability of any nature or kind for use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, articles or appliances furnished or used in the performance of the contract, for which the contractor is not the patentee, assignee or licensee.

IX. BID BONDS AND PAYMENT AND PERFORMANCE BONDS (IF REQUIRED)

A five percent (5%) bid bond, a one hundred percent (100%) performance bond, and a one hundred percent (100%) payment bond must be furnished to the City of Duluth for any bid as required in bid package or document. Failure to submit a bid bond with the proper rating will result in the bid being deemed non-responsive. Bonding company must be authorized to do business in Georgia by the Georgia Insurance Commission, listed in the Department of the Treasury's publication of companies holding certificates of authority as acceptable surety on Federal bonds and as acceptable reinsuring companies, and have an A.M. Best rating as stated in the insurance requirement of the solicitation. The bid bond, payment bond, and performance bond must have the proper an A.M. Best rating as stated in the bid when required in the bid package or document.

X. DISCOUNTS

A. This section does not apply.

XI. AWARD

- A. Award will be made to the lowest responsive and responsible bidder. The quality of the articles to be supplied, their conformity with the specifications, their suitability to the requirements of the City, and the delivery terms will be taken into consideration in making the award. The City may make such investigations as it deems necessary to determine the ability of the bidder to perform, and the bidder shall furnish to the City all such information and data for this purpose as the City may request. The City reserves the right to reject any bid if the evidence submitted by, or investigation of such bidder fails to satisfy the City that such bidder is properly qualified to carry out the obligations of the contract.
- B. The City reserves the right to reject or accept any or all bids and to waive technicalities, informalities and minor irregularities in bids received.
- C. The City reserves the right to make an award as deemed in its best interest, which may include awarding a bid to a single bidder or multiple bidders; or to award the whole bid, only part of the bid, or none of the bid to single or multiple bidders, based on its sole discretion of its best interest.

XII. DELIVERY FAILURES

Failure of a contractor to deliver within the time specified or within reasonable time as interpreted by the City Clerk, or failure to make replacement of rejected articles/services when so requested, immediately or as directed by the City Engineer, shall constitute authority for the City Clerk to purchase in the open market articles/services of comparable grade to replace the articles/services rejected or not delivered. On all such purchases, the contractor shall reimburse the City within a reasonable time specified by the City Clerk for any expense incurred in excess of contract prices, or the City shall have the right to deduct such amount from monies owed the defaulting contractor. Alternatively, the City may penalize the contractor one percent (1%) per day for a period of up to ten (10) days for each day that delivery or replacement is late. Should public necessity demand it, the City reserves the right to use or consume articles delivered which are substandard in quality, subject to an adjustment in price to be determined by the City Clerk.

XIII. CITY FURNISHED PROPERTY

No material, labor or facilities will be furnished by the City unless so provided in the invitation to bid.

XIV. REJECTION AND WITHDRAWAL OF BIDS

Failure to observe any of the instructions or conditions in this invitation to bid may constitute grounds for rejection of bid.

XV. CONTRACT

Each bid is received with the understanding that the acceptance in writing by the City of the offer to furnish any or all of the commodities or services described therein shall constitute a contract between the bidder and the City which shall bind the bidder on his part to furnish and deliver the articles quoted at the prices stated in accordance with the conditions of said accepted bid. The City, on its part, may order from such contractor, except for cause beyond reasonable control, and to pay for, at the agreed prices, all articles specified and delivered.

Upon receipt of a bid package containing a City of Duluth "Sample Contract" as part of the requirements, it is understood that the bidder has reviewed the documents with the understanding that the City of Duluth requires that all agreements between the parties must be entered into via this document. If any exceptions are taken to any part, each must be stated in detail and submitted as part of the bid. If no exceptions are stated, it is assumed that the bidder fully agrees to the provisions contained in the "Sample Contract" in its entirety.

When the contractor has performed in accordance with the provisions of this agreement, the City shall pay to the contractor, within thirty (30) days of receipt of any department approved payment request and based upon work completed or service provided pursuant to the contract, the sum so requested, less the retainage stated in this agreement, if any. In the event that the City fails to pay the contractor within sixty (60) days of receipt of a pay requested based upon work completed or service provided

pursuant to the contract, the City shall pay the contractor interest at the rate of ½% per month or pro rata fraction thereof, beginning the sixty-first (61st) day following receipt of pay requests. The contractor's acceptance of progress payments or final payment shall release all claims for interest on said payment.

