

**INVITATION TO BID
FOR
FC-6260, PEACHTREE CREEK SOUTH FORK
RELIEF STORAGE AND PUMPING STATIONS
(VOLUME 1)**



Atlanta, Georgia

**Kasim Reed
Mayor
City of Atlanta**

**JoAnn J. Macrina, P.E.
Commissioner
Department of Watershed Management**

**Adam L. Smith, Esq., CPPO, CPPB
Chief Procurement Officer
Department of Procurement**

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CITY OF ATLANTA

Kasim Reed
Mayor

SUITE 1900
55 TRINITY AVENUE, SW
ATLANTA, GA 30303
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DEPARTMENT OF PROCUREMENT
Adam L. Smith, Esq., CPPO, CPPB
Chief Procurement Officer
asmith@atlantaga.gov

November 5, 2012

Dear Potential Bidders:

Please be advised that sealed bids for **FC-6260, Peachtree Creek South Fork Relief Storage and Pumping Stations** will be accepted by the Department of Procurement ("DOP"), Suite 1900, 55 Trinity Avenue, S.W., City Hall South, Atlanta, Georgia 30303-0307, on **Monday, December 3, 2012**. All bids submitted must be sealed and time stamped in no later than 1:59 p.m. on the stated date.

****ABSOLUTELY NO BIDS WILL BE ACCEPTED AFTER 1:59 P.M.****

Bids will be publicly opened and read at 2:00 p.m. on the respective due date in Suite 1900, at the above address.

SCOPE OF WORK: The City of Atlanta (the "City") is soliciting bids from qualified bidders to provide services for the construction of a wastewater collection system flow equalization system at Liddell Drive and Cheshire Bridge Road to include two (2) reinforced concrete diversion structures with a 67 million gallon per day pumping station, a ten (10) million gallon equalization tank, a flow return and jet mixing pumping station, odor control, electrical, and instrumentation, landscaping, and other work to make a fully functional and operational wastewater equalization facility.

A **Pre-bid Conference** will be held on **Tuesday, November 13, 2012, at 10:00 a.m.**, in the Conference Room of DOP. The purpose of the Pre-bid Conference is to provide the bidders with information regarding the project and to address any questions and concerns. There will be City representatives from various departments within the City to address the technical requirements, DOP to address questions about the procurement process, the Office of Contract Compliance to address the Equal Business Opportunity and Equal Employment Opportunity Requirements, and the Office of Risk Management to address any bonding/insurance requirements. Bidders are urged to attend the Pre-bid Conference to obtain general information regarding the solicitation document.

A **Site Visit** will be held on **Wednesday, November 14, 2012, between 9:30 a.m. and 11:30 a.m.** at the project site located at 2061 Liddell Drive, NE, Atlanta, Georgia 30324.

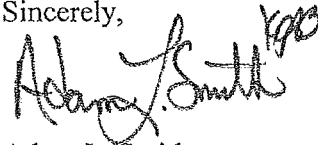
FC-6260, Peachtree Creek South Fork Relief Storage and Pumping Stations
November 5, 2012
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General instructions, plans and/or specifications for submitting bid packages for this project will be available for review/purchase at a cost of **\$150.00** as of **Monday, November 5, 2012**, between the hours of 8:00 a.m. - 5:00 p.m., in the DOP's Plan Room, Suite 1900, 1st Floor, 55 Trinity Avenue, S.W., City Hall South, Atlanta, Georgia. Payment for the documents represents production costs; therefore, payment is non-refundable.

If you have any questions regarding this project, please contact Anthony D. Stanley, Contracting Officer, at (404) 330-6384 or by e-mail at adstanley@atlantaga.gov. Any questions regarding the procedure for purchasing a copy of the document or obtaining a copy of the plan holders list should be directed to the Plan Room at (404) 330-6069.

The City reserves the absolute right to reject any and all bids and to waive any technicalities.

Sincerely,

A handwritten signature in black ink that reads "Adam L. Smith". To the right of the signature, there is a handwritten date "11/5/12".

Adam L. Smith

**FC-6260, Peachtree Creek and South Fork Relief Storage and Pumping
Stations**

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PART I
INSTRUCTIONS TO BIDDERS



FC-6260
Peachtree Creek South Fork Relief Storage and Pumping Stations

PART I

INSTRUCTIONS TO BIDDERS

1. SOLICITATION/NOT AN OFFER

This solicitation does not constitute an offer by the City of Atlanta (the "City") to enter into an agreement and is not an offer that can be accepted by the Bidder to form an agreement. No language contained anywhere in this solicitation should be construed or interpreted to convey an offer to enter into agreement with the City. The terms of this solicitation are to be considered as a whole. However, no terms may be considered in whole or in part to constitute an offer to enter into an agreement with the City.

This solicitation is only an invitation for offers from interested Bidders and no offer shall bind the City.

This solicitation is an invitation for the Bidder to make an offer to the City in the form of a Bid. No offer made in response to the terms and conditions of this solicitation may include any terms and conditions which can bind the City to any contractual Agreement until such time as the Agreement has first been awarded by the City to the most responsible and responsive bidder whose bid meets the material requirements and criteria set forth in the solicitation and is accepted and fully executed and sealed by agents of the City designated on the signature page of the Agreement included in the solicitation. The term of your offer must conform to all applicable federal and local laws, including all ordinances of the City and all requirements of the solicitation.

YOUR OFFER IS A FIRM OFFER AND MAY NOT BE WITHDRAWN EXCEPT AS AUTHORIZED IN THE CODE OF ORDINANCES OF THE CITY OF ATLANTA.

Your response to this solicitation is a firm offer, which the City may accept or reject in whole or in part without any further action on your part. The acceptance of your offer by the City will form an Agreement, which is enforceable against you. **Your offer may not be withdrawn except under the terms and conditions specified in the Procurement and Real Estate Code of the City of Atlanta as codified in Part 5, Chapter 5 of the Code of Ordinances of the City of Atlanta.**

2. RECEIPT AND OPENING OF BIDS

Sealed Bids for the construction of **FC-6260, Peachtree Creek South Fork Relief Storage and Pumping Stations** will be received by designated staff of the Department of Procurement, Suite 1900, City Hall South, 55 Trinity Avenue, S.W., Atlanta Georgia 30303, no later than **1:59 p.m., EST**, (as verified by the Bureau of National Standards) on **Monday, December 3, 2012**.

ABSOLUTELY NO BID WILL BE ACCEPTED AFTER 1:59 P.M.

All Bids received by the time and date established above will be opened and publicly read.

3. PREPARATION OF BIDS

All Bids must be submitted on bid document forms supplied by the City and shall be subject to all requirements of the Agreement Documents. All Bids must be regular in every respect and no interlineations, excisions, or special conditions shall be made or included in the Bid by the Bidder.

Lump sum, unit price, and extensions of unit prices must be entered in the appropriate spaces provided on the Bid Schedule/Bid Form. Unit prices shall include an appropriate allocation of overhead and other indirect costs so that the summation of unit price extensions and lump sum items represents the total bid amount. In the case of any Bid item for which a fixed amount predetermined by the City has already been entered on the Bid Schedule, the amount so entered shall be conclusive of all Bidders as the price for such item, and shall not be revised unless the City directs a change in the Scope of Work affecting the item to which such amount relates.

The City may consider as irregular any conditional bid or any Bid on which there is an alteration of, or departure from, the Bid Schedule hereto attached and at its option may reject the same.

Erasures or other changes in the Bids must be explained or noted over the signature of the Bidder. Failure to do so shall render the Bidder as non-responsive and cause rejection of the Bid.

Failure to execute the Bid Schedule/Bid Form documents may render the Bidder as non-responsive and cause rejection of the Bid.

4. GEORGIA UTILITY CONTRACTOR'S LICENSE

The Bidder shall provide a Bidder's Georgia Utility Contractor's License Number on the outside of the Sealed Envelope. A utility Contractor's License Number held by a

Subcontractor or issued by another state does NOT fulfill this requirement in lieu of the Bidder's Georgia Utility Contractor's License. Failure to provide the Bidder's Georgia Utility Contractor License Number on the outside of the Sealed Envelope will result in a rejection of the Bid at the Opening. The Bidder is required to submit the certificate included in Exhibit B.

5. HOW TO SUBMIT BIDS

The Bid and required submittals, including the Bid Schedule, the Bid Documentation, the Bid Form, the acknowledgment of each Addendum, the Bid Bond Guarantee, the Power of Attorney for the attorney-in-fact signing the Bid Guarantee, the Affidavit, Office of Contract Compliance forms/certificates, and other documents as required in these Agreement documents may be photocopied for submission of Bids. Submit the **original and six (6)** copies of the Bid and required attachments.

The complete package of Bid documents shall be enclosed in envelopes (outer and inner), both of which shall be sealed and clearly labeled with the project name and numbers, name of Bidder and date and time of bid opening in order to guard against premature opening of the Bid.

Bids must be addressed to:

Adam L. Smith, Esq., CPPO, CPPB
Chief Procurement Officer
Department of Procurement
55 Trinity Avenue, S.W. Suite 1900
Atlanta, GA 30303-0307

6. EXECUTION OF BIDDING DOCUMENTS

A complete set of Bidding Documents have been bound separately from the agreement forms and Specifications for the use of Bidders. Bidders shall submit their Bids, together with the bid guarantee and all forms which the Bidder is required to sign, executed in the appropriate manner as set forth below:

- a. If the Bidder is a corporation, all documents requiring execution by the Bidder shall be signed by the president or vice-president of the corporation, whose signature shall be attested by the secretary or assistant secretary of the corporation and the corporate seal affixed.
- b. If the Bidder is an individual, he or she shall sign the documents and his or her signature shall be notarized by a notary public.

- c. If the Bidder is an individual doing business under a trade name, all documents shall be signed by the Bidder whose signature shall be followed by either, "doing business as," or "trading as," followed by the trade name of the Bidder's business, and notarized by a notary public.
- d. If the Bidder is a partnership, all forms shall be executed by placing the name of the partnership followed by "By: (the name of the partner executing)" followed by the word "Partner," and notarized by a notary public.
- e. If the Bidder is a joint venture, each party to the joint venture shall execute the Bidding Documents in the manner set forth in items a, b, c, or d of this article of the Instructions to Bidders as appropriate for this type of organization.
- f. If the Bidder is a Joint Venture, all other documents in the Bidding Documents shall be executed by one of the parties to the joint venture, as provided by Article 4 of the Joint Venture Statement, in the same manner as the executed said Joint Venture Statement.

7. FAILURE TO BID

Your failure to respond to this Invitation to Bid may result in the removal of your company from the City's Bid list.

8. ERRORS IN BIDS

Bidders and their authorized representatives are expected to fully familiarize themselves with the conditions, requirements, and Specifications before submitting Bid. Failure to do so will be at the Bidder's own risk. In case of error in extension or prices in the Bid, the unit prices(s) shall govern.

9. DISQUALIFICATION OF BIDDERS

Any of the following may be considered as sufficient for disqualification of a Bidder and the rejection of the Bid:

- a. Submission of more than one Bid for the same work by an individual, firm, partnership or Corporation under the same or different name(s);
- b. Evidence of collusion among Bidders;
- c. Previous participation in collusive bidding on Work for the City;
- d. Submission of an unbalanced Bid, in which the prices quoted for same items are out of proportion to the prices for other items;

- e. Lack of competency of Bidder (the Agreement will be awarded only to a Bidder(s) rated as capable of performing the Work; the City may declare any Bidder ineligible at any time during the process of receiving Bids or awarding the Agreement where developments arise which, in the opinion, the City adversely affect the Bidder's responsibility; however, the Bidder will be given an opportunity by the City to present additional evidence before final action is taken;
- f. Lack of responsibility as shown by past Work judged from the standpoint of workmanship and progress; financial irresponsibility, including but not limited to, leaving retainage in City account;
- g. Uncompleted Work for which the Bidder is committed by Agreement, which in the judgment of the City, might hinder or prevent the prompt completion of Work under this Agreement if awarded to such Bidder; and
- h. Being in arrears on any of his existing or prior contracts with the City or in litigation which the City thereon or having defaulted on a previous contract with the City.

10. REJECTION OF BIDS

Bids may be considered irregular and may be rejected if they show omissions, alterations of forms, addition not called for, conditions limitations, unauthorized alternate Bids or other irregularities of any kind. The City reserves the right to waive any informalities or irregularities of Bids.

11. FAILURE TO PERFORM

If for any reason the Contractor fails to perform any of the Work required by the Specifications, or if the Work performed is not as specified, the City reserves the absolute right to have such Work performed by other persons and deduct the cost thereof from the Bid price of the company under Agreement.

12. PRICING SHEET (REQUIRED SUBMITTAL)

Unit prices shall include an appropriate allocation of overhead, other indirect costs and profits so that the summation of unit price extensions and lump sum items represents the total Bid amount. In the case of any Bid item for which a fixed amount predetermined by the City has already been entered on the Bid Schedule, the amount so entered shall be conclusive of all Bidders as the price for such item, and shall not be revised unless the City directs a change in the Scope of the Work affecting the item to which such amounts relates. Award will be based on the total fixed unit cost for all items aggregated.

13. BID GUARANTEE (REQUIRED SUBMITTAL)

Bidders are required to furnish a Bid Guarantee in the amount of five percent (5%) of the total Bid amount. Bidders offering alternative Bids shall provide a guaranty for the largest total Bid amount. At the option of the Bidder, the guaranty may be a certified check payable to the order of the City or a bid bond in the form attached. The bid bond shall be secured by a guaranty or a surety company listed in the latest issue of U.S. Treasury Circular 570. The amount of such bid bond shall be within the maximum amount specified for such company in Circular 570. No Bid shall be considered unless it is accompanied by the required guaranty. Bid Guarantee shall insure the execution of the Agreement and the furnishing of the performance and payment bonds and insurance by the successful Bidder as required by the Agreement Documents. The Bid Guarantee of the Bidders submitting the five (5) lowest total Bid amounts for the Agreement will be retained either until the successful Bidder has signed the Agreement and furnished performance and payment bonds and certificates of insurance, or until the ninetieth (90th) calendar day after the Bid opening date, whichever is sooner. Other Bid Guarantees will be returned within ten (10) calendar days after the Bid opening date. Bid Guarantees being held pending the signing of the Agreement and furnishing other documents will be returned within three (3) calendar days thereafter. Each Bidder agrees that if it is awarded the Agreement and fails to execute the Agreement and to furnish the other documents required within five (5) days, the City will retain the Bid Guarantee as liquidated damages and not as a penalty.

Attorneys-in-fact who sign bid bonds must file with the bond a certified and effectively dated copy of their power of attorney.

14. STATEMENT OF BIDDER'S QUALIFICATIONS (REQUIRED SUBMITTAL)

The statement of Bidder's Qualifications must be filled out completely, signed by the Bidder, and notarized.

The City shall have the right to require such additional information, as it deems necessary to evaluate the ability of the Bidder to successfully perform the Work.

The City reserves the right to reject any Bidder who does not satisfy the City as to his ability to successfully perform the Work, previous pre-qualification notwithstanding.

The cause for rejection shall include:

- a. Non-compliance of the Bidder with the requirements of an equal employment opportunity in contracting program as may be prescribed by ordinance;
- b. Non-compliance by the Bidder with the requirements of a minority and female business enterprise participation program as may be prescribed;

- c. Inadequate quality, availability and adaptability of the supplies or services to the particular use required; or
- d. Unacceptable number and scope of conditions attached to the Bid by the Bidder, if any.

15. AFFIDAVIT (REQUIRED SUBMITTAL)

1) The affidavit must be filled in completely, signed by the Bidder, and notarized. Violation of the statements set forth in this affidavit may be grounds for rejection of Bid, or termination of Agreement by the City, as appropriate, as well as other appropriate remedies as provided by local, state, and federal statutes.

- 2) Along with bid submittal, bidders must submit all required affidavits to the City in compliance with the Georgia Security and Immigration Compliance Act of 2006. Please note that an affidavit is required for the contractor and for each subcontractor identified by the contractor as shown in Appendix "E".

16. EQUAL BUSINESS OPPORTUNITY PROGRAM (REQUIRED SUBMITTAL)

The Bidder shall complete the Equal Business Opportunity ("EBO") Program documents in accordance with the instructions included in APPENDIX A, REQUIREMENTS OF THE OFFICE OF CONTRACT COMPLIANCE, and shall properly execute the documents.

A determination by the City that misstatements have been made by the Bidder in this document shall cause rejection of Bid or termination of Agreement, as appropriate and shall be grounds for other remedies available under City ordinances, and state or federal statutes.

17. AUTHORIZATION TO TRANSACT BUSINESS (REQUIRED SUBMITTAL)

If the Contractor is a corporation or corporations combined to form a joint venture, the corporation or members of the joint venture team, prior to Agreement execution, must submit documentary evidence from the Secretary of State that the corporation is in good standing and that the corporation is authorized to transact business in the State of Georgia.

18. BUSINESS NON-DISCRIMINATION POLICY

The City prefers to do business with firms or institutions that include representation of minorities and women at all levels.

19. EQUAL EMPLOYMENT OPPORTUNITY (“EEO”) IN PURCHASING AND CONTRACTING

To be eligible for award of this Agreement, the Bidder must certify and fully comply with the requirements, terms, and conditions of the section on EEO.

20. CONTRACT EMPLOYMENT REPORT

Upon award of an Agreement with the City, the successful Bidder must submit a Contract Employment Report (“CER”) and supplemental information as required to comply with the paragraph, “Monitoring of EEO Policy, Requirements of the Office of Contract Compliance.”

**21. FIRST SOURCE JOBS POLICY EMPLOYMENT AGREEMENT
(REQUIRED SUBMITTAL LOCATED IN APPENDIX A)**

The Bidder shall acknowledge and implement the First Source Jobs Policy.

22. BID FORM; BID SCHEDULE; BID DATA; CHECKLIST (REQUIRED SUBMITTAL)

The Bidder must complete and execute all sections of the Bidding documents.

23. ESCROW BID DOCUMENTS

This solicitation requires that the three (3) low bidders submit, within three (3) business days, one copy of all documentary information generated in preparation of bid prices for this project. This material is hereinafter referred to as "Escrow Bid Documents". The Escrow Bid Documents of the successful bidder will be held in escrow for the duration of the Agreement and warranty period. Escrow Bid Documents of the other bidders will be returned to the bidders following award and execution of the respective Agreement.

The successful bidder agrees, as a condition of award of the Agreement, that the Escrow Bid Documents constitute all of the information used in preparation of his bid, and that no other bid preparation information shall be considered in resolving disputes, claims or negotiation of change orders to the Agreement.

Nothing in the Escrow Bid Documents shall change or modify the terms or conditions of the Agreement Documents.

Ownership

The Escrow Bid Documents are, and shall always remain, the property of the Bidder, subject only to joint review by the City and the Bidder, as provided herein.

The City stipulates and expressly acknowledges that the Escrow Bid Documents, as defined herein, constitutes trade secrets. This acknowledgment is based on the City's express understanding that the information contained in the Escrow Bid Documents is not known outside the bidder's business, is known only to a limited extent and only by a limited number of employees of the bidder, is safeguarded while in bidder's possession, is extremely valuable to bidder and could be extremely valuable to bidder's competitors by virtue of it reflecting bidder's contemplated techniques of construction. City acknowledges that the bidder expended substantial sums of money in developing the information included in the Escrow Bid Documents and further acknowledges that it would be difficult for a competitor to replicate the information contained therein. City further acknowledges that the Escrow Bid Documents and the information contained therein are made available to City only because such action is an express prerequisite to award of the Agreement. City acknowledges that the Escrow Bid Documents include a compilation of information used in the bidder's business, intended to give the bidder an opportunity to obtain an advantage over competitors who do not know of or use the contents of the documentation. City agrees to safeguard the Escrow Bid Documents, and all information contained therein, against disclosure to the fullest extent permitted by law.

Purpose

Escrow Bid Documents will be used to assist in the negotiation of price adjustments and change orders and in the settlement of disputes, claims and other controversies. They will not be used for pre-award evaluation of the Bidder's anticipated methods of construction or to assess the Bidder's qualifications for performing the work.

Format and Contents

Bidders may submit Escrow Bid Documents in their usual cost estimating format. It is not the intention of this specification to cause the bidder extra work during the preparation of the bid, but to ensure that the Escrow Bid Documents will be adequate to enable complete understanding and proper interpretation for their intended use. The Escrow Bid Documents shall be in the language (e.g., English) of the Specifications.

It is required that the Escrow Bid Documents clearly itemize the estimated costs of performing the work of each bid item contained in the bid schedule. Bid items should be separated into sub-items as required to present a complete and detailed cost estimate and allow a detailed cost review. The Escrow Bid Documents shall include all quantity takeoffs, crew, equipment, calculations of rates of production and progress, copies of quotations from subcontractors and suppliers, and memoranda, narratives, consultant's reports, add/deduct sheets, and all other information used by the bidder to arrive at the

prices contained in the bid proposal. Estimated costs should be broken down into the bidder's usual estimate categories such as direct labor, repair labor, equipment operation, equipment ownership, expendable materials, permanent materials, and subcontract cost as appropriate. Plant and equipment and indirect costs should be detailed in the bidder's usual format. The Bidder's allocation of plant and equipment, indirect costs, contingencies, markup and other items to each bid item shall be included.

The EBDs shall clearly show in calculations, text, or both, the relationship between baseline indications presented in the Agreement Documents and assumptions that form the basis for the Bidder's means, methods, equipment selection, rates of production, and costs.

All costs shall be identified. For bid items amounting to less than ten thousand dollars (\$10,000), estimated unit costs are acceptable without a detailed cost estimate, providing that labor, equipment, materials, and subcontracts, as applicable, are included and provided that indirect costs, contingencies, and markup, as applicable, are allocated.

Bid documents provided by the City should not be included in the Escrow Bid Documents unless needed to comply with the requirements of this provision.

Submittal

The Escrow Bid Documents shall be submitted by the three lowest bidders in a sealed container within seventy-two (72) hours after the time of receipt of bids. The ESCROW BID DOCUMENTATION CERTIFICATION shall be enclosed in a separate envelope and attached to the outside of the EBD container so as to be readily accessible to the City without having to open the document container. The bidder will obtain the completed ACKNOWLEDGEMENT OF DELIVERY certification, from the City and will deliver the acknowledgment and a copy of the Escrow Bid Documentation Certification, Attachment 5, which accompanied the Escrow Bid Documents, to the City within said seventy-two (72) hour period. The container shall be clearly marked on the outside with the bidder's name, date of submittal, project name and the words "Escrow Bid Documents".

The Escrow Bid Documents shall be accompanied with the Escrow Bid Documentation Certification, signed by an individual authorized by the bidder to execute the bidding proposal, stating that the material in the Escrow Documentation constitutes all the documentary information used in preparation of the bid and that he has personally examined the contents of the Escrow Bid Documents container and has found that the documents in the container are complete. Prior to award, Escrow Bid Documents of the apparent successful bidder will be examined, organized and inventoried by representatives of the City, together with members of the Contractor's staff who are knowledgeable in how the bid was prepared.

This examination is to ensure that the Escrow Bid Documents are authentic, legible and complete. It will not include review of, and will not constitute approval of, proposed construction methods, estimating assumptions, or interpretations of Agreement Documents. Examination will not alter any condition(s) or term(s) of the Agreement.

If the Agreement is not awarded to the apparent successful bidder, the Escrow Bid Documents of the bidder next to be considered for award shall be processed as described.

Timely submission of complete Escrow Bid Documents is an essential element of the bidder's responsibility and a prerequisite to Agreement award. Failure to provide the necessary Escrow Bid Documents will be sufficient cause of the City to reject the bid.

If the bidder's proposal is based on subcontracting any part of the work, each subcontractor, whose total subcontract price exceeds five percent (5%) percent of the total Agreement price proposed by the bidder, shall provide separate Escrow Bid Documents to be included with those of the bidder. These documents will be opened and examined in the same manner and at the same time as the examination described above for the apparent successful bidder.

If the Bidder wishes to subcontract any portion of the work after award, the City retains the right to require the Bidder to submit Escrow Bid Documents from the subcontractor before the subcontract is approved.

Escrow Bid Documents submitted by unsuccessful bidders will be returned unopened, unless opened as provided above, following award of the Agreement.

Storage

One (1) full original set of the Bid Documents will be placed in escrow, for the life of the Agreement, in a mutually agreeable institution. The cost of storage will be paid by the Bidder and a key with an access authorization card, which will be the property of the City until final close-out and settlement of all disputes. If at any time either party wishes to exercise their right to review the escrowed materials, notice will be given to the other parties.

Examination

The Escrow Bid Documents shall be examined by both the City and the successful Bidder, at any time deemed necessary by either the City or the successful Bidder, to assist in the negotiation of price adjustments and change orders, or the settlement of disputes.

24. PRE-BID INSPECTION

Prior to submission of a Bid, the Bidder shall have made a thorough examination of the Work Site. The Bidder shall become informed as to the nature of the proposed construction, the kind of facilities required to carry out the construction, labor conditions, and all other matters that may affect the cost and time of completion of the Work upon which it bids.

The Bidder shall make itself familiar with all of the Agreement documents and other instructions before submitting its Bid, in order that no misunderstanding shall exist in regard to the nature and character of the Work to be done. No allowance shall be made for any claims that the Bid is based on incomplete information as to the nature and character of the site or the Work involved.

The Contractor, by execution of the Agreement, shall in no way be relieved of any obligation under it due to its failure to receive or examine any form or legal instrument or to visit the site and acquaint itself with the conditions there existing, and the City shall be justified in rejecting any claims based on facts regarding that which the Contractor should have known as a result thereof.

25. ADDENDA AND INTERPRETATIONS

All questions by prospective Bidders as to the interpretations of the Bidding Documents must be submitted in writing to: Anthony Stanley, Contracting Officer, City of Atlanta, Department of Procurement, 55 Trinity Avenue, S.W. Suite 1900, Atlanta, Georgia 30303, or emailed to adstanley@atlantaga.gov, and must be received by **3:00p.m. EST on Friday, November 16, 2012**. Every interpretation made to a Bidder will be in the form of an addendum to the Bidding Documents, and when issued, will be on file in the Department of Procurement. In addition, all addenda will be mailed to each person holding Bidding Documents, but it shall be the Bidder's responsibility to make inquiry as to the addenda issued. All such addenda shall become part of the Agreement and all Bidders shall be bound by such addenda, whether or not received by the Bidders.

The City shall not be bound by any information, explanation, clarification, or any interpretation, oral or written, by whomsoever made, that is not incorporated into an addendum to the Bidding Documents. No response shall be made to inquiries received later than **3:00p.m. EST on Friday, November 16, 2012**.

26. PRE-BID CONFERENCE & SITE VISIT

A Pre-bid Conference will be held on **Tuesday, November 13, 2012 at 10:00 a.m.**, in the Bid Conference Room of the Department of Procurement at 55 Trinity Avenue, Atlanta, GA 30303, Room 1900. At that time, the general requirements of the project will be discussed. Any additional questions raised by Bidders will be discussed.

A work site visit will be held for all potential bidders on **Wednesday, November 14, 2012 at 9:30 a.m. to 11:30 a.m.**, located at 2061 Liddell Drive, NE, Atlanta, Georgia 30324.

General requirements of the project will be discussed at the Pre-bid Conference. Also discussed will be questions regarding preparation and submission of Bids and general contractual requirements. Bidders will be allowed to ask questions. **Oral answers to questions during the Pre-bid Conference will not be authoritative.**

It should be emphasized, however, that nothing stated or discussed during the course of this conference shall be considered to modify, alter or change the requirements of the Bidding Documents, unless it shall be subsequently incorporated into an addendum to the Bidding Documents.

27. TIME FOR RECEIVING BIDS

Sealed Bids for this project will be received by designated staff of the Department of Procurement, Suite 1900, City Hall South, 55 Trinity Avenue, S.W., Atlanta, GA 30303, no later than 1:59 p.m. EST, (as verified by the Bureau of National Standards) on **Monday, December 3, 2012. ABSOLUTELY NO BIDS WILL BE RECEIVED AFTER 1:59 P.M. ON THE RESPECTIVE DATE.** All Bids received by the time and date set forth will be opened publicly and read at **2:00 p.m.** in the Department of Procurement Bid Conference Room, Suite 1900, at the aforementioned address.

Bids received prior to the advertised hour of opening will be kept secured and sealed. The contracting officer whose duty it is to open them will decide when the specified time has arrived, and no Bid received thereafter will be considered, except that when a Bid arrives by mail after the time fixed for opening, but before the reading of all other Bids is completed, and it is shown to the satisfaction of the City that the non-arrival on time was due solely to delay in the mail for which the Bidder was not responsible, such Bid will be received and considered.

28. BID MODIFICATION AND WITHDRAWAL

Bids may be modified after they have been submitted, but only before the Bid opening date and time. Modifications must be signed by the Bidder and must be received by the City no later than the Bid opening time and date. Modifications should not reveal the total Bid amount, but should identify the addition and subtraction or other modification in a manner in which the prices will not be known by the City until the sealed Bid is opened.

Bids may be withdrawn after they have been submitted, but only before the Bid opening date and time. Withdrawn bids may be resubmitted, but only in the manner in which the Bid was originally submitted. Withdrawals must be signed as stipulated above for modification. Bids may not be withdrawn between the Bid opening time and date and **one**

hundred eighty (180) calendar days thereafter, except as may be agreed upon by a written agreement between the Bidder and the City.

29. BID EVALUATION

- a. Each Bid timely received and in the City's hands at the time set forth for the Bid opening shall constitute an offer to perform the Agreement on the terms and conditions thereof, in strict accordance with the Agreement documents, and all other requirements, all for the Bid total. For good cause and valuable consideration, the sufficiency of which is acknowledged by submittal of a Bid, each Bidder promises and agrees that its Bid shall be irrevocable for a period of ***one hundred eighty (180) calendar days*** after the Bid opening and will not be withdrawn or modified during that time. The City may accept any Bid by giving the Bidder Written Notice of acceptance during that time. If necessary, the period of time specified may be extended by written agreement between the City and the Bidder or Bidders concerned.
- b. After the Bids have been opened and before any award is made, the City will evaluate the Bid process, the Bid total, the supplements to the Bid form, Bidder's experience, financial data, Local Preference Program, proposed Subcontractors and equipment manufacturers and other data relating to Bidders' responsibility and qualifications to perform the Agreement satisfactorily.
- c. All extension of the unit prices shown and the subsequent addition of extended amounts may be verified by the City. In the event of a discrepancy between the unit price bid and the extension, the unit price will be deemed intended by the Bidder and the extension shall be adjusted. In the event of a discrepancy between the sum of the extended amounts and the bid total, the sum of the extended amounts shall govern.
- d. Bidder may be required to submit, in writing, the addresses of any proposed Subcontractors or Equipment manufacturers listed on the Bid, and to submit other material information relative to proposed Subcontractors or Equipment manufacturers. The City reserves the right to disapprove any proposed Subcontractor or Equipment manufacturers whose technical or financial ability or resources or whose experience are deemed inadequate.
- e. The City reserves the right to reject any Bid the prices of which appear to be unbalanced, and to reject any or all Bids, or parts thereof, if it determines, in its sole discretion, that such rejection is in the best interest of the City. Where only a single responsible and responsive Bid is received, the City may in its sole discretion, elect to conduct a price or cost analysis of the Bid. Such Bidder shall cooperate with such analysis and provide such supplemental information as may be required. The determination whether to enter into an Agreement with such sole Bidder shall be solely within the City's discretion and not dependent upon performance of a price or cost analysis.
- f. Bids will be evaluated on the basis of determining the lowest Bid total of a Bidder, not including alternates, whose Bid is responsive to the Invitation to Bid and who is

determined to be technically, financially and otherwise responsible to perform the Agreement satisfactorily, and to meet all other requirements of the Bidding Documents relating thereto. Any Bid may be rejected if it is determined by the City to be non-responsive, provided, however, that the City reserves the right to waive any irregularities or technicalities which it determines, within its sole discretion, to be minor in nature and in the interest of the public. Furthermore, any Bid may be rejected if it is determined by the City, in its sole discretion, that the bidder is not capable of performing the Agreement satisfactorily based upon review of its experience and technical and financial capabilities, or the failure of such bidder to provide information requested relating to such determination. Additionally, the City reserves the right to disqualify Bids, before and after the bid opening, upon evidence of collusion with intent to defraud or other illegal practices upon the part of any Bidder(s).

