



April 11, 2025

**Request For Proposal
2025 LMIG at Adair Park**

The City of Cumming is requesting proposals from qualified contractors for asphalt resurfacing of Adair Park neighborhood, located at 1500 Adair Boulevard, Cumming, GA 30040.

Proposals should be typed or submitted in ink and returned in a sealed container marked on the outside with LMIG at Adair Park, and City of Cumming. **Proposals will be received until 4:00 PM ET on May 9th, 2025 at Cumming City Hall third floor receptionist desk. Any Proposal received after this date and time will not be accepted.**

Pre-proposal meeting will be held 10:00 AM ET on April 25th, 2025 at City Hall. Questions regarding the project should be directed to Foresite Group, LLC, Aaron DeSilva at GSbids@fg-inc.net, no later 4:00 PM ET on May 2nd, 2025. Proposals are legal and binding upon submission. All proposals to be submitted in duplicate. Awarded contractor will be contacted after May 20th, 2025.

To obtain plans and/or plan holders list: A complete set of plans and documents as a PDF may be obtained at no cost from Foresite Group, LLC:

Aaron DeSilva
3740 Davinci Court, Suite 100
Peachtree Corners, GA 30092
phone 770-368-1399
email GSbids@fg-inc.net.

THE PLAN-HOLDERS LIST IS AVAILABLE FROM FORESITE GROUP, LLC

The written proposal supersedes any verbal or written prior communications between the parties. City of Cumming reserves the right to reject any or all proposals, to waive technicalities and to make an award deemed in its best interest. Proposals may be split or awarded in entirety. City of Cumming reserves the option to negotiate terms, conditions, and pricing at its discretion. Companies submitting a proposal will receive award notification via email.

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**Appendix A -
SCOPE OF WORK**

1. The scope of work includes the 1.5" mill/replace resurfacing of Adair Park neighborhood, including Adair Blvd, Juliette Ln, Carlton Dr, Grayson Cir, Madison Ct, Glenwood Cir, Jasper Ct, Fairburn Dr, and Clayton Cir. All existing striping to be replaced. No new curb or gutter proposed.
2. Contract Documents - All work shall be done based on the general extents shown on the LMIG at Adair Park Plans. All work will include extents of the road, including all culs-de-sac.

The Work consists of:

Maintenance and Protection of Traffic, Temporary Traffic Controls as needed for construction
Milling of existing asphalt
Placement of Recycled Asphalt topping
Restriping of street to same dimensions as existing striping (using thermoplastic paint)

Contractor responsible for all maintenance of traffic along existing routes, including driveway access and establishment of detour routes, to be approved by the City prior to implementation. All maintenance and protection of traffic should be in accordance with the latest version of the Manual of Uniform Traffic Control Devices, part VI.

All work performed under this contract shall be in accordance with the Georgia Department of Transportation Standard Specifications, Construction of Transportation systems, latest edition, with the following conditions to the Specifications, noted below:

SECTION 101 REMOVE (refer to Division 00 – GENERAL CONDITIONS)

SECTION 102 REMOVE

SECTION 103 REMOVE

SECTION 104 REMOVE (refer to Division 00 - SCOPE OF WORK)

SECTION 105 REMOVE (refer to Division 00 – GENERAL CONDITIONS)

SECTION 107

REPLACE specification 107.13.F Mailboxes with the following "The Contractor shall be responsible for removing and relocating all mailboxes to a location which is outside of the limits of construction, but also accessible and convenient for mail delivery and patron. The Contractor may need to review locations with the local Post Office. Prior to erecting the mailbox in its permanent location, the Contractor shall coordinate the erection with the local Post Office and patron. The contractor will remain responsible for all damages to mailboxes or posts due to the removal and relocation. All damaged posts and/or mailboxes due to removal and relocation will be replaced by the Contractor at his expense. The Contractor will provide a new mailbox for any existing mailboxes which cannot be relocated."

ADD to specification 107.18 Acquisition of Right-of-Way ""The Contractor shall inspect all easements and right-of-way documents to ensure that the City has obtained all land and rights-of-way necessary to complete the work performed in the Contract Documents. The Contractor shall be familiar with and comply with all stipulations in acquired easements.

ADD to specification 107.21.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 REMOVE (refer to Division 00 – GENERAL CONDITIONS)

SECTION 109 REMOVE (refer to Division 00 – GENERAL CONDITIONS)

All water utility work under this contract shall be in accordance with Cumming Utilities Water System Technical Standards Manual, latest edition.

3. The Work shall be constructed under a single prime Contract. Contractor shall have a minimum of 5 years' experience with similar construction projects.
4. Cooperate with separate contractors so that work under those contracts may be completed efficiently, without interfering with or delaying work under this Contract.
5. Use of the Site: Do not disturb portions of the site beyond the areas indicated. **Contractor shall not work on the site after 8:00 p.m. or before 8:00 a.m. without written consent from the Owners.**
6. The work will require modifications to an existing roadway. **The Contractor must allow and maintain traffic access to existing adjacent properties at all times** and must provide protection and detour routing as necessary.

SPECIAL PROVISIONS

In the event there are any discrepancies between the following provisions and other provisions in these documents, the following provisions shall prevail.

1. Individuals, firms, and businesses seeking an award of a City of Cumming 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 named in the solicitation between the date of the issuance of the solicitation and the date of the final contract award by the City of Cumming. Violations will be reviewed by the City of Cumming. 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.

2. **METHOD OF AWARD**

The Contract will be awarded to the lowest responsive, responsible proposer submitting the proposal complying with the Contract Documents which is in the best interest of the City, as determined by the City.

3. **PERMIT FEES**

All permitting fees required by City of Cumming Department of Planning and Development have been paid by the City. Contractor is required to obtain all permits necessary for all temporary work, staging areas, and facilities (such as restrooms).

4. **TIME OF WORK**

It is understood that the Contractor's proposed construction schedule is based on a normal 40-hour, 5-day workweek, less recognized holidays. If the Contractor desires to work in excess of this limit, the Contractor shall submit a written request to the City a minimum of five days prior to the desired work date. The contractor shall be responsible for any additional expenses incurred by the City as a result of the extended work hours, including overtime hours by Inspector. The cost associated with resident inspector overtime will be deducted from the Contractor's monthly payment request.

5. **EROSION, SEDIMENTATION AND POLLUTION CONTROL MAINTENANCE**

No land disturbance is anticipated for this project, and no payment will be made. Any fines or delays for land disturbance and non-compliance of erosion control measures levied by any agency will be the responsibility of the Contractor.

6. **CONTRACT DRAWINGS**

Plans only indicate the extent of the resurfacing and restriping. Project is replacement of striping, traffic actuator loops, and asphalt surface. All work must adhere to the referenced specifications in this manual.

7. **WEATHER DAYS**

The following bad weather calendar days shall be anticipated and included in the contractual time period given for project completion. The Contractor's request for additional time due to weather shall only be granted for days beyond those listed below - considering the full term of the contract.

The burden of proof and documentation for such request for additional time shall rest solely upon the Contractor.

January	10 days	July	4 days
February	10 days	August	2 days
March	7 days	September	2 days
April	6 days	October	3 days
May	4 days	November	5 days
June	3 days	December	9 days

8. APPROVED VENDORS

All references to vendors and "approved manufacturers" are included for description of quality and content of the designated equipment/materials. Equivalent items may be accepted if they meet all standards of quality and purpose for the intended use, as determined by City of Cumming.

9. LANGUAGE

There shall be at least one person in a position of responsibility representing the Contractor, on site at all times, who is capable of translating from English to the language used by the workforce.

10. GENERAL CONTRACTOR LICENSE

All proposers must be licensed by the state of Georgia to be a General Contractor.

11. CONTRACTOR EXPERIENCE

Contractor should have completed construction of a minimum of three (3) projects of similar size within the past five (5) years and submit reference contacts on the enclosed form. The Contractor will identify on the Reference Form, by name, the Superintendent for each project. The Superintendent assigned to this project must have directed at least one of the three references.

12. LIST OF SUBCONTRACTORS

Contractor should submit a full List of Subcontractors with the Proposal. Any changes during construction must be approved, in advance, by the City.

13. FINAL ACCEPTANCE

All references to guarantee, warranty or payments that are commencing upon "Final Approval", "Final Certificate for Payment", or "Substantial Completion" or other similar wording shall commence upon acceptance of portions of the Work by the City.

14. CONFORMITY WITH PLANS AND SPECIFICATIONS

All Work performed and all materials furnished shall be in reasonably close conformity with the Specifications. Dimensions of all features, including grade and location of all asphalt surfaces and striping should be reasonably close to that of the existing condition. The contractor is to video record the work area immediately prior to commencement of work to make a record of the existing conditions.

Specification values are to be considered as the target values to be strived for and complied with as the design values from which any deviations are allowed. It is the intent of the Specifications that

the materials and workmanship shall be uniform in character and shall conform as nearly as realistically possible to the prescribed target value or to the middle portion of the tolerance range. The purpose of the tolerance range is to accommodate occasional minor variations from the median zone that are unavoidable for practical reasons. When either a maximum and minimum value or both are specified, the production and processing of the material and the performance of the work shall be so controlled that material or work will not be preponderantly of borderline quality or dimension.

In the event the City finds the materials or the finished product in which the materials are used not within reasonably close conformity with the Specifications, but that reasonably acceptable work has been produced, the City may appoint an Engineer to then make a determination if the work shall be accepted and remain in place. In this event, except in cases where the appropriate price adjustments are provided for in the Specifications covering the materials and/or the finished product, a Supplemental Agreement will be executed documenting the basis of acceptance that will provide for an appropriate price adjustment in the Contract Price for such work or materials as the Engineer deems necessary to conform to his determination based on engineering judgement.

In the event the City finds the materials or the finished product in which the materials are used or the work performed are not in reasonably close conformity with the Specifications, and have resulted in an inferior or unsatisfactory product, the work or materials shall be removed and replaced or otherwise corrected by and at the expense of the Contractor.

15. COOPERATION BY CONTRACTOR

These Standard Specifications, the Supplemental Specifications, the Plans, Special Provisions, and all supplementary documents are essential parts of the Contract, and a requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete work.

In cases of discrepancy, the governing descending order will be as follows:

1. Special Provisions
2. Project Plans including Special Plan Details
3. Supplemental Specifications
4. Standard Plans including Standard Construction Details
5. Standard Specifications

Calculated dimensions will govern over scaled dimensions.

The Contractor shall take no advantage of any apparent error or omission in the Plans or Specifications. In the event the Contractor discovers such an error or omission, he shall immediately notify the Engineer. The Engineer will then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the Plans and Specifications.

A. Specifications of Other Organizations

When work is specified to be done or when materials are to be furnished according to the published specifications of organizations other than the Engineer, the latest specifications published by those organizations at the time contract is completed shall apply unless otherwise specified.

16. COORDINATION

The General Contractor is responsible for becoming familiar with the requirements of all construction documents, which includes drawings, proposal and contract documents, specifications and all addenda.

The Contractor will be supplied with a minimum of two sets of approved Plans and Contract assemblies including Special Provisions, one set of which the Contractor shall keep available on the project site at all times.

Letter prefixes for each drawing sheet indicating the engineering discipline are for convenience only. Information affecting the scope of work for all trades will be found throughout all documents and is not limited to only those documents with the appropriate letter prefix. The General Contractor is responsible for providing subcontractors all necessary information and drawings.

The Contractor shall give The Work the constant attention necessary to facilitate the progress thereof, and shall cooperate with the Engineer, Inspectors, and other Contractors in every way possible.

The Contractor shall have accessible to the Engineer at all times, as his agent, a competent Superintendent, capable of reading and thoroughly understanding the Plans and Specifications, and thoroughly experienced in the type of work being performed, who shall receive instructions from the Engineer or his authorized representatives. The Superintendent shall have full authority to execute orders or directions of the Engineer without delay and to promptly supply such materials, equipment, tools, labor, and incidentals as may be required. Such superintendence shall be furnished irrespective of the amount of work sublet.

The Superintendent shall notify the Engineer prior to starting any Pay Item Work. The Prime Contractor shall coordinate and be responsible to the Engineer for all activities of subcontractors.

17. COORDINATION WITH OTHER CONTRACTORS

The Owner reserves the right at any time to Contract for and perform other or additional work on or near The Work covered by the Contract.

When separate Contracts are let within the limits of any one Project, each contractor shall conduct his work so as not to interfere with or hinder the progress or completion of The Work being performed by other Contractors. Contractors working on the same Project shall cooperate with each other.

Each Contractor involved shall assume all liability, financial or otherwise, in connection with his Contract and shall protect and save harmless the City from any and all damages or claims that may arise because of inconvenience, delay, or loss experienced by him because of the presence and operations of other Contractors working within the limits of the same Project.

The Contractor shall arrange his work and shall place and dispose of the materials being used so as not to interfere with the operations of the other contractors within the limits of the same Project. He shall join his work with that of the others in an acceptable manner and shall perform it in proper sequence to that of the others.

18. COORDINATION WITH UTILITY COMPANIES

It shall be the responsibility of the contractor to coordinate with utility companies for the maintenance and/or relocation of existing utilities in a manner to maintain service, as well as

construction of proposed utilities and their mains/services within the site. It is the responsibility of the contractor to maintain a schedule and any necessary coordination drawings to assure that installation of utilities and services do not result in additional expenses such as cutting and patching of asphalt or special excavation by properly timing the installation of those utilities by other parties.

It is understood and agreed that the Contractor has considered in his proposal all of the permanent and temporary utility appurtenances in their present location or relocated positions, and that no additional compensation will be allowed for any delays, inconvenience, or damage sustained by him due to any interference from said utility appurtenances or the operation of moving them. Delays and interruptions to the controlling Item or Items of The Work are covered in Subsection 107.21.G.

All materials and each part of the detail of The Work shall be subject to inspection by the Engineer.