XVI. NON-COLLUSION

Bidder declares that the bid is not made in connection with any other bidder submitting a bid for the same services, commodity or commodities, and that the bid is bona fide and is in all respects fair and without collusion or fraud. An affidavit of non-collusion shall be executed by each bidder. Collusion and fraud in bid preparation shall be reported to the State of Georgia Attorney General and the United States Justice Department.

XVII. DEFAULT

The contract may be canceled or annulled by the City Clerk in whole or in part by written notice of default to the contractor upon non-performance or violation of contract terms. An award may be made to the next low responsive and responsible bidder, or articles specified may be purchased on the open market similar to those so terminated. In either event, the defaulting contractor (or his surety) shall be liable to the City for costs to the City in excess of the defaulted contract prices; provided, however, that the contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause. Failure of the contractor to deliver materials or services within the time stipulated on his bid, unless extended in writing by the City Clerk, shall constitute contract default.

XVIII. TERMINATION FOR CAUSE

The City may terminate this agreement for cause upon ten days prior written notice to the contractor of the contractor's default in the performance of any term of this agreement. Such termination shall be without prejudice to any of the City's rights or remedies by law.

XIX. TERMINATION FOR CONVENIENCE

The City may terminate this agreement for its convenience at any time upon 30 days written notice to the contractor. In the event of the City's termination of this agreement for convenience, the contractor will be paid for those services actually performed. Partially completed performance of the agreement will be compensated based upon a signed statement of completion to be submitted by the contractor, which shall itemize each element of performance.

XX. DISPUTES

Except as otherwise provided in the contract documents, any dispute concerning a question of fact arising under the contract which is not disposed of shall be decided after a hearing by the City Clerk, who shall reduce his/her decision to writing and mail or otherwise furnish a copy thereof to the contractor. The decision of the City Clerk shall be final and binding; however, the contractor shall have the right to appeal said decision to a court of competent jurisdiction.

XXI. SUBSTITUTIONS

Bidders offering and quoting on substitutions or who are deviating from the attached specifications shall list such deviations on a separate sheet to be submitted with their bid. The absence of such a substitution list shall indicate that the bidder has taken no exception to the specifications contained herein.

XXII. INELIGIBLE BIDDERS

The City may choose not to accept the bid of a bidder who is in default on the payment of taxes, licenses or other monies due to the City. Failure to respond to three (3) consecutive times for any given commodity/service may result in removal from the supplier list under that commodity/service.

XXIII. OCCUPATION TAX CERTIFICATE

Each successful bidder shall provide evidence of a valid City of Duluth occupation tax certificate if the bidder maintains an office within the City or nearby unincorporated area of Gwinnett County. Incorporated, out of City, and out of State bidders are required to provide evidence of a certificate to do business in any town, County or municipality in the State of Georgia.

XXIV. PURCHASING POLICY AND REVIEW COMMITTEE

Does not apply.

XXV. AMERICANS WITH DISABILITIES ACT

All contractors for the City of Duluth are required to comply with all applicable sections of the Americans with Disabilities Act (ADA) as an equal opportunity employer. In compliance with the Americans with Disabilities Act (ADA), the City provides reasonable accommodations to permit a qualified applicant with a disability to enjoy the privileges of employment equal to those employees with disabilities. Disabled individuals must satisfy job requirements for education background, employment experience, and must be able to perform those tasks that are essential to the job with or without reasonable accommodations. Any requests for the reasonable accommodations required by individuals to fully participate in any open meeting, program or activity of the City of Duluth should be directed to Teresa Lynn, City Clerk, City of Duluth, 3167 Main Street, Duluth, GA 30096, 770-476-3434. tlynn@duluthga.net.

XXVI. ALTERATIONS OF SOLICITATION AND ASSOCIATED DOCUMENTS

Alterations of City documents are strictly prohibited and will result in automatic disqualification of the firm's solicitation response. If there are "exceptions" or comments to any of the solicitation requirements or other language, then the firm may make notes to those areas, but may not materially alter any document language.