- g. The City intends to award the Agreement at the earliest practicable date to the lowest responsive, responsible Bidder(s), provided that the Bid is within the funds available for the project. The City reserves the right to award the Agreement to multiple Bidders. In addition, the City reserves the right to reject any and/or all Bids if it determines, in its sole discretion, that the public interest will be best served by doing so.
- h. A Pre-award Conference may be conducted with the apparent low Bidder(s) to review general requirements of the Bidding Documents.

30. **AWARD CRITERIA**

Award will be made after evaluating the prices, responsiveness and responsibility of each Bidder.

- A. The **responsiveness** of a Bidder is determined by the following:
 - 1. A timely and effective delivery of all services, materials, documents, and/or other information required by the City;
 - 2. The completeness of all material, documents and/or information required by the City; and
 - 3. The notification of the City of methods, services, supplies and/or equipment that could reduce cost or increase quality.
- B. The **responsibility** of a Bidder is determined by the following:
 - 1. The ability, capacity and skill of the Bidder to perform the Agreement or provide the Work required;
 - 2. The capability of the Bidder to perform the Agreement or provide the Work promptly, or within the time specified without delay or interference;
 - 3. The character, integrity, reputation, judgment, experience and efficiency of the Bidders;
 - 4. The quality of performance of previous contracts or work;

5. The previous existing compliance by the Bidder with laws and ordinances relating to the Agreement or Work;
6. The sufficiency of the financial resources and ability of the Bidder to perform Agreement or provide the Work;
7. The compliance of the Bidder with the requirements of Division II, Equal Employment Opportunity (EEO), and Division 12, Minority and Female Business Enterprises, of the City's Department of Procurement;
8. The quality, availability and adaptability of the supplies or contractual Work to the particular use required; and
9. The successful Bidder shall assume full responsibility for the conduct of his agents and/or employees during the time such agents or employees are on the premises for the purpose of performing the Work herein specified.

31. SURETY BONDS

Regarding submission of surety bonds prior to or subsequent to the Bid submission, the following requirements pertain:

- a. Any surety bond submitted in accordance with the Bid or Agreement requirements must be issued by a corporate surety company satisfactory to the City and authorized to act as such in the State of Georgia;
- b. Such bonds shall conform to the forms provided with the Bid Documents and be completed in accordance with the instructions thereon; and
- c. In accordance with Georgia law, and upon award of the Agreement, separate performance and payment bonds shall be required of the successful Bidder, each in an amount not less than the total amount payable under the Agreement.

The payment bond shall remain in effect for the period required under Georgia law for the payment bonds on public construction agreements. Reference is made to the bond forms and the Agreement Documents for additional particulars of the terms required in the bonds. In the case of any inconsistency between the Bond Forms and Georgia law, the law shall control. Finally, alterations, extension of the time allowed for performance, extra and additional Work, and other changes authorized under the Agreement may be made without notice to or consent of the surety or sureties.

32. POWER OF ATTORNEY

Attorneys-in-fact who sign agreement bonds must file with each bond a certified copy of their power of attorney with the appropriate effective date.

33. INSURANCE REQUIREMENTS

The Contractor shall procure and maintain during the life of this Agreement, Workmen's Compensation, Public Liability, Property Damage, Automobile Liability insurance and any other insurance necessary to satisfy the requirements of the Agreement Documents.

34. LAWS AND REGULATIONS

The Bidder's attention is directed to the fact that all applicable state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the Agreement throughout, to the extent that such

35. AGREEMENT TERMS

Contractor shall commence Work within ten (10) calendar days after Notice to Proceed ("NTP") and Substantial Completion shall be achieved within four hundred and forty (440) days from issuance of NTP; and Final Completion shall be achieved as defined in the General Conditions, or at such time as may comprise the Agreement Time as defined under the Agreement.

36. LIQUIDATED DAMAGES

The performance of the Work under Agreement within the specified time is essential to the City's economic interests. The attention of potential Bidders is directed to the provisions of the Agreement Documents, which establish the basis for liquidated damages to be paid to the City in the event that the Work is not completed on schedule.

37. EXECUTION OF AGREEMENT

Each Bidder agrees that, it is awarded a Agreement (the form of which attached to this ITB at Part X and must be fully executed and provided as a submittal in the a Bidder's Bid), it will, in addition to the executed Agreement, be required to submit additional documentation (e.g.) insurance/bonds, etc.) after such award pursuant to notice provide by City. If within three (3) days of receiving such notice, the successful Bidder fails to comply with the notice and submit additional requested documentation, City may retain the Bid Guarantee as liquidated damages and not as a penalty.

38. PRE-CONSTRUCTION CONFERENCE

A pre-construction conference may be held with the successful Bidder and all known Subcontractors at a time and place set by the City.

39. SUBSTITUTIONS

Whenever a Material, article, or piece of Equipment is identified on the Plans or in the Specifications by reference to manufacturers' or vendors' names, trade names, catalog numbers, etc., it is intended to establish a standard, and any Material, article, or Equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable, provided the Material, or Equipment so proposed is, in the opinion of the Engineer, of equal substance and function. It shall not be purchased or installed by the Contractor without the Engineer's written approval.

Whenever the design is based on a specific product of a particular manufacturer or manufacturers, the manufacturer(s) will be shown on the Drawings and/or listed in the Specifications. Any item other than those so designated shall be considered a substitution.

If the manufacturer is named in the Drawings and/or detailed Specifications as an approved manufacturer, products of that manufacturer meeting all Specification requirements are acceptable.

Approval of any substitution will be made under the following provisions:

- A. If the term "OR EQUAL" follows the names of approved manufacturers, then other manufacturers desiring approval may submit the product to the Engineer for approval during the bidding phase. The manufacturer should include the following items in this pre-submittal:
 - (1) Descriptive literature, including information on Materials used, minimum design standards features, manufacturing processes and facilities, and similar information, which will indicate experience and expertise in the manufacture of the product being evaluated;
 - (2) Performance Specifications applicable to the manufacturer's standard design, which indicate the level of performance to be expected from the product;
 - (3) A complete set of submittal Drawings of similar Equipment that has been completed and placed into operation;
 - (4) A list of existing installations of equipment similar in type and size;
 - (5) Evidence of technical ability of the manufacturer to design and manufacture Equipment and systems meeting project requirements. Evidence submitted shall include, at a minimum, descriptions of engineering and manufacturing staff capabilities;
 - (6) Information required to satisfy specified experience requirements or a copy of the bond to be submitted in lieu of experience;

- (7) A complete description of field service capabilities, including the location of field service facilities which would serve the proposed facility and the number and qualifications of personnel working from that location;
 - (8) A complete list of all requirements of the Drawings and Specifications with which the manufacturer cannot conform, including reasons why alternate features are considered equivalent; and
 - (9) All other information necessary to fully evaluate the product for consideration.
- C. This pre-submittal shall reach the Engineer no later than three (3) weeks prior to the Bid date. Manufacturers will be advised of approval or rejection in writing no later than fourteen (14) days prior to the Bid date. Rejected submittals may be supplemented with additional information and resubmitted no later than one (1) week prior to the bid date. Manufacturers making supplementary submittals will be advised of approval or rejection in writing no later than three (3) days prior to the bid date.

NOTE: Bids based on Equipment, which has not received the approval of the Engineer, will render the Bidder as non-responsive and cause rejection of the Bid.

If the term "EQUAL TO" precedes the names of approved manufacturers in the Specifications, the Contractor may, after receiving the Notice to Proceed, submit Shop Drawings on the substitute product for the approval of the Engineer in accordance with General Condition 28.

Any Bidder intending to furnish substitute products is cautioned to verify that the item being furnished will perform the same functions and have the same capabilities as the item specified. The Bidder shall include in his bid the cost of accessory items; which may be required by the substitute product and any architectural, structural, mechanical, piping, electrical or other modifications required to accommodate the substitution.

Approval of the Engineer is dependent on his determination that the product offered is essentially equal in function, performance, quality of manufacture, ease of maintenance, reliability, service life and other criteria to that on which the design is based, and will require no major modifications to structures, electrical systems, control systems, or piping systems.

40. ILLEGAL IMMIGRATION REFORM AND ENFORCMENT ACT FORMS

This Request for Proposals/Invitation to Bid is subject to the Georgia Security & Immigration Compliance Act. Pursuant to the Georgia Security & Immigration Compliance Act of 2006, as amended o May 11, 2009, bidders and proponents are notified that all bids/proposals for services that are to be physically performed within the State of Georgia must be accompanied by proof of their registration with and continuing and future participation in the E-Verify program established by the United States Department of

Homeland Security. A completed affidavit (Appendix E) must be submitted on the top of the bid/proposal at the time of submission, prior to the time for opening bids/proposals. Under state law, the City cannot consider any bid/proposal which does not include a completed affidavit. It is not the intent of this notice to provide detailed information or legal advice concerning the Georgia Security & Immigration Compliance Act of 2006, as amended on May 11, 2009. All bidders/proponents intending to do business with the City are responsible for independently apprising themselves and complying with the requirements of that law and its effect on City procurement and their participation in those procurement.

For additional information on the E-Verify program or to enroll in the program, go to: <https://e-verify.uscis.gov/enroll>

41. SYSTEMATIC ALIEN VERIFICATION OF ENTITLEMENTS

The Systematic Alien Verification of Entitlements (S.A.V.E.) Form must be completed and submitted with the Bid.

42. SUBMITTALS

The following submittals must be completed and submitted with each Proposal.

	Required Bid Submittal Check Sheet¹	Check (✓)
	Illegal Immigration Reform and Enforcement Act Form	
1.	Bid Bond and Power of Attorney for the Attorney- in-Fact Signing the Bid Bond	
2.	Acknowledgement of Insurance and Bonding Requirements	
3.	Proof of Insurance Coverage and Bonding Capacity	
4.	Non-Collusion Affidavit Form	
5.	Non-Gratuity Affidavit	
6.	Form 1; Bidder Contact Directory	
7.	Disclosure Form and Questionnaire	
8.	Acknowledgment of Addenda	

¹ This table is included for Bidder's convenience and may be used to track the preparation and submittal of certain required information with its Bid.

9.	Bid Form	
10.	Systematic Alien Verification for Entitlements (S.A.V.E.)	
11.	Bidder Qualification Form	
12.	Contractor Agreement (Signed and Sealed) and if applicable copy of Joint Venture Agreement. Bidder must submit six (6) original signed Agreement Signatory Pages.	
13.	Miscellaneous; Documentation evidencing Proponent's authority to transact business in the State of Georgia	
14.	Appendix A; City's OCC Programs; Office of Contract Compliance Submittals; EBO Forms 1, 2, 3 and 4 (to be completed by Proponent and submitted with Proposal)²	
15.	Bid Certification Form	
16.	Georgia Utility Contractor's License Certification	

****END OF INSTRUCTIONS TO BIDDERS****

² Appendix B; Insurance and Bonding Requirements is a part of the Agreement but is not a form that is required to be completed by a Proponent.

PART II
GENERAL CONDITIONS/SPECIAL
CONDITIONS



GENERAL CONDITIONS



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PROJECT NO. FC- 6260,

PROJECT TITLE:

Peachtree Creek South Fork Relief Storage and Pumping Stations

GENERAL CONDITIONS

GC-1 AGREEMENT AND AGREEMENT DOCUMENTS

The General Conditions, Special Conditions, Technical Provisions, Drawings, Changes, and all other parts of the Agreement Documents are complementary, and a requirement occurring in one shall be as binding as though occurring in all. The parts of the Agreement are complementary and describe and provide for completion of the Work. The table of contents, titles, headings, running headlines and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Agreement Documents and in no way affect, and shall not be considered in the interpretation of the provisions to which they refer.

Execution of the Agreement by Contractor is a representation that Contractor has visited the Site, become familiar with the local conditions under which the Work is to be performed, and has correlated personal observations with the requirements of the Agreement Documents.

The intent of the Agreement Documents is to include all items necessary for the proper execution and completion of the Work. Work not specifically covered in the Agreement Documents shall be required if it is consistent therewith and reasonably inferable therefrom as being necessary to produce the intended results. Words and abbreviations that have well-known technical or trade meanings are used in the Agreement Documents in accordance with such recognized meanings.

If and to the extent of any inconsistency, ambiguity, conflict, discrepancy or error in the Agreement Documents (a "discrepancy"), Contractor shall immediately notify the Owner in writing and seek clarification from the Owner (within 24 hours of discovery). In the event that the Owner fails to clarify such discrepancy within a reasonable time under the circumstances, Contractor shall proceed with the Work and give precedence to the Agreement Documents in the following order of priority:

- (1) Written modifications (including without limitation Change Orders and Change Directives) issued after execution of the Agreement;
- (2) Addenda issued in writing prior to the execution of the Agreement;

- (3) the Agreement;
- (4) Addendum, if any, to the General Conditions and Special Conditions;
- (5) Special Conditions;
- (6) the General Conditions;
- (7) the Specifications; and
- (8) the Plans and Drawings.

If the application of the foregoing procedure fails to resolve the discrepancy, then unless Contractor sought and obtained the clarification of the discrepancy prior to entering into this Agreement, then the discrepancy shall be resolved by construing the provision in favor of the Owner and in such a manner as will further the Owner's best interests and which may impose the more expensive or greater obligation upon Contractor. When Contractor fails to provide this notice and seek clarification, Contractor assumes full responsibility to correct or adjust work performed pursuant to Agreement Documents known, or which should have been known, to contain such a discrepancy.

GC-2 ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS

During the progress of the Work, the Engineer may issue additional instructions and Drawings supplemental to those listed in the Special Conditions showing additional details required for the performance of the Work, and may issue revised Drawings pursuant to Change Orders or Change Directives, or for correction of errors in the Plans. The additional instructions and Drawings thus supplied will become a part of the Agreement Documents. Contractor shall carry out the Work in accordance with the additional instructions and Drawings.

GC-3 DEFINITIONS

The following terms as used in this Agreement are respectively defined, as follows:

Abandonment - Shall mean the permanent termination of the use of, or of service from in or on, a facility.

Approved, Directed, Ordered, Or Their Derivatives - Approved, as directed, or ordered by the Engineer or the City, unless otherwise clearly indicated.

Acceptance - The formal written acceptance by the City of the fully and finally completed Work.

Addenda - Revisions to the Proposal Documents issued by the City prior to opening of the Bid.

Agreement - The written agreement for the performance of and payment for the Work, which includes by reference and is a part of the Agreement Documents, executed on behalf of the City and the Contactor, also called City-Contractor Agreement.

Agreement Documents - The Agreement Documents are defined in other portions of the Agreement, but include, at least, the following, if applicable to this Project:

- This City-Contractor Agreement;
- General Conditions (Part I);
- Special Conditions (Part II);
- Scope of Service (Part III);
- Equal Business Opportunity Program (Appendix A);
- Insurance and Bonding Requirements (Appendix B);
- LOCAL Bidder Preference Program (Appendix C);
- Georgia Security and Immigration Compliance Act of 2006 (Appendix D);
- Bid Form (Exhibit A);
- Required Submittals (Exhibit B);
- Addenda (Exhibit C);
- Legislation (Exhibit D); and
- Performance and Payment Bonds

The Agreement Documents may also be referred to from time to time as the "Contract Documents."

Agreement Price - The price or prices for the Work or items of Work set forth in the Bid.

Agreement Time - The number of calendar days stated in the Agreement Documents for the Substantial Completion of the Work or Final Completion of the Work, or the achievement of a specific interim milestone, as the context may require.

Applicant - Shall mean any person, company or corporation who intends or plans to request for water services for a new development.

Application for Payment - The form approved by the City that is to be used by Contractor in requesting progress payments or final payment, together with such supporting documentation as is required in the Agreement Documents. The Application for Payment may also be called Payment Application or Progress Payment.

Bid - The offer or bid of the Bidder submitted in the prescribed manner on the prescribed form setting forth the prices for the Work to be performed together with supplemental information as required by the Agreement Documents.

Bidder - Any person, firm, partnership, corporation or any combination thereof submitting a Bid for the Work.

Bonds - Bid, Performance Bonds, Payment Bonds, and other instruments of security furnished by Contractor and its surety in accordance with the Agreement Documents.

Bond means a written instrument of surety approved by the City with a valid Certificate of Authority issued by the United States Department of Treasury under Sections 9304 to 9308 of Title One of the United States Code as security to the City, on behalf of a Bidder or the Contractor, to guaranty faithful performance of acts, duties or obligations under the Contract Documents and includes the following:

- Bid Bond means the security instrument furnished with a Bid to guaranty that, if the Bidder is awarded the Contract, the Bidder will execute the Agreement within the time specified in the Bidding Documents.
- Maintenance Bond, if required on the Project, means the security instrument furnished by the Contractor and its surety on the approved form as a guaranty, in addition to other warranties and guaranties, to remedy any defects in the Work of the Contractor which may develop during the warranty period after Completion of the Contract.
- Payment Bond means the security instrument furnished by the Contractor and its surety on the Payment Bond Form as a guaranty that Contractor will pay in full all bills and accounts for materials and labor used in the Work.
- Performance Bond means the security instrument furnished by the Contractor and its surety on the Performance Bond Form as a guaranty that the Contractor will complete the Work in accordance with the terms of the Contract.

Change - Any change in the Work authorized by the Engineer, including Field Changes, Work Authorizations or Change Orders.

Change Directive – A written order prepared by the Owner and signed by the Owner directing a Change in the Work prior to or absent an agreement or adjustment, if any, in the Agreement Price or Agreement Time, or both.

Change Order - A written agreement signed by the Owner and Contractor, stating their agreement upon all of the following: (1) change in the Work that includes the addition or reduction of Work; (2) the amount of the adjustment, if any, in the Agreement Price; and (3) the extent of the adjustment, if any, in the Agreement Time and includes at least one of the above Changes. A Change Order does not include a Field Change, Work Authorization or Change Directive.

City - Shall mean the City of Atlanta, Georgia, and shall include all agencies, establishments or officials of the government of the City. The City may also be referred to from time to time as the "Owner."

City-Contractor Agreement - The written agreement for the performance of and payment for the Work executed on behalf of the City and the Contactor, which is both a part of the Agreement Documents and includes all Agreement Documents by reference. The City-Contractor Agreement may also be called "Agreement."

City's Contractor - Shall mean the legally authorized representative of the City, a private contractor, or other concerned agency performing Work under a direct Agreement with the City.

Construction - Shall mean the actual site preparation, building and all related Work, including facility relocation and adjustments.

Construction Easement/Temporary Easement - Any space or area dedicated to the City or other entity for the purpose of utilities or location of utilities for a specific period of time.

Construction Equipment - Equipment used in the performance of the Work but not incorporated therein.

Contract Documents - The Agreement Documents referenced above.

Contractor - Any firm, partnership, corporation, joint venture, LLC or any combination thereof who enters into a contractual Agreement with the City. This excludes Subcontractors/Sub-consultants.

CPM Schedule - A logic tied computerized network schedule incorporating all elements of the Work, prepared and updated in accordance with the requirements of the Special Conditions, subject to approval of the City.

Day - A calendar day of twenty-four (24) hours lasting from midnight one day to midnight the next day.

Department - Shall mean the Department of Watershed Management.

Designer - Shall refer to the firm licensed to practice engineering in the State of Georgia that seals the plans and specifications prior to bid.

Drawings - That part of the Agreement Documents which show the shape, outlines, dimensions, characteristics, scope of and other similar requirements governing the Work, or portions thereof, prepared by the Designer and including revisions thereto. The term is used interchangeably with the word "Plans" and includes without limitation Standard Details and Drawings.

Engineer - City of Atlanta or duly authorized representative assigned to administer the technical aspects of the Agreement. The terms Resident Engineer, Contract

Administrator, or Contract Manager may be used interchangeably to denote the person designated expressly by the City with authority to administer the Agreement.

Equipment - Equipment incorporated or to be incorporated in the Work.

Field Change – A Change in Work that includes changes or adjustments to quantities or budget items but does not include a Change in the overall Agreement Price, overall Agreement Time or use of allowance items, which is required as a result of field conditions that require such adjustments. A Field Change does not include a Work Authorization, a Change Order or a Change Directive and is agreed upon and executed by an authorized City representative and the Contractor.

Final Completion- Final Completion for the purposes of this Project shall be at such time as the City finally accepts the Project in accordance with the Agreement Documents, together with receipt of satisfactory final acceptance testing, inspections, warranties, as-built-drawings and all other documentation and required submittals defined in the Agreement Documents, which shall not exceed seven (7) months after Substantial Completion.

Force Account - A method of payment, other than lump sum or unit price, for Work ordered by Change Order and paid for in accordance with force account procedures indicated in “Force Account” Section of the General Conditions.

General Conditions - The General Conditions of the Agreement for construction that govern the rights, duties, and obligations of the parties.

GDOT - The Georgia Department of Transportation.

Inspector - The authorized representative of the Engineer or the City assigned to make detailed inspection of any or all portions of the Work or Materials thereof.

MARTA - Shall mean the Metropolitan Atlanta Rapid Transit Authority, or its designated legal representatives.

Materials - Materials incorporated or to be incorporated in the Work unless otherwise clearly indicated.

Modifications – Binding changes, addenda, revisions, or the like, to the Work or the Agreement Documents, including Changes to Work made by Change Order, Work Authorization, Field Change or Change Directive as required by GC-41.

Notice of Intent or Letter of Intent to Award - The written notice of the acceptance of the Bid from the City to a Bidder.

Notice to Proceed - (“NTP”) Written communication issued by the City to Contractor authorizing it to proceed with the Work and establishing the date of commencement of

the Agreement time and on which Contractor shall start to perform its obligations in accordance with the Agreement Documents.

Owner - Same as "City" above.

Permanent Easement - Any space or area dedicated to the City or other entity for the purpose of constructing and/or maintain existing or future utilities.

Plans - That portion of the Agreement Documents describing in drawings, the shapes, outlines, dimensions, characteristics, scope and other similar requirements governing the Work, or portions thereof, prepared by the Designer and including revisions thereto. The term is used interchangeably with the word "Drawings" and includes without limitation Standard Details and Drawings.

Project - The Project is identified in the City-Contractor Agreement and is the total construction of which the Work performed under the Agreement Documents is a part.

Public Space/Public Right-of-Way - Shall mean the area between private property lines under the jurisdiction of the City, county, state or federal government, including, but not limited to, an alley, roadway, median, sidewalk, public way, or any combination thereof.

Punch List - Shall mean the lists prepared by the City's Representative or Design Consultant prior to Substantial Completion and through Final Completion indicating items of Work not in accordance with the requirements of the Contract Documents and which must be performed, corrected and accomplished prior to acceptance of the Work.

Replacement Facility - Shall mean that facility, meeting the Department's current standards, which will be constructed or provided, as a consequence of the rearrangement of an existing facility or portion thereof.

Resident Engineer - The City's Engineer who is assigned to the Site or any part thereof.

Responsive Bid - A Bid which is accurate and complete with respect to Bid schedules and information submitted relative to the technical qualifications and financial responsibility and is able to comply with Equal Opportunity and other requirements of the Agreement Documents.

Samples - Shall mean physical examples furnished by Contractor, which illustrate materials, equipment or workmanship. Approved Samples in conformance with the Contract Documents establish the standards of the Work.

Shop Drawings - Shall mean drawings, diagrams, illustrations, schedules or other data illustrating the Work, and all illustrations, brochures, standard schedules, performance charts, specifications, instructions, diagrams, and other information prepared by a Subcontractor, Supplier, vendor or manufacturer and submitted by Contractor as required in the Contract Documents.

Scope of Services - See "Work."

Sidewalk Area - Shall mean that portion of a street between the curb lines and the adjacent property lines intended primarily for the use of pedestrians whether paved or in use.

Site - The areas required for the performance of the Work.

Special Conditions - Terms which supplement items covered in General Conditions.

Specifications, Technical Specifications - Shall mean those portions of the Contract Documents consisting of written technical descriptions, provisions or requirements of the Work to be performed under the Contract Documents, including, but not limited to, the quantities or quality of materials, equipment, construction systems or applications. Standards for specifying materials or testing that are cited in the Specifications are part of the Contract Documents.

Standards - Shall mean those current Standards of Engineering analysis and design, including Installation and Material Specifications, which the City utilizes in the design and construction of its own projects.

State - The State of Georgia.

Subcontractor - An individual, firm, corporation or any combination thereof having a direct contract with Contractor for the performance of a part of the Work at the site.

Substantial Completion - The date certified by the Engineer when all or a part of the Work, identified in the Engineer's certification, is sufficiently completed in accordance with the requirements of the Agreement Documents so that the identified portion of the Work can be utilized for the purposes for which it is intended.

Supplier - Any individual, firm, or corporation who supplies Material or Equipment for the Work (including that fabricated to a special design) but who does not perform or provide significant labor at the Site.

Temporary Facility - Shall mean a facility constructed for whatever purpose and not intended to be permanent.

Utility - Shall mean and include all public, private, or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, heat, gas, oil, crude products, water, steam, waste, storm water, and other similar commodities, such as public owned fire and police signal systems, which directly or indirectly serve the public or any part thereof.

Work - All the services specified, indicated, shown, or contemplated by the Agreement Documents and the furnishing by Contractor of all Materials, Equipment, labor,

methods, processes, construction and manufacturing materials and equipment, tools, plants, supplies, power, water, transportation and other things necessary to complete such services in accordance with the Agreement Documents and that will ensure a functional and complete facility.

Work Authorization – A Change in Work that adds, changes or removes scope of work from the Agreement but does not include a change in Agreement Time or Agreement Price; or the utilization of an allowance or contingency item, as permitted and defined by the Agreement documents. A Work Authorization does not include a Change Order, a Field Change or a Change Directive and is agreed upon and executed by an authorized City representative and the Contractor.

Working Days - Generally, Monday, Tuesday, Wednesday, Thursday, and Friday; however, on some projects, Saturday and/or Sunday may be considered working days, if specified as working days by the City or Engineer. Holidays are not considered Working Days.

Written Notice - A written statement transmitted from one party to an authorized representative of another party.

GC-4 APPLICABLE CODES, SPECIFICATIONS, AND STANDARDS

GC-4.1 General

All codes, Specifications, regulations, laws, ordinances, and standards referred to in the Agreement Documents shall mean, and are intended to be, the latest editions, amendment, and revisions of such reference standard in effect as of the date of the Invitation to bid for this Agreement, and as may be updated or amended to be applicable to the Project.

GC-4.2 Standards

Reference to a technical society, institution, association, or governmental authority, or pronoun in place of them, is made in the Agreement Documents in accordance with the following abbreviations:

ANSI	American National Standards Institute;
ASTM	American Society for Testing and Materials;
AWS	American Welding Society;
AASHTO	American Association of State Highway and Transportation Officials;
ACI	American Concrete Institute;
AFBMA	Anti-Friction Bearing Manufacturer's Association;
AI	Asphalt Institute;
AISI	American Iron and Steel Institute;
AISC	American Institute of Steel Construction;

AMCA	Air Moving and Conditioning Association;
API	American Petroleum Institute;
ASME	American Society of Mechanical Engineers;
ASTM	American Society for Testing and Materials;
AWG	American (Brown and Sharpe) Wire Gauge;
AWS	American Welding Society;
AWWA	American Water Works Association;
CRSI	Concrete Reinforcing Steel Institute;
EPA	Environmental Protection Agency (Federal);
EPD	Environmental Protection Division (Georgia State);
GDOT	Georgia Department of Transportation (“GDOT”);
MARTA	Metropolitan Atlanta Rapid Transit Authority;
NACE	National Association of Corrosion Engineers;
NFPA	National Fire Protection Association;
NSF	National Sanitary Foundation;
OSHA	Occupational Safety and Health Administration; and
UL	Underwriter’s Laboratories Incorporated.

GC-5 ADEQUACY OF DESIGN

Before placing its Bid to the City, and continuously after the execution of the Agreement, Contractor shall carefully study and compare the Agreement Documents and shall at once report any error, ambiguity, inconsistency or omission that may be discovered, including any requirement which may be contrary to any law, ordinance, rule, regulation, or order of any public authority bearing on the performance of the Work. By submitting its Bid for the Agreement and the Work under it, Contractor agrees that the Agreement Documents, along with any supplementary written instructions issued by or through the Engineer that have become a part of the Agreement Documents, appear accurate, consistent, and complete. Contractor shall perform no portion of the Work at any time without Agreement Documents or, where required, approved shop Drawings, product data, or samples for such portion of the Work.

No claims shall be made by Contractor based on claims of defects, errors, omissions, ambiguities or inconsistencies in the Agreement Documents which were reasonably discoverable by a review of the Agreement Documents and correlation thereof with the actual conditions at the Project Site. No observation of the Engineer or City, and no inspections, tests or approval shall relieve Contractor from its obligation to perform the Work in strict conformity with the Agreement Documents.

Contractor has determined, by its own investigation and research, all the conditions affecting the work to be done and materials to be furnished and does not rely upon any representation by the City in connection therewith.

THE CITY, ITS AGENTS AND EMPLOYEES MAKE NO REPRESENTATION OR WARRANTY OF ANY NATURE WHATSOEVER TO CONTRACTOR CONCERNING THE AGREEMENT DOCUMENTS. By the execution hereof, Contractor acknowledges

and represents that it has received, reviewed and carefully examined such documents, has found them to be complete, accurate, adequate, consistent, coordinated and sufficient for construction, and that Contractor has not, does not, and will not rely upon any representations or warranties by the City concerning such documents as no such representations or warranties have been or are hereby made.

Prior to execution of the Contract, Contractor has evaluated and satisfied itself as to the condition and limitations under which the Work is to be performed, including, without limitation, (i) the location, condition, layout, and nature of the Project Site and surrounding areas, (ii) generally prevailing climatic conditions, (iii) anticipated labor supply and costs, (iv) availability and cost of materials, tools and equipment, and (v) other similar issues. With the exception of any differing site conditions clause, if any, that may be included in the Agreement Documents, the City assumes no responsibility or liability for the physical condition of the Project Site, or any improvements located on the Project Site. Contractor shall be solely responsible for providing a safe place for the performance of the Work.

Contractor acknowledges and agrees that its obligation to construct the Work in accordance with the Agreement Documents is not in any way altered or affected by the observations or inspections of the City or the Designer. Further, Contractor acknowledges and agrees that any warranty periods included herein merely set forth the time period during which Contractor is contractually required to specifically perform corrective work and that these warranty periods are not and shall not be construed to be exclusive remedies of the City. Instead, Contractor acknowledges and agrees that it shall be liable to the City for the cost of correcting Work not performed in accordance with the Agreement Documents for the full period of the applicable statute of limitations.

GC-6 CITY OF ATLANTA ORDINANCES

Contractor shall be bound by the provisions of all City of Atlanta Ordinances. It is Contractor's responsibility to be aware of and adhere to all existing or future ordinances that are in effect during the performance of the Agreement.

GC-7 PERMITS AND REGULATIONS

All applicable federal laws, state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the Project shall apply to the Agreement throughout to the extent that such requirements do not conflict with federal laws or regulations and in the event of a conflict, federal laws shall govern. All Work performed within the right of way of GDOT shall be in accordance with GDOT regulations, policies, and procedures.

Except as expressly stated in the Contract Documents, Contractor shall secure and will provide all building permits, licenses, and other applicable legal documents required for Contractor's performance of the Project.

Contractor shall give all notices and comply with all permits, laws, ordinances, rules and regulations bearing on the conduct of the Work as drawn and specified.

If any permit, license or certificate expires or is revoked, terminated or suspended as a result of any action on the part of Contractor or any person or entity for which Contractor is responsible, it shall neither be entitled to any additional compensation, nor to an extension of Agreement Time.

GC-8 TAXES

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 Material, Equipment and labor for the Work or portions thereof provided by Contractor which are legally enacted by any municipal, county, federal or state authority or department or agency thereof at the time Bids are received, whether or not yet effective.

All records maintained by Contractor pertaining to such taxes and levies and payment thereof shall be made available to the City at reasonable times for inspection, audit and copying.

GC-9 ARREARS TO OFFSET DEBT AGAINST CITY

No money shall be paid by the City upon any claim, debt, demand or account whatsoever, to any person, firm, or corporation who is in arrears to the City for taxes, or any other debt or claim, and the City shall be entitled to counterclaim and/or offset any such debt, claim, demand or account in the amount of taxes so in arrears or other debts or claims of the City, and no assignment or transfer of such debt, claim, demand, or account after the said taxes are due or after any such debt or claim is asserted by the City, shall affect the right of the City to so offset the said taxes, debts, or other obligations against the same.