19. TOPOGRAPHIC MAPPING

The source of topographic mapping utilized for the development of these construction documents is Forsyth County GIS data with aerial imagery. It is the belief of the City and design consultants that the information is generally accurate for the estimation of quantities, but the actual site conditions will dictate the final quantities. Neither the City nor Engineer warrants or implies a specific level of accuracy. The contractor should visit the site to review the conditions and conduct verification surveys if so desired prior to the proposal to verify the accuracy of the information provided.

20. CONSTRUCTION LAYOUT

The Contractor is responsible for any necessary surveys and construction layout and control for the project. The Contractor will proceed with construction layout in such a manner that discrepancies between construction items, existing built features and site conditions that are in conflict with the plans may be examined by the Owner's Representative prior to construction of items in conflict. Failure to notify the Owner's Representative of conflicts prior to constructing items will result in all remedial actions being paid for by the Contractor including, but not limited to, additional materials, re-inspection fees, professional service fees and survey cost by all parties to the projects.

FAILURE TO RETURN THIS PAGE AS PART OF YOUR PROPOSAL WILL RESULT IN REJECTION OF YOUR PROPOSAL. CONTRACTORS MUST PROVIDE A TOTAL COST FOR THE DESIGN DOCUMENTS WHICH IS TO INCLUDE THE UNIT ITEMS LISTED. CONTRACTOR IS TO ATTACH THEIR PROPOSAL TO THIS SCHEDULE INDICATING ANY DEDUCTIVE ALTERNATES AND VALUE ENGINEERING OPTIONS PROPOSED. NO ALTERNATES SHOULD BE INCLUDED IN THE TOTAL COST.

COST SCHEDULE

The Proposer has carefully examined and fully understands the Contract, 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 proposal is accepted, he will contract with the City of Cumming according to the proposal Documents entitled **LMIG at Adair Park** and any Addenda, as well as the existing conditions of the project, and conditions affecting the Work, the undersigned proposes to furnish all services, labor and materials required by them in accord with said documents, personal observations of the site conditions, an estimated fee of

_____ Dollars

(\$ _____), which sum is hereinafter called "Total Cost".

The undersigned agrees to commence work within 10 days of the date of Notice to Proceed issued by City of Cumming Purchasing Office and to commit adequate forces on-site to substantially complete all Work, **including punch list items and clean-up**, as determined by the City **60 calendar days** from Notice to Proceed.

City of Cumming will charge the Contractor Five Hundred Dollars and no cents (\$500.00), per day for liquidated damages for every day beyond 60 calendar days that the Work is not complete.

ALTERNATES: No alternates will be accepted to the proposal

(Authorized Representative Signature)

(Date)

UNIT PRICE SCHEDULE

Indicated construction items shall include performing the work below. The undersigned represents that the unit prices listed acknowledges that the quantities are not guaranteed, and agrees that payment will be for the actual in-place quantities installed per the plans or as directed by the City. Prices must be entered, for all the blanks in the schedule. If there is an error in the calculation for the total amount entered, the unit price multiplied by the Estimated Quantity will be the proposal amount that is considered included in the Unit Price Total.

Discrepancies in the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. The unit and lump sum prices shown shall include all labor, materials, bailing, shoring removal, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for. Bidder agrees that this bid shall be good and may not be withdrawn for a period of 60 days after the scheduled closing time for receiving bids. The Bidder understands that the Owner reserves the right to reject any or all bids and to waive any informalities in the bidding.

UNIT COSTS:

#	GDOT INDEX	DESCRIPTION	QNTY	UNIT	UNIT PRICE	SUBTOTAL
1	150-1000	TRAFFIC CONTROL	1	LS	\$	\$
2	402-1802	RECYCLED ASPHALT PATCHING W/BITUM/H LIME	300	TN	\$	\$
3	402-3130	RECYCLED ASPHALT 12.5 MM SUPERPAVE	2,257	TN	\$	\$
4	413-0750	TACK COAT	2,600	GL	\$	\$
5	432-5010	MILL ASPHALT PAVEMENT, VARIABLE DEPTH	26,000	SY	\$	\$
6	632-0003	CHANGEABLE MESSAGE SIGN, PORTABLE, TP 3	2	EA	\$	\$
7	653-1501	THERMOPLASTIC SOLID WHITE 5"	500	LF	\$	\$
8	653-1502	THERMOPLASTIC SOLID YELLOW 5"	400	LF	\$	\$
9	653-1804	THERMOPLASTIC SOLID WHITE 8"	1,000	LF	\$	\$
10	653-1704	THERMOPLASTIC SOLID WHITE 24"	50	LF	\$	\$

TOTAL COST:

\$ _____

FAILURE TO RETURN THIS PAGE AS PART OF YOUR PROPOSAL MAY RESULT IN REJECTION.

CONTRACTOR INFORMATION

The undersigned acknowledges receipt of the following addenda, listed by number and date appearing on each:

Addendum No.	Date	Addendum No.	Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Certification of Non-Collusion in Proposal Preparation _____
(Signature) (Date)

The City requires that all who enter into a contract for the physical performance of services with the City must satisfy O.C.G.A. § 13-10-91 and Rule 300-10-1-.02, in all manner, and such are conditions of the contract.

In compliance with the attached specifications, the undersigned offers and agrees, if this quote is accepted by the City of Cumming within ninety (90) days of the date of quote opening, to furnish any or all of the items upon which prices are quoted, at the price set opposite each item, delivered to the designated point(s) within the time specified in the quote schedule.

Legal Business Name _____
(If your company is an LLC, you must identify all principals to include addresses and phone numbers in your submittal)

Federal Tax ID _____

Address _____

Does your company currently have a location within City of Cumming? Yes ☐ No ☐

Representative Signature _____

Print Authorized Representative's Name _____

Telephone Number _____ Fax Number _____

E-Mail Address _____

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NON-COLLUSION AFFIDAVIT

Now here appeared before the undersigned officer duly authorized by the State of Georgia to administer oaths_____ and after being first duly sworn, depose and

say that, they are all the officers, agents, persons or employees who have acted for _____

_____ (Company Name) on the **2025 LMIG Adair Park** 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 whatever prevented or endeavored to prevent anyone from making a proposal therefore, or induced or attempted to induce another to withdraw proposal from said work.

By: _____

Signature of Affiant

Name – Typed or printed

Title

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

Notary Public

(Seal)

Note: See OCGA § 36-91-21 (e)

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CORPORATION INFORMATION

CORPORATE NAME _____

CORPORATE ADDRESS _____

MAILING ADDRESS (IF DIFFERENT) _____

DOING BUSINESS AS (IF DIFFERENT THAN CORPORATE NAME) _____

CORPORATE OFFICERS: PRESIDENT _____

SECRETARY _____

TREASURER _____

VICE PRESIDENT _____

REGISTERED AGENT ADDRESS _____

POWER OF ATTORNEY ADDRESS _____

DATE OF INCORPORATION _____

NUMBER OF FULL DAYTIME EMPLOYEES (M-F/8-5) _____

HAS THE CORPORATION OR ANY OF ITS OFFICERS/AGENTS BEEN INVOLVED IN ANY LITIGATION IN THE
PAST FIVE YEARS? IF SO, PROVIDE DATE AND EXPLANATION _____

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REFERENCES – GENERAL CONTRACTOR

City of Cumming requests a minimum of three, (3) references for the Contractor where construction of a similar size and scope have been completed in the past ten (10) years.

Note: References should be customized for this project vs. submitting a list of previous projects.

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 _____

[Attach additional sheets, if necessary]

CONTRACTOR NAME _____

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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_____

BID BOND

KNOW ALL MEN BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____

(Corporation, Partnership or Individual)

hereinafter called Principal, and

(Name of Surety)

(Address of Surety)

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

City of Cumming
(Name of Obligee)

100 Main Street Cumming, Georgia 30040
(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 City of Cumming, 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 Contractor's check otherwise required to accompany this Proposal.

NOW, THEREFORE, the conditions of this obligation are such that if the proposal be accepted, the Principal shall within ten days after receipt of notification of the acceptance, execute a Contract in accordance with the Proposal and upon the terms, conditions, and prices set forth in the form and manner required by City of Cumming, Georgia, and execute a sufficient and satisfactory Performance Bond and Payment Bond payable to City of Cumming, Georgia, each in the amount of 100% of the total Contract Price, in form and with security satisfactory to said City of Cumming, 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 City of Cumming, Georgia, upon demand, the amount hereof in good and lawful money of the United States of America, not as a penalty, but as liquidated damages.

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

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

ATTEST:

(Principal Secretary)

(SEAL)

(Principal)

By: _____

(Address)

(Witness as to Principal)

(Address)

ATTEST:

Resident or Nonresident Agent

(SEAL)

(Surety)

By: _____
(Attorney-in-Fact)

(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.

**City of Cumming
City Hall**

100 Main Street
Cumming, GA 30040
(770) 781-2010



PROPOSAL GUARANTY

FOR VALUE RECEIVED and in consideration of accommodation and consideration of the proposal set forth by _____ ("Proposer") to the City of Cumming, Georgia with which this Proposal Guaranty is submitted, the undersigned hereby issue this guaranty that the Proposer, affirming that if awarded the Contract for the construction project for which the Proposal was submitted, the Proposer will enter into the Contract and will supply any and all performance and payment bonds in accordance with the terms of the Contract. Upon the failure of the Proposer to either enter into the Contract or post the Performance and Payment bonds required thereby, the undersigned shall be jointly and severally liable to the City of Cumming in the total sum of _____ (ten percent of the amount of the Proposal) which sum shall be paid within ten days of demand by the City of Cumming.

This Proposal Guaranty shall be a continuing, absolute and unconditional guaranty. The death, dissolution or withdrawal of Undersigned shall not terminate this Proposal Guaranty, and such Proposal Guaranty shall remain in full force and effect until the Contract is entered into by the Proposer and the payment and performance bonds are posted.

No act or omission of any kind or at any time, upon the part of the City of Cumming in respect to any matter whatsoever, shall in any way affect or impair this Proposal Guaranty.

Undersigned is fully aware of the financial condition of Proposer, and is executing and delivering this Proposal Guaranty based solely upon Undersigned's own independent investigation of all matters pertinent hereto and is not relying in any manner upon any representation or statement of the City of Cumming.

This Proposal Guaranty shall be construed according to the laws of the State of Georgia and shall be construed neutrally between Undersigned and Creditor.

Undersigned hereby agrees that all actions to enforce the terms and provisions of this Proposal Guaranty shall be brought and maintained only within the State of Georgia, County of Forsyth, and Undersigned hereby consents to the exclusive jurisdiction of the Superior court of Forsyth County, Georgia. Undersigned, jointly and severally, hereby expressly waives any and all rights which Undersigned may have to make any objections based on jurisdiction or venue, to any suit brought to enforce this Proposal Guaranty in the State of Georgia in accordance with the above provisions.

Any notice or demand to be given hereunder shall be effectively given if made in writing, delivered to Undersigned at the addresses listed next to their printed names, below.

**City of Cumming
City Hall**

100 Main Street
Cumming, GA 30040
(770) 781-2010



If any provision of this Proposal Guaranty or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Proposal Guaranty shall be valid and enforceable to the fullest extent permitted by law. This Proposal Guaranty and every part thereof shall be binding upon Undersigned, and upon his heirs, legal representatives, successors and assigns of Undersigned.

<hr/> _____ Proposer Signature	<hr/> _____ Print Name/Title	<hr/> _____ _____ _____ Address
<hr/> _____ Signature	<hr/> _____ Print Name	<hr/> _____ _____ _____ Address
<hr/> _____ Signature	<hr/> _____ Print Name	<hr/> _____ _____ _____ Address
<hr/> _____ Signature	<hr/> _____ Print Name	<hr/> _____ _____ _____ Address
<hr/> _____ Signature	<hr/> _____ Print Name	<hr/> _____ _____ _____ Address

**GENERAL CONDITIONS
FOR CITY OF CUMMING CONSTRUCTION CONTRACTS**

GC-1 FAMILIARITY WITH SITE

Execution of this agreement by the Contractor is a representation that the Contractor has visited the site, has become familiar with the local conditions under which the work is to be performed, and has correlated personal observations with the requirements of this agreement.

GC-2 CONTRACT DOCUMENTS

This agreement consists of City of Cumming's request for proposals, instructions to Contractors, Contractor's proposal, construction contract, Performance Bond, Payment Bond, general conditions, special provisions, specifications, plans, drawings, addenda, and written change orders.

GC-3 DEFINITIONS

The following terms as used in this agreement are defined as follows:

Abbreviations - Wherever the following abbreviations are used in the Specifications or on the Plans, they are to be construed the same as the respective expressions represented.

Abbreviation	Term
AAN	American Association of Nurserymen
AAR	Association of American Railroads
AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
AGC	Associated General Contractors of America
AIA	American Institute of Architects
AIEE	American Institute of Electrical Engineers
AISC	American Institute of Steel Construction
AISI	American Iron and Steel Institute
AMS	Aerospace Materials Specification
ANSI	American National Standards Institute
ARA	American Railway Association
AREA	American Railway Engineering Association
ASCE	American Society of Civil Engineers
ASLA	American Society of Landscape Architects
ASTM	American Society of Testing and Materials
AWPA	American Wood Preservers' Association
AWWA	American Water Works Association
AWS	American Welding Society
CRSI	Concrete Reinforcing Steel Institute
DOT	Georgia Department of Transportation

EEO	Equal Employment Opportunity
FHWA	Federal Highway Administration
FSS	Federal Specifications and Standards, General Services Administration
GDT	Georgia Department of Transportation
IES	Illuminating Engineering Society
MUTCD	Manual on Uniform Traffic Control Devices
NEC	National Electrical Code
NEMA	National Electrical Manufacturers Association
NESC	National Electrical Safety Code
NFPA	National Fire Protection Association
SAE	Society of Automotive Engineers
SPIB	Southern Pine Inspection Bureau
SSPC	Steel Structure Painting Council

Acceptance Plans - A defined method of taking and evaluating measurements for the purpose of determining the acceptability of a lot of material or construction.