XXVII. TAX LIABILITY

Local and state governmental entities must notify contractors of their use tax liability on public works projects. Under Georgia law, private contractors are responsible for paying a use tax equal to the sales tax rate on material and equipment purchased under

a governmental exemption that is incorporated into a government construction project: excluding material and equipment provided for the installation, repair, or expansion of a public water, gas or sewer system when the property is installed for general distribution purposes. To the extent the tangible personal property maintains its character (for example the installation of a kitchen stove), it remains tax-exempt. However, if the installation incorporates the tangible personal property into realty, e.g., the installation of sheetrock, it becomes taxable to the private contractor.

See O.C.G.A. 48-8-3(2) and O.C.G.A. 48-8-63

XXVIII. STATE LAW REGARDING WORKER VERIFICATION

Effective July 1, 2013 State Law requires that all who enter into a contract for the physical performance of services for all labor or service contract(s) that exceed \$2,499.99 (except for services performed by an individual who is licensed pursuant to Title 26, Title 43, or the State Bar of Georgia) for the County, must satisfy the Illegal Immigration Reform and Enforcement Act, in all manner, and such are conditions of the contract.

The City Clerk together with the Business Office shall be authorized to conduct random audits of a contractor's or subcontractors' compliance with the Illegal Immigration Reform and Enforcement Act and the rules and regulations of the Georgia Department of Labor. The contractor and subcontractors shall retain all documents and records of its compliance for a period of five (5) years following completion of the contract. This requirement shall apply to all contracts for all labor or service contracts that exceed \$2,499.99 except for services performed by an individual who is licensed pursuant to Title 26, Title 43, or the State Bar of Georgia.

Whenever it appears that a contractor's or subcontractor's records are not sufficient to verify the work eligibility of any individual in the employ of such contractor or subcontractor, the City Clerk shall report same to the Department of Homeland Security and may result in termination of the contract if it is determined at any time during the work that the contractor/or subcontractor is no longer in compliance with the Illegal Immigration Reform and Enforcement Act.

State Law requires that all who enter into a contract for public works as defined by O.C.G.A. 36-91-2(10) for the City must satisfy the Illegal Immigration Reform and Enforcement Act of 2011, in all manner, and such are conditions of the contract.

By submitting a bid to the City, contractor agrees that, in the event the contractor employs or contracts with any subcontractor(s) in connection with the covered contract, the contractor will secure from the subcontractor(s) such subcontractor(s)' indication of the employee-number category applicable to the subcontractor, as well as attestation(s) from such subcontractor(s) that they are in compliance with the Illegal Immigration Reform and Enforcement Act of 2011. Original signed, notarized Subcontractor Affidavits and Agreements must be submitted to the City.

The City Clerk with the assistance of the Business Office shall be authorized to conduct

random audits of a contractor's or subcontractors' compliance with the Illegal Immigration Reform and Enforcement Act of 2011 and the rules and regulations of the Georgia Department of Labor. The contractor and subcontractors shall retain all documents and records of its compliance for a period of three (3) years following completion of the contract. This requirement shall apply to all contracts for the public works as defined by O.C.G.A. 36-91-2(10) where any persons are employed on the City contract.

Whenever it appears that a contractor's or subcontractor's records are not sufficient to verify the work eligibility of any individual in the employ of such contractor or subcontractor, the City Clerk shall report same to the Department of Homeland Security.

A contractor's failure to participate in the federal work authorization program as defined by the Illegal Immigration Reform and Enforcement Act of 2011 shall be sanctioned by termination of the contract. If it is determined that a subcontractor is not participating in the federal work authorization program as defined by the Illegal Immigration Reform and Enforcement Act of 2011, the City may direct the contractor to terminate that subcontractor. A contractor's failure to follow the City of Duluth's instruction to terminate a subcontractor that is not participating in the federal work authorization program as defined by the Illegal Immigration Reform and Enforcement Act of 2011 may be sanctioned by termination of the contract.