Contractor agrees that the City shall be allowed to setoff and recoup any claim or demand that it may have against Contractor (or any of its constituent members if Contractor is a joint venture) whether such claim or demand is liquidated or unliquidated. Contractor further agrees that in the event it assigns or sells any amounts due or to become due under this Agreement, notice to the City of such assignment or sale shall not affect the City's rights of setoff or recoupment against Contractor for claims subsequently arising on this or any other project. Any assignee or purchaser of any amounts due Contractor under this Agreement shall be bound to these provisions and shall assume the risk of subsequently arising claims of setoff or recoupment.

GC-10 LIENS

Contractor acknowledges that neither it nor any of its Subcontractors or Suppliers have lien rights on public property. Contractor will furnish the City with evidence, satisfactory

to the City that all persons who have done Work or furnished materials in performance of this Agreement have been fully paid before it shall demand final payment due or unpaid under this Agreement. In case such evidence is not furnished, an amount necessary to meet the lawful claims of the persons aforesaid may be retained from any monies due or that may become due the said Contractor under this Agreement until the lawful claims aforesaid shall be fully discharged, and it is understood and agreed that the City assumes no obligation nor in any way undertakes to pay such lawful claim out of any funds due or that may become due the said Contractor out of the City's own funds.

If, in its sole discretion, the City wishes to make joint payment to Contractor and any of its Subcontractors or Suppliers, Contractor agrees that the City may do so, and Contractor agrees to cooperate with the City in identifying the amounts due Subcontractors and Suppliers to facilitate the making of said joint payment.

GC-11 ASSIGNMENTS

Contractor shall retain personal control and shall give personal attention to the fulfillment of this Agreement. Contractor shall not assign the whole or any part of this Agreement or any monies due or to become due hereunder without the written consent of the City. In case Contractor assigns all or any part of any monies due or to become due under this Agreement, the instrument of assignment shall contain, or shall be deemed to contain, a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to Contractor shall be subject to claims of all persons, firms, and corporations for services rendered or materials supplied for the performance of the Work called for in this Agreement and to setoffs and recoupments by the City as set forth in GC-9 above. Any assignment of this Agreement in whole or in part or any assignment of monies due or to become due hereunder must bind the assignee to all terms and conditions of this Agreement and protect and preserve all rights and remedies of the City as against Contractor and extend to the City the same rights and remedies against assignee. In the event that any person or entity should claim entitlement to all or any part of any monies due or to become due under this Agreement under the doctrine of subrogation, it further agrees that its rights shall be subject to claims of all persons, firms, and corporations for services rendered or materials supplied for the performance of the Work called for in this Agreement and to setoffs and recoupments by the City as set forth in GC-9 above.

GC-12 PATENTS AND ROYALTIES

Contractor shall indemnify and hold harmless the City and its officers, agents, servants, and employees from liability or all claims of any nature or kind, including costs, attorneys' fees, and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Agreement, including its use by the City, unless otherwise specifically stipulated in the Agreement Documents.

If Contractor uses any design, device or Materials covered by letters, trademarks, patent or copyright, it shall provide for such use by suitable agreement between the City and the holder of such design, device or Material. It is mutually agreed and understood that, without exception, the Agreement Price shall include all royalties or costs arising from the use of such design, device, or Materials in any way involved in the Work. Contractor or its sureties or both shall indemnify and hold harmless the City, its officers and employees from any and all claims for infringement by reason of the use of such patented or copyrighted design, device or Materials or any trademark or copyright in connection with Work agreed to be performed under this Agreement and Contractor shall indemnify the City for any cost, expense or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the Work or after completion of the Work, including any costs or expenses for experts and attorneys' fees.

GC-13 OUT-OF-STATE CONTRACTORS

If the lowest responsive Bidder is a foreign corporation, partnership, or sole proprietorship, the Bidder hereby irrevocably appoints the Secretary of State of Georgia as its agent for services of all legal process for the purpose of this Agreement only and shall obtain all required certificates and licenses required by the Georgia Law.

GC-14 CONTRACTOR'S OBLIGATIONS

GC-14.1 Supervision and Construction Procedures

GC-14.1.1

Contractor shall supervise and direct the Work, using Contractor's best skill and attention. Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures and shall coordinate all portions of the Work under the Agreement. All Work under the Agreement shall be performed in a skillful and workmanlike manner. Contractor shall exercise its control over all means, methods, techniques, and procedures so as to carefully and diligently coordinate the work of all Subcontractors and Suppliers or anyone working by, through, or under Contractor or a Subcontractor or Supplier.

GC-14.1.2

Contractor shall be responsible to the City for the acts and omissions of Contractor's employees, Subcontractors, Suppliers, and their agents and employees, and any other persons performing any of the Work under a contract with Contractor or a Subcontractor or Supplier.

GC-14.1.3

Contractor shall not be relieved from Contractor's obligations to perform the Work in accordance with the Agreement Documents by the activities or duties of the

Engineer in the administration of the Agreement or by inspections, tests, or approvals required or performed by persons other than Contractor.

GC-14.1.4

Contractor shall carefully study and compare the Agreement Documents with each other and with the site conditions and other information furnished by the Owner and shall at once report in writing to the Owner alleged errors, inconsistencies or omissions. If Contractor performs any construction activity involving an error, inconsistency or omission in the Agreement Documents that Contractor recognized or reasonably should have recognized and without having given written notice to the Owner, Contractor shall assume complete responsibility for such performance and shall bear the full amount of the attributable costs for correction.

GC-14.1.5

Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information available to Contractor with the Agreement Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported in writing to the Owner at once and shall be subject to the provisions of the last sentence of GC-14.1.4 above.

GC-14.2 Labor and Materials

GC-14.2.1

Unless otherwise provided in the Agreement Documents, 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 proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.

GC-14.2.2

Contractor shall, at all times, enforce strict discipline and good order among Contractor's employees and Subcontractors, and shall not employ on the Work any Subcontractor, unfit person or anyone not skilled in the task assigned them. The City may, after Written Notice, require Contractor to remove from the Work any employee the City deems incompetent, careless, or otherwise objectionable, including any employee of a Subcontractor or Supplier.

GC-14.2.3

All Work at the site shall be performed during regular working hours, except upon the City's written consent given after prior Written Notice.

GC-14.3 Contractor's Construction Schedule

Contractor shall comply with all scheduling requirements set forth in the Agreement Documents, including but not limited to the Special Conditions requirements for a CPM Schedule for performance of the Work.

GC-14.4 Conditions Affecting the Work

Contractor shall be responsible for having taken all steps necessary to ascertain the nature and location of the Work and the general and local conditions that can affect the Work or the cost thereof. Failure by Contractor to fully acquaint itself with conditions that 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, as-built conditions, other separate contracts to be entered into by the City relating to this Project that may affect the Work of Contractor, applicable provisions of law, and the character and availability of equipment and facilities needed prior to and during the prosecution of the Work, shall not relieve Contractor of its responsibilities under the Agreement Documents and shall not constitute a basis for an equitable adjustment or additional compensation under any circumstances. The City assumes no responsibility for any understanding or representations concerning conditions made by any of its officers, agents, or employees prior to the execution of the Agreement, unless such understanding or representations are expressly stated in the Agreement Documents.

GC-15 RIGHT OF ENTRY

The City reserves the right to enter the Site of the Work herein contracted for, by such agent or agents as they may elect, for the purpose of inspecting the Work, or for the purpose of installing such collateral Work as the City may desire. Contractor shall cooperate and coordinate with other contractors prosecuting other phases of the construction. Furthermore, if deemed necessary by the Engineer, Contractor will incorporate work activities of other City contractors directly into the schedule such that no phase of the Project(s) is delayed or impacted.

GC-16 NOTICES

Any notice, consent, approval, or other communication which is provided for or required by the Agreement Documents must be in writing and may be delivered in person to any party or may be sent by a facsimile transmission or by registered or certified U.S. mail, with postage prepaid, return receipt requested. Copies of all facsimiles shall also be sent via first class mail. Any such notice or other written communication shall be

deemed received by the party to whom it is sent (i) in the case of delivery by hand or delivery by reputable national or local courier (such as United Parcel Service or Federal Express), on the date of delivery to the party to whom such notice is addressed, (ii) in the case of facsimile transmission, one working day after the date of successful transmission (provided that an additional first class mail copy of such notice is subsequently received within five (5) days of the facsimile transmission), and (iii) in the case of registered or certified mail, the date receipt is acknowledged on the return receipt for such notice. All such notices and other written communications shall be sent to the persons and addresses listed below

If to Owner:

Contract Administrator
Department of Watershed Management
55 Trinity Avenue
Suite 5400
City Hall
Atlanta, Georgia 30303

and

Chief Procurement Officer
Department of Procurement
Room 1790
55 Trinity Avenue
Atlanta, Georgia 30303 _____

If to Contractor:

Representative
Contractor
Address
City, State, Zip _____

The addresses and persons listed may be changed at any time by giving Written Notice in accordance with this Article GC-16.

GC-17 SAFETY PRECAUTIONS AND PROGRAMS

The City, the Engineer, or their agents, employees or representatives are not responsible for the means, methods, techniques, sequences or procedures utilized by Contractor, or for the safety precautions and programs in connection with the Work. Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work and for complying with all applicable rules, ordinances, state and federal laws and regulations.

GC-18 SAFETY OF PERSONS AND PROPERTY

GC-18.1 Damage, Injury, or Loss

Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury, or loss to:

- (1) All employees on the Work and all other persons who may be affected thereby;
- (2) All the Work and all Materials and Equipment to be incorporated therein, whether in storage on or off the site, under the care, custody, or control of Contractor or any of Contractor's Subcontractors;
- (3) Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction; and
- (4) The Work of the City or other separate contractors.

GC-18.2 Notice

Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury, or loss.

GC-18.3 Warning, Signage

Contractor shall erect and maintain, as required by existing conditions and the progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.

GC-18.4 Hazardous Materials

When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.

GC-18.5 Remedy

Contractor shall promptly remedy all damage or loss to any property caused in whole or in part by Contractor, any Subcontractor, Supplier or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, except damage or loss attributable solely to the acts or omissions of the City, the Engineer or anyone directly or indirectly employed by any of them in any way, or by

anyone for whose acts any of them may be liable, and not attributable to the fault or negligence of Contractor. The foregoing obligations of Contractor are in addition to Contractor's obligations under the Insurance Section of the General Conditions or other provisions of the General Conditions.

GC-18.6 Project Safety Coordinator

Contractor shall provide a project safety coordinator who shall be devoted full time toward accident prevention during construction. The qualifications of the project safety coordinator shall be submitted to the Department of Watershed Management Office of Security and Safety (OSS) for approval. If the candidate meets the qualifications, the candidate will be interviewed by OSS to confirm the candidate's experience. Individuals must meet the requirements outlined below to be qualified for the position.

- (1) (a) Four (4) year Bachelor's degree and Five (5) years of construction loss control or construction safety experience; OR
(b) Ten (10) years of construction loss control or construction safety experience, AND
- (2) Current certifications as listed below in a, b, and c:
 - (a) OSHA 510 or equivalent 30 hours of construction safety training.
 - Trenching and Excavation (Standards- 29 CFR- 1926.651)
 - Confined Space Entry (Standards- 29 CFR- 1910.146 App. E), AND
 - (b) Traffic Control/flagging (Certified GDOT flagger), AND
 - (c) First Aide/CPR/AED (Standards- 29 CFR- 1910.266 (App. B).

GC-18.7 Loads

Contractor shall not load or permit any part of the Work to be loaded so as to endanger its safety.

GC-18.8 Emergencies

In any emergency affecting the safety of persons or property, Contractor shall act, at Contractor's discretion, to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by Contractor on account of emergency Work shall be determined as provided in the Agreement Documents, including GC-26 and GC-41.

GC-18.9 Miscellaneous

GC-18.9.1

Contractor acknowledges that it is fully aware of appropriate and safe procedures regarding blasting, including the contents and requirements of Official Code of Georgia Annotated § 25-9-1 through § 25-9-12, Blasting or Excavating Near Underground Gas Pipes and Facilities, any amendments thereto and rules and regulations issued pursuant thereto, and Contractor shall fully comply therewith. Contractor agrees and acknowledges that any failure on its part to adhere to appropriate procedures and said laws, rules and regulations shall not only be a violation of law but shall also be a breach of Agreement.

GC-18.9.2

Contractor acknowledges that it is fully aware of appropriate and safe procedures regarding high voltage lines, including the contents and requirements of Official Code of Georgia Annotated § 46-3-30 through § 46-3-39, Safeguards Against Contact with High Voltage Lines, any amendments thereto and rules and regulations issued pursuant thereto, and Contractor shall fully comply therewith. Contractor also confirms that representatives of Contractor have visited the site of the Work and have taken into consideration the location of all electric power lines on and adjacent to all areas onto which the Agreement Documents require or permit Contractor to Work, to store materials or to stage operations, and that Contractor has obtained from the owner or owners of the aforesaid electric power lines advice in writing as to the amount of voltage carried by the aforesaid lines. Contractor agrees that any failure on its part to adhere to appropriate procedures and said laws, rules and regulations shall not only be a violation of the law but shall also be a breach of Agreement.

GC-18.9.3

Contractor acknowledges and agrees that he is the person responsible under the law and that he is the person employing or directing others to perform labor within the meaning of Official Code of Georgia Annotated § 34-1-1, Labor and Industrial Relations. He acknowledges and agrees likewise that he will comply with said law.

GC-18.9.4

Contractor shall protect all Work, including but not limited to, excavations and trenches, from rain water, surface water, and backup of drains and sewers. Contractor shall furnish all labor, pumps, shoring, enclosures, and Equipment necessary to protect and keep the Work free of water.

GC-18.9.5

The provisions, terms and conditions of this Section, although very specific, are in no way intended to limit the general requirements hereof or the applicability of laws relating to Work conditions, safety or accident prevention and no specific provision or combination of specific provisions in any of said subsections or in any other parts or sections of the Agreement Documents shall be deemed to limit the obligations or responsibility of Contractor contained in general provisions with respect thereto or in laws, statutes, acts, rules or regulations which are applicable thereto but which are not specifically referred to in any part of the Agreement Documents.

GC-19 USE OF PREMISES AND CLEAN UP

GC-19.1 Storage, Cleanup and Cutting

Contractor expressly undertakes at no additional cost to the City:

- (1) To store its Materials, Supplies and Equipment at the Site of the Work in such orderly fashion and in such locations as approved by the Engineer or otherwise designated in the Agreement Documents that will not unduly interfere with the progress of the Work, or the Work of any other contractors or the activities of City personnel.
- (2) To clean up all refuse, rubbish, scrap materials, and debris caused by its operations to the end that at all times the Site of the Work shall present a neat orderly and workmanlike appearance. No items shall be left or discarded elsewhere on the Site, or any other City sites. Items that are to be discarded shall be removed to approved dump areas.
- (3) To remove all surplus material, false work, temporary structures, including foundations thereof, temporary plants of any description and debris of every nature resulting from its operations, and to put the Site in a neat, orderly condition before final payment. Such final cleanup Work shall be performed within the time specified for completion of Work, with such exceptions as may be approved in writing by the City. Unless otherwise provided in the Specifications, Contractor shall clean any portion of Work for which a separate time for completion is specified and the Site thereof to the above standards within the specified time, with such exceptions as may be approved in writing by the City.
- (4) To effect all cutting, fitting or patching of its Work required to make the same to conform to the Plans and Specifications and except with the consent of the City, not to cut or otherwise alter the Work of any other contractor.

GC-19.2 Protection and Use of Site

Contractor shall, at no additional cost to the City:

- (1) Coordinate all of Contractor's operations with, and secure approval from, the City before using any portion of the Site. Contractor shall perform all Work on the Site and in such work areas specified in the Agreement Documents or approved by the City's Engineer. All areas used for Work outside of areas designated in the Agreement Documents or as may be approved by the City's Engineer shall be deemed for Contractor's convenience at Contractor's sole risk and cost. Contractor shall assume full responsibility for any damage to any such land or area, or to the City or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the Work.
- (2) Cause its agents and employees to park their vehicles only at locations directed by the City. Contractor's agents and employees shall clean vehicles leaving the Site so as not to muddy roads in the vicinity of the Site. Vehicles shall be brought to the Site only in connection with necessary Work on the Project. In no event shall vehicles be brought to the Site outside normal working hours unless the City gives specific written permission in advance.
- (3) In connection with Contractor's operations, provide for the free flow of traffic over roads or streets in or adjacent to the Site. Contractor shall keep roads and streets free from obstructions of any character that might present a hazard or interference with traffic and in such condition that traffic can be adequately accommodated. When operations in connection with the Work necessitates the closing of traffic lanes, Contractor shall arrange in advance with the City, any adjacent property owners affected, and appropriate local authorities for such closing and shall provide as necessary appropriate barricades, signs, markers, flares and other devices and flagmen as may be required by the Engineer or the local authorities for traffic guides and public safety.
- (4) Provide facilities for its use and only at locations approved or directed by the City. Unless otherwise specified in the Agreement Documents, Contractor shall provide all power and lighting necessary for its Work, complying in all cases with local and national electrical codes, OSHA regulations, and any other applicable laws. The City shall direct the point or points to be used for service connection. Contractor shall provide telephone facilities for its own use and only at locations approved or directed by the City.
- (5) Unless otherwise specifically provided in the Agreement Documents, Contractor shall provide its own temporary facilities, including an office

and a watertight, closed area for storage and protection of Materials and Equipment to be used for, or incorporated in, the Work, except as specifically agreed in the Agreement Documents. Contractor's shanties, material storage rooms, field offices and the like will be approved by the City and placed in locations designated by the City. If it becomes necessary during the course of the Work for Contractor to relocate its field operations, it will do so in an expeditious manner and at no additional cost.

- (6) Contractor shall take measures to control the blowing or spreading of dust, smoke, dirt, mud and refuse from its Work to avoid nuisance and inconvenience to others whether on or off the Site. These measures shall be in compliance with, without being limited to, all applicable laws, and shall be subject to the City's approval. Contractor shall furnish all necessary labor and Materials such as water, approved chemicals, and Equipment.
- (7) Contractor shall be responsible for the removal or drainage of all water interfering with the proper prosecution of its Work. It shall, at all times, assure such drainage and shall not be a nuisance or inconvenience to the City, other contractors or their Work, or the occupants or users of any other public or private area on or off the Site. This Article supplements, and does not supersede, any drainage or dewatering called for elsewhere in the Agreement Documents.
- (8) Contractor shall not use permanent installed systems or equipment without permission of the City. If such permission is granted prior to completion of the Work, Contractor shall restore all parts of the system or equipment used by replacing materials, traps, valves, filters, motors, lamps, and the like to the extent that the City considers them to have been damaged or if their usefulness has been impaired or diminished by their temporary use by Contractor.
- (9) No part of any surface shall be loaded during construction with more weight than it can safely bear at the time. Should damage occur through violation of this requirement by Contractor, it shall be solely liable for such damage and any consequence.
- (10) It shall be Contractor's responsibility to receive and unload its Materials and pay all charges therefor, including, without limitation, demurrage or charges for delays in loading. Contractor shall instruct vendors or Suppliers making such deliveries exactly where they shall go. Contractor shall constantly keep the City advised of its Material delivery schedule and shall update it as required by the City so that Materials will be available to complete the Work on time. Contractor shall schedule Material deliveries so as to interfere as little as possible with anyone else's Work on the Project but within the normal Work hours. Contractor shall require that

Materials and Equipment delivered shall be identified with Contractor's name, purchase order, and identification numbers. Contractor shall sign for all Materials delivered and shall be responsible for their safekeeping.

GC-20 PROTECTION OF AGREEMENT WORK

Contractor shall be responsible for:

- (1) Maintenance and protection of Work until final completion and acceptance, including, but not limited to, the storage of Materials and Equipment, erection of temporary structures and provisions for drainage as necessary to protect Work from injury, damage or loss;
- (2) Any injury, damage, or loss to Work resulting from the action of the elements or any other cause, irrespective of fault or negligence, excepting only such injury, damage, or loss as is caused solely by the negligence or willful misconduct of the City;
- (3) Protection of its Work and materials and the Work and materials of its Subcontractors or Suppliers from damage or injury from the weather; and
- (4) Exercising due care to avoid injury or damage to the Work of other contractors on site.

Any portion of Work suffering injury, damage, or loss for which Contractor is responsible under 1, 2, 3 or 4, above, will be considered defective and shall be corrected or replaced without additional cost to City.

GC-21 DEFECTS IN THE WORK AND UNAUTHORIZED WORK

Contractor shall promptly remove from the premises all Work rejected by the City for failure to comply with Agreement Documents, whether incorporated in the construction or not, and Contractor shall promptly replace and re-execute the Work in accordance with the Agreement Documents and without expense to City and shall bear the expense of making good all Work of other contractors destroyed or damaged by such removal, or replacement. All removal and replacement Work shall be done at Contractor's expense.

If Contractor defaults or neglects to carry out all or any part of the Work in accordance with the Agreement Documents, and fails within three (3) working days after receipt of Written Notice from the City to commence and continue correction and cure of such default, noncompliance, or neglect with diligence and promptness, the City may, after twenty-four (24) hours following receipt by Contractor of an additional Written Notice and without prejudice to any other remedy the City may have, make good such deficiencies and may further elect to perform and to complete all or any part of Work thereafter through such means as the City may select, including the use of a new or supplemental contractor. In such case an appropriate Change Order shall be issued

deducting from the payments then or thereafter due Contractor, the cost of correcting such deficiencies. If the payments then or thereafter due Contractor are not sufficient to cover such amount, Contractor shall pay the difference to the City on demand.

Minor, inconsequential defects may be waived in writing by the City, but the City's failure or refusal to exercise such authority shall not be subject to claim by Contractor. If a waiver (whether minor or major, consequential or inconsequential) will result in an appreciable saving of costs to Contractor, including costs of Work in place and savings when compared to potential costs of rejection and replacement under this clause, it will be made only upon an equivalent adjustment in compensation.

GC-22 GUARANTEE OF WORK AND MATERIALS

GC-22.1 Warranty of Materials, Equipment and Work

Contractor warrants to the City and the Engineer that all Materials and Equipment furnished under this Agreement will be new and of workmanlike quality unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Agreement Documents. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Engineer, Contractor shall furnish satisfactory evidence as to the kind and quality of Materials and Equipment. This warranty is not limited by any other provision of the Agreement Documents. The Warranties set forth in this Article and elsewhere in the Agreement Documents shall survive final acceptance of the Work. All warranties are in addition to the rights, remedies, and redress that the City has at law or in equity, and none of Contractor's warranties shall be deemed a sole or exclusive remedy to the City.

GC-22.2 Warranty of Continued Liability of Electronics

Contractor shall warrant to Owner that all goods or equipment which Contractor is required to purchase under the Agreement and which contain embedded codes, chips, microprocessors, microcontrollers, clock circuits (including integrated circuits), computer operating systems, computer software, custom application programming, or other similar systems/technologies that calculate date or time data shall correctly and without failure, malfunction, or need for operator intervention, display, calculate, compute, and process date or time data before, during, and beyond any changes in the date, including leap year, and including changes at year end, decade end, and century end, as needed.

GC-22.3 Guarantee and Repair

If within one (1) year after the Date of Final 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 Agreement Documents, Contractor shall correct it promptly after receipt of a Written Notice from the City to do

so. This obligation shall survive both final payment for the Work or designated portion thereof and termination of the Agreement. The City shall give such notice promptly after discovery of the condition. Contractor acknowledges that this one (1) year period provides a period during which Contractor has a duty to repair and does not in any way limit Contractor's liability for Work that is not in accordance with the Agreement Documents, including any that may be discovered more than one (1) year after the Date of Final Completion and Final Acceptance.

GC-22.4 Manufacturer Warranties

Without limiting the responsibility or liability of Contractor under the Agreement, all warranties given by manufacturers on Materials or Equipment incorporated in the Work are hereby assigned by Contractor to the City at no additional cost to the City. If requested, Contractor shall execute enforceable formal assignments of said manufacturer's warranties to the City at no additional cost to the City. Contractor shall not obtain any Materials or Equipment under warranties, which do not run directly to the benefit of the City, and all such warranties shall be directly enforceable by the City, but Contractor understands and agrees that it is jointly and severally liable with the manufacturers for any warranties provided.

GC-22.5 Non-Exclusive Nature of Warranties

The foregoing warranties, and those contained elsewhere in the Agreement Documents or implied by law, shall be deemed cumulative and not alternative or exclusive. No one or more of them shall be deemed to alter or limit any other.

GC-23 TERMINATION OF AGREEMENT

GC-23.1 Termination for Contractor Default

If Contractor becomes insolvent, or makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of Contractor's insolvency, or if Contractor refuses or fails, except in cases for which extension of time is provided, to supply enough properly skilled workers or proper Materials, or fails to make prompt payment to Subcontractors or for Materials or labor, or disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise is guilty of a material violation of a provision of the Agreement Documents so as to be in material breach and default of the Agreement, then City may terminate the Agreement for default, either in whole or in part, without prejudice to any other right or remedy the City may have after giving Contractor and its surety seven (7) days to cure the default. For purposes of this Article, a material violation shall include, without limitation, any violation of or failure to comply with any obligation of the Agreement which the City, in its sole discretion, determines is likely to result in any damage to the City, the Work, or any public or private interest.

If the surety and/or Contractor does not cure the default within seven (7) days from the date of the mailing to Contractor and the surety of notice of default, City may, without further notice, terminate for default and may take over Work and prosecute the same to completion by contract or by Force Account or by whatever means it deems appropriate for the account and the expense of Contractor and Contractor and its surety shall be liable to City for any excess cost incurred thereby, and in such event City may take possession of and utilize in completing Work, such materials, appliances, and plant as may be on the Site of Work and necessary therefore. Upon such termination Contractor shall:

- (1) Preserve all Materials, Drawings and records and Plans at Site of the Work until notified in writing of those items that will be used in completing Work.
- (2) Remove from Site of the Work all construction materials, equipment and plant not designated for use in such notice.
- (3) Assist the City in making an inventory of all Materials and Equipment in storage at the Site of Work, in route to the Site of Work, in storage or manufactured at other locations, and on order from Suppliers.

The City shall further have the right to declare a default without terminating the Agreement for default in whole or in part. In such event, the City shall have the right, at its sole discretion, to supplement Contractor's forces if the City so chooses and deduct the cost of same from the amounts otherwise due Contractor. The City's failure to declare a default or terminate the Agreement in whole or in part shall not determine whether Contractor is, in fact, in material breach of the Agreement because the City shall also have the option to allow Contractor's defective performance to continue and collect such damages as the City may incur from Contractor and its surety.

In the event that the City incurs costs or expenses in performing or completing any portion of Contractor's scope of Work, the City's actual damages shall, at the City's discretion, include a fee up to 15% of such actual costs for performing such work. Such fee shall be computed on the actual costs incurred by the City for labor, materials, equipment, services, administrative and personnel costs and additional design and professional consulting fees, incurred as a result of Contractor's default.

Contractor acknowledges and agrees that an appropriate termination for default is adequate grounds for Contractor's disqualification from future City contracts. This provision shall survive the expiration or termination of this Agreement and any amendments to this Agreement.

In the event any termination for default is found to be wrongful or improper, Contractor agrees that its sole and exclusive remedy is to have the termination treated as a termination for convenience in accordance with the provisions of this Agreement.

GC-23.2 City's Right to Stop the Work

If Contractor fails to correct defective Work as required by the Agreement Documents, or fails to carry out the Work or supply labor or Materials in accordance with the Agreement Documents, or otherwise fails to meet or satisfactorily complete any of its obligations under this Agreement, the City, in writing, may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the City and the Engineer to stop the Work shall not give rise to any duty on the part of the City to exercise this right for the benefit of Contractor or any other person or entity. Contractor shall not be entitled to any extension of time or for compensation of any sort in the event that the City stops work pursuant to this provision.

GC-23.3 Intentionally Omitted

GC-23.4 Termination for Convenience of City

GC-23.4.1

The City may, at any time upon ten (10) days Written Notice to Contractor, terminate (without prejudice to any right or remedy of the City) the whole or any portion of the Work for the convenience of the City.

GC-23.4.2

If, after Contractor has been terminated for default, it is determined that Contractor was not in default or that the termination for default was improper for any reason, then such termination shall be considered a termination for convenience.

GC-23.4.3

If the City terminates the whole or any portion of the Work for convenience, then the City shall only be liable to Contractor for those costs reimbursable to Contractor in accordance with Article 23.4.4; provided, however, that if it reasonably appears to the City that Contractor would have sustained a loss on the entire Agreement had it been completed, no profit shall be included or allowed hereunder and an appropriate adjustment shall be made reducing the amount of settlement so that Contractor's loss on the portion of the Agreement it did perform is proportioned, from a percentage completion basis, to the loss Contractor would have sustained on the entire Agreement. In no event shall Contractor be entitled to anticipated profit on work not performed. Contractor shall, however, be entitled to any profit earned on the work performed to date, but Contractor acknowledges (1) that unit rates may be subject to adjustment, either upward or downward, based upon the variation in estimated quantity provisions of this Agreement, and (2) if the City determines that Contractor's schedule of values was materially unbalanced (or "front-end loaded"), payments

previously made to Contractor shall be refunded to the City or withheld from amounts otherwise due Contractor. The intent of this Article is to avoid any Contractor windfall at the City's expense while at the same time preserving the benefit of the bargain, either positive or negative, for Contractor.

GC-23.4.4

If the City terminates the whole or any portion of the Work for convenience, the City shall pay Contractor the amounts determined by the Engineer as follows:

- (1) To the extent not previously paid for, Contractor shall be paid on a percentage completion basis in accordance with any approved schedule of values for the value of the work completed to date, including items such as mobilization and general conditions costs (based on percent complete).
- (2) To the extent not previously paid for and to the extent that the Agreement Documents call for payment on the basis of unit rates, Contractor shall be paid for all work actually performed at the unit rate established in the Agreement Documents, with such adjustment, if any, as may be required either upward or downward by the variation in estimated quantity provisions applicable to unit rates under the Agreement.
- (3) The reasonable costs of settlement, including accounting, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Agreement and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to this Agreement. This amount shall not include any attorneys' fees or other legal costs or claim preparation costs or expert or consulting fees, and Contractor shall not be entitled to recovery or compensation of any such costs or fees under any circumstances.

GC-23.4.5

Contractor shall specifically require its Subcontractors and suppliers and those with whom they contract to agree to the provisions of this Article governing termination for convenience. In no event shall the City be responsible for anticipated profit on work not performed or "restocking charges." The City's potential liability for convenience termination costs shall be based on work actually performed and costs actually incurred, provided that the termination shall not in any event transform a Contractor or Subcontractor's probable net loss position into a profitable or "cost plus" recovery.

GC-23.5 General Termination Provisions

GC-23.5.1

If the City terminates the whole or any part of the Work for default, then the City may procure, upon such terms and in such manner as the City may deem appropriate, supplies or services similar to those so terminated, and Contractor shall be liable to the City for any excess costs for such similar supplies or services. Contractor shall continue the performance of this Agreement to the extent not terminated hereunder.

GC-23.5.2

In the event of a Contractor default under any of the provisions of the Agreement, after written notice and a failure to cure within seven (7) days of that notice, Contractor and its surety shall be responsible to pay to the City such reasonable attorneys' fees as the City may expend as a result of the default, including all costs, expenses and filing fees incidental thereto, including, without limitation, expert fees, consultants' fees, arbitrator fees (if any), and prejudgment interest at the commercial account rate on all sums due, whether liquidated or unliquidated. Any judgment or arbitration award entered in favor of the City against Contractor or its surety shall bear interest from the time of entry of the judgment or the date of the arbitration award at the commercial account rate.

GC-23.5.3

After receipt of a notice of termination from the City, whether for default or for convenience, and except as otherwise directed by the City, Contractor shall:

- (1) Stop Work under the Agreement 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 and are not assigned as set forth below;
- (4) If so requested by the City, assign to the City in the manner, at the times and to the extent directed by the City, all of the rights, title, and interest of Contractor under the orders and subcontracts so selected and requested for assignment;

- (5) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the City to the extent the Engineer may require, in accordance with the provisions of this Agreement;
- (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 City, and to the extent specifically produced or specifically acquired by Contractor for the performance of such portion of the Work as has been terminated:
 - (a) The fabricated or unfabricated parts, Work in progress, partially completed supplies, and Equipment, Materials, parts, tools, dies, jigs, and other fixtures, completed Work, supplies and other material produced as 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 related to the Work, including as-built information;
- (7) If so requested by the City, use best efforts to sell for the benefit of the City, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the City, any property of the types referred to in Article GC-23.5.3(6); provided, however, that Contractor:
 - (a) Shall not be required to extend credit to any buyer; and
 - (b) May re-acquire any such property under the conditions prescribed by and at a price or prices approved by the City; and, provided, further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the City to Contractor under this Agreement or shall otherwise be credited to the price or cost of the Work covered by this Agreement or paid in such other manner as the City may direct;
- (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 City may direct, for the protection and preservation of the property related to the Agreement, which is in the possession of Contractor and in which the City has or may acquire an interest.