Available Day - Any calendar day exclusive of Saturdays, Sundays, and Legal Holidays on which the Engineer determines that the Contractor is not prevented from accomplishing at least five hours of productive work on the controlling item or items of work which would normally be in progress at that time by causes beyond his control, and not due to his fault or negligence, including but not restricted to unsuitable weather and its aftermath, suspension order of the Engineer, acts of God, acts of public enemy, fire, flood, epidemic, quarantine, strikes, or freight embargo.

Base Course - One or more layers of specified material of designed thickness placed on a subgrade or a subbase to support a surface course.

Change Order - a written order to the Contractor, prepared by the Owner's Representative and issued by the City for changes in the work within the general scope of the contract documents, adjustment of the contract price, extension of the contract time, or reservation of determination of a time extension.

Chief Engineer - The Owner, acting directly or through his Duly Authorized Representative.

City - City of Cumming, Georgia, a political subdivision of the State of Georgia, acting by and through the Mayor of the City of Cumming.

Contract Item (Pay Item) - All pay items in this contract shall be included as part of a lump sum payment.

Day - a calendar day of twenty-four hours lasting from midnight of one day to midnight the next day.

Department - The City of Cumming.

Easement - A right, other than the acquisition of title, acquired to use or control property for a designated purpose.

Engineer - The Owner, acting directly or through his Duly Authorized Representative.

Equipment - All machinery, apparatus, and tools necessary for the proper construction and acceptable completion of The Work, plus the necessary repair parts, tools, and supplies for upkeep and maintenance.

Extra Work - All references to "Extra Work" in GDOT Specifications shall be considered Change Orders and will follow all Change Order requirements and procedures outlined in this document.

General Terms - Whenever the following words or similar terms appear herein, they shall be understood to imply "by or to the Engineer," unless the context clearly indicates a different meaning:

"acceptable," "approved," "authorized," "called for," "considered necessary," "contemplated," "deemed," "designated," "directed," "established," "given," "indicated," "ordered," "permission," "permitted," "required," "satisfactory," "specified," "sufficient," "suitable," "suspended," "unacceptable," "unsatisfactory," "unsuitable."

GDOT – Georgia Department of Transportation

Inspector - The Engineer's authorized representative assigned to make a detailed inspection of Contract performance of any or all portions of The Work or materials thereof.

Laboratory - The testing laboratories of the Department or any other testing laboratory that may be designated by the Engineer.

Materials - Any substances specified for use in the construction of The Work.

Minor Structures - Any structure not defined as a bridge.

Notice to Proceed - written communication issued by the City to the Contractor authorizing it to proceed with the work and establishing the date of commencement and completion of the work.

Owner – The City of Cumming, acting directly or through his Duly Authorized Representative.

Pavement Structure - The combination of subbase, base course, and surface course placed on a subgrade to support the traffic load and distribute it to the roadbed.

Pay Item - See Contract Item.

Right-of-Way - A general term denoting land, property, or interest therein, usually, but not required to be, in a strip, acquired for or devoted to a highway and its appurtenant structures.

Roadbed - The graded portion of a highway within top and side slopes, prepared as a foundation for the pavement structure and shoulder.

Roadside Development - Those items necessary to the complete highway which provide for the preservation of landscape materials and features; the rehabilitation and protection against erosion of all areas disturbed by construction through seeding, sodding, mulching and the placing of other ground covers; such suitable planting and other improvements as may increase the effectiveness and enhance the appearance of the highway.

Roadway - The portion of a highway within the limits of construction.

Salvaged Material - Material having value that is to be removed, preserved, or stockpiled as directed for later use by the Department. Specific reference is made to Subsection 610.3.05.A.

Shall or Will, Should, May - As used in these Specifications, the following definitions apply:

SHALL or WILL—A mandatory condition. When certain requirements are described with the “shall” or “will” stipulation, it is mandatory that the requirements be met.

SHOULD—An advisory condition. Considered to be recommended but not mandatory.

MAY—A permissive condition. No requirement is intended.

Sidewalk - That portion of the roadway primarily constructed for the use of pedestrians.

Skew or Skew Angle - The acute angle between the centerline of the roadway and a line parallel to a pier, bent, or abutment of a bridge or parallel to the centerline of a culvert.

Special Provisions - Additions or revisions to the Standard or Supplemental Specifications, applicable to an individual Project.

Stabilization - Modification of soils or aggregates by incorporating materials which will increase load bearing capacity, firmness, and resistance to weathering or displacement.

Standard Specifications - Publications titled:

“DEPARTMENT OF TRANSPORTATION, STATE OF GEORGIA STANDARD SPECIFICATIONS, CONSTRUCTION OF TRANSPORTATION SYSTEMS.”

Transportation systems are defined as all modes of transportation, including but not limited to, highways, airports, rail and ports.

Cumming Utilities Water System Technical Standards Manual, latest edition.

Cumming Utilities Sanitary Sewer and Pump Station Technical Standards Manual, latest edition.

State - The State of Georgia.

Station - When used as a term of measurement will be 100 linear ft (1 km) measured horizontally.

Structures - Bridges, culverts, catch basins, drop inlets, retaining walls, cribbing, manholes, endwalls, buildings, sewers, service pipes, underdrains, foundation drains, and other features that may be encountered in The Work and not otherwise classified herein.

Subbase - The layer or layers of specified or selected material of designed thickness placed on a subgrade to support a base course.

Subgrade - The top surface of a roadbed upon which the pavement structure and shoulders are constructed—generally the top 12 in (300 mm) within cuts and fills.

Subgrade Treatment - Modification of subgrade material by stabilization.

Substantial Completion - the date certified by the Owner’s Representative when all or a part of the work, identified

in the Owner's Representative's certification, is sufficiently completed in accordance with the requirements of the contract documents so that the identified portion of the work can be utilized for the purposes for which it is intended.

Substructure - All of that part of the bridge structure below the bearings of simple and continuous spans, skewbacks of arches and top of footings of rigid frames, including backwalls, wingwalls and wing protection railings.

Superstructure - The entire bridge structure except the substructure.

Supplemental Specifications - Approved additions to or revisions of the Standard Specifications.

Traveled Way - The portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

Work - all of the services specified, indicated, shown or contemplated by the contract documents, and furnishing by the Contractor of all materials, equipment, labor, methods, processes, construction and manufacturing materials and equipment, tools, plans, supplies, power, water, transportation and other things necessary to complete such services in accordance with the contract documents to insure a functional and complete facility.

GC-4 CODES

All codes, specifications, and standards referenced in the contract documents shall be the latest additions, amendments and revisions of such referenced standards in effect as of the date of the request for proposals for this contract.

GC-5 REVIEW OF CONTRACT DOCUMENTS

Before making its proposal to the City, and continuously after the execution of the agreement, the Contractor shall carefully study and compare the contract documents and shall at once report to the Owner's Representative any error, ambiguity, inconsistency or omission that may be discovered, including any requirement which may be contrary to any law, ordinance, rule, or regulation of any public authority bearing on the performance of the work. By submitting its proposal, the Contractor agrees that the contract documents, along with any supplementary written instructions issued by or through the Owner's Representative that have become a part of the contract documents appear accurate, consistent and complete insofar as can be reasonably determined. If the Contractor has reported in writing any error, inconsistency, or omission to the City, has properly stopped the effected work until instructed to proceed, and has otherwise followed the instructions of the Owner's Representative, the Contractor shall not be liable to the City for any damage resulting from any such error, inconsistency, or omission in the contract documents. The Contractor shall not perform any portion of the work without the contract documents, approved plans, specifications, products and data, or samples for such portion of the work.

GC-6 STRICT COMPLIANCE

No observation, inspection, test or approval of the City or Owner's Representative shall relieve the Contractor from its obligation to perform the work in the contract documents.

GC-7 APPLICABLE LAW

All applicable State laws, City ordinances, and rules and regulations of all authorities having jurisdiction over the construction of the project shall apply to this agreement. All work performed within the right of way of the Georgia Department of Transportation shall be in accordance with DOT regulations, policies and procedures. The Contractor shall comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as specified and the Contractor agrees to indemnify and hold harmless the City, its officers, agents and employees, as well as the Owner's Representative, against any claim or liability arising from or based on the violation of any law, ordinance, regulation,

order or decree affecting the conduct of the work, whether occasioned by the Contractor, his agents or employees.

GC-8 PERMITS & LICENSES

All permits and licenses necessary for the work shall be secured and paid for by the Contractor. If any permit, license or certificate expires or is revoked, terminated, or suspended as a result of any action on the part of the Contractor, the Contractor shall not be entitled to additional compensation or time.

GC-9 TAXES

The Contractor shall pay all sales, retail, occupational, service, excise, old age benefit and unemployment compensation taxes, consumer, use and other similar taxes, as well as any other taxes or duties on the materials, equipment, and labor for the work provided by the Contractor which are legally enacted by any municipal, City, state or federal authority, department or agency at the time proposals are received, whether or not yet effective. The Contractor shall maintain records pertaining to such taxes and levies as well as payment thereof and shall make the same available to the City at all reasonable times for inspection and copying.

GC-10 DELINQUENT CONTRACTORS

The City shall not pay any claim, debt, demand or account whatsoever to any person firm or corporation who is in arrears to the City for taxes. The City shall be entitled to a counterclaim and offset for any such debt in the amount of taxes in arrears, and no assignment or transfer of such debt after the taxes become due shall affect the right of the City to offset any taxes owed against said debt.

GC-11 LIEN WAIVERS

The Contractor shall furnish the City with evidence that all persons who have performed work or furnished materials pursuant to this agreement have been paid in full prior to submitting its demand for final payment pursuant to this agreement. In the event that such evidence is not furnished, the City may retain sufficient sums necessary to meet all lawful claims of such laborers and materialmen. The City assumes no obligation nor in any way undertakes to pay such lawful claims from any funds due or that may become due to the Contractor.

GC-12 MEASUREMENT

All items of work to be paid for per unit of measurement shall be measured and certified by the Owner's Representative.

GC-13 ASSIGNMENT

The Contractor shall not assign any portion of this agreement or moneys due therefrom without the prior written consent of the City. The Contractor shall retain personal control and shall provide personal attention to the fulfillment of its obligations pursuant to this agreement.

GC-14 FOREIGN CONTRACTORS

In the event that the Contractor is a foreign corporation, partnership, or sole proprietorship, the Contractor hereby irrevocably appoints the Secretary of State of Georgia as its agent for service of all legal process for the purpose of this contract only.

GC-15 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 Owner's Representative, 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 Owner's Representative, 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.

GC-16 SUPERVISION OF WORK

The Contractor shall supervise and direct the work using the Contractor's best skill and attention. The Contractor shall be solely responsible for all construction methods and procedures and shall coordinate all portions of the work pursuant to the contract subject to the overall coordination of the Owner's Representative. All work pursuant to this agreement shall be performed in a skillful and workmanlike manner.

GC-17 RESPONSIBILITY FOR WORK

The Contractor shall not be relieved from the Contractor's obligations to perform the work in accordance with the contract documents by the activities or duties of the Owner's Representative, including inspections, tests or approvals required or performed pursuant to this agreement.

GC-18 RESPONSIBILITY FOR ACTS OF EMPLOYEES

The Contractor shall be responsible to the City for the acts and omissions of its employees, subcontractors, and agents as well as any other persons performing work pursuant to this agreement. All areas within the limits of the Project which are determined by the Owner's Representative to be unnecessarily damaged, due either directly or indirectly to the process of construction, shall be responsibility of the Contractor to correct and repair. This is not a payment item and shall be done without additional compensation.

GC-19 PAYMENT FOR LABOR AND MATERIALS

Unless otherwise provided in this agreement, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the execution and completion of the work.

GC-20 DISCIPLINE ON WORK SITE

The Contractor shall enforce strict discipline and good order among its employees and subcontractors at all times during the performance of the work. The Contractor shall not employ any subcontractor who is not skilled in the task assigned to it. The Owner's Representative may, by written notice, require the Contractor to remove from the work any subcontractor or employee deemed by the Owner's Representative to be incompetent.

GC-21 HOURS OF OPERATION

Contractor shall not work on the site after 9:00 p.m. or before 7:00 a.m. without written consent from the Owner.

GC-22 FAMILIARITY WITH WORK CONDITIONS

The Contractor shall take all steps necessary to ascertain the nature and location of the work and the general and local conditions, which may affect the work or the cost thereof. The Contractor's failure to fully acquaint itself with the conditions which may affect the work, including, but not limited to conditions relating to transportation, handling, storage of materials, availability of labor, water, roads, weather, topographic and subsurface conditions, other separate contracts to be entered into by the City relating to the project which may affect the work of the Contractor, applicable provisions of law, and the character and availability of equipment and facilities necessary prior to and during the performance of the work shall not relieve the Contractor of its responsibilities pursuant to this

agreement and shall not constitute a basis for an equitable adjustment of the contract terms. The City assumes no responsibility for any understandings or representations concerning conditions of the work made by any of its officers, agents, or employees prior to the execution of this agreement.

GC-23 RIGHT OF ENTRY

The City reserves the right to enter the site of the work by such agent as it may elect for the purpose of inspecting the work or installing such collateral work as the City may desire.

GC-24 NOTICES

Any notice, order, instruction, claim or other written communication required pursuant to this agreement shall be deemed to have been delivered or received as follows:

1. Upon personal delivery to the Contractor, its authorized representative, or the Owner's Representative on behalf of the City. Personal delivery may be accomplished by in-person hand delivery or bona fide overnight express service.
2. Three days after depositing in the United States mail a certified letter addressed to the Contractor, the City Administrator, or the Owner's Representative. For purposes of mailed notices, the City's mailing address shall be 100 E. Main Street Cumming, Georgia 30040, Attn.: Phil Higgins, City Administrator. The Contractor's mailing address shall be the address stated in its proposal, and the Owner's Representative's mailing address shall be its address listed in the Notice to Begin Work.