XXIX. SOLID WASTE ORDINANCE

No individual, partnership, corporation or other entity shall engage in solid waste handling except in such a manner as to conform to and comply with the current City of Duluth Solid Waste Ordinance and all other applicable local, state and federal legislation, rules, regulation and orders.

XXX. GENERAL CONTRACTORS LICENSE

Effective July 1, 2008: **All General Contractors must have a current valid license from the State Licensing Board for Residential and General Contractors, unless specifically exempted from holding such license pursuant to Georgia law (O.C.G.A. Section 43-41-17).**

XXXI. INDEMNIFICATION

To the fullest extent permitted by law, the Contractor shall, at his sole cost and expense, indemnify, defend, satisfy all judgments, and hold harmless the City, the engineer, and their agents and employees from and against all claims, damages, actions, judgments, costs, penalties, liabilities, losses and expenses, including, but not limited to, attorney's fees arising out of or resulting from the performance of the work, provided that any such claim, damage, action, judgment, cost, penalty, liability, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless whether such claim is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate,

abridge or otherwise reduce any of the rights or obligations of indemnity which would otherwise exist as to any party or person described in this agreement. In any and all claims against the City, the engineer, or any of their agents or employees by any employee of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation contained herein shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any subcontractor under Worker's Compensation Acts, disability benefit acts, or other employee benefit acts.

XXXII. CODE OF ETHICS:

“Proposer/Bidder” shall disclose under oath the name of all elected officials whom it employs or who have a direct or indirect pecuniary interest in the business entity, its affiliates, or its subcontractors. The “Proposer/Bidder” shall execute a Code of Ethics affidavit. Failure to submit the affidavit during the bid or proposal process shall render the bid or proposal non-responsive.

The act of submitting false information or omitting material information shall be referred to the City Clerk and City Attorney for possible criminal prosecution.

Any business entity holding a contract with the City of Duluth that subsequent to execution of the contract or issuance of the purchase order employs, subcontracts with, or transfers a direct or indirect pecuniary interest in the business entity to an elected official shall within five (5) days disclose such fact in writing under oath to the City Clerk. Failure to comply shall be referred to the City Clerk and City Attorney for possible criminal prosecution.

Note: See City of Duluth Code of Ethics Ordinance for City Officials.

http://www.duluthga.net/about_duluth/city_elections/docs/Ethics%20Ordinance.pdf

XXXIII. PENDING LITIGATION:

A bid submitted by an individual, firm or business who has litigation pending against the City, or anyone representing a firm or business in litigation against the City, not arising out of the procurement process, will be disqualified.

REFER TO GDOT SPECIAL PROVISIONS AND THE FOLLOWING

December 19, 2018

DEPARTMENT OF TRANSPORTATION STATE OF GEORGIA

SPECIAL PROVISION

Project: Willbrooke Trail and Traffic Calming

Section 702—Vine, Shrub, and Tree Planting

Add the following to subsection 702.3.06:

D. Plant Material Observation

Owner's representative retains the right to observe plants further for size and condition of balls and root systems, pests, disease symptoms, injuries, and latent defects and to reject unsatisfactory or defective material at any time during progress of work. Remove rejected plants immediately from Project site.

1. The Contractor shall be responsible to certify the availability of quality plants in specified sizes from sources of supply and have made reservations for their procurement within four weeks of the notice to proceed.
2. The Owner's representative has the right to reject upon delivery to the site or during the progress of the work if the Engineer finds that plants do not meet the requirements in the Plant Schedule or Plant Legend shown on Drawings, have declined noticeably due to handling abuse, lack of maintenance, or other causes. Cost of replacements, as required, shall be borne by the Contractor.
3. Plant Photographs: Provide color photographs in digital format of each required species and size of plant material as it will be furnished to the Project. Photographs should be a minimum resolution of 150 dpi and 2000 pixels on the long edge so that details of plants can be discerned. Take photographs from an angle depicting true size and condition of the typical plant to be furnished. Include a scale rod or other clearly legible measuring device in each photograph. For species where more than 20 plants are required, include a minimum of three photographs showing the average plant, the best quality plant, and the worst quality plant to be furnished. Identify each photograph with the full scientific name of the plant, plant size, and name of the growing nursery.