GC-23.5.4

Contractor shall preserve and make available to the City, at all reasonable times at the office of Contractor, but without direct charge to the City, all its books, records, documents and other evidence bearing on the costs and expenses of Contractor and any Subcontractor or Supplier under the Agreement, and any photographs, microphotographs, or other authentic reproductions thereof and Owner shall have the right at any time to audit the same.

GC-23.5.5

In arriving at any amount due Contractor for any termination for default or convenience, there shall be deducted:

- (1) All unliquidated advance or other payments on account theretofore made to Contractor applicable to the termination portion of this Agreement;
- (2) Any claim which the City may have against Contractor;
- (3) Such claim as the Engineer determines to be necessary to protect the City against loss because of outstanding or potential claims of any type or nature; and
- (4) The agreed price for, or the proceeds of sale of, any Materials, supplies, or other things acquired by Contractor or sold, pursuant to the provisions of Article GC-23.5.3(7) and not otherwise recovered by or credited to the City.

GC-23.5.6

Contractor shall refund to the City any amounts paid by the City to Contractor in excess of Contractor's entitlement specified hereunder.

GC-23.5.7

The City may, at its option, have costs audited and certified by independent certified public accountants selected by the City.

GC-23.5.8

Contractor shall be entitled to only those damages and that relief from termination by the City as specifically provided hereunder.

GC-24 SUSPENSION OF WORK

GC-24.1 Right to Suspend Work

The City may order Contractor, in writing, 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.

GC-24.2 Rights Upon Certain Unreasonable Suspensions

If the performance of the Work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the City or Engineer in the administration of the Agreement, or by failure of any one of them to act within the time specified in the Agreement (or if no time is specified, within a reasonable time), or by any act of either of them which is attributable to their fault or neglect, adjustment shall be made in the Agreement Time only for any extension in the time required for performance of the Work necessarily caused by such unreasonable suspension, delay, or interruption and the Agreement modified in writing accordingly. However, no adjustment shall be made under this Article for any suspension, delay, or interruption for which an adjustment is provided or excluded under any other provision of the Agreement Documents, and no adjustment shall be made to the extent that performance would have been so suspended, delayed or interrupted by any other cause, including the fault or negligence of Contractor or excusable delays that are unforeseeable and not attributable to the fault or neglect of the City or Contractor and beyond the control of each of them. No claim for a time adjustment under this Article shall be allowed unless it is presented in accordance with the provisions of the Agreement governing Claims and compliance with the claims provision shall be a condition precedent to the right to a time adjustment.

GC-24.3 Damages Upon Suspension

Nothing contained in this Article authorizes the recovery of delay or impact damages, except as expressly authorized in this Agreement; and compliance by Contractor with the claims provision shall be a condition precedent to the right to any Contract adjustment on account of a suspension of the Work. Contractor expressly agrees that it shall not be entitled to any increase in the Agreement Price or to any monetary damages on account of a suspension, delay, interruption, interference or impact, unless the notice, documentation, and pricing requirements of this Agreement have been met.

GC-24.4 Time Extension Upon Suspension

Under the terms of this Agreement, in order for Contractor to receive extensions of time for excusable delays, the delays must (i) be on the critical path, (ii) be beyond the reasonable control of Contractor and those for whom it is responsible including its Subcontractors and Suppliers and others working by or through them, (iii) not be attributable to any factor for which Contractor has assumed the risk of performance (such as labor availability), (iv) not be attributable in whole or in part to Contractor's fault

or neglect or the fault or neglect of those for whom Contractor is responsible, including Subcontractors and Suppliers and others working by or through them, and (v) not be concurrent with non-excusable delays that are on the critical path. If Contractor meets these five (5) requirements, then Contractor's sole remedy for such delay shall be an extension of the Agreement Time for the period of time during which all five (5) elements continue to be met, which shall be implemented by Change Order; provided, however, Contractor shall not be entitled to any extension of the Agreement Time (i) if Contractor fails to comply with notice requirements in the Contract, (ii) if such delays do not cause Contractor to achieve Substantial Completion of the entire Work later than the then current Substantial Completion Date, or (iii) if Contractor fails to work around such delay where such work around was available to Contractor. In all events, Contractor must comply with the notice and claim provisions set forth in this and other provisions of the Agreement in order to be entitled to any extension of the Agreement Time.

GC-24.5 Damages for Non-Excusable Delays

Under the terms of this Agreement, liquidated or actual damages (as specified in the Agreement and as appropriate) shall be assessed for all non-excusable delays. Unless and until Contractor satisfies its obligations under and satisfies all criteria set forth in GC-24.4, delays shall be deemed non-excusable. The burden of proof shall be upon Contractor to establish that delays and untimely completion are attributable to excusable delays.

GC-24.6 Abnormal Weather

Abnormal weather may constitute an excusable delay if other requirements for excusable delays are met (for example, weather-sensitive work must be on the critical path.) The Agreement Time will not, however, be extended due to normal inclement weather. Unless Contractor can substantiate that there was greater than normal inclement weather using a ten (10) year average of accumulated record mean values from climatological data compiled by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration for Atlanta, Georgia, and that such alleged greater than normal inclement weather qualifies as excusable delay as set forth above, Contractor shall not be entitled to an extension of time. In no event will "dry-out" delay days be allowed. Any time extension shall be based on the number of additional days of adverse weather and not upon the time required to recover from said weather.

GC-24.7 Impacts From Adjacent Property

Contractor acknowledges and agrees that it will be interacting with numerous citizens and residents of the City and will be working in close proximity to their homes, businesses, and private property. Contractor warrants that it has made due allowance for dealing with the concerns and complaints of these citizens and residents and any delays, interruptions, interferences, disruptions, or other impacts resulting therefrom. Contractor further warrants and agrees that it will fully cooperate with the City to minimize the adverse affects of the Project on the City's residents by resequencing work

or adjusting its means, methods, techniques, and procedures to minimize and mitigate the effect upon the City's residents and that the cost of these mitigation efforts has been included in Contractor's price to the City.

GC-25 COMMENCEMENT AND PROSECUTION OF THE WORK

Contractor shall, within ten (10) days after receipt from the City of a written Notice to Proceed, commence Work to be done under this Agreement. Contractor shall diligently prosecute Work and all portions thereof to completion within the times specified therefor. The capacity of Contractor's construction and manufacturing equipment and plans, sequence and methods of operations, and forces employed, including management and supervisory personnel, shall be such as to ensure completion of Work within the specified time.

It is expressly understood and agreed by and between Contractor and City that Agreement Time for the completion of Work described herein is a reasonable time, taking into consideration the unique requirements of the Work (including performance of the Work in close proximity to the private property of the citizens and residents of the City), the average climate and economic conditions in the area, and other factors prevailing in the locality of the Work (such as, without limitation, the availability of labor, equipment and materials).

GC-26 TIME

GC-26.1 Progress and Completion

GC-26.1.1

All time limits stated in the Agreement Documents are of the essence of the Agreement.

GC-26.1.2

Contractor shall begin the Work within ten (10) days after the issuance of written Notice to Proceed. Contractor shall carry the Work forward expeditiously with adequate forces and shall achieve Substantial Completion of the Work and Final Completion within the times stated in the Agreement Documents.

GC-26.2 Delay, Damages, and Extensions of Time

GC-26.2.1

Contractor shall not be entitled to payment or compensation of any kind from the City for direct, indirect, impact, or delay damages, including but not limited to costs of delay, disruption, interference, impact or hindrance from any cause whatsoever, whether such delay, disruption, interference, impact or hindrance be

reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable, except as expressly provided in this Agreement.

In any and all events, the City's liability for damages for delay, disruption, interference, impact or hindrance shall be limited to the following actual direct job site related costs that are solely incurred as a function of time: (1) costs of job site supervision, (2) direct cost of general conditions items, including job site office expenses for trailer rental, telephone, electricity, heat, and water, (3) except for tunnel boring machines which shall be governed by the terms of GC-41.6, equipment expenses at the Force Account rates specified in the provisions of this Agreement governing changes; and (4) a markup for profit and overhead on actual direct costs, in accordance with the Force Account rates specified in the provisions of this Agreement governing changes.

GC-26.2.2

The Agreement Time shall be adjusted only for excusable delays. In the event Contractor requests an extension of the Agreement Time, it shall furnish such justification and supporting evidence as the City may deem necessary for a determination as to whether Contractor is entitled to an extension of time under the provisions of the Agreement. The City, after receipt of such justification and supporting evidence, shall make a decision thereon and shall advise Contractor in writing thereof. If the City finds that Contractor is entitled to any extension of the Agreement Time, the City's determination as to the total number of days' extension shall be based upon the current CPM and on all data relevant to the extension as described in the Agreement Documents. Contractor acknowledges and agrees that delays in activities that according to the approved and current CPM Schedule do not affect the critical path do not have any effect upon the Agreement Time and therefore will not be the basis for a change thereof.

GC-26.2.3 [Intentionally Omitted]

GC-26.2.4 [Intentionally Omitted]

GC-26.2.5 [Intentionally Omitted]

GC-26.2.6 [Intentionally Omitted]

GC-26.2.7

In order for Contractor to be entitled to any extension of the Agreement Time, Contractor must comply with the Claim provisions of GC-41 and GC-26. Such statement of the claim, in addition to complying with all other provisions of the Agreement relating to Claims and delays, must provide all information required by the scheduling requirements of the Agreement Documents and further provide the following specific information:

- (1) Nature of the delay;
- (2) Date (or anticipated date) of commencement of delay;
- (3) Activities on the approved current CPM Schedule affected by the delay, and/or new activities created by the delay and their relationship with existing activities;
- (4) Identification of person(s) or organization(s) or event(s) responsible for the delay;
- (5) Anticipated extent of delay; and
- (6) Recommended action to avoid or minimize the delay.

GC-26.2.8

The City shall receive and process such claims for extensions of time in accordance with the procedures set forth in Article GC-41, except that any Change Order issued shall only amend the time for completion.

GC-26.2.9

The failure of Contractor to file any claims for extension of time within the time limits prescribed and in the form and manner required shall be deemed a material prejudice to the interests of the City in canceling and mitigating such impacts, and shall constitute an absolute waiver of the claim and the right to file or thereafter prosecute the same. The purpose of the time limits, notice and form and manner requirements are, in part, to eliminate disputes over the existence, scope, and nature of events giving rise to claims, and the failure to abide by same will result in material prejudices to the City, even if the City were otherwise on notice of facts giving rise to the claim because, in part of the impact to the City's ability to document, dispute, or resolve issues as they arise, and also because of the impact to the City's efforts to entirely avoid disputes over claims not asserted in accordance with the Agreement Documents.

GC-26.2.10

If no schedule or agreement is made stating the date upon which written interpretations as set forth in the Agreement Documents shall be furnished, then no claim for delay shall be allowed on account of failure to furnish such interpretations until fifteen (15) days after demand is made for them, and not then unless such claim is reasonable.

GC-27 RESPONSIBILITY FOR COMPLETION

GC-27.1 Duty to Accelerate

Subject to the other provisions of the Agreement Documents, Contractor shall furnish such manpower, Materials, facilities, and Equipment and shall work such hours, including night shifts, overtime operations and Sundays and holidays, as may be necessary to ensure the prosecution and completion of the Work in accordance with the approved and currently-updated CPM Schedule. If Work actually in place falls behind the currently updated and approved CPM Schedule, and it becomes apparent from the current approved CPM Schedule that the Work will not be completed within the Agreement Time, Contractor agrees that it will, as necessary or as directed by the City, take some or all of the following actions at no additional cost to the City to improve its progress:

- (1) Increase manpower in such quantities and crafts as will eliminate, in the judgment of the City, the delay and backlog of Work;
- (2) Increase the number of working hours per shift, shifts per working day, working days per week, the amount of equipment or any combination of the foregoing, sufficiently to eliminate in the judgment of the City, the delay and backlog of Work;
- (3) Reschedule activities as necessary to eliminate in the judgment of the City the delay and backlog of Work; and
- (4) Any other measure required by the schedule requirements of the Special Conditions.

In addition, the City may require Contractor to submit a proposed revised CPM Schedule Recovery Plan demonstrating its program and proposed plan to make up lag in scheduled progress and to ensure completion of the Work within the Agreement Time. If the City finds the proposed plan not acceptable, the City may require Contractor to submit a new and/or revised plan with direction and other input from the City and Engineer.

GC-27.2 Recoverable Acceleration Expenses

In the limited and exclusive event that (1) the City directs Contractor to accelerate, and (2) it is subsequently determined that Contractor was entitled to time extensions for excusable delays which the City failed or refused to grant, and (3) Contractor in fact succeeds in accelerating substantial completion of the Project by substantially completing the Project significantly and materially sooner than what would have been the case had the City granted all time extensions to which Contractor was entitled, then, and only then, Contractor may be entitled to recoverable acceleration expenses as defined below if Contractor properly and timely complies with the provisions related to

time, notice and form and substance of claims of the Agreement (including, without limitation, Articles GC-24, GC-26, and GC-41) Recoverable acceleration expenses shall be limited to the following without any markup for overhead and profit:

- (1) the premium portion only of overtime costs for hours worked in a single week that exceed 40 hours per week
- (2) if the overtime continues for more than 65% of the skilled labor on the site (including subcontractor personnel) for a continuous period of 8 weeks or more, then beginning in the 9th week, a multiplier of 10% of the premium portion of the overtime costs may be added as recoverable acceleration expenses to cover the cost of any loss or damage or additional expense resulting from the acceleration.

No expenses other than the two items noted above shall be allowed as recoverable acceleration expenses. No claims for acceleration for work that is not on the critical path shall be permitted.

GC-27.3 Acceleration by City's Forces

Failure of Contractor to substantially comply with the requirements of Article GC-27.1 may be considered grounds for a determination by the City and/or the Engineer that Contractor is failing to prosecute the Work with such diligence as will ensure its completion within the time specified. In such case, upon forty-eight (48) hours prior Written Notice to Contractor, City shall have the right to furnish such additional labor and Materials as may be required to comply with the schedule, and Contractor shall be liable for such costs incurred by City as provided elsewhere in this Agreement.

GC-27.4 Set-Off of Acceleration Costs

Any monies due to the City under this Article may be set-off by the City against monies due from the City to Contractor.

GC-27.5 Acceleration Remedies Cumulative

The remedies of the City set out in this Section are in addition to, and without prejudice to, all other rights and remedies of the City including those stated elsewhere in the Agreement Documents. The remedies of Contractor, however, are sole and exclusive and contingent upon compliance with the Agreement provisions as to time, notice, form, and substance of Claims, including, without limitation, GC-24, GC-26, and GC-41.

**GC-28 WORKING DRAWINGS, SHOP DRAWINGS, DATA ON MATERIAL
AND EQUIPMENT, SAMPLES, AND LICENSES**

GC-28.1 General

GC-28.1.1

Contractor shall submit to the Engineer for review and exception, if any, such working Drawings, Shop Drawings, test reports and data on Materials, licenses, and Equipment (hereinafter in this article called data), and material samples (hereinafter in this article called samples) as are required for the proper control of Work, including but not limited to, those working Drawings, Shop Drawings, data and samples specifically required elsewhere in the Specifications and Agreement Documents. Submittals are required for any product that becomes a part of, or affects, the permanent Work.

GC-28.1.2

Data on Materials and Equipment include, without limitation, Materials and Equipment lists, catalog data sheets, cuts, diagrams and similar descriptive material. Materials and Equipment lists shall give, for each item thereon, the name and location of the Supplier or manufacturer, trade name, catalog reference, size, finish and all other pertinent data.

GC-28.1.3

It is the duty of Contractor to check all Drawings, data and samples prepared by or for it before submitting them for review. Drawings and schedules shall also be checked and coordinated with the Work of all trades involved. Drawings and other submittals originating from Subcontractors will be reviewed and checked similarly by Contractor. Pursuant to this required review, Contractor shall indicate its approval, before they are submitted for review by the City, by affixing its stamp of approval, properly initialed and dated. All submittals shall be referenced to the applicable item, section or division of the Specifications.

GC-28.1.4

The Engineer's review of Drawings, data and samples submitted by Contractor will cover only general conformity to the Specifications, external connections, and dimensions which affect the installation. The Engineer's review and exception, if any, will not constitute an approval of dimensions, quantities, and details of the Material, Equipment, device, or item shown.

GC-28.1.5

Contractor shall not begin any of the Work covered by a Drawing, data, or a sample returned for correction until a revision or correction thereof has been reviewed and returned to it.

GC-28.1.6

The CPM Schedule shall include respective dates for the submission of shop and work Drawings, the beginning of manufacture, testing, and installation of Materials, Supplies, and Equipment.

GC-28.1.7

Acceptable submittals will be marked "No Exceptions Taken." Submittals requiring minor corrections before the Material or Equipment is acceptable will be marked "Make Corrections Noted." Contractor may order, fabricate, or ship the items included in the submittal, provided the indicated corrections are made. Drawings must be resubmitted for review prior to installation of Equipment or use of Materials, unless otherwise directed in writing by the Engineer.

GC-28.1.8

Submittals marked "Amend and Resubmit" must be revised to reflect required changes, and the initial review procedure repeated.

GC-28.1.9

The "Rejected - See Remarks" notation is used to indicate Materials or Equipment that are not acceptable. Upon return of a submittal so marked, Contractor shall repeat the initial review procedure utilizing acceptable Materials or Equipment.

GC-28.1.10

Drawings on other submittals not bearing the Engineer's "No Exceptions Taken" notation shall not be issued to Subcontractors or utilized for construction purposes. No Work shall be done or equipment installed without a drawing or submittal bearing the "No Exceptions Taken" notation. Contractor shall maintain at the job site a complete set of Drawings and other submittals bearing the Engineer's stamp.

GC-28.1.11

In the event Contractor obtains the City's approval for the use of equipment other than that which is called for in the Agreement Documents, Contractor shall, at its

own expense and using methods approved by the City, make any changes to structures, piping and electrical work that may be necessary to accommodate this equipment. If Contractor substitutes any specified item of Material or Equipment with another item of Contractor's choosing as an "or equal" item, Contractor warrants the accuracy and adequacy of the design and performance of the substituted item and further warrants that it has exercised due diligence to ensure that the substituted item will function properly as a component into the integrated Project of which it is a part.

GC-28.1.12

Contractor shall submit all Drawings and schedules sufficiently in advance of construction requirements to provide no less than thirty (30) calendar days for checking and appropriate action.

GC-28.1.13

The review of Drawings and schedules will be general, but approval shall not be construed: (a) as permitting any departure from the Agreement requirements; (b) as relieving Contractor of responsibility for any errors, including details, dimensions, and Materials; and (c) as approving departures from details furnished by the City, except as otherwise provided herein.

GC-28.2 Shop Drawings

GC-28.2.1

When used in the Agreement Documents, the term "Shop Drawings" shall be considered to mean fabrication drawings, wiring and control diagrams, cuts, or entire catalogs, pamphlets, descriptive literature, and performance and test data. The Drawings shall be submitted using standard transmittal forms in accordance with detailed instructions furnished by the City. A separate transmittal sheet shall be used for reference to each item, section or division of the Specifications.

GC-28.2.2

Contractor shall submit six (6) sets of each Shop Drawing for review. On electrical and instrumentation and control submittals Contractor shall submit seven (7) copies of each for review.

GC-28.2.3

Each Shop Drawing shall include the following:

- (1) Number and title of the submittal;
- (2) Date of Drawing or revision;

- (3) Name of Project;
- (4) Name of Contractor and/or Subcontractor submitting Drawing and with its seal of approval;
- (5) Specification title and number; and
- (6) Clear identification of contents and location of the Work.

GC-28.2.4

Drawings for Work on utility facilities, streets and other facilities, which are constructed for owners other than the City, shall be coordinated so that information required by these owners is included on the Shop Drawings for their facilities.

GC-28.2.5

If Drawings show variations from Agreement requirements, Contractor shall describe such variations in its letter of transmittal. If acceptable, proper adjustment in the Agreement shall be implemented where appropriate. If Contractor fails to describe such variations, it shall not be relieved of the responsibility for executing the Work in accordance with Agreement, even though such Drawings have been reviewed.

GC-28.2.6

If the Drawings or schedules as submitted describe variations and show a departure from the Agreement requirements which the City finds to be in the interest of the City and to be so minor as not to involve a change in Agreement Price or Time, the City may return the reviewed Drawings without noting an exception.

GC-28.2.7

If no exceptions are taken by the City, each of the Shop Drawings will be identified by being so stamped and dated. Shop Drawings stamped "Rejected - See Remarks" and with required corrections shown, will be returned to Contractor for correction and re-submittal. On re-submittals, Contractor shall direct specific attention, in writing or on resubmitted Drawings, to revisions other than the corrections requested by the City on previous submissions. Contractor shall make any corrections required by the City. If Contractor considers any correction indicated on the drawings to constitute a change to the Agreement Drawings or Specifications, Contractor shall give Written Notice thereof to the City in accordance with GC-41. At least two (2) copies of Drawings or data submittals will be returned to Contractor.

GC-28.2.8

When the Drawings or data submittals have been completed to the satisfaction of the City, Contractor shall carry out the construction in accordance therewith and shall make no further changes therein except upon written instructions from the City.

GC-28.2.9

After final review in which there are no exceptions noted or referenced, and before final payment is made, Contractor shall furnish to the City two (2) sets of record Shop Drawings, all clearly revised and completed and brought up to date, showing the permanent construction as actually made and marked FINAL/AS-BUILTS. One (1) set of such Shop Drawings shall be either drawn in ink on tracing cloth, or reproduced on mylar from which clear prints can be made. The other set could be a complete paper print.

GC-28.2.10

Contractor shall be responsible for and bear all cost of damages which may result from the ordering of any Material or from proceeding with any part of Work prior to the review, without exception, by the City of the necessary Shop Drawings.

GC-28.3 Working Drawings

GC-28.3.1

When used in the Agreement Documents, the term "Working Drawings" shall be considered to mean Contractor's plans, including a detailed narrative, for temporary structures such as temporary bulkheads, support of open cut excavation, support of utilities, ground water control systems, forming and false work; for underpinning; and for such other work as may be required for construction but does not become an integral part of the Project.

GC-28.3.2

Copies of Working Drawings shall be submitted to the City where required by the Agreement Documents or requested by the City and shall be submitted at least thirty (30) calendar days in advance of their being required for Work.

GC-28.3.3

Working Drawings shall be signed and sealed by an engineer licensed to practice in the State of Georgia and shall convey, or be accompanied by, calculation of other sufficient information to completely explain the structure, machine, or

system described and its intended manner of use. Prior to commencing such Work, Working Drawings must have been reviewed to the satisfaction of the City, and each Working Drawing identified by the City with the Engineer's stamp of "No Exception Taken." Review of the Working Drawings by the Engineer will not relieve Contractor in any way from its responsibility with regard to the fulfillment of the terms of Agreement. All risks of error are assumed by Contractor. The City and the Engineer shall have no responsibility therefor.

GC-28.4 Record Agreement Drawings

Contractor shall keep at least one (1) record copy of all Agreement Documents, reference documents, and all technical submittals at the Site in good order and annotated to show all changes made during the construction process. Record drawings shall be updated and kept current on a monthly basis by Contractor. The record drawings will be reviewed monthly by the Engineer prior to approval of Contractor's monthly Payment Application. Final "as-built" plans of the Work, shall be satisfactory to the Engineer, and will be provided at Contractor's expense within thirty (30) days following Substantial Completion of the Work or any portion thereof. The provision of such as-built documents satisfactory to the Engineer shall be an express condition precedent to final payment. Upon request, the Engineer will provide one (1) set of reproducibles of the original Agreement Drawings, at no cost, to Contractor within two weeks subsequent to the execution of this Agreement.

GC-28.5 Samples

GC-28.5.1

Contractor shall furnish at no additional cost, for the approval of the City, samples required by the Agreement Documents or requested by the City. Samples shall be delivered to the City as specified or directed. Contractor shall prepay all shipping charges on samples. Materials or Equipment for which samples are required shall not be used in Work until approved by the City.

GC-28.5.2

Each sample shall have a label indicating:

- (1) Name of Project;
- (2) Name of Contractor and Subcontractor;
- (3) Material or Equipment Represented;
- (4) Place of Origin;
- (5) Name of Producer and Brand (if any); and
- (6) Location in Project.

GC-28.5.3

Contractor shall prepare a transmittal letter for each shipment of samples containing the information required in Article B above. It shall enclose a copy of this letter with the shipment and send a copy of this letter to the City. Approval of a sample shall be only for the characteristics or use named in such approval and shall not be construed to change or modify any Agreement requirement. Substitutions will not be permitted unless they are considered to be to the City's best interest.

GC-28.5.4

Approved samples not destroyed in testing shall be sent to the City or stored at the Site of the Work. Approved samples of the hardware in good condition will be marked for identification and may be used in the Work. Materials and Equipment incorporated in the Work shall match the approved samples. Samples which failed testing or were not approved will be returned to Contractor at its expense if so requested at time of submission.

GC-28.5.5

Contractor will provide architectural samples to the City in a composite color board format for review and color coordination. These samples shall be of the precise Material and color specified and of sufficient size for comparison to other material samples.

GC-28.5.6

Custom colors and coatings may be required to complete the Project within acceptable architectural standards. Contractor shall comply with the Architect's selection and provide Materials that precisely match the approved samples.

GC-28.6 Operation and Maintenance Manuals

GC-28.6.1

Operation and maintenance manuals are operator and shop maintenance instructions that enable an average journeyman mechanic without prior knowledge of the specific type, make, or model to maintain and repair the Equipment. The manuals shall include repair parts data that provides positive identification for an item of the complete Equipment with reference to the manufacturer or dealer facilities to identify ordering part numbers in support of procured Equipment.

GC-28.6.2 Preparation Instructions

An operation and maintenance manual set is required to cover each specific make, model, year and serial numbered piece of Equipment scheduled for delivery under terms of this Agreement. It is the intent of these requirements to use standard commercial manuals modified to meet the minimum Specification set forth herein. The manuals shall provide instructions, illustrations, and other associated data for operations, preventive and corrective maintenance and repair, including a complete catalog of parts used in the assembly of the end item. The manuals provided shall contain complete instructions and information as set forth below for all Equipment components, assemblies, subassemblies, attachments, and accessories manufactured by the prime Supplier or those purchased by the prime Supplier from other sources and assembled in the finished end item.

GC-28.6.3 Contents of Operation and Maintenance Manuals

The contents of complete set of manuals shall include, at a minimum, the following:

- (1) Table of Contents;
- (2) Operating instructions;
- (3) Preventive maintenance, service, and corrective maintenance or repair instructions;
- (4) Parts list with recommended quantity; and
- (5) Approved Shop Drawing(s).

GC-28.6.4 Binding and Delivery

The manual(s) shall be bound or otherwise securely enclosed in an oil and moisture resistant binder(s). Each binder cover shall indicate in bold type the manufacturer's name, contract number, model number, and serial number of the unit or equipment. Five (5) copies of the manual(s) shall be delivered with the Shop Drawings and must be approved with the Shop Drawings.

GC-29 CONTRACTOR'S TITLE TO MATERIALS

No Materials or supplies for the Work shall be purchased by Contractor or by any Subcontractor subject to any chattel mortgage, security agreement, or under a conditional sales contract or other agreement by which any security interest is retained by the seller. Contractor warrants that it has good title to all Materials and supplies used in the Work, free from all liens, claims or encumbrances.

GC-30 INSPECTION AND TESTING 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 the requirements of the Agreement Documents. The laboratory and inspection agency shall be provided by Contractor and approved by the City for these tests; provided, however, that if the City has already secured the services of identified testing consultants/agencies, then Contractor shall engage the services of the testing consultant/agency designated by the City. Additional tests performed after rejection of Materials or Equipment shall be at Contractor's expense.

Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish conformance with Specifications and suitability for uses intended, but failure to inspect Materials will in no way waive the City's right to reject defective Materials or to condemn Work in which they are used. Contractor will provide for travel expenses, factory performed testing and set up costs for the factory inspection and testing of all major architectural elements, mechanical, electrical or process equipment. A factory visit for both designers' representative and a City representative may be required. No funds for stored materials or fabrication items will be released until the factory inspection is completed and a certified Payment Application is submitted.

All tests performed by Contractor shall be witnessed by the City unless the requirement therefor is waived in writing. Contractor shall give the City reasonable advance notice of all such tests. The City may perform additional tests on materials tested by Contractor, and Contractor shall furnish samples for this purpose as requested.

In the event that the City directs additional testing or inspection of the Work and the testing or inspection reveals that the Work is not in accordance with the Agreement Documents, Contractor shall pay for all costs of correction of the Work as well as for all costs of testing and inspection. In the event that any portion of Contractor's Work depends upon the Work of the City or any of its separate contractors, the Contractor agrees that the City's Work or that of its separate contractor is adequate and installed such that it is ready and sufficient in all respects to accept Contractor's Work, unless written notice of any defect or deficiency is provided by the Contractor to the City prior to the Contractor beginning performance of the Work.

GC-31 MATERIALS AND EQUIPMENT

Contractor shall furnish all Materials and Equipment to be incorporated into the Work. Only Materials and Equipment conforming to the requirements of the Drawings and Specifications shall be incorporated into the Work. Except as otherwise specified or approved in specific instances, all such Materials and Equipment shall be new and unused and of the highest quality available. Materials and Equipment for which no specific requirements are given in the Drawings or specifications shall be those best suited for the specified use, considering function, strength, durability and resistance to

corrosion. Manufactured Materials and Equipment shall be obtained from sources which are currently manufacturing such Materials or Equipment, except as otherwise approved in writing.

If so ordered by the Engineer, sources of Materials shall be approved by him before delivery from those sources is commenced. Approval of a source of Materials may be withdrawn by the Engineer at any time that the Materials delivered from that source are found to be defective, and Contractor shall thereupon cease all deliveries from that source.

Manufacturer's warranties, certifications, guarantees, manuals, instruction sheets and parts lists provided with Materials and Equipment shall be furnished to the Engineer before final payment is made and receipt of same is a condition precedent to any obligation to make final payment.

GC-32 STORAGE OF MATERIALS AND EQUIPMENT

Materials and Equipment to be incorporated in the Work shall be stored in such a manner as to preserve their quality and fitness for incorporation in the final project. They shall be stored in a manner acceptable to the Designer and Owner and in an accessible facility that allows inspection. If at any time the City determines that any Materials or Equipment are not being properly stored, they may issue a directive to correct the storage or reject the Material for incorporation in the Project. No additional payment will be made for storage requirements. No payment will be made on Materials stored improperly or replaced due to improper storage.

No Equipment may be stored outside without the express written permission of the City on that specific piece of equipment stating that unit's unique I.D. numbers.

For any Equipment or units that have rotating parts or bearing assemblies and must be stored for more than sixty (60) days, Contractor shall set up a schedule to manually rotate the units every fifteen (15) days and maintain a certification log to preserve the service life and warranties.

GC-33 REPORTS, RECORDS, AND DATA

GC-33.1 General

Contractor shall submit to the City schedules of quantities and costs, progress schedules, reports, estimates, records, certificates, and other data as the City may request concerning Work performed or to be performed under this Agreement.

GC-33.2 Payroll Reports

Contractor shall be required to furnish weekly payroll reports to the City, certifying conformance with the wage rates listed in the Specifications. The requirement applies

to Contractor, its Subcontractors, and any lower-tier Subcontractor providing labor at the site. These reports shall show completed payroll information, and such certificates and statements of compliance as required in the Federal Labor Standards and by the City relative to payrolls. The schedule of wage rates shall be posted on a bulletin board available to the workers.

GC-33.3 Contractor's Daily Reports

As soon as Contractor has started Work on the Project, it shall compile written daily reports of the Work performed the previous day by its employees, including the employees of Subcontractors.