GC-25 SAFETY

The Contractor shall take all reasonable precautions for the safety of all persons and property associated with the work, and the Contractor shall erect and maintain, as required by existing conditions and the progress of the work, all reasonable safeguards for the safety and protection of persons in the vicinity of the project.

GC-26 BLASTING AND EXCAVATION

The Contractor acknowledges that it is fully aware of the contents and requirements of O.C.G.A. § 25-9-1 through 25-9-12 concerning blasting and excavation near underground gas pipes and facilities and shall fully comply therewith.

GC-27 HIGH VOLTAGE LINES

The Contractor acknowledges that it is fully aware of the contents and requirements O.C.G.A. § 46-3-30 through 46-3-39 concerning safeguards against contact with high voltage lines, and the Contractor shall fully comply with said provisions.

GC-28 SCAFFOLDING AND STAGING

The Contractor acknowledges that it is the person responsible for employing and directing others to perform labor within the meaning of O.C.G.A. § 34-1-1 and agrees to comply with said provisions.

GC-29 CLEAN-UP

The Contractor shall clean up all refuse, rubbish, scrap materials, and debris caused by its operations to the end that the site of the work shall present a neat, orderly and workmanlike appearance at all times.

GC-30 PROTECTION OF WORK

The Contractor shall be responsible for maintenance and protection of the work until final completion of this agreement and acceptance of the work as defined herein. Any portion of the work suffering injury, damage or loss shall be considered defective and shall be corrected or replaced by the Contractor with no additional cost to the City.

GC-31 REJECTED WORK

The Contractor shall promptly remove from the project all work rejected by the Owner's Representative for failure to comply with the contract documents and the Contractor shall promptly replace and re-execute the work in accordance with the contract documents and without expense to the City. The Contractor shall also bear the expense of making good all work of other Contractors destroyed or damaged by such removal or replacement.

GC-32 DEFECTIVE WORK

If the Contractor defaults or neglects to carry out any portion of the work in accordance with the contract documents, and fails within three days after receipt of written notice from the City or the Owner's Representative to commence and continue correction of such default or neglect with diligence and promptness, the City or the Owner's Representative may, after three days following receipt by the Contractor of an additional written notice and without prejudice to any other remedy the City may have, make good such deficiencies and complete all or any portion of any work through such means as the City may select, including the use of a new Contractor. In such case, an appropriate change order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies. In the event the payments then or thereafter due the Contractor are not sufficient to cover such amount; the Contractor shall pay the difference to the City on demand.

GC-33 NEW MATERIALS

The Contractor warrants to the City that all materials and equipment furnished under this contract will be new unless otherwise specified, and the Contractor further warrants that all work will be of good quality, free from faults and defects, and in conformance with the contract documents. The warranty set forth in this paragraph shall survive final acceptance of the work.

GC-34 CONTRACTOR'S WARRANTY

If within one year after the date of substantial completion and final acceptance of the work by the City, or within such longer period of time as may be prescribed by law or by the term of any applicable special warranty required by the contract documents, any of the work is found to be defective or not in accordance with the contract documents, the Contractor shall correct such work promptly after receipt of written notice from the City to do so. This obligation shall survive both final payment for the work and termination of the contract.

GC-35 ASSIGNMENT OF MANUFACTURERS' WARRANTIES

Without limiting the responsibility or liability of the Contractor pursuant to this agreement, all warranties given by manufacturers on materials or equipment incorporated in the work are hereby assigned by the Contractor to the City. If requested, the Contractor shall execute formal assignments of said manufacturer's warranties to the City. All such warranties shall be directly enforceable by the City.

GC-36 WARRANTIES IMPLIED BY LAW

The warranties contained in this agreement, as well as those warranties implied by law, shall be deemed cumulative and shall not be deemed alternative or exclusive. No one or more of the warranties contained herein shall be deemed to alter or limit any other.

GC-37 STOP WORK ORDERS

In the event that the Contractor fails to correct defective work as required by the contract documents or fails to carry out the work in accordance with contract documents, the City, or the Owner's Representative, in writing, may order the Contractor to stop work until the cause for such order has been eliminated. This right of the City or Owner's Representative to stop work shall not give rise to any duty on the part of the City or the Owner's Representative to execute this right for the benefit of the Contractor or for any other person or entity.

GC-38 TERMINATION FOR CAUSE

If the Contractor is adjudged bankrupt, makes a general assignment for the benefit of creditors, suffers the appointment of a receiver on account of its insolvency, or fails to supply sufficient properly skilled workers, materials, or construction is not meeting schedule, fails to make prompt payment to subcontractors or materialmen, disregards laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction, or is otherwise guilty of a material violation of this agreement and fails within seven days after receipt of written notice to commence and continue correction of such default, neglect, or violation with diligence and promptness, the City may, after five days following receipt by the Contractor of an additional written notice and without prejudice to any other remedy the City may have, terminate the employment of the Contractor and take possession of the site as well as all materials, equipment, tools, construction equipment and machinery thereon. The City may finish the work by whatever methods the City deems expedient. In such case, the Contractor shall not be entitled to receive any further payment until the work is completed. If the unpaid balance of the contract price exceeds the cost of completing the work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the City on demand. This obligation for payment shall survive the termination of the contract. Termination of this agreement pursuant to this paragraph may result in disqualification of the Contractor from proposing on future City contracts.

GC-39 TERMINATION FOR CONVENIENCE

The City may, at any time upon 30 days written notice to the Contractor, terminate the whole or any portion of the work for the convenience of the City. Said termination shall be without prejudice to any right or remedy of the City provided herein. In addition, in the event this agreement has been terminated due to the default of the Contractor, and if it is later determined that the Contractor was not in default pursuant to the provisions of this agreement at the time of termination, then such termination shall be considered a termination for convenience pursuant to this paragraph.

GC-40 TERMINATION FOR CONVENIENCE - PAYMENT

In the event that the City terminates this agreement for the convenience of the City, the City shall only be liable to the Contractor for the work performed and the cost of any supplies paid for and properly stored on site in the determination of the City's Representative. Any work which was partially performed may be submitted for payment based on the percentage of its completion, the final determination of which shall be made by the City's Representative who may authorize such partial work for payment. Contractor waives and releases any claims for profit, overhead, or other damages which may arise as a result of a termination for convenience.

GC-41 TERMINATION FOR CONVENIENCE - PAYMENT LIMITATIONS

In the event of termination for the convenience of the City, the total sum to be paid to the Contractor shall not exceed the contract price as reduced by the amount of payments otherwise made, by the contract price for work not terminated, and as otherwise permitted by the contract. Except for normal spoilage, and except to the extent that the City shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor the fair value, as determined by the Owner's Representative, of property which is destroyed, lost, stolen or damaged so as to become undeliverable to the City or to another buyer.

GC-42 COST TO CURE

If the City terminates the whole or any part of the work pursuant to this agreement, then the City may procure upon such terms and in such manner as the Owner's Representative may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the City for any excess costs for such similar supplies or services. The Contractor shall continue the performance of this agreement to the extent not terminated hereunder.

GC-43 ATTORNEY'S FEES

Should the Contractor default pursuant to any of the provisions of this agreement, the Contractor and its surety shall pay to the City such reasonable attorney's fees as the City may expend as a result thereof and all costs, expenses,

and filing fees incidental thereto.

GC-44 CONTRACTOR'S RESPONSIBILITIES UPON TERMINATION

After receipt of a notice of termination from the City, and except as otherwise directed by the Owner's Representative, the Contractor shall:

1. Stop work under the contract on the date and to the extent specified in the notice of termination;
2. Place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the work under the agreement as is not terminated;
3. Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the notice of termination;
4. Assign to the City in the manner, at the times, and to the extent directed by the Owner's Representative, all of the rights, title and interest of the Contractor under the orders and subcontracts so terminated, in which case the City shall have the right, at its discretion, to settle or pay any and all claims arising out of the termination of such orders or subcontracts;
5. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Owner's Representative, to the extent the Owner's Representative may require, which approval or ratification shall be final for all purposes;
6. Transfer title and deliver to the entity or entities designated by the City, in the manner, at the times, and to the extent, if any, directed by the Owner's Representative, and to the extent specifically produced or specifically acquired by the Contractor for the performance of such portion of the work as has been terminated:
 - (a) The fabricated or unfabricated parts, work, and progress, partially completed supplies, and equipment, materials, parts, tools, dyes, jigs, and other fixtures, completed work, supplies, and other material produced as a part of or acquired in connection with the performance of the work terminated by the notice of termination; and
 - (b) The completed or partially completed plans, drawings, information, and other property to the work.
7. Use its best efforts to sell in the manner, at the times, to the extent, and at the prices directed or authorized by the Owner's Representative, any property described in Section 6 of this paragraph, provided, however, that the Contractor shall not be required to extend credit to any buyer and further provided that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the City to the Contractor pursuant to this agreement.
8. Complete performance of such part of the work as shall not have been terminated by the notice of termination; and
9. Take such action as may be necessary, or as the Owner's Representative may direct, for the protection and preservation of the property related to the agreement which is in the possession of the Contractor and in which the City has or may acquire an interest.

GC-45 RECORDS

The Contractor shall preserve and make available to the City all of its records, books, documents and other evidence bearing on the costs and expenses of the Contractor and any subcontractor pursuant to this agreement upon three days advance notice to the Contractor.

GC-46 DEDUCTIONS

In arriving at any amount due the Contractor pursuant to the terms of this agreement, there shall be deducted all liquidated damages, advance payments made to the Contractor applicable to the termination portion of the contract, the amount of any claim which the City may have against the Contractor, the amount determined by the Owner's Representative to be necessary to protect the City against loss due to outstanding potential liens or claims, and the agreed price of any materials acquired or sold by the Contractor and not otherwise recovered by or credited to the City.

GC-47 REIMBURSEMENT OF THE CITY

In the event of termination, the Contractor shall refund to the City any amount paid by the City to the Contractor in excess of the costs reimbursable to the Contractor.

C-48 TERMINATION FOR CONVENIENCE - DELAY

The Contractor shall be entitled to only those damages and that relief from termination by the City as specifically set forth in this agreement. The City or the Owner's Representative may issue a written order requiring the Contractor to suspend, delay or interrupt all or any part of the work for such period of time as the City may determine to be appropriate for the convenience of the City. If the performance of the work is interrupted for an unreasonable period of time by an act of the City or Owner's Representative in the administration of this agreement, an equitable adjustment shall be made for any increase in the Contractor's costs of performance and any increase in the time required for performance of the work necessarily caused by the unreasonable suspension, delay, or interruption. Any equitable adjustment shall be reduced to writing and shall constitute a modification to this agreement. In no event, however, shall an equitable adjustment be made to the extent that performance of this agreement would have been suspended, delayed or interrupted by any other cause, including the fault or negligence of the Contractor. No claim for an equitable adjustment pursuant to this paragraph shall be permitted before the Contractor shall have notified the Owner's Representative in writing of the act or failure to act involved, and no claim shall be allowed unless asserted in writing to the Owner's Representative within ten days after the termination of such suspension, delay or interruption.

GC-49 COMMENCEMENT AND DURATION OF WORK

The Contractor shall commence work pursuant to this agreement within ten days of mailing or delivery of written notice to proceed by the City. The Contractor shall diligently prosecute the work to completion within the time specified therefore. The capacity of the Contractor's construction and manufacturing equipment and plan, sequence and method of operation and forces employed, including management and supervisory personnel, shall be such as to insure completion of the work within the specified time. The Contractor and City hereby agree that the contract time for completion of the work is reasonable taking into consideration the average climatic conditions prevailing in the locality of the work.

GC-50 TIME OF THE ESSENCE

All time limits stated in this agreement are of the essence of this contract.

GC-51 IMPACT DAMAGES

Except as specifically provided pursuant to a stop work order or change order, the Contractor shall not be entitled to payment or compensation of any kind from the City for direct or indirect or impact damages including, but not limited to, costs of acceleration arising because of delay, disruption, interference or hindrance from any cause whatsoever whether such delay, disruption, interference or hindrance is reasonable or unreasonable, foreseeable or

unforeseeable, or avoidable, provided, however, that this provision shall not preclude the recovery of damages by the Contractor for hindrances or delays due solely to fraud or bad faith on the part of the City its agents or employees. The Contractor shall be entitled only to extensions in the time required for performance of the work as specifically provided in the contract.

GC-52 DELAY

The Contractor may be entitled to an extension of the contract time, but not an increase in the contract price, for delays arising from unforeseeable causes beyond the control and without the fault or negligence of the Contractor or its subcontractors for labor strikes, acts of God, acts of the public enemy, acts of the state, federal or local government in its sovereign capacity, by acts of another separate contractor, or by an act of neglect of the City with the Owner's Representative.

GC-53 INCLEMENT WEATHER

Weather days have been included within the contract – see Special Provisions. The Contractor shall not be entitled to an extension of the contract time beyond those noted in special provisions unless the Contractor can substantiate to the satisfaction of the Owner's Representative that there was greater than normal inclement weather considering the full term of the contract using a ten year average of accumulated mean values for climatological data compiled by the U.S. Department of Commerce for Atlanta, Georgia and that such greater than normal inclement weather actually delayed the work, the Contractor shall not be entitled to an extension of time therefor.

GC-54 NOTICE OF DELAY

The Contractor shall not receive an extension of time unless a notice of a claim is filed with the City and the Owner's Representative within ten days of the first instance of such delay, disruption, interference or hindrance and a written statement of the claim is filed with the Owner's Representative and the City within 20 days of the first such instance. In the event that the Contractor fails to comply with this provision, it waives any claim, which it may have for an extension of time pursuant to this agreement.

GC-55 NOTICE OF DELAY - CONTENTS

The notice of delay referenced in the preceding paragraph shall include specific information concerning the nature of the delay, the date of commencement of the delay, the construction activities affected by the delay, the person or organization responsible for the delay, the anticipated extent of the delay, and any recommended action to avoid or minimize the delay.