The reports shall be prepared by Contractor's representative and shall bear his signature. Each report shall contain at least the following information:

- (1) Description of Work items and references to payment items;
- (2) Work forces and construction Equipment employed;
- (3) Materials and Equipment installed;
- (4) Work performed by Subcontractors; and
- (5) Description of any accidents, interruptions, impacts, delays, problems, visitors, impediments, etc. encountered or continued.

Contractor shall require similar reports from Subcontractors for each day on Site and shall attach copies to Contractor's Daily Report when submitted.

GC-34 CONTRACTOR'S SUPERVISION OF THE WORK

GC-34.1 General

Contractor shall provide competent, efficient supervision of the Work. All Work shall be performed in a skillful, workmanlike and orderly manner, and Contractor and its supervisory personnel shall enforce this requirement at all times.

GC-34.2 Contractor's Representative

Before beginning Work, Contractor shall notify the City in writing of one (1) person within its organization, satisfactory to the City, who shall have complete authority to supervise Work, to receive orders from the City, and to represent and act for Contractor in all matters arising under Agreement. Contractor shall not remove its representative without first designating, in writing, a new representative, who meets all of the foregoing requirements. Upon ten (10) days notice, the City or the Engineer may request replacement of Contractor's Representative if, in the City's opinion, it is necessary to ensure the timeliness or quality of the Work.

Contractor's representative shall normally be present at or about the Site of Work while the Work is in progress. Before leaving the Site of Work for any extended period,

whether or not the Work is in progress, Contractor's representative shall notify the City, in writing, of the designation of an assistant, satisfactory to the City, with full authority to act for the representative in his absence, or shall make substitute arrangements satisfactory to the City. When neither Contractor, its representative, nor the representative's authorized assistant is present on a part of Work, the superintendent, foreman, or other employee or Contractor in charge of that part of the Work shall be an authorized representative of Contractor for the purposes set forth above.

GC-35 SUBCONTRACTORS AND SUPPLIERS

Contractor may utilize the services of specialty Subcontractors on those parts of Work that, under normal contracting practices, are performed by specialty Subcontractors, except as otherwise required by the Agreement Documents.

In addition to the designation of Subcontractors in the proposal documents, Contractor shall submit to the City a listing of the Subcontractor name, full address and telephone number, contact person, class or trade of work, list of similar past projects worked on, including reference names, telephone numbers, and other information as applicable to that Subcontractor and the provisions of the Agreement Documents. Contractor shall make Subcontractor submittals sufficiently in advance of construction requirements to provide the Engineer and City with no less than sixty (60) days for review and appropriate action.

Contractor shall be as fully responsible to the City for the acts and omissions of all Subcontractors and Suppliers, and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by it. Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to Work to bind Subcontractors and Suppliers to Contractor by the terms of the General Conditions and other Agreement Documents, insofar as applicable to the work of Subcontractors and Suppliers, and to give Contractor the same power as regards terminating any subcontract that the City may exercise over Contractor under any provisions of the Agreement Documents.

Nothing contained in this Agreement shall create any contractual relation between any Subcontractor or Supplier and the City. The Contractor shall not award more than seventy-five percent (75%) of the Work to Subcontractors, provided that, to the extent that a more stringent standard is required in the Special Conditions, the more stringent standard shall control.

GC-36 INSPECTION OF WORK

GC-36.1 General

All of Work shall be subject to inspection by the City for conformity with the Drawings and Specifications, Working Drawings, Shop Drawings, data on Materials and Equipment, and material samples. Inspection of the balance of Work will be in

accordance with this article, unless otherwise expressly indicated. Material tests and all other specified tests will be considered part of the inspection process and shall be subject to all of the provisions of this clause.

GC-36.2 Engineer's Access to Work

The Engineer shall have access to, and may inspect Work at all times and places. He shall have access to, and may inspect, Materials and Equipment to be incorporated in Work at all times at the place of production or manufacture and at the shipping point, as well as at Site of Work.

The Engineer will designate the Materials and Equipment to be inspected at the place of production or manufacture. Contractor shall give the Engineer fourteen (14) days advance written notice of the start of manufacture or production of Materials and Equipment so designated. The Engineer's failure to so designate Materials and Equipment shall in no way limit his right to inspect them at the place of production or manufacture.

Contractor's Materials and Equipment contacts shall include a notice to the Supplier or Subcontractor of the inspection requirements of this clause.

GC-36.3 Cooperation And Safety

The Engineer will perform inspections in such manner as not to delay Work unnecessarily, and Contractor shall perform the Work in such manner as not to delay inspection unnecessarily. Contractor shall give the Engineer reasonable advance notice of operations requiring special inspection of a portion of Work at any time by reasonable advance notice to the Engineer.

If requested by the Engineer, Contractor shall submit written certification, in a form approved by the Engineer, that he has inspected the Work prior to inspection by the Engineer, and that it complies with the Agreement Documents.

Contractor shall bear any additional inspection costs resulting from Contractor's failure to have a portion of Work ready for inspection at the time requested by Contractor for its inspection, or from reinspection of any previously rejected portion of Work where the defects requiring such rejection were due to Contractor's fault or negligence. Such costs may be deducted, in whole or in part, from any money due or that may become due Contractor under the Agreement.

Contractor shall furnish the Engineer all reasonable facilities for his safety and convenience in inspecting the Work, at all times and at all places where inspection may take place. If the Engineer finds that conditions are unsafe for inspection at a particular location, he may, upon notice to Contractor, refuse to inspect in that location until such conditions are corrected. Contractor shall bear any additional costs incurred to permit subsequent inspection of any portion of Work covered or completed at the location after

correction of the conditions, whether or not such portion of Work is found to meet the requirements of the Agreement Documents.

GC-36.4 Inspection of Covered or Completed Portions of Work

If so ordered in writing by the Engineer, Contractor shall uncover, remove, tear out, or disassemble, in whole or in part, any covered or completed portion of Work to permit its inspection. If that portion of Work is found to be defective or unauthorized, Contractor shall bear all costs of uncovering, removal, tearing out, or disassembly. If such portion of the Work is found to conform with the Agreement Documents, including Agreement Drawings and Specifications, it shall be recovered, replaced, reassembled, or otherwise restored by Contractor to its original condition and, except as stated below, all Work required in connection with the inspection will be considered extra Work. If such portion of Work was covered or completed without the approval of the Engineer, where such approval was required by the Specifications or required in advance by the Engineer, Contractor shall bear all costs involved in the inspection, notwithstanding conformance of such portion of Work with the Agreement Documents including the Agreement Drawings and Specifications.

GC-36.5 Inspection Not a Waiver or Acceptance

Neither the inspection nor lack of inspection of any portion of the Work, nor the presence or absence of the Engineer during performance of any of the Work, nor acceptance of the whole or any part of the Work by the Engineer, nor any possession taken by the City or its employees shall operate as a waiver of any provision of this Agreement Documents or any power herein reserved to City or any rights to damages herein provided. Should an error in the estimate, or conclusive proofs of defective Work or materials used by or on the part of Contractor be discovered after the final payment has been made, the City reserves the right to claim and recover by process of law such sums as may be sufficient to correct the error or to make good the defects in the Work and Materials.

GC-36.6 Correction of Non-Compliant Work

If Contractor is found to have Work that fails to meet the intent of the Plans and Specifications or other Agreement Documents, or is in other aspects unsuitable it may be issued a notice of non-compliance on that portion of the Project Work. Contractor shall remedy the defective or incorrect Work within twenty-four (24) hours unless a different schedule is agreed to in writing. This non-compliance status may be issued on temporary installations that fail to protect the Work or site conditions.

GC-37 CITY'S AUTHORITY

The City shall have authority to decide all questions as to interpretation and fulfillment of the requirements and obligations of the Agreement Documents, including, without limitation, all questions as to the prosecution, progress, quality, and acceptability of

Work. The City may implement and enforce its decisions by orders, instructions, notices, and other appropriate means.

Any decision, order, instruction, or notice of the City will be confirmed in writing. Such confirmation shall state the specific subject of the decision, order, instruction, or notice and its date, time, place, author and recipient.

Inspectors may be appointed to inspect all Materials used and all Work performed. Such inspection may extend to all or any part of the Work and to the preparation or manufacture of the Materials to be used. Inspectors will not be authorized to approve or accept any portion of the completed Work or to issue instructions contrary to the Plans and Specifications or other Agreement Documents. Inspector will have authority to reject defective Material and to suspend Work that is being improperly performed, subject to the final decision of the City. Inspector shall, in no case, act as foreman or perform other duties for Contractor.

GC-38 PROGRESS PAYMENTS

GC-38.1 Progress Estimates

Within the time set forth in the Special Conditions or, if none, then prior to the submittal of the first Payment Application, Contractor shall submit to the Engineer for approval, in the form directed or acceptable to the Engineer, a complete schedule of values of the various portions of the Work, including quantities and unit prices, aggregating the Agreement Price (except in cases and to the extent that accepted unit prices form the basis of payment). The schedule shall subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction and to coordinate with the progress schedule required under the Special Conditions, and shall be supported by such data to substantiate its correctness as the Engineer may require. Each item in the schedule of values shall include its proper share of overhead and profit. An unbalanced breakdown providing for overpayment to Contractor on items of Work which would be performed first will not be approved. The schedule of values, when approved by the Engineer, shall be used only as a basis for Contractor's monthly request for payment and shall not be used as the basis for computing additions to or deductions from the Agreement Price.

Subject to the provisions of this clause, Contractor shall prepare a written report for the Engineer's approval, on the form approved by the City, of the total amount of value of Work performed under the proposal items of Agreement to the time of such estimate and in accordance with the progress report based on the approved schedule.

No progress estimate or payment shall be considered an approval or acceptance of any Work performed, Material, or Equipment furnished. All estimates and payment will be subject to correction in subsequent estimates and the final estimate.

Progress payments will be made for all completed activities and for suitably stored Materials as herein provided.

GC-38.2 Progress Payments

Upon completion of each monthly estimate of Work performed and Materials furnished, the Engineer, subject to the provisions of the Agreement Documents, shall recommend payment to Contractor for the estimated value of such Work, Materials, and Equipment, less the amount of all prior payments and all liquidated damages and other amounts to be deducted or retained under the Agreement. Contractor will be paid one hundred (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 Contractor of bills of sale or such other procedures satisfactory to the Engineer to establish the City's title to such Materials or Equipment or otherwise protect the City's interest, including applicable insurance. No progress estimate or payment needs to be made when, in the Engineer's judgment, the increment in the estimated value of Work performed and Materials and Equipment furnished since the preceding estimate is less than Ten Thousand Dollars (\$10,000.00). Contractor will be paid on or before the twenty-fifth day following receipt of the approved estimate from the Engineer.

GC-38.3 Retention from Progress Payments

The amounts retained by the City from each progress payment shall be as follows:

- (1) Except as noted below, withholding ten percent (10%) of the estimated value of the Work performed until 50 percent of the Contract value, including change orders and other additions to the Contract value provided for by the Contract Documents, is due and the manner of completion of the Contract Work and its progress are reasonably satisfactory to the City.
- (2) At the discretion of the City and with the approval of Contractor, the retainage of each Subcontractor may be released separately as the subcontractor completes his or her work.
- (3) Upon receipt of written request from Contractor, the City may, in its unilateral discretion, reduce retainage to Contractor for payment of retainage to Subcontractors who have completed their Work. If such retainage is released, Contractor shall furnish the City with an affidavit certifying that all monies due the Subcontractor have been paid. If the City determines that the released retainage has not been paid to the Subcontractor, the amount released shall be reinstated.

(4) The City may, in its unilateral discretion, elect to reduce Contractor's retainage and that of Subcontractors who have not completed all their work if the City believes it to be in its interest to do so.

(5) If reduced, the City may reinstate ten percent (10%) withholding if it believes it necessary or desirable to do so. Contractor agrees that the City is free to do so.

(6) If, after discontinuing the retention, the City determines that the Work is unsatisfactory or has fallen behind schedule, retention may be resumed at the previous level. If retention is resumed, Contractor and Subcontractors shall be entitled to resume withholding retainage accordingly.

GC-38.4 Additional Payment Conditions

GC-38.4.1

The submission and approval of the CPM Schedule and periodic updates thereof, as required by the Schedule requirements of the Special Conditions, shall be an integral part and basic element of the application upon which Progress Payments shall be made. Contractor shall be entitled to Progress Payments only as determined from the currently approved and updated CPM Schedule.

GC-38.4.2

Contractor shall promptly pay each Subcontractor upon receipt of payment from the City, out of the amount paid to Contractor on account of such Subcontractor's Work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to Contractor on account of such Subcontractor's Work. Contractor shall, by an appropriate agreement with each Subcontractor, require each Subcontractor to make payments to their Subcontractors in similar manner.

GC-38.4.3

The City may, on request and at its discretion, furnish to any Subcontractor, if practicable, information regarding the percentages of completion or the amounts applied for by Contractor and the action taken thereon by the City on account of Work done by such Subcontractor.

GC-38.4.4

Neither the City nor the Engineer shall have any obligation to pay or to see to the payment of any Subcontractor or Supplier, but may at its sole option, withhold

payment from Contractor on account of claims of nonpayment by Subcontractors and Suppliers in accordance with GC-38.5.1.

GC-38.4.5

No certification of Progress Payment (any progress payment), or any partial or entire use or occupancy of the Project by the City, shall constitute an acceptance or approval of any Work not fully in accordance with the Agreement Documents.

GC-38.4.6

Any and all funds paid to Contractor pursuant to the City-Contractor Agreement are hereby declared to constitute trust funds in the hands of 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, before application to any other purpose. Whenever required by the Engineer, it shall be the duty of Contractor to file with the Engineer a verified statement, in form satisfactory to the Engineer, certifying the amounts then due and owing from Contractor for labor and materials, setting forth therein the names of the person whose charges or claims for labor or materials are unpaid, and the undisputed amount due to each respectively. The City, at its option, may also require the Contractor to furnish evidence of payment of Subcontractors and Suppliers in any form satisfactory to the City in addition to the requirements of GC-38.6.

GC-38.4.7

No payments made hereunder by City to Contractor prior to Final Payment shall be deemed conclusive as to the actual value of the Work performed by Contractor or of Contractor's performance of the Agreement.

GC-38.4.8

City reserves the right to issue any Progress Payment and Final Payment by check jointly to Contractor and any Subcontractor or Supplier at City's option.

GC-38.4.9

Should the City fail to issue any Progress Payment within sixty (60) days of approval of an acceptable monthly estimate of Work performed and Materials furnished, annual interest on the payment amount may accrue at the Prime Rate, plus one percent. The Prime Rate shall be based on that published in the Wall Street Journal on the first business day of January or June, whichever has most recently passed, of the current year. Nothing stated herein shall invalidate any other conditions of Progress Payment approval.

GC-38.4.10

Contractor agrees to execute such payment application forms and release of claim forms as the City may require as a condition precedent to the City's obligation to make payment.

GC-38.4.11

This Article 38 shall completely supersede the Georgia Prompt Payment Act as it relates to Owner payments and any modifications or successors to it to the full extent allowed by law.

GC-38.5 Payments Withheld

GC-38.5.1

The City may decline to approve payment and may withhold any payment, in whole or in part, to the extent necessary to reasonably protect the City from loss because of:

- (1) Defective Work not remedied;
- (2) Third party claims filed or reasonable evidence indicating probable filing of such claims;
- (3) Failure of Contractor to make payments properly to Subcontractors, or for labor, Materials or Equipment;
- (4) Reasonable evidence that the Work cannot be completed for the unpaid balance of the Agreement Price;
- (5) Damage or the reasonable expectation of damage to the City or another contractor;
- (6) Reasonable evidence that the Work will not be completed within the Agreement Time;
- (7) Failure to carry out the Work in accordance with the Agreement Documents;
- (8) Failure of Contractor to fully comply with the Schedule requirements of the Special Conditions;
- (9) Failure to comply with insurance and safety requirements;
- (10) Failure to keep current "As-Built" Records; or
- (11) Failure of Contractor to comply with the requirements of the Agreement Documents in connection with the Payment Application process.

GC-38.5.2

When the grounds in Article GC-38.5.1., above are removed, payment shall be made for amounts withheld because of them.

GC-38.6 Waiver and Preservation of Claims In Periodic Application of Payments

Contractor has been employed by the City to furnish labor, Material, services, and other improvements. Upon receipt of the amounts requested in any monthly Application for Payment, Contractor waives and releases any and all claims it may have against the City or the Engineer through the date of that Payment Application, excepting those rights that Contractor may have in any retained amounts on account of labor or Materials, or both, furnished by Contractor and the unresolved claims, if any, enumerated in the Application for Payment. Contractor expressly warrants by submission of its periodic Application for Payment that all due and payable bills with respect to the Work have been paid to date or shall be paid from the proceeds of the Application for Payment, and waivers and releases from all Subcontractors and materialmen have been or will be obtained and delivered to the City in such form as to constitute effective waivers and releases of claims under all applicable laws. Upon receipt of payment of the amounts certified in the Application for Payment, Contractor does thereby waive, release, and relinquish any claims for additional compensation or an extension of time which Contractor has then or may have had arising out of the performance of the work or the furnishing of the labor or materials by Contractor through the date of the Application for Payment. This waiver and release applies to all facts, events, circumstances, changes, constructive or actual delays, acceleration, extra work, disruption, interferences, impacts and the like, which have occurred or may be claimed to have occurred prior to the date of the Application for Payment, excepting only claims which are then currently unresolved for which written notice has previously been provided to the City **and** which Contractor specifically enumerates in its Application for Payment. Failure to so enumerate claims shall be a final waiver and relinquishment of claim, whether or not such claims were previously submitted in accordance with GC-41.

GC-39 SUBSTANTIAL COMPLETION (“Substantial Completion”)

GC-39.1 Certificate of Substantial Completion

When Contractor considers that the Work, or a designated portion thereof which is acceptable to the City, is Substantially Complete, Contractor shall prepare for the Engineer a list of items to be completed or corrected. The failure to include any items on such list does not alter the responsibility of Contractor to complete all Work in accordance with the Agreement Documents. When the Engineer, on the basis of an inspection, determines that the Work or designated portion thereof is Substantially Complete, they will then prepare a Certificate of Substantial Completion of the Work which shall establish the Date of Substantial Completion of the Work, shall state the responsibilities of the City and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance and shall fix the time within which Contractor shall complete the items listed therein. The Certificate of Substantial Completion of the Work shall be submitted to the City and Contractor for their written acceptance of the responsibilities assigned to them in such Certificate.

GC-39.2 Warranty Commencement

Warranties required by the Agreement Documents shall commence on the Date of Final Completion of the Project or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion of the Work or designated portion thereof.

GC-39.3 Intentionally Omitted

GC-40 FINAL PAYMENT (“Final Payment”)

GC-40.1 Certificate for Final Payment

Following the Engineer's issuance of the certificate of Substantial Completion of the Work or designated portion thereof, and Contractor's Completion of the Work, Contractor shall forward to the Engineer a Written Notice that the Work is ready for final inspection and acceptance, and shall also forward to the Engineer a final Application for Payment. Upon receipt, the Engineer will make the necessary evaluations. When the Engineer finds the Work acceptable under the Agreement Documents and the Agreement fully performed, the Engineer will issue a certificate for Payment that will approve the final Payment due Contractor (“Final Payment”).

GC-40.2 Final Payment Conditions

Neither the Final Payment nor the retainage shall become due until Contractor submits to the Engineer:

- (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) Consent of surety, if any, to Final Payment;
- (3) Clear title for all vehicles and/or trailers, if any, to remain as City property;
- (4) Complete set of as-built record Drawings;
- (5) Documentation for all state sales taxes paid by Contractor including completed State Department of Revenue Refund forms and all necessary back up documentation required by the Department of Revenue;
- (6) If required by the Engineer or City, other data establishing payment or satisfaction of all such obligations, such as receipts, releases, and waivers of liens arising out of the Agreement, to the extent and in such form as may be designated by the Engineer or City. If any Subcontractor refuses to furnish a release or waiver required by the Engineer or City, Contractor may furnish a bond satisfactory to the City to indemnify the City against

any such loss. If any lien or indebtedness remains unsatisfied after all payments are made, Contractor shall refund to the City all monies that the latter may be compelled to pay in discharging such lien or other indebtedness, including, without limitation, all costs, expenses, arbitration fees, reasonable attorneys' fees, expert fees, or consultant fees incurred in connection with same; and

- (7) As a condition of Final Payment on the Project, Contractor shall, prior to final payment, complete and submit to the City, all of the invoice documentation and the State of Georgia Revenue Department forms required to obtain the sales tax refund on all applicable equipment expenditures. This submittal shall include the certified forms and auditable back-up necessary to substantiate the expenditures for State refund.

GC-40.3 Intentionally Omitted

GC-40.4 Waiver of Claims by Contractor Upon Final Payment

The acceptance of Final Payment shall constitute a waiver of all claims by Contractor except those previously made in writing and identified **and** enumerated by Contractor as unsettled at the time of the application for Final Payment. Failure to so enumerate unsettled claims shall be a final waiver and relinquishment of claim, whether or not such claims were previously submitted in accordance with GC-41.

GC-41 CLAIMS, CHANGES, AND EXTRA WORK

Contractor acknowledges the extreme importance to Owner of identifying and resolving Claims on an "as-you-go" basis in order for Owner to maintain its relationship with all available funding sources, including local taxpayers as well as the state and federal governments. Contractor further acknowledges the extreme prejudice suffered by Owner as a result of any attempted assertion by Contractor of Claims except as specifically permitted herein in the precise manner and within the time limits established herein, which prejudice includes, but is not limited to that resulting from the trouble and expense of having to deal with disputes over claims, if any, that were not made in accordance with the precise manner and within the time established herein.

GC-41.1 Claims and Contractor's Obligation to Proceed in the Face of Disputes

GC-41.1.1

A claim is any demand, contention, or assertion by Contractor seeking additional time or money under the Agreement Documents. Claims by Contractor must be made in writing as specified herein. Claims from Contractor must contain all of the following:

- (1) a narrative statement referencing and attaching the supporting documentation and specifically describing the legal, factual, and contractual basis of the claim;
- (2) if the claim alleges delay to the work or requests an extension time for excusable delay, the claim must include the precise number of days claimed, all alleged impacts on the work, as well as a detailed critical path as-built schedule analysis illustrating that the delays claimed were on the critical path of the Project, and that no concurrent delays were experienced during the critical path delay;
- (3) if the claim alleges improper acceleration of the work pursuant to GC-27.2, the claim must include the precise number of days' time extension Contractor contends it would have been entitled to receive, but for the acceleration, and the precise number of days by which the work has been accelerated. No claims for acceleration for work that is not on the critical path shall be permitted. Claims for acceleration must be accompanied by a detailed CPM analysis. Claims for acceleration shall be limited to the recoverable acceleration expenses referenced in Article GC-27 of this Agreement; and
- (4) if the claim is for additional compensation, the claim must include a detailed calculation of the precise amount claimed with all supporting documentation and shall also comply with Atlanta Procurement Code §2-1201 for claims expected to exceed \$20,000.00. All claims must reference the specific contract provisions relied upon to support the claim. Claims that are not based upon a contractual provision or remedy shall be void as Contractor agrees that its entitlement is limited to the remedies offered by the terms of this Agreement. All claims must specifically reference, by name, this Article, and the fact that the claim is being submitted under this Article. Any writing or other form of notice, however designated, which fails to specifically reference this Article, by name, shall not be deemed to constitute a valid claim hereunder.

Items (1), (2), (3) and (4) above shall hereinafter be referred to as the "Final Accounting."

Initial written notice of Contractor's intent to assert a claim (the "Initial Notice") must be made in writing within seven (7) days after the occurrence of the event giving rise to the claim or the right to submit a claim is waived. Contractor shall submit all information reasonably available to it that is otherwise required in the Final Accounting at the time of the Initial Notice.

Except for Claim events that continue more than thirty (30) days, within thirty (30) days after the conclusion of the event giving rise to the Claim, Contractor shall provide the Final Accounting. Failure to timely provide the Final Accounting shall constitute a waiver of the Claim even if timely Initial Notice is provided. Any waiver by the City of the notice requirements for the Initial Notice or the Final Accounting for a single claim, event, or occurrence shall not constitute a waiver of these notice requirements for any other claim, event, or occurrence. Each request for time or money by Contractor shall be considered a separate claim. All information required in the Final Accounting must be submitted within the time limits established herein, and no supplementation of the information or claims shall be permitted. Any attempted reservation of the right to submit or supplement an earlier made claim shall be void.

For events giving rise to a claim that Contractor contends continues for more than thirty (30) days, including any alleged continuing claims or continuing impacts that Contractor contends continue to accrue beyond thirty (30) days, then Contractor shall give the Initial Notice as required herein, stating therein that the event or impact is continuing. Within thirty (30) days of the start of the event (as documented by the Initial Notice), Contractor shall provide all information available to it that is required in the Final Accounting, including without limitation a quantification of any costs incurred to date. Contractor shall supplement the required information, including without limitation any additional damages accrued during the period and any scheduling information required, every thirty (30) days thereafter until the event or impact ceases, culminating in the Final Accounting within thirty (30) days thereafter. Failure to timely provide: (a) the Initial Notice; (b) the information due within thirty (30) days thereafter; (c) timely and complete supplements; or (d) the timely Final Accounting shall be deemed a waiver of any claim for time or money for events occurring after the date Contractor last timely and completely complied with the requirements hereof. Any attempt to reserve the right to supplement at a different time or to accrue costs or impacts beyond thirty (30) days shall be void and shall be deemed a waiver of any further claim relating thereto.

The Final Accounting shall be accompanied by a sworn statement from a representative of Contractor who is the person most knowledgeable of the facts and circumstances surrounding the Claim and personally familiar with such facts and circumstances certifying that (a) the claim is submitted in good faith, (b) the cost data and all backup information submitted are true, accurate, and complete, and (c) that the amount requested accurately reflects the amount for which Contractor and the Affiant believe the City is liable.

GC-41.1.2 Claim Review

Upon receiving a statement of claim, and with the advice and assistance of the Engineer as appropriate, the City may review the statement of claim submitted by Contractor. In conducting this review, the Engineer or other person designated by the City shall have the right to require Contractor to submit such additional or supporting documents, data and other information as the City and/or the Engineer may require, and the failure to submit such additional documents, data or other information within thirty (30) days following written request shall be deemed a waiver of the claim. Contractor agrees that it will produce any documents requested that would otherwise be produceable in a civil action under O.C.G.A. § 9-11-34. Upon completion of such review, to take place within such time as the City may designate following receipt of the additional documents, data or other information as may have been required by the City and/or the Engineer, the City in consultation with the Engineer may issue a written determination, and if it deems appropriate accept such parts of the claim as are found in good faith to be proper. If Contractor agrees, a Change Order shall be issued to amend the Agreement Price, the time for completion or either of them as may be found proper. If Contractor disputes the determination made by the City, Contractor as a condition precedent to any further action to resolve such dispute must notify the City and the Engineer in writing within ten (10) days following receipt of the decision of the factual basis of such dispute and permit the City fifteen (15) additional days to reconsider and, if it deems it appropriate, issue a modified decision.

GC-41.1.3 No Waiver

Nothing contained in this section shall operate to limit or extinguish any right or defense of the City contained elsewhere in the Agreement Documents or available at law or in equity or constitute a waiver by the City of any right or defense otherwise available. Nothing in this Article GC-41 shall alter Article GC-24 or GC-26 or give Contractor the right to recover additional compensation not authorized by other items of the Contract Documents or precluded thereby.

GC-41.1.4 Absolute Conditions Precedent

The failure of Contractor to file any claim within the time limits prescribed herein or in the form or manner precisely as required hereby shall be deemed a material prejudice to the interests of the City and shall constitute an absolute waiver of the claim and the right to file or thereafter prosecute the same.

GC-41.1.5

Claims by the Owner shall not be subject to the requirements of Section 41.1, Claims by the Owner shall be asserted within a reasonable time of discovery of the claim and shall include information necessary for Contractor to reasonably

evaluate the claim. The Owner agrees to notify Contractor in writing of its claims within a reasonable time but not later than the close of discovery in any arbitration or litigation conducted hereunder.

GC-41.1.6

Pending final resolution of a Claim, except as otherwise agreed in writing, Contractor shall proceed diligently with performance of the Work and the Owner shall continue to make undisputed payments in accordance with the Agreement Documents. The making of any payment by Owner shall not constitute a waiver of any Claims by the Owner or an acknowledgement by Owner that Contractor is entitled to additional time or money.

GC-41.1.7

Contractor acknowledges the extreme importance to the City of completing the Work as expeditiously as possible and the prejudice the City may suffer if the Work is not completed as scheduled. Contractor further acknowledges the strong likelihood that disputes between the parties will arise and that Contractor will likely be required to perform disputed work which the City contends to be included within Contractor's scope of work, or that if acknowledged as changed or extra work, the likelihood that the City may dispute the amount of Contractor's alleged entitlement. Irrespective of whether it is within the general scope of the Work, Contractor agrees to perform all work, whether disputed or undisputed, that the City directs. No dispute or controversy shall interfere with the progress of construction, and Contractor shall proceed with the work without interruption, deficiency, or delay. Contractor warrants and represents that Contractor and its Surety have sufficient capitalization and resources to complete the Work, including all disputed work whether or not it is within the general scope of the work, and resolve disputes in accordance with the terms of this Agreement. Contractor therefore agrees that any failure or refusal by Contractor to perform disputed work which the City directs Contractor to perform shall be a material and substantial breach of the Agreement for which Contractor and its surety are jointly and severally liable. Contractor acknowledges and agrees that its failure or refusal to perform disputed work will cause the City significant damage and that such damages may include increased costs to have another contractor complete the work at a premium over the costs Contractor would have incurred to perform the disputed work. Contractor acknowledges and agrees that should it refuse to proceed in the face of disputes, it is liable for all additional costs incurred in completing both Contractor's base Agreement scope of work and any changed, extra, or additional work.

GC-41.2 Changes in the Work

GC-41.2.1 General

GC-41.2.1.1

Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Agreement, by Change Order, Field Change, Work Authorization or Change Directive. For purposes of this Agreement, the terms "extra work" or "additional work" shall have the same meaning as "changed work" and be governed by the same Agreement provisions governing changes.

GC-41.2.1.2

Changes in the Work shall be performed under applicable provisions of the Agreement Documents, and Contractor shall proceed promptly, unless otherwise provided in the Change Order, Field Change, Work Authorization or Change Directive. A change in the Agreement Price or the Agreement Time shall be accomplished only by Change Order or Change Directive, and no other compensation shall be due to Contractor other than that permitted pursuant to a Change Order or a Change Directive. Accordingly, no course of conduct or dealings between the parties, nor express or implied acceptance of alterations or additions to the Work, and no claim that Owner has been unjustly enriched by any change to the Work, whether or not there is, in fact, any unjust enrichment, shall be the basis of any claim for an increase in any amounts due under the Agreement Documents or a change in any time period provided for the Agreement Documents. Any failure to comply with the notice and other claim procedure requirements included herein or any other Agreement requirements shall be a waiver of the right to additional time or money.

GC-41.2.1.3

Any written directive which Contractor believes to constitute a Change hereunder must be accompanied by the notice required under Article GC-41 governing claims. ALL CONTRACTOR CLAIMS FOR CHANGES MUST BE ASSERTED IN ACCORDANCE WITH ARTICLE GC-41 OR THEY ARE WAIVED AND RELEASED.

GC-41.2.2 Change Orders

GC-41.2.2.1 [Intentionally Omitted]

GC-41.2.2.2 [Intentionally Deleted]

GC-41.2.2.3

Methods used in determining adjustments to the Agreement Price for Change Orders shall be limited to those listed, below:

Any Change Order accepted by Owner and Contractor constitutes a full and final settlement and accord and satisfaction of all effects of the change, including but not limited to any and all impact, delay and/or disruption relating thereto upon any and all aspects of the Work or the Agreement Documents, and will compensate Contractor fully. In such case, Contractor expressly waives any and all right to make a Claim or to take any action or proceeding for any other consequences of any Change Order, whether the consequences result directly or indirectly from the Change Order. In addition, Contractor expressly waives and releases any Claim it may have against the Owner for any adjustment in the Substantial Completion Date or Final Completion Date resulting from, arising out of, or related to the change reflected in any such Change Order, including, but not limited to, any impact that such change may have on the unchanged portion of the Work or the Substantial or Final Completion Date. In addition, Contractor expressly waives and releases any Claim it may have against the Owner for any additional compensation or damages resulting from, arising out of, or related to, the change reflected in any such Change Order, including, but not limited to any Claim for damages due to delay, disruption, hindrance, impact, ripple effect, cumulative impact, interference, cardinal change, abandonment, inefficiencies or extra work arising out of, resulting from, or related to the change reflected in any such Change Order, including, but not limited to, any impact that such change may have on the unchanged portion of the Work or the Substantial or Final Completion Date.

GC-41.2.3 Change Directives

GC-41.2.3.1

The Owner may, by Change Directive, without invalidating the Contract, order Changes in the Work consisting of additions, deletions or other revisions, the Agreement Price and Agreement Time being adjusted accordingly to the extent necessary. Any Claim arising from a Change Directive must be made in accordance with the terms of this Contract.

GC-41.2.3.2

A Change Directive shall be used in the absence of total agreement on the terms of a Change Order, Field Change, or Work Authorization.

GC-41.2.3.3

If the Change Directive warrants an adjustment to the Agreement Price, the adjustment shall be based on one of the following methods:

- (1) mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- (2) unit prices stated in the Agreement Documents or subsequently agreed upon;
- (3) cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- (4) by Force Account as provided hereafter.

GC-41.2.4 Force Account

When no agreement is reached for Changed Work to be done at Lump Sum or Unit Prices or another mutually agreed manner, such work may be authorized by the City to be done on a Force Account basis. A Force Account estimate that identifies all anticipated costs shall be prepared by Contractor. Work shall not begin until the Force Account is approved. Payment for Force Account work will be in accordance with the following:

GC-41.2.4.1 Labor

For all labor, equipment operators, and supervisors, excluding superintendents, in direct charge of the specific operations, Contractor shall receive the rate of wage agreed upon in writing before beginning work for each and every hour that said labor, equipment operators, and supervisors are actually engaged in such work.

Contractor shall receive the actual costs paid to, or in behalf of, workers by reason of subsistence and travel allowances, health and welfare benefits, pension fund benefits, or other benefits, when such amounts are required by collective bargaining agreement or other employment contract generally applicable to the classes of labor employed on The Work.

An amount equal to 10% of the sum of the above items will also be paid Contractor. Said 10% shall be deemed to include 3% for Contractor's fee and 7% for Contractor's overhead.

GC-41.2.4.2 Bond, Insurance, and Tax

For bond premiums, property damage, liability, and worker's compensation insurance premiums, unemployment insurance contributions, and Social Security taxes on the Force Account work, Contractor shall receive the actual cost, to which cost no percentage will be added. Contractor shall furnish satisfactory evidence of the rate or rates paid for such bond, insurance, and tax.

GC-41.2.4.3 Materials

For materials accepted by the Engineer and used, Contractor shall receive the actual cost of such material incorporated into The Work, including Contractor paid transportation charges (exclusive of machinery rentals as hereinafter set forth), to which cost 10% will be added. Said 10% shall be deemed to include 3% for Contractor's fee and 7% for Contractor's overhead.

GC-41.2.4.4 Equipment

For any machinery or special equipment (other than small tools) including fuel and lubricant, plus transportation costs, the use of which has been authorized by the Engineer, Contractor shall receive the rental rates indicated below for the actual time that such equipment is in operation on the Work or the time, as indicated below, the equipment is directed to stand by.

Equipment rates shall be based on the edition in effect at the time of Contractor's original bid of the *Rental Rate Blue Book for Construction Equipment* or *Rental Rate Blue Book for Older Construction Equipment*, whichever applies, as published by EquipmentWatch using all instructions and adjustments contained therein and as modified below.

Allowable Equipment Rates shall be established as defined below:

- Allowable Hourly Equipment Rate = Monthly Rate/176 x Adjustment factors x 70%.
- Allowable Hourly Operating Cost = Hourly Operating Cost x 70%.
- Allowable Rate Per Hour = Allowable Hourly Equipment Rate + allowable Hourly Operating Cost.
- Standby Rate = Allowable Hourly Equipment Rate x 35%

NOTE: The monthly rate is the basic machine plus any attachments.

Standby rates shall apply when equipment is not in operation and is directed by the Engineer to standby for later use. In general, Standby

rates shall apply when equipment is not in use, but will be needed again to complete The Work and the cost of moving the equipment will exceed the accumulated standby cost. Payment for standby time will not be made on any day the equipment operates for 8 or more hours. For equipment accumulating less than 8 hours operating time on any normal workday, standby payment will be limited to only that number of hours which, when added to the operating time for that day equals 8 hours. Standby payment will not be made on days that are not normally considered workdays.

The City will not approve any rates in excess of the rates as outlined above.

Payable time periods will not include:

- Time elapsed while equipment is broken down;
- Time spent in repairing equipment; or
- Time elapsed after the Engineer has advised Contractor the equipment is no longer needed.

If a piece of equipment is needed which is not included in the above *Blue Book* rental rates, reasonable rates shall be agreed upon in writing before the equipment is used. All equipment charges by persons or firms other than Contractor shall be supported by invoices.

Transportation charges for each piece of equipment to and from the site of the Work will be paid provided:

- The equipment is obtained from the nearest approved source;
- The return charges do not exceed the delivery charges;
- Haul rates do not exceed the established rates of licensed haulers; and
- Such charges are restricted to those units of equipment not already available and not on or near the Project.

No additional compensation will be made for equipment repair.

GC-41.2.4.5 Miscellaneous

No additional allowance will be made for general superintendence, the use of small tools, or other costs for which no specific allowance is herein provided.

GC-41.2.4.6 Compensation

Contractor's representative and the Engineer shall compare records and agree on the cost of work done as ordered on a Force Account basis at the end of each day. Should Contractor fail or refuse to fulfill this daily record keeping function by meeting with the Engineer and agreeing upon the cost of Force Account Work, Contractor agrees that it forfeits and releases any right to payment or right to claim for the Force Account Work for that day.

GC-41.2.4.7 Subcontract Force Account Work

For work performed by an approved Subcontractor or lower-tier Subcontractor, all provisions of this Section that apply to Contractor in respect to labor, materials and equipment shall govern. Contractor shall coordinate the work of its Subcontractor. The prime Contractor will be allowed an amount to cover administrative cost equal to 5% of the Subcontractor's amount earned but not to exceed \$5,000.00 per Subcontractor for each Change in Work performed by Force Account. Markup for lower-tier Subcontract work will not be allowed. The 5% shall be for Contractor's overhead in administering the change.

Should it become necessary for Contractor or Subcontractor to hire a firm to perform a specialized type of work or service which Contractor or Subcontractor is not qualified to perform, payment will be made at reasonable invoice cost. To each invoice cost a markup to cover administrative cost equal to 5% of the total invoice but not to exceed \$5,000.00 will be allowed Contractor or Subcontractor but not both. If paid to Contractor, the 5% shall be for Contractor's overhead in administering the change.

GC-41.2.4.8 Statements

No payment will be made for work performed on a Force Account basis until Contractor has furnished the Engineer with duplicate itemized statements of the cost of such Force Account work detailed as follows:

- (1) Name, classification, date, daily hours, total hours, rate, and extension for each laborer, equipment operator, and supervisor, excluding superintendents;
- (2) Designation, dates, daily hours, total hours, rental rate, and extension for each unit of machinery and equipment;
- (3) Quantities of materials, prices, and extensions;
- (4) Transportation of materials; and

- (5) Cost of property damage, liability, and worker's compensation insurance premiums, unemployment insurance contributions, and Social Security tax.

Statements shall be accompanied and supported by invoices for all materials used and transportation charges. However, if materials used on the Force Account work are not purchased specifically for such work but are taken from Contractor's stock, then, in lieu of the invoices, Contractor shall furnish an affidavit certifying that such materials were taken from its stock, that the quantity claimed was actually used, and that the price and transportation claimed represent the actual cost to Contractor.

Payment based on Force Account records shall constitute full payment and settlement of all additional costs and expenses caused by, arising from, or associated with the Work performed, including any time related or impact costs in connection with the Force Account work or any unchanged work impacted thereby.

GC-41.2.5

If any change or Change Directive meets the requirements for excusable delay and a change in the Agreement Time is warranted as a direct result of the change or Change Directive, then the four items of delay damage compensation identified in Article GC-26.2.1 for the unenforceability exception to the recoverability of delay damages under the Agreement may be included as a part of the adjustment in the Agreement Price for the change or change directive if Contractor has met all other requirements of the Agreement, including the notice and claim procedure requirements. Provided, however, Contractor shall, under no circumstances, be allowed to duplicate any costs included under this Article so as to receive a double recovery. In the event that Contractor is entitled to the four items of delay damage compensation referenced above, there shall be deducted from said entitlement all amounts paid or allowed Contractor for overhead pursuant to the percentage markups included herein.

GC-41.2.6

Upon receipt of a Change Directive, Contractor shall promptly proceed with the Change in the Work involved and advise the Owner of Contractor's agreement or disagreement with the method, if any, provided in the Change Directive for determining the proposed adjustment in the Agreement Price or Agreement Time utilizing the notice and claim procedures set forth herein.

GC-41.2.7

A Change Directive signed by Contractor indicates the agreement of Contractor therewith, including adjustment in Agreement Price and Agreement Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order, Field Change or Work Authorization, as applicable.

GC-41.2.8

If Contractor does not respond promptly or disagrees with the method for adjustment in the Agreement Price, the method and the adjustment shall be based upon the actual expenditures and savings attributable to the change, as determined in accordance with Article 41.2.4.

GC-41.2.9

The amount of credit to be allowed by Contractor to the Owner for a deletion or change which results in a net decrease in the Agreement Price shall be the actual cost, and that proportion of Contractor's Fee (including both profit and overhead) allocable to such actual cost.

GC-41.2.10

Pending final determination of the total cost of a Change Directive to the Owner, amounts not in dispute for such changes in the Work may be included in Applications for Payment accompanied by a Change Order, Field Change or Work Authorization (as applicable) indicating the parties' agreement with part or all of such costs. For any portion of such cost that remains in dispute, the Owner may make an interim determination for purposes of monthly certification for payment for those costs. That interim determination of cost, if made, shall be subject to the right of the Owner to change or withdraw the same unless and until finalized by Change Order, Field Change or Work Authorization, as applicable.

GC-41.2.11

When Contractor agrees with the determination made by the Owner concerning the adjustments in the Agreement Price and Agreement Time, if any, or Owner and Contractor otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order, Field Change or Work Authorization, as applicable.

GC-41.3 No Oral Changes

It is expressly agreed that, except in an emergency endangering life or property, no modifications, additions or changes to the Work shall be made except upon written order of Contractor, and Contractor shall not be liable to Subcontractor for any extra labor, materials or equipment furnished without such written order. No officer, employee or agent of Contractor is authorized to direct any extra or Changed work by verbal order nor is Subcontractor authorized to proceed with any work upon verbal order.

No eliminations, additions, or alterations shall be made in the Work except upon written order of The City. No course of conduct or dealings between the parties, nor express or implied acceptance of alterations or additions to the Work, and no claim that the City has been unjustly enriched by any alteration or addition to the Work, whether or not there is, in fact, any unjust enrichment to the Work, shall be the basis of any claim for an increase in any amounts due under the Agreement Documents or an increase in any time period provided for in the Agreement Documents. No action, conduct, omission, prior failure, or course of dealing by the City shall waive, modify, change, or alter the requirement that Change Orders, Field Changes, Work Authorizations and Change Directives must be in writing signed by the City and/or Contractor, and that written Change Orders are the exclusive methods for effecting any change to the Agreement Price or Agreement Time. Contractor understands and agrees that the Agreement Price and Agreement Time cannot be changed by implication, oral contracts, verbal directives, actions, inactions, course of conduct, or constructive change order. Contractor shall be under no obligation to perform pursuant to an oral directive to perform work in addition to the Project scope excepting the case of an emergency threatening personal injury or property damage. Contractor acknowledges and agrees that no one in the City's organization has the authority to order changes without a signed writing.

GC-42 WORK AUTHORIZATIONS

When directed by the City's Representative through a Work Authorization, the Contractor will perform Work that is expressly or generally contemplated under any allowance or contingency items designated by the Agreement Documents, which may include a Change for the addition of Work that does not result in an increase in the overall Agreement Price. Work Authorizations may include Work items that are not necessarily shown in the Agreement Documents, but may be necessary for the successful completion of the Project. The performance of the Work Authorization items must conform to the standards of the Agreement Documents. The funding for Work Authorizations is an allowance only and not a compensable pay item. The City is solely responsible for the appropriation of the funds. The Contractor shall have no claims to such funds. The City will retain ownership of any such funds not used after the completion of Work. The Work shall be assigned and directed by the City's Representative in written form. Measurement, Payment, Invoicing and Pricing of Adjustments for Work Authorizations will be in accordance with the Agreement Documents.

GC-43 OWNERSHIP AND USE OF DOCUMENTS

All Contract Documents furnished to the Contractor remain the property of the City. The Contract Documents are to be used only with respect to this Project and are not to be used on any other project. All Contract Documents are to be returned to the City upon request at the completion of the Work. The Contractor may maintain a record set of the Contract Documents for its records, but will maintain the confidentiality of the record set, except as required by law. The Contractor can use the Contract Documents for any purposes required for the Project that will not be considered publication in derogation of the common law copyright or other reserved rights of the holder.

Neither Contractor nor any Subcontractor, Sub-Subcontractor, Supplier, vendor or other person or organization performing or furnishing any of the Work under a direct or indirect contract with City acquires any title to or ownership rights in any of the Contract Documents. The Contractor may not reuse the Contract Documents for extensions of the Project or for any other project without written consent of the City.

GC-44 CHANGED CONDITIONS

Contractor shall notify the Engineer in writing of the following conditions, hereinafter called "changed conditions," promptly upon their discovery and before they are disturbed, in any event no later than seven (7) calendar days after their discovery:

- (1) Subsurface or latent physical conditions at the site of Work differing materially from those indicated in this Agreement; 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 the Agreement.

The Engineer shall promptly investigate the conditions, and if he finds that such conditions do materially so differ and cause an increase or decrease in Contractor's cost of, or the time required for, performance of any part of the Work under this Agreement, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the Agreement modified in writing in accordance with the provisions of this Agreement, subject to the provisions regarding Change Orders, Change Directives, notice and claims procedure and excusable delays. If the Engineer determines that conditions of which he has been notified by Contractor do not justify an adjustment in compensation, he will so advise Contractor in writing. Should Contractor disagree with such determination, it may submit a notice of claim to the Engineer as provided herein and follow the claims procedures of Article GC-41.

In computing any equitable adjustment sought by Contractor, the actual costs incurred by Contractor, computed in accordance with the Force Account provisions for changes shall be the standard for determining Contractor's entitlement. Provided, however, that

if the City shows that conditions encountered by Contractor on the Project were more favorable and less costly than what Contractor reasonably should have expected to encounter, the net effect on Contractor from both the favorable and unfavorable conditions shall be considered in determining the amount of any equitable adjustment.

GC-45 INTENTIONALLY OMITTED

GC-46 INTENTIONALLY OMITTED

GC-47 INTENTIONALLY OMITTED

GC-48 INTENTIONALLY OMITTED

GC-49 MEASUREMENT AND PAYMENT

GC-49.1 Measurement

All items of Work to be paid for at Agreement Prices per unit of measurement will be measured or certified by the Engineer.

GC-49.2 Payment at Agreement Prices

The Agreement prices for items of Work shall include full compensation for all costs of items, including the costs for any Work, Materials and Equipment incidental to the items but not specifically shown or described in the Drawings and Specifications, subject only to such express limitations as may be stated in the Specifications defining the items or prescribing payment thereof.

GC-50 HISTORICAL, SCIENTIFIC, AND ARCHEOLOGICAL DISCOVERIES

All articles of historical or scientific value, including, but not limited to, coins, fossils, articles of antiquity, which may be uncovered by Contractor during process of Work, shall become the property of City. Such findings shall be reported immediately to the Engineer who will determine the further operations of Contractor, the method of removal, where necessary, and the final disposition thereof.

GC-51 SEPARATE AGREEMENTS

GC-51.1 Separate Contractors

The City reserves the right to award other Agreements in connection with this Project. Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate its Work with theirs. If the proper execution of any part of Contractor's Work depends upon the work of another contractor, Contractor shall inspect and promptly

report to the Engineer any defects in such work that render it unsuitable for such proper execution and results.

GC-51.2 Cooperation

The City may perform additional work related to the Project by itself, or it may let other contracts containing provisions similar to these. Contractor shall afford the other contractors who are parties to such contracts and/or the City, if it is performing the additional work itself, reasonable opportunity for the introduction and storage of materials and equipment and the execution of work and shall properly connect and coordinate its work with theirs.

GC-51.3 Review of Separate Contractor's Work

If any part of Contractor's Work depends for proper execution or results upon the work of the City or any separate contractor, Contractor shall, prior to proceeding with the Work, promptly report to the Engineer any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of Contractor so to report shall constitute an acceptance of the City's or separate contractor's work as fit and proper to receive the work, except as to defects which may subsequently become apparent in such work by others.

GC-51.4 Notice to Contractor

If the performance of additional work by other contractors of the City is not noted in the Agreement Documents prior to the execution of the Agreement, Written Notice thereof shall be given to Contractor prior to starting any such additional work.

GC-51.5 Damage to Separate Contractor

Should Contractor wrongfully delay, impact, or cause damage to the work or property of any separate contractor, Contractor shall, upon due notice, promptly attempt to settle with such other contractor by agreement, or otherwise to resolve the dispute. If such separate contractor sues or initiates a proceeding against the City or the Engineer on account of any delay or damage alleged to have been caused by Contractor, the City shall notify Contractor, who shall defend such proceedings at Contractor's expense, and if any judgment or award against the City or the Engineer arises therefrom, Contractor shall pay or satisfy it and shall reimburse the City for all costs and expenses, including without limitation, attorneys' fees, expert fees, consultant fees, court costs, and litigation or arbitration fees or expenses that the City has incurred.

GC-51.6 City's Right to Clean Up

If a dispute arises between Contractor and separate contractors as to their responsibility for cleaning up or for accomplishing coordination, the City may clean up and carry out

such work and charge the cost thereof to Contractors responsible therefor as the Engineer shall determine to be just.

GC-52 OFFICIAL NOT TO BENEFIT

No officer or employee of the City shall be permitted to participate in the performance of this Agreement or receive any benefit or compensation arising out of the performance of such Agreement, and any Agreement entered into by the City in which any officer or employee of the City shall be personally interested shall be void, and no payment shall be made thereon by the City or any officer thereof; but this provision shall not be construed to extend to the Agreement if made with a corporation for its general benefit.

A bribe or attempt to bribe any representative or officer of City by Contractor shall be considered as a breach of the Agreement in bad faith, and shall thus empower City to complete Work and deduct the entire cost thereof from any monies due or to become due Contractor under the Agreement.

GC-53 GRATUITIES AND KICKBACKS

The Contractor's Contract may be terminated in accordance with the Clause titled "TERMINATION FOR DEFAULT" if, after notice and hearing, the City determines that the Contractor, its agent, or another representative offered or gave a gratuity or kick-back to an officer, official, or employee of the City and intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

The rights and remedies of the City provided in this Clause are not exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

The Contractor warrants that: (1) it has not employed nor retained any company or person, other than a bona fide employee working for the Contractor, to solicit or secure the contract; and that the Contractor has not paid or agreed to pay any person, company, association, corporation, individual or firm, other than a bona fide employee working for the Contractor, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of the contract. After Notice and hearing and upon a finding in contradictions to this Paragraph constituting a breach or violation of the above warranty, the City has the right to terminate the contract or take other appropriate actions.

GC-54 PRECONSTRUCTION CONFERENCE

Within twenty (20) days after delivery of the executed agreement by City to Contractor, but before issuance of Notice to Proceed, a conference will be held to review progress schedules, to review the insurance and safety program, to establish procedures for handling Shop Drawings and other submittals and for processing progress payments, and to establish a Working understanding between the parties as to the Project.

Contractor shall submit to the City for approval, prior to the preconstruction conference, a preliminary schedule of Shop Drawing submittals, and certification of insurance as required by Appendix B.

GC-55 TIME OF COMPLETION AND LIQUIDATED DAMAGES

GC-55.1 Liquidated Damages

It is understood and agreed that the City will sustain substantial monetary and other injury and damages, including, but not limited to, increased costs, expenses and liabilities in the event of failure by Contractor to perform its Work in accordance with the Completion and any Interim Milestone Date(s) set forth in the CPM Schedule prepared in accordance with the Special Conditions. Accordingly, should Contractor not complete the Work, or any such portion thereof, within the date(s) required by the CPM Schedule initially approved by the Engineer, as they may be adjusted pursuant to the Agreement Documents, then charges shall be assessed against any money due or that may become due Contractor in accordance with the following schedule:

For Each day of delay in Substantial Completion of the entire Work: \$5,000/ day

For Each day of delay in Final Completion of the entire Work: \$5,000/ day

The amount of such charges is hereby agreed upon as fixed liquidated damages due the City after the expiration of the Agreement Date(s) for completion specified in the CPM Schedule for the Work or portions thereof. Contractor and its surety shall be liable for any liquidated damages in excess of the amount due Contractor on the Final Payment.

If the CPM Schedule projects an untimely completion with unexcused delay and the City in good faith believes that retainage will be insufficient to cover the City's damages, Contractor agrees that the City may withhold additional funds to assure the payment of the liquidated damages owed by Contractor.

GC-55.2 No Penalty

The fixed liquidated damages are not established as a penalty but are calculated and agreed upon in advance by the City and Contractor due to the uncertainty and impossibility of making a determination as to the actual direct, incidental and consequential damages which are incurred by the City as a result of the failure on the part of Contractor to complete the Work within the Agreement Time and completion date(s) specified in the Agreement Documents. Liquidated damages shall start in accordance with the above schedule upon notification to Contractor in writing that all apparent Agreement Time allowed to achieve the relevant completion date has been consumed. Liquidated Damages as they accrue will be deducted from periodic partial payments to the extent they are sufficient to cover the liquidated damages owing; provided that any excess liquidated damages owing over the periodic partial payment

amount may be deducted from retainage. Such deduction shall be in addition to the retainage provided for in the Agreement Documents. The remaining amount of liquidated damages owing upon completion will be deducted from any amounts owing as Final Payment to Contractor or its surety. Any excess amount owing as liquidated damages shall be paid upon demand.

55.3 Indemnification for Stipulated Penalties.

Contractor expressly acknowledges and agrees that the Work required under this Agreement is mandated as a required project under the City's First Amended Consent Decree, Civil Action File No. 1:98CV1956TWT ("FACD"), which requires that the Work shall be completed no later than July 1, 2014; and further that failure to complete the Work by said date will result in stipulated penalties under the FACD in an amount of \$2500 per day for 1 to 30 days of delay
\$5,000 per day for 31 to 60 days of delay
\$8,500 per day for 61 or more days of delay
("FACD Penalties"). In addition to Liquidated Damages described in this GC-55, Contractor agrees to indemnify the City for all FACD Penalties assessed against the City resulting from Contractor's failure to timely complete the Work in accordance with the Agreement Time under this Agreement; and further, failure of Contractor to timely complete the Work under this Agreement in accordance with the Agreement Time shall be a material breach of the Agreement.

GC-56 RIGHT TO AUDIT

Contractor shall keep and maintain accurate books and records, and supporting data, documentation, correspondence, reports, instructions, Drawings, receipts, vouchers, and memoranda regarding performance of Work hereunder and including specifically, but without limitation, such information as estimates (pre and post Bid), costs incurred, labor and Materials consumed, schedules and progress records and quality control. Such books and records shall be available for inspection, audit, and copying by the City or its authorized representative for any purpose during the Work and for a period of three (3) years after Final Payment.

GC-57 DISPUTES

GC-57.1 Mediation

In the event of any controversy, claim, dispute or other matter in question arising out of or relating to this Agreement of the breach thereof or otherwise in connection with the Project to which this Agreement pertains, at the City's sole and exclusive option the parties shall, if the City so elects and as an express condition precedent to any party to this Agreement commencing legal action against the other relating to or arising out of the dispute, mediate the dispute utilizing a mutually agreeable mediator. Prior to commencing any legal action against the City, Contractor must either mediate the

dispute, at the City's election, or obtain a written waiver from the City of its right to mediate.

GC-57.2 Arbitration at the City's Election

At the Owner's sole election, any Claim arising out of or related to the Agreement shall be subject either to binding arbitration or litigation at the City's option. Prior to arbitration or litigation, the parties shall endeavor to resolve Claims or disputes in accordance with the terms of this Contract.

GC-57.2.1

If Claims are not resolved by negotiation, mediation, or otherwise, and the Owner elects arbitration, the arbitration shall be held in Atlanta, Georgia and shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently then in effect or such other similar rules and organization as the Owner may elect. The demand for arbitration shall be in writing and filed with the appropriate organization selected by the Owner and shall be served on the other party to the Contract. The agreement to arbitrate shall be specifically enforceable under applicable law in any court having jurisdiction thereof. In any arbitration or litigation, the arbitrators or the Court shall have the jurisdiction to award the City costs, arbitrator fees, expert fees, and attorneys' fees, and the arbitrators or the Court shall award all such fees to the City if it is the prevailing party.

GC-57.2.2

Except at Owner's sole discretion and with its consent, no arbitration arising out of or relating to the Agreement shall include, by consolidation or joinder or in any other manner, any other person or entity, including but not limited to the Designer and its employees and consultants, any of Contractor's subcontractors and suppliers, and any other separate contractors or suppliers. The Owner's consent or election to allow consolidation or joinder or shall not constitute consent to arbitration of any claim not subject to arbitration pursuant to this Contract.

GC-57.2.3

Any award rendered by an arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

GC-57.3 Litigation If Arbitration Not Elected

If the Owner does not elect arbitration, any Claims shall be resolved in Fulton County, Georgia Superior Court. Contractor hereby submits to jurisdiction and venue in Fulton County, Georgia, and waives all defenses based on a lack of jurisdiction and/or venue.

Contractor acknowledges that this Agreement was negotiated, at least in part, in Fulton County, Georgia. In any arbitration or litigation, the arbitrators or the Court shall have the jurisdiction to award the City costs, arbitrator fees, expert fees, and attorneys' fees, and the arbitrators or the Court shall award all such fees to the City if it is the prevailing party.

GC-58 AGREEMENT ADMINISTRATION DOCUMENTS

A substantial number of documents will be required for the administration of the Agreement. Some of these documents are identified in this document and elsewhere in the Agreement Documents (such as the Payment and Performance Bond forms) and others may not be. The Engineer shall have full power and authority to designate and prepare the documents to be used and Contractor and all Subcontractors and Material Suppliers shall utilize the documents so prepared and provided to them by the Engineer and shall follow the instructions of the Engineer with respect thereto in all regards save and excepting only those documents, if any, which Contractor reasonably determines contain terms or requirements contrary to or in addition to and not reasonably inferable from the terms of the Agreement Documents. If Contractor believes that any form or other document provided by the Engineer under the authority of this Section is subject to rejection by Contractor under the terms hereof, it shall notify the Engineer thereof within ten (10) days following its first receipt of the particular document or form giving specific reasons why the document or form is entitled to rejection. Thereafter, the form or document will be withdrawn, amended, or utilized as the Engineer finds in good faith to be appropriate after reviewing the notice provided by Contractor. All agreement administration documents may be revised at any time by the Engineer.

GC-59 MISCELLANEOUS PROVISIONS

GC-59.1 Governing Law

The Agreement shall be governed by the law of the State of Georgia.

GC-59.2 Contingent Assignment

Effective as of any termination of the Agreement, Contractor hereby assigns to City all of Contractor's interest in those subcontracts and purchase orders entered into by Contractor prior to termination if the City specifically requests such an assignment by Written Notice. All Subcontractors and Purchase Orders shall provide that they are freely assignable by Contractor to the City and its assigns. City shall be at liberty to negotiate with and engage (for itself) any Subcontractors, Suppliers, or others that Contractor dealt with prior to termination.

GC-59.3 Rights and Remedies

GC-59.3.1

The duties and obligations imposed by the Agreement Documents and the rights and remedies available thereunder shall be in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

GC-59.3.2

No action or failure to act or to require in any one or more instances upon the strict performance of any one or more of the provisions of the Agreement Documents, or to exercise any right herein contained or provided by law by the City or the Engineer, shall constitute a waiver of any right or duty afforded any of them under the Agreement Documents, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach hereunder, nor shall it be construed as a waiver of the right to subsequently demand strict performance or exercise such rights, and the rights shall continue unchanged and remain in full force and effect, except as may be specifically agreed in writing.

GC-59.3.3

Contractor agrees that it can be adequately compensated by money damages for any breach of this Agreement which may be committed by the City and hereby agrees that no default, act, or omission of the City, or the Engineer, shall constitute a material breach of the Agreement entitling Contractor to cancel or rescind the provisions of this Agreement or (unless the City shall so consent or direct in writing) to suspend or abandon performance of all or any part of the Work. Contractor hereby waives any and all rights and remedies to which it may otherwise be or become entitled, save only its right to money damages.

GC-59.4 Unenforceability of any Article

If any Article or term of the Agreement Documents is held as a matter of law to be unenforceable or unconscionable, the remainder of the Agreement shall be enforceable without such clause or term, and only the narrowest possible portion of the clause or term that is allowed by law shall be unenforceable.

GC-59.5 Obligation to Perform

Contractor shall carry on the Work and adhere to the approved current CPM Schedule during and notwithstanding all disputes or disagreements with City. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as Contractor and City may otherwise agree in writing.

GC-59.6 Labor Relations

Work on the Project may be performed by both union and nonunion separate contractors, Subcontractors, Suppliers, and other entities and persons. In the event of

any strike, picket, sympathy strike, work stoppage, or other form of labor dispute at the Project whether directed at Contractor, other separate contractors, Subcontractors, Suppliers or other persons, Contractor shall continue to perform its Work required hereby without interruption or delay. In the event Contractor fails to continue its Work without interruption or delay, because of any or such events, the City, in addition to all other rights it has in the Agreement Documents and at law, may terminate the Agreement after giving Contractor forty-eight (48) hours written notice of its intent to do so for reason of Contractor's failure to perform. Additionally, if Contractor is party to one or more labor agreement, Contractor shall take all reasonable action to avoid any Work stoppage, and in the event of a work stoppage, Contractor shall within twenty-four (24) hours take all legal action permitted by such labor agreements or by law in order to expedite resumption of Work on this Project.

GC-59.7 Covenant Not to Sue

Should the City elect to terminate the employment of Contractor for default as provided herein, then Contractor covenants that it will not file any suit or proceeding of any kind against the City by reason thereof until the City shall have either abandoned the Project or completed the Work as defined under the Agreement Documents. If Contractor should breach this "Covenant Not To Sue," then Contractor shall be liable to the City for all costs resulting to the City therefrom, including, without limitation, all attorneys' fees expended by the City in defending said suit or proceeding, unless a positive determination is made therein that Contractor's termination by the City was motivated by fraud and bad faith and was without justification of any kind.

GC-59.8 Publicity and Advertising

The Contractor will not make any announcement, take any photographs, or release any information concerning the Work, this Contract, or the Project to any member of the public, press, business entity, or any official body, unless prior written consent is obtained from the City's Representative. The Contractor may not erect any signs without the written approval of the City's Representative.

GC-60 STATEMENT OF NON-DISCRIMINATION

During the performance of this Agreement, Contractor agrees to comply with all provisions of Part 2, Chapter 2, Article X, Division 11, including Section 2-1414 of the Code of Ordinances, City of Atlanta, as may be hereafter amended.

GC-61 EQUAL BUSINESS OPPORTUNITY (EBO)

During the performance of this Agreement, Contractor agrees to comply with all provisions of Part 2, Chapter 2, Article X, Division 11, including Section 2-1441 through 2-1460 of the Code of Ordinances of the City of Atlanta, the Equal Business Opportunity ("EBO") Program as may be hereafter amended.

GC-62 WAGE RATES AND REPORTING PROCEDURES

GC-62.1 Certified Payrolls

Contractor shall maintain accurate payroll records and be prepared to submit certified copies for the prime contractor and all subcontractors. Payrolls reporting an employee for the first time must contain the complete name, address, and social security of the employee.

GC-62.2 Submittals

All required payrolls shall be submitted to the Office of Contract Compliance. Any questions concerning these submittals can be addressed:

Office of Contract Compliance
55 Trinity Avenue, Suite 1700
Atlanta, Georgia 30303
(404) 330-6010

GC-62.3 [INTENTIONALLY OMITTED]

SPECIAL CONDITIONS



SPECIAL CONDITIONS

SC-1 PRECONSTRUCTION VIDEO SURVEY AND INSPECTIONS

Contractor is expressly advised that the protection of buildings, structures, bridges, and related work adjacent and in the vicinity of its operations, wherever they may be, is solely its responsibility. Condition inspection of buildings, bridges or other structures shall be performed by and be the responsibility of the Contractor.