GC-56 PROGRESS OF WORK

To the extent that the Contractor is entitled to additional compensation for delay, an absolute condition precedent to such entitlement shall be strict compliance with all requirements and procedures for entitlement to an extension of time herein. If the work actually in place falls behind the currently updated and approved project network schedule, and it becomes apparent from the current schedule that work will not be completed within the contract time, the Contractor agrees that it will, as necessary, or as directed by the Owner's Representative, take action at no additional cost to the City to improve the progress of the work, including increasing manpower, increasing the number of working hours per shift or shifts per working day, increasing the amount of equipment at the site, and any other measure reasonably required to complete the work in a timely fashion.

GC-57 DILIGENCE

The Contractor's failure to substantially comply with the requirements of the preceding paragraph may be grounds for determination by the City or Owner's Representative that the Contractor is failing to prosecute the work with such diligence as will ensure its completion within the time specified. In such event, the City shall have the right to terminate the agreement pursuant to GC-38, or to furnish such additional labor and materials as may be required to comply with the schedule after 48 hours written notice to the Contractor, and the Contractor shall be liable for such costs incurred by the City.

GC-58 SET-OFFS

Any monies due to the City pursuant to the acceleration provisions of this agreement may be deducted by the City against monies due from the City to the Contractor.

GC-59 ACCELERATION - REMEDIES

The remedies of the City concerning acceleration are in addition to and without prejudice to all of the rights and remedies of the City at law, in equity, or contained in this agreement.

GC-60 TITLE TO MATERIALS

No materials or supplies shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sales contract or other agreement by which any interest is retained by the seller. The Contractor hereby warrants that it has good and marketable title to all materials and supplies used by it in the work, and the Contractor further warrants that all materials and supplies shall be free from all liens, claims, or encumbrances at the time of incorporation in the work.

GC-61 INSPECTION OF MATERIALS

All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with accepted standards and in accordance with the requirements of the contract documents. Additional tests performed after the rejection of materials or equipment shall be at the Contractor's expense.

GC-62 OWNER'S REPRESENTATIVE'S PRESENCE DURING TESTING

All tests performed by the Contractor shall be witnessed by the Owner's Representative unless the requirement therefor is waived in writing. The Owner's Representative may perform additional tests on materials previously tested by the Contractor, and the Contractor shall furnish samples for this purpose as requested.

GC-63 MATERIALS INCORPORATED IN WORK

The Contractor shall furnish all materials and equipment to be incorporated in the work. All such materials or equipment shall be new and of the highest quality available. Manufactured materials and equipment shall be obtained from sources, which are currently manufacturing such materials, except as otherwise specifically approved by the Owner's Representative.

GC-64 STORAGE OF MATERIALS

Materials and equipment to be incorporated in the work shall be stored in such a manner as to preserve their quality and fitness for the work and to facilitate inspection.

GC-65 PAYROLL REPORTS

The Contractor shall be required to furnish weekly payroll reports to the Owner's Representative certifying conformance with the wage rates listed in the specifications.

GC-66 CONTRACTORS' REPRESENTATIVE

Before beginning work, the Contractor shall notify the Owner's Representative in writing of one person within its organization who shall have complete authority to supervise the work, receive orders from the Owner's Representative, and represent the Contractor in all matters arising pursuant to this agreement. The Contractor shall not remove its representative without first designating in writing a new representative. The Contractor's representative shall normally be present at or about the site of work while the work is in progress. When neither the Contractor nor its representative is present at the work site, the superintendent, foreman, or other employee in charge of the work shall be an authorized representative of the Contractor.

GC-67 SPECIALTY SUB-CONTRACTORS

The Contractor may utilize the services of specialty subcontractors on those parts of the project which, under normal contracting practices, are performed by specialty subcontractors. Neither the Contractor nor any subcontractor shall award work to any subcontractor without the prior written consent of the City. The Contractor shall not award more than seventy-five percent of the work to subcontractors.

GC-68 INSPECTION BY OWNER'S REPRESENTATIVES

All work pursuant to this agreement shall be subject to inspection by the Owner's Representative for conformity with contract drawings and specifications. The Contractor shall give the Owner's Representative reasonable advance notice of operations requiring special inspection of a portion of the work.

GC-69 WORK COVERED PRIOR TO OWNER'S REPRESENTATIVE'S INSPECTION

In the event that work is covered or completed without the approval of the Owner's Representative, and such approval is required by the specifications or required in advance by the Owner's Representative, the Contractor shall bear all costs involved in inspection notwithstanding conformance of such portion of the work to the contract drawings and specifications.

GC-70 OWNER'S REPRESENTATIVE'S AUTHORITY

The Owner's Representative shall have the authority to decide all questions concerning interpretation and fulfillment of contract requirements, including, without limitation, all questions concerning the prosecution, progress, quality and acceptability of the work. Any oral decision or instruction of the Owner's Representative shall be confirmed in writing. All communications between the City and the Contractor shall be made through the Owner's Representative. The Contractor shall submit to the Owner's Representative a complete schedule of values of various portions of the work aggregating the contract price. The schedule shall subdivide the work into component parts in sufficient detail to serve as the basis for progress payments during construction. Each item in the schedule of values shall include its proper share of overhead and profit. The schedule of values, when approved by the Owner's Representative, shall be used only as a basis for the Contractor's monthly request for payment and shall not be used for additions to or deductions from the contract amount.

GC-71 PROGRESS ESTIMATES

The Contractor shall also prepare a written report for the Owner's Representative's approval, on City forms, of the total amount of value of work performed to the date of submission. No progress estimate or payment shall be considered an approval or acceptance of any work performed, and all estimates and payments shall be subject to correction in subsequent estimates. Progress payments shall be made for all completed activities and for suitably stored materials.

GC-72 PROGRESS PAYMENTS

Upon completion of each monthly estimate of work performed and materials furnished, the Owner's Representative shall recommend payment to the Contractor for the estimated value of such work, materials, and equipment, less the amount of all prior payments and all liquidated damages. The Contractor will be paid 100 percent, less retainage, of the cost of materials received and properly stored but not incorporated into the work. Payments for materials or equipment stored on the site shall be conditioned upon submission by the Contractor of bills of sale to establish the City's title to such materials or equipment. No progress estimate or payment need be made when, in the Owner's Representative's judgment, the increment in the estimated value of work performed and materials furnished since the preceding estimate is less than \$10,000.

GC-73 TIME OF PAYMENT

When the contractor has performed in accordance with the provisions of this Agreement, the City of Cumming shall pay to the contractor, within 30 days of receipt by the City of any payment request based upon work completed or service provided pursuant to the contract and approved by the City's Representative for payment, the sum so

requested, less the retainage stated in this Agreement, if any. In the event that City of Cumming fails to pay the contractor within 60 days of the City's receipt of an approved pay request based upon work completed or service provided pursuant to the contract, the City shall pay the contractor interest at the rate of 1/2 percent per month or pro rata fraction thereof beginning the 61st day following the City's receipt of the pay request. The contractor's acceptance of progress payments or final payment shall release all claims for interest on said payments. The provisions of this agreement are intended to supersede all provisions of the Georgia Prompt Pay Act as provided by law.

GC-74 RETAINAGE

The City shall retain from each progress payment ten percent of the estimated value of the work performed until the progress payments, including retainage, total 75 percent of the contract price. Thereafter, no additional retainage shall be withheld so long as in the determination of the City the Contractor is making satisfactory progress to ensure completion of the work within the time specified therefor. The City may maintain or reinstate the ten percent retainage in the event the Owner's Representative determines that the Contractor is not making satisfactory progress to complete the work within the time specified in this agreement or in the event that the Owner's Representative provides a specific cause for such withholding.

GC-75 PAYMENT OF SUBCONTRACTORS

The Contractor shall promptly pay each subcontractor upon the receipt of payment from the City. Such payment shall be made from the amount paid to the Contractor pursuant to the subcontractor's work. The Contractor shall also maintain the records of the percentage retained from payments to the Contractor pursuant to such subcontractor's work. The Contractor shall procure agreements from each subcontractor requiring each subcontractor to pay their subcontractors, agents and employees in a similar manner. With each application for Payment, submit waivers of mechanic's lien from all subcontractors and suppliers for the construction period covered by the previous application. When application shows completion of an item, submit conditional final or full waivers. Waiver forms must be submitted and executed on forms acceptable to the owner.

GC-76 CITY'S RESPONSIBILITIES TO SUBCONTRACTORS

Neither the City nor the Owner's Representative shall have any obligation to pay any subcontractor except as otherwise required by law.

GC-77 PROGRESS PAYMENTS - ACCEPTANCE OF WORK

Certification of progress payments, as well as the actual payment thereof, shall not constitute the City's acceptance of work performed pursuant to this agreement.

GC-78 PAYMENTS IN TRUST

All sums paid to the Contractor pursuant to this agreement are hereby declared to constitute trust funds in the hands of the contractor to be applied first to the payment of claims of subcontractors, laborers, and suppliers arising out of the work, to claims for utilities furnished and taxes imposed, and to the payment of premiums on surety and other bonds and on insurance for any other application.

GC-79 JOINT PAYMENTS

The City reserves the right to issue any progress payment or final payment by check jointly to the Contractor and any subcontractor or supplier.

GC-80 RIGHT TO WITHHOLD PAYMENT

The Owner's Representative may decline to approve payment and may withhold payment in whole or in part to the extent reasonable and necessary to protect the City against loss due to defective work, probable or actual third party claims, the Contractor's failure to pay subcontractors or materialmen, reasonable evidence that the work will not be completed within the contract time or contract price or damage to the City or any other contractor on the project.

GC-81 CERTIFICATE OF SUBSTANTIAL COMPLETION

Upon the Contractor's submission of a request for a certificate of substantial completion, the Owner's Representative shall inspect the work and determine whether the work is substantially complete. If the work is substantially complete, the Owner's Representative shall issue a certificate of substantial completion of the work which shall establish the date of substantial completion, shall state the responsibilities of the City and the Contractor for security, maintenance, heat, utilities, damage to the work and insurance, and shall fix the time within which the Contractor shall complete the items submitted by the Contractor as requiring correction or further work. The certificate of substantial completion of the work shall be submitted to the City and the Contractor for their written acceptance of the responsibilities assigned to them pursuant to such certificate.

GC-82 FINAL PAYMENT

Upon completion of the work including all punch list items and upon application by the Contractor that includes conditional final or full waivers for all subcontractors and suppliers, and approval by the Owner's Representative, the City shall make payment reflecting adjustments and retainage for the work as provided in this agreement.

GC-83 COMMENCEMENT OF WARRANTIES

Warranties required by this agreement shall commence on the date of final completion of the project unless otherwise provided in the certificate of substantial completion.

GC-84 FINAL PAYMENT - WAIVER OF CLAIMS

The acceptance of the substantial completion payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of application for payment at substantial completion and except for the retainage sums due at final acceptance. Following the Owner's Representative's issuance of the certificate of substantial completion and the Contractor's completion of the work pursuant to this agreement, the Contractor shall forward to the Owner's Representative a written notice that the work is ready for final inspection and acceptance and shall also forward to the Owner's Representative a final application for payment. When the Owner's Representative finds the work acceptable and determines that the contract has been fully performed, the Owner's Representative shall issue a certificate for payment which shall approve final payment to the Contractor.

GC-85 DOCUMENTATION OF COMPLETION OF WORK

Neither the final payment nor the remaining retainage shall become due until the Contractor submits the following documents to the Owner's Representative:

1. An affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the work have been paid or otherwise satisfied;
2. The surety's consent to final payment; and
3. Any other data reasonably required by the City or Owner's Representative establishing payment or satisfaction of all such obligations, including releases, waivers of liens, and documents of satisfaction of debts.

In the event that a subcontractor refuses to furnish a release or waiver as required by the City or Owner's Representative, the Contractor may furnish a bond satisfactory to the City to indemnify the City against such loss. In the event that any lien or indebtedness remains unsatisfied after all payments are made, the contractor shall refund to the City all moneys that the City may become compelled to pay in discharging such lien or other indebtedness, including all costs and reasonable attorney's fees.

GC-86 GOVERNING LAW

Each and every provision of this agreement shall be construed in accordance with and governed by Georgia law. The parties acknowledge that this contract is executed in City of Cumming, Georgia and that the contract is to be performed in City of Cumming, Georgia. Each party hereby consents to the Superior Court of Forsyth County, Georgia's sole jurisdiction over any dispute which arises as a result of the execution or performance of this agreement, and each party hereby waives any and all objections to venue in the of Superior Court of Forsyth County, Georgia.

GC-87 CHANGES AND EXTRA WORK

GC-87.1 AUTHORITY FOR CHANGES

The City may make changes in the Drawings or Specifications and in the quantities of Work to be done under the Contract

C-87.2 CHANGE ORDERS

Without invalidating the Contract, the City may at any time or from time to time, by written order, order additions, deletions, or revisions in the Work related to the original scope of the Work. Change Orders will authorize these. Upon receipt of the Change Order, Contractor shall promptly proceed with the work involved. If any price or scope of the Work or an extension or shortening of the Contract Time is involved, an equitable adjustment will be made within the Change Order. In the event the Change Order increases the contract price, the penal amount of the Payment and Performance Bonds shall be increased as provided for in Section GC-15. All changes in the Work authorized by Change Order shall be performed under the applicable Conditions of the Contract Documents.

GC-87.3 WRITTEN NOTICE

The City may, at the request of the Contractor, issue interpretations, clarifications and other instructions as to the intent of the Contract Documents, in the form of Written Notices. The City may also, at any time, make changes in the details of the Work by issuance of a Written Notice. Upon receipt of such a Written Notice containing interpretations, clarifications and other instructions, Contractor shall proceed with the Work and comply with the Written Notice unless Contractor believes that such Written Notice entitles him to a Change in Contract Price or Time or both.