Repairs or replacement of all conditions disturbed by the construction shall be made to the satisfaction of the owners or agents of adjacent buildings, structures, facilities, etc., and to the satisfaction of the Engineer. This does not preclude conforming to the requirements of the insurance underwriters. Two (2) copies of surveys, photographs, videos, reports, etc., shall be given to the Engineer.

The Contractor shall retain an independent Consultant, specializing in preconstruction surveys, to conduct the required inspections. The preconstruction survey will be performed by a firm specializing in performing such surveys. The qualifications and experience of the proposed consultant shall be submitted to the Engineer for approval prior to assignment of the Services.

Perform a preconstruction video survey and inspection in advance of construction to document the existing condition of buildings, facilities, structures, utilities, roads, driveways and related work.

Video survey and inspection of buildings, structures, facilities, utilities and related work in the immediate vicinity of the site, and along the entire length access roads used by heavy trucks and construction equipment shall be performed by the specialist. The video surveys and inspections shall clearly document the existing conditions and be completed before any operations have begun and subject areas disturbed by any construction activities. The video surveys and inspection notes, reports, etc. shall be submitted to the Engineer. The video surveys and inspections shall make an examination of the interior and exterior of buildings, structures, facilities and utilities, and record by notes, measurements, photographs, videos, etc., conditions which might be aggravated by construction activities. Prior to blasting, video surveys and inspections of residences and other private structures existing within the survey and inspection corridor shall have been completed.

The cost of all pre-construction video surveys and inspections shall be borne by the Contractor.

SC-2 RIGHT OF WAY AND CONSTRUCTION ACCESS

The City will furnish all rights of way and work area for the performance of Services included in this Agreement comprising the Work Site. Areas designated on the Agreement Drawings as the Contractor's Work Area will be provided to the Contractor for the duration of Project, without charge. The Contractor will be responsible for observing the limits of the designated Work Area and shall prohibit any Services being done on or any damage to property outside the bounds of the public right-of-way and/or Work Area. Additional work and storage space, if required, shall be obtained by the Contractor at no additional costs to the City.

SC-3 SAFETY AND HEALTH

The Contractor shall comply with all applicable health and safety standards and provisions required by the City of Atlanta, Fulton County, State of Georgia, and the Federal Government and its regulatory agencies. The Contractor shall maintain an accurate record of all cases of death, occupational diseases, and injury requiring medical attention or causing loss of time from work arising out of and in the course of employment on work under the Contract. This project involves work in and around operating combined and sanitary sewer systems. In these areas the potential exists for toxic and/or explosive gases. The Contractor shall exercise caution when entering any confined space. The atmosphere shall be tested for oxygen levels, presence of chemicals, and explosivity before entry. Contractor alone shall be responsible for the safety, efficiency, and adequacy of his plant, appliances, and methods, and for any damage, which may result from their failure or their improper construction, maintenance, or operation.

- A. Emergency phone numbers (fire, medical, police) shall be posted at the Contractor's phone and its location known to all.
- B. Accidents shall be reported immediately to the Engineer by messenger or phone.
- C. All accidents shall be documented and a fully detailed written report submitted to the Engineer after each accident.

SC-4 LAYOUT OF THE WORK AND CONSTRUCTION VERIFICATION SURVEYING

SC-4.1 General

- A. The Services required includes providing field engineering services, which includes establishing and maintaining survey control points and baselines as necessary to control the alignment (vertical and horizontal) and all parts of the Services within the specified tolerances, and documentation of the

results. Some of these Services shall be performed by and for the Contractor, and some of the Services will be performed by a Specialty Consultant to the City for construction verification surveying.

- B. The Contractor shall be responsible for the development and implementation of a surveying program capable of satisfying all Project survey and accuracy requirements. This program shall be subject to the review of the Engineer before commencement of the work. The review shall in no way release the Contractor of liabilities associated with or dependent on this part of the Services.
- C. The Contractor is also responsible for providing a separate, construction verification surveyor, approved by the Engineer, who shall report independently to the Engineer.
- D. Control datum for the survey has been established by the Engineer and is indicated on the Drawings.
- E. Costs of the construction verification surveying shall be paid from the Allowance for Specialty Consultants.

SC-4.2 Quality Control

- A. Planning and execution of both the field engineering services and the construction verification surveying shall be supervised by engineers or land surveyors registered in the State of Georgia and shall be conducted by personnel with documented experience in the specific types of work required.
- B. The allowable combined errors of land and underground surveys shall be compatible with excavation, final lining, and pipe placement tolerances.

SC-4.3 Submittals Related to Contractor's Field Engineering Services

- A. Submit qualifications of land surveyor supervisor(s) with detailed references made to projects requiring application of similar surveying procedures and techniques including name, address, and telephone number to the Engineer for review prior to commencement of any survey work.
- B. Submit detailed description of proposed survey method, network diagrams and equipment type, accompanied with manufacturer's literature specifying probable accessories, calibration procedures, requirements and frequencies.

- C. Submit shop drawings showing survey monument materials and methods of installation, preservation and recovery.
- D. Submit mathematical pre-analysis to demonstrate that the required accuracies can be achieved using the proposed methods.
- E. Submit, upon request, a complete and accurate log of control and survey work including documentation verifying accuracy of survey work as it progresses, and upon completion of the Work. Documentation shall include, but not be limited to, survey field books, sketches, drawings and layouts.

SC-4.4 General Requirements Related to Contractor's Field Engineering Services

- A. The Engineer has established basic survey control points as shown on the Drawings. The Contractor shall examine and verify locations of survey control points, and shall notify the Engineer of any discrepancies discovered, within forty-eight (48) hours of discovery and before starting the Services.
- B. Establish, verify and maintain a minimum of three (3) additional survey monuments for the work at each work site. The monuments shall be permanent on site and referenced to the established survey control points. Record locations, with horizontal and vertical data, on Project Record Documents. Monuments will also be checked and verified by the construction verification surveyor. Survey notes relating to the monuments and primary control points shall be submitted to the Engineer.
- C. At all times, protect, preserve and maintain survey control points used for the Services. Report to the Engineer the loss, destruction or relocation of any survey control point and replace survey control points based on original survey control. Make no changes without prior written notice to the Engineer.
- D. Use equipment and implementation techniques such as forced centering techniques at survey control points as necessary to achieve required accuracies.
- E. Furnish information to adjust, move or relocate existing structures, utility poles, lines, services or other appurtenances located in, or affected by, construction. Through the Engineer, coordinate with local authorities having jurisdiction.
- F. Establish elevations, lines and levels. Locate and layout by instrumentation and similar appropriate means:

1. Site improvements including pavements; stakes for grading, fill and topsoil placement; utility locations, slopes and invert elevations.
 2. Grid or axis for structures.
 3. Foundation and wall locations, sloping floor elevations, and embedment centerlines and elevations.
- G. Where the dimensions and locations of existing structures are of critical importance in the installation or connection of any part of the work, verify such dimensions and locations in the field before the fabrication of any material or embedment, which is dependent on the correctness of such information.

SC-4.5 Verification by Construction Verification Surveyor

- A. Verify horizontal and vertical position of survey control points by field traverse to at least two (2) other survey control points prior to each use of a survey control point.
- B. The Engineer will hold meetings with the Contractor's surveyors to coordinate benchmark verification, grid set-up and format for grade checks. The construction verification surveyor shall perform independent periodic checks of grade and both "in-progress" and "as-built" surface facilities. The Contractor shall assist the construction verification surveyor in such verification, allow the construction verification surveyor access to all survey control points and provide transport for personnel and materials to and from the survey control point locations. Such verification by the construction verification surveyor will not relieve the Contractor of its sole responsibility for the accuracy of all survey work performed by the Contractor.

SC-4.6 Calibration and Data Processing

- A. Calibrate all procedures and instruments as required and as recommended by the instrument manufacturer. Maintain a log showing date and type of calibration performed indicating the name of the individual performing the calibration.
- B. Data reduction shall incorporate calibrations and meteorological corrections, and rigorous reduction of measurements to the ellipsoid and thence to the coordinate system. Correct distance measurements by electro-optical distance measurement instrument for scale, cyclic error, zero error, and meteorological effects. Correct azimuths using the Laplace correction and include the effect of the deflection of the vertical components on angles and azimuth measurements.

- C. Data processing shall include, as required, rigorous least squares adjustments. Employ data outlier detection. Determine horizontal and vertical confidence intervals.

SC-5 DISPOSAL OF WASTE MATERIAL

The disposal of all excavated material or spoil not required for use in the permanent work shall be the responsibility of the Contractor. The Contractor shall remove all excess excavated material or spoil from the site of the Work and dispose of the same in a legal manner at no additional cost to the City. Burning of debris on site will not be allowed.

SC-6 REMOVAL OF CONDEMNED MATERIAL

Material on the site, which has been determined by the Engineer to be unsuitable or not in conformity with the Contract documents shall be removed from the vicinity of the work without delay and disposed of in an approved area.

If the Contractor fails to do so within forty-eight (48) hours after the receipt of notice, the condemned materials may be removed by the City and the cost of said removal shall be borne by the Contractor.

SC-7 DETECTION OF MOVEMENT

In order to detect any movement of buildings or structures that may be affected by his work, Contractor shall, prior to excavation, establish a system of vertical and horizontal control points on or about such buildings or structures, tied to bench marks and indices sufficiently remote to not be moved by his operations. A plan of this system shall be submitted to the Engineer for review. Reading shall be taken of these points and permanently recorded prior to the start of excavation. The City will not assume any responsibility for alleged damages to any building or structure arising from the Services performed under this Agreement.

SC-8 EXISTING UTILITIES

SC-8.1 Verification of the Location of the Existing Utilities

Representations of existing utilities, facilities, and structures in the Contract Documents are based upon the best available information. The City and the Engineer will not be responsible for the completeness or accuracy thereof nor for any deductions, interpretations, or conclusions drawn there from. The Contractor shall verify to his own satisfaction by test pit or other means, the actual location of existing utilities prior to construction in their vicinity.

- A. Should the Contractor in the course of his operations encounter any underground utilities the presence of which was not previously known, or a

different type than shown, he shall immediately notify the Engineer and take all necessary precautions to protect the utility and maintain continuance of service until said utilities can be adjusted by the appropriate owners.

- B. Contractor will notify all public utility corporations, jurisdictional agencies, or other owners to make all necessary adjustments to public utility fixtures and appurtenances within or adjacent to the limits of construction. Delays and additional cost resulting from a failure of the Contractor to notify the utility or to provide adequate notice to the utility shall be at no additional cost to the City, when such facilities are indicated in the Agreement Documents, and in such case, no extension of time will be granted for delays caused by utility adjustments.
- C. Damage caused to utilities either directly or indirectly by the Contractor shall be repaired and the facilities restored to their original condition to the satisfaction of the Engineer and the utility owner, at no additional cost to the City.

SC-8.2 Work in Vicinity of Existing Utilities

At least three (3) working days prior to starting work in the vicinity of utility structures and appurtenances, Contractor shall notify Engineer and appropriate utility companies and jurisdictional agencies. Contractor shall support and protect all utility structures and appurtenances in accordance with the requirements of the Agreement Documents and the utility companies, and shall take any other steps necessary to protect the structures from disturbance or damage.

A substitute City of Atlanta Ordinance adopted March 13, 1978 requires Contractors to contact each gas company maintaining underground gas pipes or facilities within the city limits prior to the start of excavation work by blasting or mechanized excavating equipment.

SC-8.3 Access to Utilities Facilities

The Contractor shall at all times permit free and clear access to the various affected facilities by personnel of the utility owners or operators who are working within the limits of work for the purpose of inspection, maintenance, or providing additional service requirements, and the construction of new facilities. When personnel of the utility owners or operators are working within the limits of work to be performed by Contractor, the Contractor will not be relieved of his responsibility for the maintenance and protection of such facilities.

SC-9 WORK IN FLOOD PLAIN AREAS

The Contractor shall comply with all regulations of City of Atlanta Code of Ordinances Chapter 74 – Environment Article VI Flood Area Regulations

concerning work in Flood Hazard Districts, and Fulton County Zoning Resolutions regarding Flood Protection. Take precautions during construction to protect the work and stored materials from flooding. Damage to structures, materials, or the work as a result of flooding or water, including but not limited to floatation or submergence shall be the responsibility of the Contractor.

SC-10 MAINTENANCE OF TRAFFIC

Contractor shall provide, erect, maintain, and finally remove all barricades, danger warning and detour signs necessary to properly protect and divert traffic. All barricades and signs, including detour signs, shall be illuminated at night or when visibility is reduced. The Contractor will be held responsible for all damage to the Services due to failure of the signs and barricades to properly protect the Services from traffic, pedestrians, animals, and from all other sources, and whenever evidence of any such traffic is found upon the Services the Engineer will order that the Work, if in his opinion it is damaged, be immediately removed and replaced by the Contractor at no additional cost to the City. The devices used will be in accordance with the manual of Uniform Traffic Control Devices for Streets and Highways compiled by the State Department of Transportation. Access to City streets and roads will be limited and will require the use of flagmen or the installation of traffic control signals, or both. The City must approve haul routes.

A City of Atlanta Substitute Ordinance adopted March 13, 1978 requires that Contractors obtain a permit for work involving blockage of a public street. Open pits, trenches, unpaved streets, debris, or other obstructions due to construction that will prevent the normal flow of traffic during an extended construction stoppage for any reason, will not be permitted. In the event an extended construction stoppage is found to be necessary, Contractor shall, at his own expense, provide normal traffic flow during extended construction stoppage. Extended stoppage will be defined by the City.

SC-11 ENVIRONMENTAL PROTECTION

SC-11.1 General

Contractor shall conduct his operation in a manner to prevent pollution of the environment surrounding the area of work by every means possible and shall be responsible for furnishing all necessary items for fulfilling the work described herein.

SC-11.2 Material Transport

Contractor shall comply with City of Atlanta Code of Ordinances Chapter 150-Traffic and Vehicles Article VI – Vehicle, Size, Weight, and Load and Article VIII Miscellaneous pertaining to the duties of the Contractor in hauling material over

City owned rights-of-way. This includes but is not limited to, approval of proposed haul routes, prevention of dropping of materials or debris on the streets from trucks arriving and leaving the site, providing a suitable vehicle inspection and cleaning installation with permanent crew, and the removal of any material spilled in public areas at no additional cost to the local government agency.

SC-11.3 Waste Materials

No waste or erosion materials shall be allowed to enter natural or manmade water or sewage removal systems. Erosion materials from excavations, borrow areas, or stockpiled fill shall be contained within the work area. Contractor shall develop methods for control of waste and erosion, which shall include such means as filtration, settlement, and manual removal to satisfy the above requirements.

SC-11.4 Burning

No burning of waste shall be allowed.

SC-11.5: Dust Control

The Contractor shall at all times control the generation of dust by his operations. Control of dust shall be accomplished by water sprinkling or by other methods approved by the Engineer.

SC-11.6 Noise Control

The Contractor shall take every action possible to minimize the noise caused by his operation.

When required by agencies having jurisdiction, noise-producing work shall be performed in less sensitive hours of the day or week as directed by the Engineer.

The Contractor shall provide equipment that operates with the least possible noise. The use of noisy equipment is prohibited. Hoists and compressor plants shall be electrically operated unless otherwise permitted. The air intake of compressors shall be equipped with silencers, and machinery operated by gearing shall be provided with a type of gearing designed to reduce noise to a minimum. Internal combustion engines shall be equipped with mufflers in good order.

Noise generated by mobile construction equipment, stationary construction equipment, and other equipment involved in the construction of the work shall not exceed the decibel levels indicated below. Noise generated by mobile and stationary construction equipment will be measured three to six (6) feet from

building lines, and on the A weighing network of Type-2 general purpose sound level meter set at fast response.

	Combined Residential and Commercial
Allowable Sound Levels of Mobile Construction Equipment: - From 7 AM to 10 PM, Monday thru Saturday, Except Legal Holidays - At times other than those listed above	85 dBA 70 dBA
Allowable Sound Levels of Stationary Construction Equipment: - From 7 AM to 10 PM, Monday thru Saturday, Except Legal Holidays - At times other than those listed above	70 dBA 60 dBA

Contractor shall assure compliance by measuring noise levels as may be required.

SC-11.7 Use of Chemicals

All Chemicals used during construction or furnished for project operation, whether herbicide, pesticide, disinfectant, polymer, reactant or of other classification, must show approval of either EPA or FDA. Use of all such chemicals and disposal of residues shall be in conformance with instructions.

SC-11.8 By-Passing During Construction

No wastewater shall be by-passed at sewage collection or treatment facilities during project construction unless a by-passing schedule has been approved by City and the Georgia Environmental Protection Division. It shall be the responsibility of the Contractor to prepare and secure the approval of any by-passing not specifically identified in the Agreement Documents.

SC-11.9 Responsibility for Spills and Accidental Discharges

In the event that the Contractor causes or has a spill or accidental discharge for which the City is fined by the State of Georgia EPD, the Contractor agrees to remediate the spill or discharge immediately in accordance with current EPD regulations and to pay any fines assessed against the City and/or Contractor, and pay for the City's cost associated with efforts to remediate the situation.

SC-12 RIGHT TO OPERATE

As soon as any portion of structures and equipment are ready for use, the City shall have the right to operate such portion upon written notice to the Contractor

by the City. The City shall also issue a certificate of completion for that portion of the work. Guarantee period on that portion of Service will begin upon issuance of certificate of completion for that portion.

Testing of equipment and appurtenance and training of City's personnel as specified herein under shall not constitute operation.

The execution of the bonds shall constitute the consent of the surety.

The Contractor shall provide an endorsement to his insurance permitting occupancy of the structures and use of equipment during the remaining period of construction.

SC-13 LIST OF MATERIALS, FIXTURES AND EQUIPMENT

- A. Within thirty (30) days after issuance of the Notice to Proceed, before any materials, fixtures or equipment are purchased, and prior to start of construction, the Contractor shall submit for approval by the Engineer the names and addresses of the manufacturers, and their catalog numbers and trade names for all materials, equipment and fixtures listed under the following Sections of the Agreement Documents:

Divisions 2 through 16, inclusive

The Contractor shall furnish other detailed information when so directed, under the various items. No consideration will be given to partial lists submitted from time to time except that approval of long delivery items of equipment may be requested individually. Items which are not in accordance with the Specification requirements may be rejected. The Contractor shall furnish a statement giving a complete description of all points wherein the equipment he proposes to furnish does not comply with the Specifications as well as any exceptions he may take to the Specifications. Failure to furnish such statements will be interpreted to mean that the equipment meets all requirements of the Specifications.

- B. In the event the Contractor wishes to resubmit items of materials, fixtures and equipment for review subsequent to obtaining approval as indicated in "A" above, then the Contractor shall pay the cost of the Engineering review of each such resubmittal including shop drawing review if this review has been performed.

SC-14 CITY OF ATLANTA PROJECT SIGN

The basic design of the Project sign shall conform *to Attachment 1 herein* including the names of all current Council Members, the Mayor and the Commissioner, Department of Watershed Management. The City seal portion of the sign must be shaded, such that it is visible from fifty (50) yards. A full color

shop drawing submittal is required before fabrication. The Project sign will be no less than 4'-0" x 8'-0" and the City requires a Project sign at the designated entrance to the Project.

In addition to the Project sign, there is to be adequate temporary signage for identifying the Project areas, offices, delivery areas and any other designations the Engineer and/or the Contractor feel are needed. These signs will designate which Phase of the Agreement that they pertain to as part of the Project coordination.

SC-15 PROJECT MEETINGS

The Engineer shall schedule weekly progress meetings. The progress meetings will be held at least weekly and may be scheduled at a more frequent interval by the Engineer if necessary. Progress meetings shall be held at a location designated by the Engineer.

Progress meetings shall be attended by the Engineer, Contractor, and Subcontractors as appropriate to the agenda, suppliers as appropriate to the agenda and others as required.

The meeting agenda shall generally include review and approval of minutes of previous meeting, review of work progress since previous meeting, field observations, problems, and conflicts, problems which impede Construction Schedule, review of off-site fabrication and delivery schedules, corrective measures and procedures to regain project schedule, revisions to Construction Schedule, progress and schedule of the preceding work period, coordination of schedules, review of submittal schedules and status, status of requests for information, maintenance of quality standards, pending changes and substitutions, and other business.

SC-16 CONSTRUCTION SCHEDULE

Timely performance is of the essence on this Project. The Contractor may complete the Project or any part of the Project earlier than is stipulated in the Contract and the Milestone requirements. The Contractor may schedule his work to complete earlier than required by the Contract or stipulated in the approved schedule, however, under no circumstances shall the Contractor be entitled to added compensation for delays, which occur during the originally stipulated contract period.

The City has purchased the entire scheduled time period by virtue of this Contract and further stipulates that only those delays which meet the tests set forth in GC-26 will be considered for adjustment and only to the extent that they delay the work past the originally contractually stipulated milestones.

SC-16.1 Procedures

- A. The Work under this Contract shall be planned, scheduled, executed, reported and accomplished using the Precedence Diagramming Critical Path Method (hereinafter referred to as CPM). The work required by this section includes the requirement to prepare, maintain, and update all detailed schedules as described in this section. The CPM Schedules shall be prepared in such a manner as to permit the orderly planning, organization, and execution of the Work and be sufficiently detailed to accurately depict all the Work required by the Contract. Contractor shall resource (labor, material and equipment) and cost load its Schedule as specified herein.
- B. Contractor hereby agrees that in the process of preparing its baseline schedule and monthly updates, it will consult with all key Subcontractors and suppliers to assure concurrence with the feasibility and achievability of Contractor's planned start dates, sequencing, durations, and completion dates. A copy of the computer input files, in PRX or XER format shall be submitted on diskette with each submittal. The procedures, technical details and Contractor's participation and responsibilities shall be as hereinafter described.
- C. Contractor is responsible for determining the sequence of activities, the time estimates for the detailed construction activities and the means, methods, techniques and procedures to be employed. The Schedules identified herein shall represent the Contractor's best judgment of how it will prosecute the Work in compliance with the Contract requirements. Contractor shall ensure that the Schedule is current and accurate and is properly and timely monitored, updated and revised as Project conditions may require and as required by the Contract Documents.
- D. Contractor's construction schedule shall be prepared using the latest version of Primavera Project Planner for Windows. Any and all costs incurred by the CONTRACTOR in researching, training and/or educating its personnel in CPM and/or P6 (or the utilization of outside consultants) shall be part of the Contractor's bid price and not reimbursed separately by the City.
 - 1 The Project Network Schedule Diagram, mathematical analysis, written narrative and monthly updates will be reviewed by either the Engineer or an independent consultant selected by the Engineer. Items will be reviewed for compliance with these Specifications and accurate reporting by the Contractor of work in place, resource loading and work activity durations.
 - 2 Submit to the Engineer an accepted final CPM Construction Schedule and Final Schedule of Values including Allowance Items, allocated to

the CPM Schedule activities within forty-five (45) days of the Notice to Proceed. Requirements for the final CPM Construction and Final Schedule of Values are further described hereinafter. Contractor's Application for Payment will not be approved until the final CPM Schedule and Schedule of Values have been accepted. The Contract Baseline Schedule submittal shall not show any progress until it is accepted by Engineer.

SC-16.2 Standards

- A. Definition: CPM, as required by this Section, shall comply with the standards outlined in the Associated General Contractors' publication, "Construction Planning and Scheduling" unless specifically changed by this Section.
- B. CPM Construction Schedule: The Contractor's CPM Construction Schedule shall include a graphic time scaled logic network, computerized tabular reports and resource loading as described below. To be acceptable, the schedule must demonstrate the following:
1. A logical succession of Work from start to finish. This logical succession, when accepted, is the Contractor's work plan and, contrary to normal CPM standards, is designated as early start/early finish solely to accommodate the Primavera software.
 2. Clear definition of each activity including cost, manpower, equipment and material quantities as resources. The assigned dollar value (cost loading) of each activity shall cumulatively equal the contract price.
 3. Proper interfacing of related activities including submittals, major material and equipment deliveries, procurement, required permits and other constraints such as equipment or manpower/crew availability. Submittal dates must include review periods and permit schedules must include agency review and issue dates. The narrative shall explain the rationale for all constraints, lags and unusual relationships.
 4. Agreement with the interim milestones, schedule coordination requirements, and completion dates indicated in the Contract Documents.
- C. CPM Graphic Logic Network
1. The CPM graphic logic network or diagram shall be in the form of a time-scaled diagram of the customary precedence diagram and may be divided into a number of separate pages with suitable notation relating the interface points among the pages. Individual pages shall not exceed 34-inch by 44-inch. Notation on each activity line shall include activity descriptions, total float, and durations as a minimum.

2. All construction activities and procurement shall be indicated in a time-scaled format, and a calendar shall be shown on all sheets along the entire sheet length. Each activity shall be plotted so the beginning and completion dates of said activity can be determined graphically by comparison with the calendar scale. A legend shall be included clearly distinguishing between critical and non-critical path activities and progress to date.
- D. Duration: The duration indicated for each activity shall be in units of whole working days and shall represent the single best time considering the scope of the Work and resources planned for the activity including time for holidays and inclement weather. The calendar for the network shall be in calendar days. Except for certain non-labor activities, such as submittal preparation and review, curing concrete, delivering and fabrication of materials, or other activities described specifically in the Contract, activity durations shall not exceed fourteen (14) Days, be less than one Day, nor exceed \$50,000 in value unless otherwise accepted by the Engineer.
 - E. For all equipment and materials to be fabricated or supplied for the Project, the Contract Baseline Schedule shall show a sequence of activities including: (a) preparation of shop drawings and sample submissions; (b) thirty (30) calendar days for review of shop drawings and samples (c) shop fabrication, delivery and storage, (d) erection or installation; and, (e) testing of equipment and materials.
 - F. The Interim Schedule and Contract Baseline Schedule shall show dependencies (or relationships) between each activity. Each activity must have a successor and predecessor, except for the Project Start and Finish Milestone. The use of date constraints shall be limited to Contract Milestones and Contract Completion dates only, unless approved by the Engineer.
 - G. Contract Baseline Schedule shall contain or be able to demonstrate that the following items have been addressed: (a) the Project's name; (b) the Contractor's name; (c) revision or edition number; (d) activities of completed work, (e) activities relating to different areas of responsibility, such as subcontracted Work which is distinctly separated from that being done by the Contractor directly; (f) labor resources distinguished by craft or crew requirements; (g) equipment and material resources distinguished by equipment and material requirements; (h) distinct and identifiable subdivisions of work such as structural slabs, beams, columns; (i) locations of work within the contract limit lines that necessitates different times or crews to perform; (j) outage schedules for existing utility services that will be interrupted during the performance of the Work; (k) acquisition and installation of equipment and materials supplied and/or installed by the Owner or its separate contractors; (l) material to be stored on site; (m) Phases; and (n) Interim Milestones and the Contract Completion dates.

- H. Computerized Tabular Reports: Reports shall include the following for each activity depicted in the schedule.
1. Activity I D
 2. Activity Description
 3. Duration (original and remaining)
 4. Early Start Date
 5. Early Finish Date
 6. Total Float
 7. Percent Complete
 8. Activity Cost and Resources
 9. Actual Start Date
 10. Actual Finish Date
- I. Project Information: Each report shall be prefaced with the following summary data.
1. Project Name
 2. Contractor
 3. Type of Tabulation (Initial or Updated)
 4. Project Duration
 5. Project Scheduled Completion Date
 6. Projected Completion Date

SC-16.3 Acceptance

- A. The finalized CPM Construction Schedule will be acceptable to the Engineer when it provides an orderly progression of the Work from Notice to Proceed to Final Completion in accordance with the Contract requirements, adequately defines the Contractor's Work plan, provides a workable arrangement for processing submittals in accordance with the requirements, and properly allocates resource values for manpower, major materials, equipment and costs to each activity (free of unbalances in resources) as determined by the Engineer. Manpower may be represented as composite crews in the CPM Construction Schedule. The network diagram and tabular reports when accepted by the Engineer shall constitute the CPM Construction Schedule until revised and re-accepted.
- B. When the CPM Construction Schedule has been accepted, the Contractor shall submit to the Engineer:

1. six (6) copies of the CPM graphic logic network,
 2. six (6) copies of a computerized, tabular report in which activities have been sequenced by early starting date,
 3. two (2) copies of the schedule on CD
 4. six (6) copies of the narrative.
- C. The Engineer's review and acceptance of the Contractor's CPM Construction Schedule is for conformance to the requirements of the Contract Documents only. Review and acceptance by the Engineer of the Contractor's CPM Construction Schedule does not relieve the Contractor of any of its responsibility whatsoever for the accuracy or feasibility of the CPM Construction Schedule, or of the Contractor's ability to meet interim milestone dates and the Contract completion date, nor does such review and acceptance expressly or impliedly warrant, acknowledge, or admit the reasonableness of the logic, durations, and resource value loading of the Contractor's CPM Construction Schedule.
- D. The Contractor shall participate in a conference with the Engineer to review the Engineer's comments on the schedule and evaluation of the proposed network diagram, mathematical analysis and monetary value of activities. The intent is to reach a clearer understanding of the CPM and reach consensus on any revisions to be made. Any revisions necessary as a result of this review shall be resubmitted to the Engineer within 10 calendar days after the conference. The accepted schedule shall then be used by the Contractor for planning, organizing and directing the work and for reporting progress. If the Contractor desires to make changes in his method of performing the Work, he shall notify the Engineer in writing stating the reason for the changes and receive written acceptance of the change prior to putting the change into the accepted schedule.

SC-16.4 Qualifications

- A. The Contractor shall demonstrate competence in the use of CPM scheduling through the submission of a fully compliant CPM Construction Schedule with the initial CPM submission. In the event the Contractor fails to so demonstrate competence in the CPM scheduling, the Engineer may direct the Contractor to employ the services of a Scheduling Firm that can demonstrate competence. The Contractor shall comply with such directive.
- B. The Contractor shall use the services of scheduler who has verifiable training and credentials in preparing and maintaining a computerized CPM Construction Schedule using Primavera software as specified herein. The scheduler must qualify within the planning period.

1. Required Experience: Performed CPM scheduling on at least 2 completed construction projects of value at least 75 percent as large as this one and having at least 75 percent as many schedule items as this one. Scheduling of both projects shall have been done using Primavera software (P6 for Windows) or equal.
2. Submit the following:
 - a) Descriptions of at least 2 projects of the value and complexity above.
 - b) Copy of a CPM schedule from one of the previous projects.
 - c) Names and telephone numbers of facility owner representative, design engineer, and construction manager for each project.
 - d) Evidence supporting the above qualifications shall be submitted to the Engineer.

SC-16.5 Submittal Requirements

- A. Initial submittal, revisions and monthly updates of the network diagram, mathematical analysis, and written narrative shall be submitted in six hard copies and two data copies on CD. Submittals will not be accepted unless they are complete as described herein.
- B. The Contractor shall submit the following:
 1. A CPM timescaled logic network, computer generated using Primavera Project Planner software (P6 for Windows).
 2. Computerized Tabular Reports.
 - a) Activity sort by early start, organized by facility or area.
 - b) Predecessor/successor listing.
 - c) Activity code dictionary.
 - d) Resource code dictionary.
 3. Basis of schedule narrative describing the logic and reasoning of the schedule. The narrative shall summarize the overall approach to construction sequencing, including but not limited to 1) anticipated lost days due to weather. 2) the rationale for all constraints, lags and unusual relationships. 3) the definition of labor and crews. 4) a list and durations for all major pieces of equipment and resources, and 5) work proposed to be performed on a other than single shift five (5) day workweek basis
 4. Resource value allocation by activity.

5. Breakdown of specific cost amount for each component of multi-component activities in the CPM Schedule in spreadsheet format (using Microsoft Excel) showing component unit quantities as well as costs. Such breakdown, when accepted by the Engineer shall constitute the Schedule of Values for the Project.
6. CD copy of entire schedule, narrative and spreadsheet.