Should Contractor believe that such Written Notice entitles him to change in Contract Price or Time, or both, he shall give the City notice in writing thereof within seven (7) days after receipt of the Written Notice. Thereafter within thirty (30) days, Contractor shall document the basis for the change in Contract Price or Time. The City shall render a timely, written decision on the Contractor's request for a change in Contract Price or Time. Should the City determine that the Contractor is not entitled to a change in Contract Time or Price, the Contractor shall proceed as directed upon receipt of the City's decision. Failure to proceed shall constitute a breach of Contract and shall be a cause for the termination of the Contract. Request for a Change Order arising out of a Written Notice will not be considered without the attachment thereto of a copy of the referenced Written Notice. No claim by Contractor will be allowed if asserted after Final Payment under this Contract.

GC-87.4 EXTRA WORK

Extra work consists of new and unforeseen work determined by the City not to be covered by any of the various items for which there is a proposal price or by combination of such items.

GC-87.5 VARIATION IN QUANTITIES

Wherever the estimated quantities of work to be done and materials to be furnished under this Contract are shown in any of the documents including the Proposal, they are given for use in comparing proposals and

the right is especially reserved except as herein otherwise specifically limited, to increase or diminish them as may be deemed reasonably necessary or desirable by City to complete the Work contemplated by this Contract, and such increase or diminution shall in no way vitiate this Contract, nor shall any such increase or diminution give cause for claims or liability for damages.

GC-88 CHANGE ORDERS

GC-88.1 GENERAL

The Contract Price may only be changed by a Written Change Order. Each change will be set forth in a Change Order prepared by the City and approved by City. Change Orders will specify (a) all additional work to be done and work to be omitted, if any, in connection with the change; (b) the basis of compensation to the Contractor for additional or omitted work; and (c) any adjustment of the time of completion of the Work. If the City determines that a change requiring additional work will cause delay in completion of Work, the City will grant an equitable time extension for the changed work, or a subsequent Change Order may be issued at such time as the extent of such delay can be determined.

Upon receipt of a Change Order, Contractor shall comply therewith and perform each item of work set forth therein, furnishing all labor, material, and equipment necessary therefore, in the same manner as if such work were originally included in the Contract. In the absence of a Change Order, Contractor shall not be entitled to payment or an extension of the time of completion on account of any changes made.

GC-88.2 METHODS OF PAYMENT

The value of any work covered by a Change Order or any claim for an increase or decrease in the Contract Price shall be determined by the following method which is most advantageous to City, as determined by the City:

- A. By mutual acceptance of a lump sum, based on a detailed breakdown of anticipated costs plus Contractor's fee for overhead, small tools, and profit.
- B. On the basis of the actual cost of the work plus a Contractor's fee for overhead, small tools and profit. This method of payment is herein referred to as force account work. Contractor's fee for force account work performed by his own forces shall be twenty percent (20%) for direct labor and payroll burdens; five percent (5%) for all purchased material; and Contractor's fee for subcontracted work shall be as defined hereinafter.

GC-88.3 LUMP SUM CHANGE ORDER WORK

Contractor shall prepare an estimate of all extra and deleted work as described by Written Notice. Estimates for labor, bonds, insurance, materials, and equipment required shall otherwise be based on the provisions set forth hereinafter.

GC-88.4 CHANGE ORDERS LIMITED

Except as provided herein, no order, statement or conduct of the City or the Construction Program Manager shall be treated as a "Change Order" or entitle the Contractor to any adjustment hereunder of the Contract Price or Contract Time.

GC-88.5 NO WORK STOPPAGE

Nothing in this Article shall excuse the Contractor from proceeding with the Contract as changed.

GC-88.6 CONTRACT AMENDMENT

The amount payable to the Contractor under the Contract, the Contract Time, and the date required for performance of any part of the Work may be changed only by a Change Order to the Contract.

GC-89 FORCE ACCOUNT WORK

Force account work is an Owner-defined emergency, a sudden or unforeseen failure or malfunction of an existing system, which results in the Contractor being obligated to respond to the site of the emergency as Owner-directed. Contractor may perform work on a force account basis and will be paid for properly allocated charges which may include labor, bond premium, supplies and materials, equipment and subcontract billings, incurred in the performance of such force account work as more particularly described below:

- A. Labor: All labor shall be billed at the hourly rates specified in the proposal. Regular rates will apply during normal business hours, defined as Monday through Friday, 7a.m.–5p.m. Overtime rates will apply during non-normal business hours. If premium rates apply, then overtime rates shall be defined as Monday through Friday, 5p.m.–8p.m. Accordingly, premium rates, if applicable, shall be defined as Monday through Saturday, 8p.m.–7a.m., all hours on Sundays and all City recognized holidays. A foreman shall not be used where there are fewer than two (2) laborers employed, except with the written consent of the City. Subsistence and travel allowance where required by collective bargaining agreements shall be included.

The charges for labor shall include all classifications through foremen when engaged in the actual and direct performance of the Work. They shall not include charges for such overhead personnel as assistant superintendents, superintendents, office personnel, timekeepers, and maintenance mechanics.

- B. Bonds and Insurance: For bonds and insurance premiums or increases thereto necessitated by the force account work, Contractor shall receive the actual cost to which no percent shall be added. Contractor shall furnish satisfactory evidence of the rate or rates paid for such bond and insurance.
- C. Materials: For materials accepted by the City and used as an integral part of the finished Work, Contractor shall receive the actual cost of such materials delivered on the Work, including transportation charges paid by him, exclusive of machinery rentals as hereinafter set forth.

If materials are procured by Contractor by a method which is not a direct purchase from and a direct billing by the actual supplier, the cost of such materials shall be deemed to be the lowest current wholesale price at which such materials are available in the quantities concerned and delivered to the site of the Work.

For other materials used in the construction which are not an integral part of the finished Work, such as, but not limited to, sheeting, false work and form lumber, Contractor shall be reimbursed in the amount agreed upon by the City before such work is begun. The salvage value of such material will be taken into consideration in determining the amount of reimbursement.

- D. Equipment: Contractor will be paid for the use of Contractor owned or rented equipment at seventy percent (70%) of the suggested monthly rental rates listed for such equipment in the Blue Book Rental Rates for Construction Equipment (published by Equipment Guide-Book Company of Palo Alto), except as modified below, which edition shall be the latest edition in effect at the time of commencement of the force account work. Hourly rental rates shall be calculated by dividing the listed monthly rates as modified above by 176 hours. The rental rate for equipment used in excess of eight (8) hours per day, shall be at the rate of fifty percent (50%) of the hourly rates as calculated above. The rental rates for standby equipment, when authorized by the City, shall be at the rate of fifty percent (50%) of the hourly rate for equipment in use eight (8) hours per day. No payment of rentals for standby equipment will be made for more than eight (8) hours per working day and no payment will be made for weekend days or holidays. If it is deemed necessary by Contractor to use equipment not listed in the applicable edition of the Blue Book Rental Rates, Contractor shall furnish the necessary cost data and paid invoices to the City for its use in establishment of such rental rate(s). Equipment must be in good operating condition. The rental rates paid as above provided shall include the cost of fuel, oil, lubricants, supplies, small tools, necessary attachments, repairs and

maintenance of all kinds, depreciation, storage and insurance. Equipment operators will be paid for as stipulated herein.

The rental time to be paid for equipment on the Work site shall be the time the equipment is required for the force account work being performed. The time shall include the time required to move the equipment to the location of the force account work and return it to the original location or to another location requiring no more time than that required to return it to its original location. Moving time will not be paid if the equipment is used at the site of the force account work on other than such force account work. Loading and transporting costs will be allowed, in lieu of moving time, when the equipment is moved by means other than its own power. No payment for loading and transporting will be made if the equipment is used at the site of the force account work on other than such force account work. Compensation will not be allowed while equipment is inoperative due to breakdown.

For the use of equipment moved in on the work and used exclusively for work paid for on a force account basis, providing the City has agreed to said move, Contractor will be paid the equipment use rates provided for in this clause, for the cost of transporting the equipment to the location of the work and its return to its original location, and for the cost of loading and unloading the equipment, all in accordance with the following provisions:

1. The cost of transporting equipment shall not exceed the applicable minimum established rates by the State of Georgia Public Service commission.
 2. The equipment use period shall begin at the time the equipment is unloaded at the site of the force account work, shall include each day that the equipment is at the site of the force account work, excluding Saturdays and Sundays and other legal holidays unless the force account work is performed on such days, and shall terminate at the end of the day on which the City instructs Contractor to discontinue the use of such equipment. The maximum time to be paid per day will not exceed eight (8) hours unless the equipment is in operation for a longer time.
- E. Subcontract Work: Where the Change Order applies to work being performed under a subcontract, reimbursement, including the fee for small tools, overhead and profit for the subcontractor's work performed on a force account basis shall be computed in precisely the same manner as if performed by Contractor as indicated herein. One additional allowance of five percent (5%) of the subcontractor's total costs will be granted to Contractor for overhead and profit regardless of the tier of the subcontractor. If the subcontractor elects to contract out change order work to a third (or lower) level contractor or supplier of purchased equipment, he shall not be entitled to fees, overhead or profit for such third (or lower) level work or materials. The City reserves to right to direct the Contractor to contract directly with third (or lower) level subcontractors and suppliers of purchased equipment in order to avoid paying multiple fees, overhead and profit for such third (and lower level) subcontractors and suppliers of purchased equipment. If similar work is not being performed at the Work site, and if required by City, Contractor shall obtain three (3) competitive proposals for the requirements of the Change Order and the Contract Documents from Subcontractors acceptable to the City. Selection of the Subcontractor shall be subject to the approval of the City.
- F. Compensation: The compensation as set forth above shall be received by Contractor as payment in full for work done on a force account basis. At the end of each day, Contractor's Representative and Inspector shall compare records of the Work performed including classification of all laborers, ordered on a force account basis.
- G. Statements: No payment will be made for work performed on a force account basis until Contractor furnishes the City itemized statements of the cost of such force account work detailed as to the following:

1. Labor - name, classification, date, daily hours, total hours, rate, and extension of each laborer and foreman.
 2. Equipment - size, type, identification number, dates, daily hours, total hours, rental rate, and extension of each unit of machinery and equipment.
 3. Materials - quantities of supplies and materials, prices, including transportation cost and extensions.
 4. Bonds and insurance premiums.
 5. Subcontract work - force account detail as above, or progress quantities and prices of lump sum subcontracts.
 6. Payments for items under paragraphs (a) to (f) inclusive shall be conditioned upon Contractor's presentation of original receipted invoices for materials used and transportation charges. If, however, the materials used in the force account work are not specially purchased for such work but are taken from Contractor's stock, then in lieu of the original invoices, the statements shall contain or be accompanied by an affidavit of Contractor which shall certify that such materials were taken from his stock, that the price and transportation of the material as claimed represent actual cost.
- H. If, in the City's opinion, Contractor or any of his subcontractors, in performing force account work, are not making efficient use of labor, material, or equipment and/or are proceeding in a manner which is expensive to the City, the City may request the Contractor to make more efficient use of labor, material and equipment. Contractor shall in good faith comply with such requests as are reasonable. If the Contractor fails to comply with such requests, the City may independently determine the reasonable cost of the work and the Contractor will be entitled only to the reasonable cost so estimated by the City.

GC-90 DISAGREEMENT WITH ORDERS FOR CHANGE

Contractor's written acceptance of a Change Order or other order for changes shall constitute his final and binding agreement to the provisions thereof and a waiver of all claims in connection therewith, whether direct or consequential in nature. Should Contractor disagree with any order for changes, he may submit a notice of potential claim to the City, at such time as the order is set forth in the form of a Change Order. Disagreement with the provisions of an order for changes shall not relieve Contractor of his obligation under Clause GC-88, Change Orders.

GC-91 CHANGED CONDITIONS

Contractor shall notify the City in writing of the following conditions, hereinafter called "changed conditions," promptly upon their discovery and before they are disturbed:

1. Subsurface or latent physical conditions at the site of Work differing materially from those represented in this Contract; or
2. Unknown physical conditions at the Site of the Work of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract.

The City will promptly investigate conditions of which it is so notified, or conditions discovered by it which appear to be changed conditions, and will, as soon as practicable, issue appropriate orders or instructions. If the City determines that the conditions materially differ and that they will materially increase or decrease the costs of any portion of Work, it will issue a Change Order adjusting the compensation for such portion of Work.

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STANDARD INSURANCE REQUIREMENTS

(For projects less than \$1,000,000)

1. Statutory Workers' Compensation Insurance
 - (a) 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
 - (a) \$500,000 limit of liability per occurrence for bodily injury and property damage
 - (b) 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
 - (a) \$500,000 limit of liability per occurrence for bodily injury and property damage
 - (b) Comprehensive form covering all owned, non-owned, leased, hired, and borrowed vehicles
 - (c) Additional Insured Endorsement
 - (d) Contractual Liability
4. Umbrella Liability Insurance - \$1,000,000 limit of liability
 - (a) The following additional coverage must apply
 - ✓ Additional Insured Endorsement
 - ✓ Concurrence 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. City of Cumming (and any applicable Authority) should be shown as an additional insured on General Liability, Auto Liability and Umbrella Liability policies.
6. The cancellation should provide 10 days' notice for nonpayment and 30 days' notice of cancellation.
7. Certificate Holder should read:

City of Cumming
5468 Peachtree Road
Cumming, GA 30341
8. 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.

9. Insurance Company should be licensed to do business by the Georgia Department of Insurance.
10. Certificates of Insurance, and any subsequent renewals, must reference specific proposal/contract by project name and project/proposal number.
11. 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.
12. All insurance coverages required to be provided by the Contractor will be primary over any insurance program carried by the City.
13. 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.
14. 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 City of Cumming as to form and content has been filed with City of Cumming. **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.**
15. The Contractor shall agree to waive all rights of subrogation against the City, its officers, officials, employees, and volunteers from losses arising from work performed by the contractor for the City.
16. 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.
17. 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.
18. 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.
19. 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.
20. 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 8 above.

BONDING AND CONTRACT REQUIREMENTS

General Bond Requirements

1. Bid Bonds - Amount of bond should be 5% of contract amount and submitted with your proposal. City of Cumming form Attached. Failure to use City of Cumming Bid Bond Form may result in proposal being deemed non-responsive and automatic rejection may occur.
2. Performance Bond - (Supplied by successful vendor) - Amount of bond should be 100% of contract amount. **(MUST USE CITY FORM)**
3. Payment, Labor and Materials Bonds - (Supplied by successful vendor) - Amount of bond should be 100% of contract amount. **(MUST USE CITY FORM)**
4. Bonding company must be authorized to do business by the Georgia Office of Insurance and Fire Safety Commissioner.
5. An original/certified copy of the Bonding company's Certificate of Authority or Power of Attorney must be attached to bond. The Certificate of Authority may be obtained from the Georgia Office of Insurance and Fire Safety Commissioner.
6. Bonding company must have a minimum AM Best rating of A-10 or higher as stated in Insurance Requirements. **Failure to submit a bid bond with the proper rating will result in the proposal being deemed non-responsive.**
7. Bonding Company must be 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. (Dept. Circular 570; 1992 Revision).
8. After bid opening, vendor has up to forty-eight (48) hours to notify Foresite Group of an obvious error made in calculation of Proposal. Withdrawal of Bid Bond for this reason must be done in writing within the forty-eight (48) hour period. Bid Bond may not be withdrawn otherwise.

Contract Requirements

1. Successful vendor is required to do the following within ten (10) days of notification.
 - A. Return to Foresite Group contract documents executed by the principal of the company and attested by the secretary or assistant secretary.
 - B. Provide Insurance certificates as specified in the proposal documents.
 - C. Provide bonding as required by the proposal documents.
2. Failure to execute the Contract, Contract Performance Bond and Payment Bond, or furnish satisfactory proof of carriage of the insurance required within ten days after the date of Notice of Award of the Contract may be just cause for the annulment of the award and for the forfeiture of the bid guaranty to City of Cumming, 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 contractor, or the work may be re-advertised or constructed by City forces. The Contract and Contract Bonds shall be executed in duplicate.

City of Cumming requires that all Contracts between parties be entered into via the following documents. If any exceptions are taken to any part of this document, each must be stated in detail and submitted as part of your proposal. If no exceptions are noted it is assumed that the party fully agrees to the contract in its entirety. Exceptions to the sample contract provided in this request for proposal will be considered in terms of responsiveness when making award. The Special Provisions and the General Conditions are to be a part of any agreement.

**SAMPLE
CONTRACT**

This **CONTRACT** made and entered into this _____ day of _____, 20____ by and between City of Cumming, Georgia (Party of the First Part, hereinafter called the City), and _____, (Party of the Second Part, hereinafter called the Contractor).

WITNESSETH: That the said Contractor has agreed, and by these presents does agree with the said City, for the consideration herein mentioned and under the provision of the Performance Bond and Payment Bond required by the Specifications to furnish all equipment, tools, materials, skill and labor of every description necessary to carry out and complete in a good, firm and substantial and workmanlike manner, the work specified, in strict conformity with the drawings and specifications, together with the foregoing proposal made by the Contractor, the Advertisement, the Instructions to Contractors, General Conditions, and this Contract, shall all form essential parts to this Contract. The work covered by this Contract includes all work shown on plans and specifications and listed in the conditions and specifications to wit:

(Description)

The Contractor awarded work under this contract shall commence work within ten (10) days after the issuance of the Notice to Proceed and shall fully complete all work hereunder within consecutive calendar days from and after said date.

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, the amount of _____ Dollars and no/100 dollars (\$_____) per day as liquidation of the extra expense incurred by the City and liquidated damages to the City.

The City shall pay and the Contractor shall receive the prices stipulated in the proposal hereto attached as full compensation for everything furnished and done by the Contractor under this contract, which shall in no event exceed the total (Total \$_____) based on the proposal which sum shall be paid in the manner and terms specified in the Contract Documents, but before issuance of certificate of payment, if the Contractor shall not have submitted evidence satisfactory to the City that all payrolls, materials bills, and other indebtedness connected with the work have been paid, the City may withhold, in addition to the retained percentages, such amount or amounts as may be necessary to pay just claims for labor and services rendered and materials in and about the work, and such amount or amounts withheld or retained may be applied by the City to the payment of such just claims.

When the Contractor has performed in accordance with the provisions of this Contract, City of Cumming shall pay to the Contractor, within thirty (30) days of receipt of any payment request based upon work completed or service provided pursuant to the Contract, the sum so requested, less the retainage stated in this Contract, if any. In the event that City of Cumming fails to pay the Contractor within sixty (60) days of receipt of a pay request based upon work completed or service provided pursuant to the Contract, the City shall pay the Contractor interest at the rate of 1/2% per month or pro rata fraction thereof, beginning the sixty-first (61st) day following receipt of the pay request. The Contractor's acceptance of progress payments or final payment shall release all claims for interest on said payments.

It is further mutually agreed between the Parties hereto that if, at any time after the execution of the Contract and the Performance Bond for its faithful performance and the Payment Bond, the first party shall deem the surety or

sureties upon such bond to be inadequate to cover the performance of the work, the second party shall, at its expense, within five (5) days after the receipt of notice from the first party 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 first party. In such event, no further payment to the second party 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 first party.

The parties agree that each of the provisions included in this Contract is separate, distinct and severable from the other and remaining provisions of this Contract, and that the invalidity of any Contract provision shall not affect the validity of any other provision or provisions of this Contract.

(Signatures Next Page)

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized agents, have caused this **CONTRACT** to be signed, sealed and delivered.

CITY OF CUMMING, GEORGIA

By: _____
Troy Brumbalow, Mayor
City of Cumming

ATTEST:

Signature

Phil Higgins, City Administrator

APPROVED AS TO FORM:

Signature

Kevin Tallant, City Attorney

CONTRACTOR: _____

BY: _____
Signature

Print Name

Title

ATTEST:

Signature

Print Name
Corporate Secretary
(Seal)

Solicitation Name & No., 2025 LMIG at Adair Park

CONTRACTOR AFFIDAVIT AND AGREEMENT
(THIS FORM SHOULD BE FULLY COMPLETED AND RETURNED WITH YOUR
SUBMITTAL)

By executing this affidavit, the undersigned contractor verifies its compliance with The Illegal Reform Enhancements for 2013, stating affirmatively that the individual, firm, or corporation which is contracting with the City of Cumming 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, in accordance with the applicability provisions and deadlines established therein.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services or the performance of labor pursuant to this contract with the City of Cumming, contractor will secure from such subcontractor(s) similar verification of compliance with the Illegal Immigration Reform and Enforcement Act 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 Cumming at the time the subcontractor(s) is retained to perform such service.

E-Verify * User Identification Number

Date Registered

Legal Company Name

Street Address

City/State/Zip Code

BY: Authorized Officer or Agent
(Contractor Signature)

Date

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 _____, 201____

Notary Public

My Commission Expires:

For City of Cumming Use Only:

Document ID

_____

Issue Date: _____

Initials: _____

* 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).
Rev. 6.20.13

Description: 2025 LMIG at Adair Park

CODE OF ETHICS AFFIDAVIT

**(THIS FORM SHOULD BE FULLY COMPLETED AND RETURNED WITH
YOUR SUBMITTAL AND WILL BE REQUIRED PRIOR TO EVALUATION)**

In accordance with Article II, Division 1, Sec. 31-21 of the City of Cumming Code of Ordinances the undersigned contractor/proposer makes the following full and complete disclosure under oath, to the best of his/her knowledge, of the name(s) of all elected officials whom it employs or who have a direct or indirect pecuniary interest in or with the contractor/proposer, its affiliates or its subcontractors:

1. _____ (Company Submitting Bid/Proposal)

2. (Please check <input checked="" type="checkbox"/> one box below)
<input type="checkbox"/> No information to disclose (complete only section 4 below)
<input type="checkbox"/> Disclosed information below (complete section 3 & section 4 below)

3. (if additional space is required, please attach list)	
_____ City of Cumming Elected Official Name	_____ City of Cumming Elected Official Name
_____ City of Cumming Elected Official Name	_____ City of Cumming Elected Official Name

4.	Sworn to and subscribed before me this
BY: _____ Authorized Officer or Agent Signature	_____ day of _____, 20____
_____ Printed Name of Authorized Officer or Agent	_____ Notary Public
_____ Title of Authorized Officer or Agent of Contractor	(seal)

Note: See City of Cumming Code of Ethics Article II, Division 1, Sec. 31-21. The ordinance will be available to view in its' entirety at www.Cummingga.com

BOND # _____

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____
(Corporation, Partnership or Individual)

hereinafter called Principal, and

(Name of Surety)

(Address of Surety)

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

City of Cumming
(Name of Oblige)

5468 Peachtree Road, Cumming, Georgia 30041
(Address of Oblige)

hereinafter called Oblige;

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 Oblige.

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.

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]

ATTEST:

(Principal Secretary)

(SEAL)

(Witness as to Principal)

(Address)

(Principal)

By:

(Address)

ATTEST:

Resident or Nonresident Agent

(SEAL)

(Witness as to Surety)

(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.

BOND # _____

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

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

(Name of Surety)

(Address of Surety)

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

City of Cumming
(Name of Oblige)

5468 Peachtree Road, Cumming, Georgia 30341
(Address of Oblige)

hereinafter referred to as Oblige, are held and firmly bound unto said Oblige 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 Oblige.

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 Oblige, with or without notice to the Surety, and during the life of any guaranty required under the contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreement of any and all duly authorized modifications of said contract that may hereafter be made, then 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)

ATTEST:

(Principal Secretary)

(SEAL)

(Witness as to Principal)

(Address)

(Principal)

By: _____

(Address)

ATTEST:

Resident or Nonresident Agent

(SEAL)

(Witness as to Surety)

(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.

ATTENTION

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

1. FAILURE TO USE CITY COST 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 PROPOSAL.
6. FAILURE TO PROVIDE BID BOND, WHEN REQUIRED, WILL RESULT IN PROPOSAL BEING DEEMED NON-RESPONSIVE AND AUTOMATIC REJECTION. BID BONDS ARE NOT REQUIRED ON ALL PROPOSALS. BOND REQUIREMENTS ARE CLEARLY STATED ON THE INVITATION FOR PROPOSAL. IF YOU NEED CLARIFICATION, CONTACT FORESITE GROUP. **IF BONDS ARE REQUIRED, FORMS WILL BE PROVIDED IN THIS PROPOSAL DOCUMENT.**
7. FAILURE TO PROVIDE CONTRACTOR AFFIDAVIT AND AGREEMENT, WHEN REQUIRED, MAY RESULT IN PROPOSAL BEING DEEMED NON-RESPONSIVE AND AUTOMATIC REJECTION. CONTRACTOR AFFIDAVIT AND AGREEMENT IS NOT REQUIRED ON ALL PROPOSALS. IF YOU NEED CLARIFICATION, CONTACT FORESITE GROUP.

CITY OF CUMMING
GENERAL INSTRUCTIONS FOR CONTRACTORS, TERMS AND CONDITIONS

I. PREPARATION OF PROPOSALS

- A. Each contractor shall examine the drawings, specifications, schedule and all instructions. Failure to do so will be at the contractor's risk, as the contractor will be held accountable for their proposal response.
- B. Each contractor shall furnish all information required by the proposal form or document. Each contractor shall sign the proposal and print or type his or her name on the cost schedule. The person signing the proposal must initial erasures or other changes. An authorized agent of the company must sign proposals.
- C. Individuals, firms and businesses seeking an award of a City of Cumming 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 Administrator named in the solicitation between the date of the issuance of the solicitation and the date of the final contract award by the City of Cumming. Violations will be reviewed by the City Administrator. 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 proposal submittal but are contained for informational purposes only. If awarded, the successful contractor(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 contractor 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 CONTRACTORS

Any explanation desired by a contractor regarding the meaning or interpretation of the invitation for proposals, drawings, specifications, etc. must be requested by the question cutoff deadline stated in the solicitation in order for a reply to reach all contractors before the close of proposal. Any information given to a prospective contractor concerning a request for proposal will be furnished to all prospective contractors as an addendum to the invitation if such information is necessary or if the lack of such information would be prejudicial to uninformed contractors. The written proposal documents supersede any verbal or written communications between parties. Receipt of addendum should be acknowledged in the proposal. **It is the contractor's responsibility to ensure that they have all applicable addenda prior to proposal submittal.** This may be accomplished via contact with the assigned Procurement Agent prior to proposal submittal.

IV. SUBMISSION OF PROPOSALS

- A. Proposals shall be enclosed in sealed envelopes, addressed to the Foresite Group with the name of the contractor, the date and hour of opening and the invitation to proposal number on the face of the envelope. Telegraphic/faxed proposals 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 will be applied to the lump sum amount. 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 contractor'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 proposed upon, including brand name, model, catalog number, etc. must be furnished to identify exactly what the contractor is offering. Manufacturer's literature may be furnished.
- F. The contractor must certify that items to be furnished are new and that the quality has not deteriorated so as to impair its usefulness.
- G. Unsigned proposals will not be considered except in cases where proposal is enclosed with other documents, which have been signed. The City will determine this.
- H. City of Cumming is exempt from federal excise tax and Georgia sales tax with regard to goods and services purchased directly by City of Cumming. 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 contractor in the proposal 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 proposal may not be deemed proprietary.

V. WITHDRAWAL OF PROPOSAL DUE TO ERRORS

The contractor shall give notice in writing of his claim of right to withdraw his proposal without penalty due to an error within two (2) business days after the conclusion of the proposal opening procedure. Proposals may be withdrawn from consideration if the price was substantially lower than the other proposals due solely to a mistake therein, provided the proposal 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 proposal, 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 proposal sought to be withdrawn. The contractor's original work papers shall be the sole acceptable evidence of error and mistake if he elects to withdraw his proposal.

No contractor who is permitted to withdraw a proposal 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 proposal was submitted.

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

Proposal withdrawal is not automatically granted and will be allowed solely at City of Cumming'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 contractor.

VII. F.O.B. POINT

Unless otherwise stated in the request for proposal and any resulting contract, or unless qualified by the contractor, 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, FORMS WILL BE PROVIDED IN THIS DOCUMENT)

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 City of Cumming for any proposal as required in proposal package or document. **Failure to submit a bid bond with the proper rating will result in the proposal 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 proposal when required in the proposal package or document.**

X. DISCOUNTS

- A. Time payment discounts will be considered in arriving at net prices and in award of proposals. Offers of discounts for payment within ten (10) days following the end of the month are preferred.
- B. In connection with any discount offered, time will be computed from the date of delivery and acceptance at destination, or from the date correct invoice or voucher is received, whichever is the later date. Payment is deemed to be made for the purpose of earning the discount, on the date of the City check.

XI. AWARD

- A. Offerors submitting proposal may be afforded an opportunity for discussion, negotiation, and revision of proposals. Discussion, negotiations, and revisions may be permitted after submission of proposals and prior to award for the purposed of obtaining best and final offers.
- B. 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 contractor to perform, and the contractor 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 proposal if the evidence submitted by, or investigation of such contractor fails to satisfy the City that such contractor is properly qualified to carry out the obligations of the contract.
- C. The City reserves the right to reject or accept any or all proposals and to waive technicalities, informalities and minor irregularities in proposals received.
- D. The City reserves the right to make an award as deemed in its best interest, which may include awarding a proposal to a single contractor or multiple contractors; or to award the whole proposal, only part of the

proposal, or none of the proposal to single or multiple contractors, 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 Administrator, or failure to make replacement of rejected articles/services when so requested, immediately or as directed by the City Administrator, shall constitute authority for the City Administrator 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 Administrator 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 Administrator.

XIII. CITY FURNISHED PROPERTY

No material, labor or facilities will be furnished by the City unless so provided in the request for proposal.

XIV. REJECTION AND WITHDRAWAL OF PROPOSALS

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

XV. CONTRACT

Each proposal 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 contractor and the City which shall bind the contractor on his part to furnish and deliver the articles quoted at the prices stated in accordance with the conditions of said accepted proposal. 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 proposal package containing a City of Cumming "Sample Contract" as part of the requirements, it is understood that the contractor has reviewed the documents with the understanding that City of Cumming 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 proposal. If no exceptions are stated, it is assumed that the contractor 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, City of Cumming 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 City of Cumming 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

Contractor declares that the proposal is not made in connection with any other contractor submitting a proposal for the same commodity or commodities, and that the proposal is bona fide and is in all respects fair and without collusion or fraud. An affidavit of non-collusion shall be executed by each contractor. Collusion and fraud in proposal 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 Administrator 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 responsible contractor, 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 proposal, unless extended in writing by the City Administrator, 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 Administrator, who shall reduce his/her decision to writing and mail or otherwise furnish a copy thereof to the contractor. The decision of the procurement agent shall be final and binding; however, the contractor shall have the right to appeal said decision to a court of competent jurisdiction.

XXI. SUBSTITUTIONS

Contractors 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 proposal. The absence of such a substitution list shall indicate that the contractor has taken no exception to the specifications contained herein.

XXII. INELIGIBLE CONTRACTORS

The City may choose not to accept the proposal of a contractor 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 contractor shall provide evidence of a valid City of Cumming occupation tax certificate if the contractor maintains an office within the unincorporated area of City of Cumming. Incorporated, out of City, and out of State contractors are required to provide evidence of a certificate to do business in any town, City or municipality in the State of Georgia, or as otherwise required by City ordinance or resolution.

XXIV. AMERICANS WITH DISABILITIES ACT

All contractors for City of Cumming 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), City of Cumming 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 City of Cumming should be directed to Phil Higgins, City Administrator, 100 E Main St., Cumming, Georgia 30340, 770-781-2010.

XXV. 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.

XXVI. 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

XVIII. 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 City, must satisfy the Illegal Immigration Reform and Enforcement Act, in all manner, and such are conditions of the contract.

The City Clerk 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 proposal 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 Performance Analysis Division 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, City of Cumming may direct the contractor to terminate that subcontractor. A contractor's failure to follow City of Cumming'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 Cumming 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 Owner's Representative, 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 Owner's Representative, 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/Contractor" 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/Contractor" 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 for action pursuant to the Purchasing Ordinance or to the District Attorney for possible criminal prosecution.

Any business entity holding a contract with City of Cumming 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 for action pursuant to the Purchasing Ordinance or to the District Attorney for possible criminal prosecution.

Note: See City of Cumming Code of Ethics, Article II, Division 1, Sec. 31-21. The ordinance will be available to view in its entirety at www.Cummingga.com

XXXIII. PENDING LITIGATION:

A proposal 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.



DEVELOPER



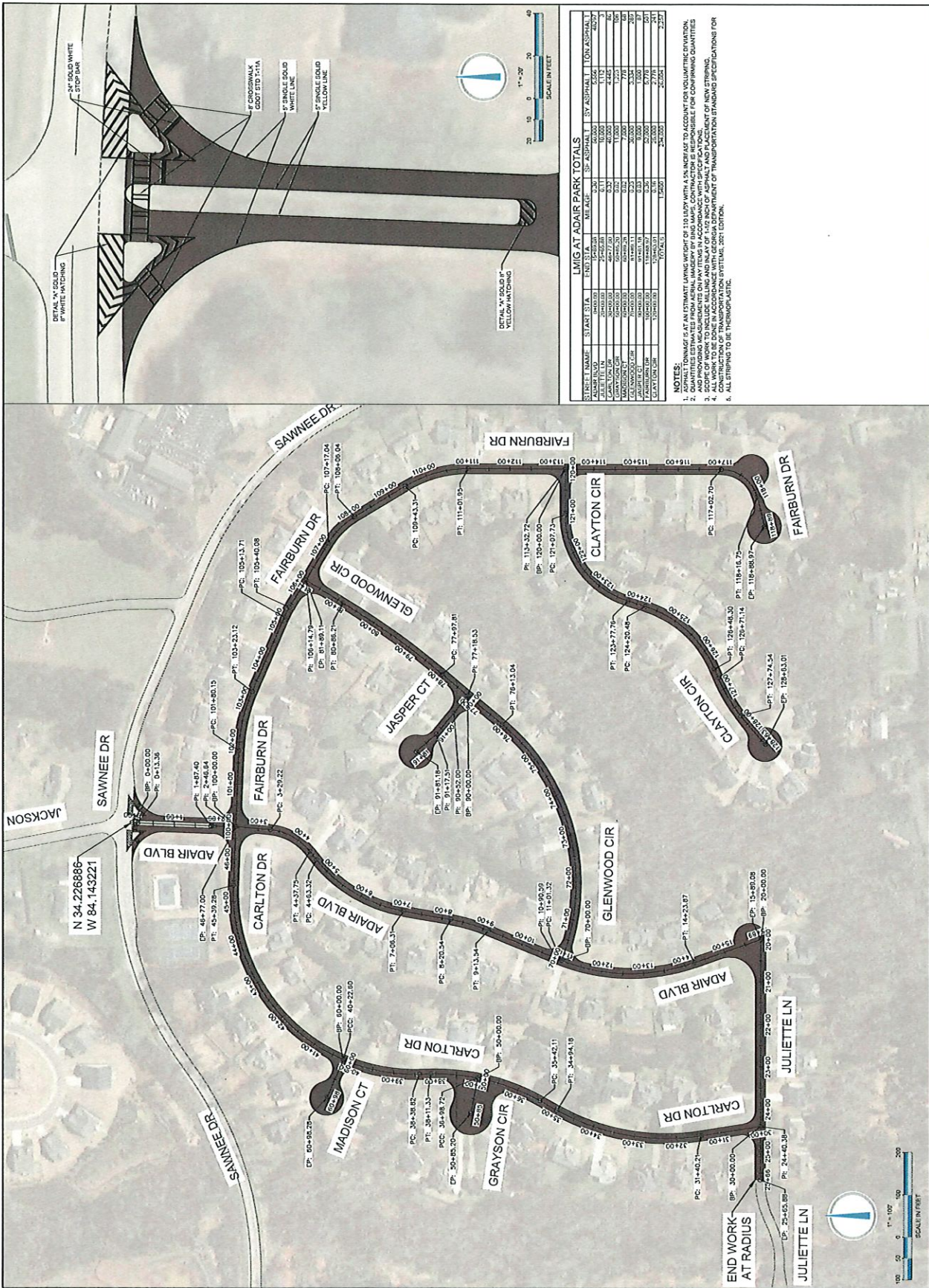
100 MAIN STREET
CLAWING, GA 30040
(770) 781-2010

LMIG AT ADAIR PARK

1500 ADAIR BLVD, CUMMING, GA 30040

PROJECT.

ESPANOL:



LWIGAT ADAIR PARK TOTALS						
STREET NAME	START STA	END STA	BEATS	30' ASPHALT	50' ASPHALT	TON ASPHALT
ADAIR RD	0+00.00	1+66.00	3-31	40,000	5,500	45,500
CLAYTON RD	0+00.00	0+47.75	2-31	4,445	500	4,945
CLAYTON RD	0+47.75	1+00.00	3-32	11,000	1,255	12,255
CLAYTON RD	1+00.00	1+66.00	3-33	17,000	2,000	19,000
CLAYTON RD	1+66.00	2+00.00	3-34	20,000	2,300	22,300
CLAYTON RD	2+00.00	2+50.00	3-35	25,000	2,750	27,750
CLAYTON RD	2+50.00	3+00.00	3-36	30,000	3,250	33,250
CLAYTON RD	3+00.00	3+50.00	3-37	35,000	3,750	38,750
CLAYTON RD	3+50.00	4+00.00	3-38	40,000	4,250	44,250
CLAYTON RD	4+00.00	4+50.00	3-39	45,000	4,750	49,750
CLAYTON RD	4+50.00	5+00.00	3-40	50,000	5,250	55,250
CLAYTON RD	5+00.00	5+50.00	3-41	55,000	5,750	60,750
CLAYTON RD	5+50.00	6+00.00	3-42	60,000	6,250	66,250
CLAYTON RD	6+00.00	6+50.00	3-43	65,000	6,750	71,750
CLAYTON RD	6+50.00	7+00.00	3-44	70,000	7,250	77,250
CLAYTON RD	7+00.00	7+50.00	3-45	75,000	7,750	82,750
CLAYTON RD	7+50.00	8+00.00	3-46	80,000	8,250	88,250
CLAYTON RD	8+00.00	8+50.00	3-47	85,000	8,750	93,750
CLAYTON RD	8+50.00	9+00.00	3-48	90,000	9,250	99,250
CLAYTON RD	9+00.00	9+50.00	3-49	95,000	9,750	104,750
CLAYTON RD	9+50.00	10+00.00	3-50	100,000	10,250	110,250
CLAYTON RD	10+00.00	10+50.00	3-51	105,000	10,750	115,750
CLAYTON RD	10+50.00	11+00.00	3-52	110,000	11,250	121,250
CLAYTON RD	11+00.00	11+50.00	3-53	115,000	11,750	126,750
CLAYTON RD	11+50.00	12+00.00	3-54	120,000	12,250	132,250
CLAYTON RD	12+00.00	12+50.00	3-55	125,000	12,750	137,750
CLAYTON RD	12+50.00	13+00.00	3-56	130,000	13,250	143,250
CLAYTON RD	13+00.00	13+50.00	3-57	135,000	13,750	148,750
CLAYTON RD	13+50.00	14+00.00	3-58	140,000	14,250	154,250
CLAYTON RD	14+00.00	14+50.00	3-59	145,000	14,750	159,750
CLAYTON RD	14+50.00	15+00.00	3-60	150,000	15,250	165,250
CLAYTON RD	15+00.00	15+50.00	3-61	155,000	15,750	170,750
CLAYTON RD	15+50.00	16+00.00	3-62	160,000	16,250	176,250
CLAYTON RD	16+00.00	16+50.00	3-63	165,000	16,750	181,750
CLAYTON RD	16+50.00	17+00.00	3-64	170,000	17,250	187,250
CLAYTON RD	17+00.00	17+50.00	3-65	175,000	17,750	192,750
CLAYTON RD	17+50.00	18+00.00	3-66	180,000	18,250	198,250
CLAYTON RD	18+00.00	18+50.00	3-67	185,000	18,750	203,750
CLAYTON RD	18+50.00	19+00.00	3-68	190,000	19,250	209,250
CLAYTON RD	19+00.00	19+50.00	3-69	195,000	19,750	214,750
CLAYTON RD	19+50.00	20+00.00	3-70	200,000	20,250	220,250
CLAYTON RD	20+00.00	20+50.00	3-71	205,000	20,750	225,750
CLAYTON RD	20+50.00	21+00.00	3-72	210,000	21,250	231,250
CLAYTON RD	21+00.00	21+50.00	3-73	215,000	21,750	236,750

NOTES:

1. ASPHALT TONNAGE IS AT AN ESTIMATE LAYING WEIGHT OF 110 LB/CY WITH A 5% INCREASE TO ACCOUNT FOR VOLUMETRIC DRYTATION.
2. QUANTITIES ESTIMATED FROM AERIAL IMAGERY BY BING MAPS. CONTRACTOR IS RESPONSIBLE FOR CONFIRMING QUANTITIES THROUGH FIELD SURVEY.
3. ALL OTHER QUANTITIES TO BE OBTAINED FROM PAY ITEMS IN ACCORDANCE WITH SPECIFICATIONS.
4. ALL WORK TO BE COMPLETED AND IN PLACE PRIOR TO THE START AND PLACE OF NEW STIRRING.
5. ALL WORK TO BE COMPLETED AND IN PLACE PRIOR TO THE START AND PLACE OF NEW STIRRING.
6. ALL STIRRING TO BE THERMOPLASTIC.

OVERALL PLAN

SHEET NUMBER

C-1

COMMENTS:

1276 024

1276 024