SC-16.6 Schedule Orientation Session

- A. Contractor shall, upon notification from the Engineer, attend a Schedule Orientation Session relating to the Schedules and Reports requirements for this Contract. The Schedule Orientation Session is designed to review in detail, the objectives of the Schedules and Reports requirements and the requirements. Contractor shall arrange for its Project Manager, Superintendent, and Scheduler to attend the Schedule Orientation Session.
- B. The following items shall be discussed during the Schedule Orientation Session: (a) The procedures and requirements for the preparation of the Contract Baseline Schedule, and monthly updates by Contractor. (b) how the requirements of the Contract Documents will be monitored and enforced by the Engineer. (c) long-lead items and time requirements for the Work by Subcontractors will be identified and included in the Contract Baseline Schedule. (d) testing and startup. (e) coding and logic for the Contract Baseline Schedule, and (f) identification and scheduling of shop drawings and other submittals.

SC-16.7 Schedule of Values

A. Submittals

1. Contractor shall allocate a dollar value for each activity on the Contract Baseline Schedule. The dollar value for the activity shall be the cost of the Work including labor, materials and equipment. Allowances shall be loaded on activities specifically included for this purpose. No activity on the Contract Baseline Schedule shall exceed a value of \$50,000, unless approved by the Engineer. The sum of all activity costs shall equal the Contract Price. Contractor shall revise the resource and value loading as necessary to gain the acceptance of the Engineer.
2. The Final Schedule of Values shall incorporate all comments associated with the Contractor's Schedule/Schedule of Values submittals.
3. Submit documentation to support the values with data, which will substantiate their correctness, as requested by the Engineer.

4. The Schedule of Values, when accepted by the Engineer, shall be used as the only basis for the Contractor's Applications for Payment. The total price paid for mobilization shall be as approved by the Engineer, but in no case shall it exceed two per-cent (2%) of the total bid amount and shall be substantiated with invoices and other backup documentation.
5. The Schedule of Values shall be derived from the assigned Progress Schedule Activity Values and identified by Activity 10.

B. Form and Content of Schedule of Values

1. Identify the Schedule of Values submittal with:
 - a) Title of Contract and location.
 - b) Contract Number.
 - c) Name and address of Contractor.
 - d) Date of submission.
2. The Contractor's Schedule of Values shall list the installed value of the component parts of the Work in sufficient detail to serve as the basis for computing values for progress payments during construction.
3. Identify accounts with the location code and area code as defined in the Primavera Schedule format and list the number and title of the respective major Section of the Specifications.
4. All accounts in the Schedule of Values shall be derived from the activities in the Progress Schedule. Account data pertaining to the Schedule of Values shall, at a minimum, include the following for each Account:
 - a) CPM Activity number.
 - b) City of Atlanta Standard Code listed on the Bid Schedule.
 - c) Account representative quantities (cubic yards of concrete, tons of steel, etc.), unit costs, person-hours, item and account dollar value.
 - d) WBS code (as used Primavera Project Planner scheduling software), including location, responsibility and area codes.
 - e) CSI Specification Section Number.
 - f) Account Type: Lump Sum (LS), Unit Price (UP), Allowance (AL), or Change Order (CO).

C. Lump Sum Accounts (LS):

1. The Lump Sum Items established in the Contractor's Bid shall be further divided into pay and progress items by the Contractor and submitted to the Engineer for approval, and as specified in Paragraph

E.1 above. Payment for Lump Sum (LS) Accounts will be based upon physical progress (percent complete) for each related activity in the Progress Schedule.

2. The dollar value allocated to Lump Sum Accounts shall be representative of the Contractor's actual costs for performing the work including overhead and profit, and shall be balanced to ensure that sufficient funds are allocated for each portion of the work and shall be subject to acceptance by the Engineer.
 3. In the event account values can not be agreed to between the Engineer and the Contractor, the Engineer shall have the exclusive right to determine the account dollar amounts contained in the Schedule of Values.
 4. Mobilization costs shall be specifically identified in the Schedule of Values. All mobilization sub-accounts contained in the Schedule of Values must have a corresponding CPM Schedule activity. Payments for mobilization sub-accounts will be based upon lump sum (LS) values as accepted by the Engineer.
- D. Unit Price Accounts (UP): Payment for Unit Price Accounts shall be based upon actual quantities of Work performed in compliance with the Contract Documents, as verified and accepted by the Engineer. Whenever the actual quantity differs from the estimated quantity on the Unit Price Accounts, the Contractor shall notify the Engineer in writing. Quantity overruns and under runs will be tracked on the Schedule of Values.
- E. Allowance Accounts (AL): Payment for Allowance Accounts will be based upon invoices submitted by the Contractor subject to conditions and limitations of the Contract Documents. Refer to Section 01200, Measurement and Payment, for requirements. The Allowance shall be adjusted to the actual amount paid for such services, and adjusted by Change Order either at the end of that phase of the Work or at the completion of the Work. The City will have sole discretion on determining when to make adjustments to the Allowance.
- F. Cost of materials shall be assigned to the appropriate item of work, and allocated to a materials Sub-account. All materials items contained in the Schedule of Values must have a corresponding CPM Schedule activity, for various portions of the Work:
1. Except for Allowance Accounts identified in Section 01200, each account shall include a directly proportional amount of the Contractor's overhead and profit.

2. For accounts on which progress payments will be requested for materials suitably stored on site, break down the value into:
 - a) The cost of each material delivered and unloaded.
 - b) Paid invoices will be required for materials.
- G. The Contractor shall include in his Schedule of Values items for site maintenance, and compliance with the terms of permit stipulations, as appropriate. These items will be monitored on a monthly basis. Non-compliance will result in monies being deducted from the appropriate items.
- H. A new account will be added to the Schedule of Values for approved Change Order work. Payment for Time and Expense Change Order work (CO) shall be based upon the General and Supplementary Conditions of these Specifications.
- I. The sum of all Account Values listed in the Schedule of Values shall equal the total Contract Price, excluding Allowance Items.

16.7.1 Sub-Accounts

- A. Include a breakdown of major accounts into sub-accounts on which progress payments will be requested. The sub-account breakdown shall include elements for pay items/progress items as appropriate, and show the weight of each sub-account; e.g., fabrication, installation, etc., with the total weight of the sub-accounts equal to 100 percent of the major account.
- B. The form of the submittal shall be consistent with the Schedule of Values, with each account identified the same as the line item in the Schedule of Values.
- C. The Contractor's Schedule of Values shall list the delivered value of the products, manuals and services provided under the various Specification Sections. The lists shall be sufficiently detailed to serve as a basis for computing values for progress payments during the construction period.
- D. The unit quantity for bulk materials shall include an allowance for waste.
- E. The unit values for the materials shall be broken down into:
 1. Cost of the material delivered and unloaded at the site.
 2. Copies of paid invoices for component material shall be included with the payment request in which the material first appears.

- F. The installed unit value multiplied by the quantity listed shall equal the cost of that account in the Schedule of Values.
- G. Quantities and unit values identified in the Component Materials sub-accounts shall be used for determining progress payments only, and are not considered to be unit price pay items.

SC-16.8 Monthly Application for Payment

- A. Monthly Application for Payment: Contractor shall provide monthly Schedule Update, monthly Payment Report and monthly Narrative Report as his monthly Application for Payment package.
- B. Monthly Schedule Update: The Contractor shall submit, at intervals of thirty (30) calendar days, an update of all activities in the as-planned CPM schedule. Update shall be created by updating the mathematical analysis and the corresponding computerized network diagram of the Schedule.
 - 1. The schedule shall be updated by entering the following: Actual start and completion dates of completed activities and the actual start date and remaining duration of activities in progress.
 - 2. The updated network diagram shall be submitted in the same format as noted in Specification Section SC-16.1, with the calendar starting from the date of the update.
 - 3. The updated mathematical analysis shall be submitted in the same format noted in Specification Section SC-16.1.
 - 4. The schedule update shall include an update of the cash flow projections in the same format as the original approved submittal.
 - 5. The schedule update will state the percentage of the work actually completed and scheduled as of the report date.
- C. The Monthly Payment Report shall show the activities or portions of activities completed during the reporting period, their total monetary values and the monetary values earned as a basis for the Contractor's Application for Payment. A mutually agreed upon percent complete will be assigned to each completed and partially completed activity to be used for calculating the monetary value earned to date. For activities underway, the percent complete shall not be related to the remaining duration.
- D. A monthly narrative report shall be submitted including, but not limited to the following:
 - 1. Description of work accomplished.

2. Summary of safety and quality issues occurring during the month and corrective actions taken.
 3. Contractor evaluation of actual progress versus progress planned.
 4. If the project is behind schedule, progress along all paths with negative float shall be reported along with the reasons for the delay.
 5. A description of all revisions made to the schedule including: all accepted added, deleted, and revised activities; all logic revisions; and all duration revisions.
 6. A description of the problem areas, current and anticipated delaying factors and their impact, and an explanation of corrective actions taken or proposed.
- E. If the Contractor fails to submit any of the required components of the Application for Payment, the Engineer will withhold approval of the Application for Payment until such time as the Contractor submits the required components.

SC-16.9 Progress Meetings and Look-Ahead Schedules

- A. For the weekly progress meetings, the Contractor shall submit a Look-Ahead Schedule. This schedule will cover four weeks: the immediate past week, the current week, and the forthcoming two weeks. This schedule will include all activities which are complete, started, are incomplete or underway, or scheduled to be worked during this four week time frame. This schedule shall list all activities from the accepted CPM Construction Schedule which are complete, are scheduled for Work during the period, are currently planned to be worked, even if out of sequence, and work which is unfinished but scheduled to be finished. Actual start and completion dates shall be provided for the Work that has been completed the prior week, forecast start and finish dates shall be provided for the Work that is in-process or upcoming.
- B. Each activity noted above shall be identified by activity number corresponding to the accepted CPM Construction Schedule and detailed description of the activity.
- C. The Look-Ahead Schedule shall be delivered to the Engineer twenty-four (24) hours prior to the weekly progress meeting.
- D. The Look-Ahead Schedule shall be in a format approved by the Engineer.
- E. Tabular reports for manpower and equipment resources shall be provided for and with each Look-Ahead Schedule.

SC-16.10 CPM Construction Schedule Revisions

- A. The Engineer may direct and, if so directed, the Contractor shall propose, revisions to the CPM Construction Schedule upon occurrence of any of the following instances:
 - 1. The actual physical progress of the Work falls more than five percent (5%) behind the accepted CPM Construction Schedule, as demonstrated by comparison to the accepted monthly CPM Construction Schedule updates or as determined by the Engineer if a current accepted CPM Construction Schedule does not exist.
 - 2. The Engineer considers milestone or completion dates to be in jeopardy because of "activities behind schedule". "Activities behind schedule" are all activities that have not or cannot be started or completed by the dates shown in the CPM Construction Schedule, regardless of the existence of positive float on the activity.
 - 3. A Change Order has been issued that changes, adds, or deletes scheduled activities or affects the time for completion of scheduled activities.
- B. When the instances requiring revision to the CPM Construction Schedule occur, the Contractor shall submit the proposed revised CPM Construction Schedule within ten(10) working days after receiving direction from the Engineer to provide such Schedule. No additional payment will be made to the Contractor for preparation and submittal of proposed revised CPM Construction Schedules. However, if the Engineer accepts the proposed revised CPM Construction Schedule, it shall replace and supersede all previous CPM Construction Schedules and substitute for the next monthly CPM Construction Schedule update that would otherwise be required.
- C. Revisions to the CPM Construction Schedule shall comply with all of the same requirements applicable to the original schedule.

SC-16.11 Schedule Recovery

- A. If a revised CPM Construction Schedule accepted by the Engineer requires the Contractor to employ additional manpower, equipment, hours of work or work shifts, or to accelerate procurement of materials or equipment, or any combination thereof, as schedule recovery measures to meet Contract milestones, the Contractor shall implement such schedule recovery measures without additional charge to the City.
- B. Furthermore, if efforts to recover are not deemed effective as determined by the Engineer, or if prior to submittal of the recovery schedule, the Engineer determines that critical milestones are in jeopardy, the Engineer

may direct the Contractor to implement the above or any other recovery efforts at no additional costs to the City.

SC-16.12 Time Impact Analysis Requirement

- A. When delays are experienced by the Contractor and a time extension is requested, the Contractor shall submit to the Engineer a written Time Impact Analysis illustrating the influence of all changes or all delays on the current Project completion date. The time impact analysis shall be constructed on an As-Built Schedule Analysis approach. The As-Built Schedule that is created will incorporate all actual start and finish dates, actual durations of activities, actual sequences of construction (referred to as the As-Built Logic) current as of the time the Time Impact Analysis is performed. This Time Impact Analysis shall incorporate all delays (including Engineer, Contractor and third party delays without exception) in the time frame that they actually occurred with actual logic ties. The As-Built Schedule data shall be obtained from the most recent approved monthly schedule update. The As-Built Schedule shall be created as an early start schedule with the actual start and finish dates coinciding with the early start and finish dates from the most recent approved monthly schedule update. The As-Built Schedule shall show the original activity durations equal to the actual duration and the actual logic driving all activities. The Engineer will validate this As-Built Schedule. All requests for time extension shall be based upon an analysis of this As-Built Schedule. The critical path will be established and all Engineer -caused delays on the critical path will be identified. The time extension will be based solely upon the cumulative duration of all City and third party caused delays that are on the critical path. Any time extensions to the project's Interim Milestone Dates, if any, shall be non-compensable time extensions only.
- B. Each Time Impact Analysis shall demonstrate the estimated time impact based on the events of delay, the status of construction at that point in time, and the event time computation of all activities affected by the change or delay. The event times used in the analysis shall be those included in the latest approved update of the project schedule, in effect at the time the change or delay was encountered.

SC-17 COOPERATION WITH OTHER CONTRACTORS AND FORCES

During progress of work under this Agreement, it will be necessary for other contractors and persons employed by the City to work in or about the Project. The City reserves the right to put such other contractors to work and to afford such access to the Site of the work to be performed hereunder at such times as the City deems proper. The Contractor shall not impede or interfere with the work for such other contractors engaged in or about the Services and shall so arrange

and conduct his work that such other contractors may complete their work at the earliest date possible.

When the Contractor and any contractor or subcontractor performing Services under or pursuant to another City Agreement are employed on related or adjacent work, or are using the same materials source, storage area, or disposal area, the contractor shall be responsible to the other for any injury, damage, or loss caused the other by his operations, by his unnecessary delay or hindrance of the other's work, or by his failure to complete the Services or any portion thereof within the time specified for its completion. The Contractor shall indemnify and save harmless the City and the Engineer, and all officers and employees of the City connected with the Services from all claims, suits, or actions of any nature brought on account of any injury, damage, or loss.

Contractor's responsibilities under the preceding paragraph shall be not greater as to any injury, damage, or loss than those imposed on the Contractor or subcontractor under the comparable provision of this Agreement or subcontract.

The Engineer will decide any disputed questions regarding the performance of the Services, access and cleaning up of the site, and priority in all relations between the Contractor and other contractors in utility companies, and maintenance crews.

The Contractor shall cooperate with all other contractors requiring access to the Services for the purpose of maintenance of security, temporary facilities, cleaning of the site, and like matters requiring common effort.

SC-18 EXTENDED SHIFT. WEEKEND AND HOLIDAY WORK

The City observes the following holidays:

New Year's Day, Martin Luther King's Birthday, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day and following Friday, and Christmas Day.

Should the Contractor deem it necessary to work on Saturdays, Sundays, holidays or longer than eight hours (8) per shift in order to comply with his construction schedule, or because of any emergency, the Contractor shall request permission of the Engineer to do so at least seven (7) calendar days in advance and coordinate working conditions, as appropriate, with the Engineer.

SC-19 PROJECT CLOSEOUT

SC-19.1 Restoration of Miscellaneous Surface Facilities

Construction operations on the Work may disturb or otherwise damage the surface contours and vegetation of natural and landscaped areas. Restoration of these areas shall be part of the Agreement. Restoration of pavements, trees, and ground vegetation is specified in the Technical Specifications.

SC-19.2 Pavement Restoration

Contractor shall secure permits from the appropriate jurisdictional Agency for all pavement restoration prepared in accordance with the requirements of the Agreement Documents and the jurisdictional Agency and submit them to the Engineer.

SC-20 EQUIPMENT SERVICE

The Contractor shall furnish the services of a competent factory representative of the manufacturer of the equipment to be installed, for the purpose of supervising and/or inspecting the installation, placing the equipment in service, and calibrating and adjusting each item of equipment. Qualification of the representative shall be appropriate to the type of equipment furnished and subject to the approval of the Engineer. Where equipment furnished has significant process complexity, engineering personnel knowledgeable in the process involved and the function of the equipment shall be furnished. These services shall be furnished in accordance with the requirements of the Technical Specifications.

When approved by the Engineer, periods of service on more than one item of equipment furnished by the same manufacturer may run concurrently. Each of these manufacturers shall furnish supervisory and/or inspection services for all equipment, which he furnishes.

During the initial operation period, a functional test shall be performed on each piece of equipment. The test shall consist of operation of the equipment on a normal duty cycle for a sufficient period of time to determine satisfactory operation (twenty-four [24] hours minimum). To the maximum extent practical, the full capabilities of all equipment shall be exercised, including remote operation, instrumented control schemes, alternate modes of operation, and emergency operation.

SC-21 CONCRETE POUR CARD

An approved concrete pour card must be obtained by the Contractor prior to the placement of concrete. The card shall be as provided to the Contractor by the

Engineer. The pour card shall be completed by the contractor and approved by the Engineer before concrete is placed.

SC-22 PARTNERING STATEMENT

The City intends to encourage the foundation of a cohesive partnership with the Contractor and its subcontractors. This partnership will be structured to draw on the strengths of each organization to identify and achieve reciprocal goals. The objectives are effective and efficient Agreement performance, intended to achieve completion within budget, on schedule, and in accordance with plans and specifications.

This partnership will be bilateral in makeup, and participation will be totally voluntary. Any costs associated with effectuating this partnership will be agreed to by both parties and will be shared equally with no change in Agreement price. To implement this partnership initiative, it is anticipated that within sixty (60) days of Notice to Proceed, the Contractor's on-site project manager and the City's on-site representative will attend a partnership development seminar followed by a team-building workshop, attended by key on-site staff from the Contractor's forces and City's personnel. Follow-up workshops will be held periodically through the duration of the Agreement as agreed by the Contractor and City. The City and Contractor shall mutually agree on a partnering facilitator and off-site facilities for the partnering sessions.

An integral aspect of partnering is the resolution of construction issues and disputes in a timely, professional, and non-adversarial manner. Alternative dispute resolution methods will be encouraged to promote and maintain amicable working relationships at all levels of the project and to strengthen the partnership.

The mutual goals and objectives of the stakeholders form the Partnering Charter. The charter for each project, then, will be unique to that project. The charter may be a simple statement about communication and cooperation in all matters and resolution of conflicts at the lowest level. The following provides an idea of objectives, which might be included in the charter:

- A. We are a team dedicated to providing a quality project in accordance with the Agreement. We are committed to both employee and public safety, protection of the environment, and minimizing inconvenience to the public.
 - 1. Communication Objectives: We intend to deal with each other in a fair, reasonable, trusting and professional manner including:
 - a) Communicate and resolve problems within the terms of the Agreement;
 - b) Decision making at the lowest possible level;
 - c) Open, honest communication;

- d) Treat each other with mutual respect, resolve conflicts immediately, and avoid personal attacks;
- e) Timely notification of future meetings; and
- f) Do not allow personal antagonism to interfere with professionalism.

2. Resolution of Construction Issues, Contract Issues, and Conflicts:

- a) The communication matrix established at the beginning of the project (the first partnering workshop or earlier) will be utilized to its fullest extent to resolve issues at the lowest level possible and will serve as the basis for the issue escalation procedure. For Example:
 - 1. Step 1: It is always preferred that any issue or conflict be discussed and resolved at the level on which it originates;
 - 2. Step 2: When an issue or conflict is not resolved at the originating level, it is taken to the next level of supervision;
 - 3. Step 3: When an issue or conflict is not resolved at the immediate supervisory level, it is taken to the project manager's level; and;
 - 4. Step 4: When conflict is not resolved by the project manager, it is submitted to the executive leadership levels, as determined by the communication matrix, for final resolution.

3. Performance Objectives:

- a) Complete the project without litigation;
- b) Utilize cost reduction incentive proposals;
- c) Finish the project on time;
- d) No delays to project;
- e) No lost time injuries;
- f) Promote positive public relations;
- g) Make the project enjoyable to work on;
- h) Render a finished product everyone can be proud of; and
- i) Construct and administer the Agreement so that all parties are treated fairly.

SC-23 COLOR COORDINATION

The City will require a color coordination of architectural materials. All coatings are to be custom matched.

SC-24 TIE-INS OR MODIFICATIONS TO EXISTING SYSTEMS

Anytime the Contractor ties into or modifies an existing system, a detailed work plan shall be required. Submittal of this work plan must be a minimum of thirty (30) days in advance of commencement of the subject work. This work plan shall include a detailed description of the work, a step-by-step plan of the modification

or tie-in, a schedule, a detailed list of materials and equipment required, demonstrated communications capacity, and a listing of any gates or valves, which must be operated. Working drawings shall be submitted as required under GC28 for any permanent or temporary structural modifications. A temporary safety plan covering the period of the work, and a listing of contingency plans and supplies, including but not limited to spill prevention planning and spill containment kits, shall be required. A coordination meeting with the City's plant operating staff, the Contractor, the Engineer and the Designer must be held at least seven (7) days prior to the commencement of the modification or tie-in. The day before the commencement of the modification or tie-in, a final coordination shall be held giving final detailed work assignments to all parties involved.

The City and the Engineer have the right to require, at no additional cost to the City, stand-by equipment on any item(s) deemed critical enough to delay the work. The Contractor shall have available stand-by personnel to supplement the committed forces should problems arise. The Contractor is responsible for meeting all OSHA standards including entrance and exit safety, confined space entry, fall protection, scaffolding, rigging, etc.

SC-25 NOTICES OF COMMENCEMENT

- A. The Contractor shall file all "Notice of Commencement" required for this Project in accordance with O.C.G.A. § 36-91-92et. seq., as applicable, setting forth:
1. The name, address, and telephone number of the person providing the labor, material, machinery, or equipment;
 2. The name and address of each person at whose instance the labor, material, machinery, or equipment is being furnished;
 3. The name and location of the public work; and
 4. A description of the labor, material, machinery, or equipment being provided and, if known, the Agreement Price or anticipated value of the labor, material, machinery, or equipment to be provided or the amount claimed to be due, if any.
- B. The Contractor shall respond to all requests for copies of a Notice of Commencement. Should the City or Engineer receive such a request, this request will be forwarded to the Contractor for further handling. The name and address of the City shall be as stated as follows:

City of Atlanta
Department of Watershed Management
55 Trinity Avenue, S. W.
South Tower
Suite 5400
Atlanta, Georgia 30303

C. The name and description of the Project shall be as stated in the Invitation to Bid.

SC-26 ENCOUNTERING HAZARDOUS OR POTENTIALLY HAZARDOUS MATERIAL DURING CONSTRUCTION ACTIVITIES

Provide all labor, materials, supplies, and incidentals to protect onsite workers and the surrounding public from exposure to potentially hazardous substances, prevent spread of potentially contaminated or hazardous substances, notify Engineer, and stop all work until notified by the Engineer.

An emergency situation or imminent hazard may include, but is not limited to, the following;

- Buried drums or containers with unknown or known toxic contents.
- Groundwater or soils of unnatural color
- Spills or leaks of chemicals, solvents, or petroleum products.
- Unusual odors
- Other perceived threats

If a potentially hazardous substance is discovered during construction activities, do not remove it from the site. Leave the potentially hazardous substance in place and stop all work in the immediate area. If the material appears to be leaking or spreading, the Contractor shall contain or abate the spread of material. Take all measures to prevent the release of the material to the environment and protect all onsite workers and the public from potential exposure.

During the course of substance containment or evacuation of site personnel, the Contractor shall protect onsite workers, non-workers, and the general public from contact with or exposure to the contaminated substances or materials.

SC-27 GEOTECHNICAL BASELINE REPORT

It is understood that the GBR may contain references to, and discussions of, certain means and methods of dealing with subsurface conditions described therein, which may also be described, detailed or specified in the Drawings and Specifications. It is the intent that the GBR, and the Drawings and Specifications be complementary. However, notwithstanding anything contained elsewhere in the Agreement Documents, in the event of a conflict or inconsistency between

the GBR and the Drawings and Specifications, the Drawings and Specifications shall control.

SC-28 ESCROW BID DOCUMENTS

SC-28.1 Ownership

The Escrow Bid Documents are, and shall always remain, the property of the Contractor, subject only to joint review by the City and the Contractor, as provided herein.

The City stipulates and expressly acknowledges that the Escrow Bid Documents, as defined herein, constitutes trade secrets. This acknowledgment is based on the City's express understanding that the information contained in the Escrow Bid Documents is not known outside the bidder's business, is known only to a limited extent and only by a limited number of employees of the bidder, is safeguarded while in bidder's possession, is extremely valuable to bidder and could be extremely valuable to bidder's competitors by virtue of it reflecting bidder's contemplated techniques of construction. City acknowledges that the bidder expended substantial sums of money in developing the information included in the Escrow Bid Documents and further acknowledges that it would be difficult for a competitor to replicate the information contained therein. City further acknowledges that the Escrow Bid Documents and the information contained therein are made available to City only because such action is an express prerequisite to award of the Agreement. City acknowledges that the Escrow Bid Documents include a compilation of information used in the bidder's business, intended to give the bidder an opportunity to obtain an advantage over competitors who do not know of or use the contents of the documentation. City agrees to safeguard the Escrow Bid Documents, and all information contained therein, against disclosure to the fullest extent permitted by law.

SC-28.2 Purpose

Escrow Bid Documents will be used to assist in the negotiation of price adjustments and change orders and in the settlement of disputes, claims and other controversies. They will not be used for pre-award evaluation of the Contractor's anticipated methods of construction or to assess the Contractor's qualifications for performing the work.

SC-28.3 Storage

One (1) full original set of the Escrowed Bid Documents will be placed in escrow, for the life of the Agreement, in a mutually agreeable institution. The cost of storage will be paid by the Contractor and a key with an access authorization card, which will be the property of the City until final close-out and settlement of

all disputes. If at any time either party wishes to exercise their right to review the escrowed materials, notice will be given to the other parties.

SC-28.4 Examination

The Escrow Bid Documents shall be examined by both the City and the Contractor, at any time deemed necessary by either the City or the Contractor, to assist in the negotiation of price adjustments and change orders, or the settlement of disputes.

Examination of the Escrow Bid Documents is subject to the following conditions:

As trade secrets, the Escrow Bid Documents are proprietary and confidential as described in Clause SC-30;

The City and the Contractor shall each designate, in writing to the other party and a minimum of ten (10) days prior to examination, representatives who are authorized to examine the Escrow Bid Documents. With the consent of both the City and Contractor, members of the Disputes Review Board may examine the Escrow Bid Documents if required to assist in the settlement of a dispute. No other person shall have access to the Escrow Bid Documents; and

Access to the Escrow Bid Documents will take place only in the presence of duly designated representatives of both the City and the Contractor, except that, if the Contractor refuses to be present or to cooperate in any other way in the review of the documents, the City or his representative may upon notice to the Contractor, review such documents without the Contractor being present.

SC-28.5 Final Disposition

The Escrow Bid Documents will be returned to the Contractor at such time as the Agreement has been completed and final settlement has been achieved.

SC-29 PRODUCT SUBMITTALS

In addition to the requirements of GC-28, the Contractor shall submit:

- A. A copy of the applicable specification section, with addendum updates included, and all referenced and applicable sections, with addendum updates included, with each paragraph check-marked to indicate specification compliance or marked to indicate requested deviations from specification requirements. Check marks (√) shall denote full compliance with a paragraph as a whole. If deviations from the specifications are indicated and, therefore, requested by the Contractor, each deviation shall be underlined and denoted by a number in the margin to the right of the identified paragraph. The remaining portions

of the paragraph not underlined will denote compliance to the specifications. The submittal shall be accompanied with a detailed, written justification for each deviation. Failure to include a copy of the marked-up specification sections, along with justification(s) for any requested deviations to the specification requirements, shall be rejected with no further consideration.

- B. A copy of any contract document control diagrams and process and instrumentation diagrams relating to the submitted equipment, with addendum updates that apply to the equipment in the submitted section, marked to show specific changes necessary for the equipment proposed in the submittal. If no changes are required, the drawing or drawings shall be marked "no changes required". Failure to include copies of the relevant drawings with the submittal shall be cause for rejection of the entire submittal with no further review.

Atlanta City Council

Cesar C. Mitchell Council President

Carla Smith District 1

Kwanza Hall District 2

Ivory Lee Young, Jr. District 3

Cleta Winslow District 4

Natalyn Mosby Archibong

Alex Wan District 5

Howard Shook District 6

Yolanda Adrean District 7

Felicia A. Moore District 8

C.T. Martin District 9

Keisha Lance Bottoms District 10

Joyce Sheperd District 11

Michael Julian Bond District 12

Aaron Watson Post 1 At-Large

H. Lamar Willis Post 2 At-Large

Post 3 At-Large



Department of Watershed Management
Jo Ann J. Macrina, P.E.
Acting Commissioner

CITY OF ATLANTA
Kasim Reed, Mayor

South River Basin - East Point Sewer Replacement

Project # FC-5211
Project Cost: \$13,088,451.19

CLEAN WATER ATLANTA



Clean Water Atlanta Helpline Number
404-546-3200
www.atlantawatershed.org

“Ensuring clean water today and for future generations.”

APPENDIX A
OFFICE OF CONTRACT COMPLIANCE





CITY OF ATLANTA

Kasim Reed
Mayor

SUITE 1700
55 TRINITY AVENUE, SW
ATLANTA, GA 30303
(404) 330-6010 Fax: (404) 658-7359
Internet Home Page: www.atlantaga.gov

OFFICE OF
CONTRACT COMPLIANCE
Hubert Owens
Director
howens@atlantaga.gov

October 31, 2012

RE: Project No.: FC 6260, Peachtree Creek and South Fork Relief Storage and Pumping Stations

Dear Prospective City of Atlanta Bidder:

The Office of Contract Compliance information is an integral part of every City of Atlanta bid. All Bidders are required to make efforts to ensure that businesses are not discriminated against on the basis of their race, ethnicity or gender, and to demonstrate compliance with these program requirements at or prior to the time of Bid opening, or upon request by OCC. Bidders are required to ensure that prospective subcontractors, vendors, suppliers and other potential participants are not denied opportunities to compete for work on a City contract on the basis of their race, ethnicity, or gender, and must afford all firms, including those owned by racial or ethnic minorities and women, opportunities to participate in the performance of the business of the City to the extent of their availability, capacity and willingness to compete. Please read all of the information very carefully. Pay close attention to the specific goal of minority and female business enterprises for this project and the EBO program reminders listed on page 6.

If you have any questions about the information included in this section of the solicitation, please contact the City of Atlanta Office of Contract Compliance at (404) 330-6010.

The City of Atlanta looks forward to the opportunity to do business with your company.

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CITY OF ATLANTA

**EQUAL BUSINESS OPPORTUNITY
EQUAL EMPLOYMENT OPPORTUNITY**

POLICY STATEMENT

It is the policy of the City of Atlanta to promote full and equal business opportunity for all persons doing business with the City. The City must ensure that firms seeking to participate in contracting and procurement activities with the City are not prevented from doing so on the basis of the race or gender of their owners. The City is committed to ensuring that it is not a passive participant in any private scheme of discrimination. To ensure that businesses are not discriminated against with regard to prime contracting, subcontracting or other partnering opportunities with the City, the City has developed an Equal Business Opportunity (EBO) Program. It is also the policy of the City of Atlanta to actively promote equal employment opportunities for minority and female workers and prohibit discrimination based upon race, religion, color, sex, national origin, marital status, physical handicap or sexual orientation through the City's Equal Employment Opportunity (EEO) Program. The purpose of the Equal Business Opportunity and Equal Employment Opportunity Programs is to mitigate the present and ongoing effects of the past and present discrimination against women and minority owned businesses and women and minority workers so that opportunity, regardless of race or gender, will become institutionalized in the Atlanta marketplace. It is important to note that all bidders, without exception, including minority and female owned business enterprises, must comply with the City of Atlanta's EBO and EEO Program requirements. Goals for minority and female business enterprises are set for this project on page 6.

Implementation of EBO Policy

The Office of Contract Compliance will review information submitted by Bidders pertaining to efforts to promote opportunities for diverse businesses, including M/FBEs, to compete for business as subcontractors and/or Suppliers. A Bidder is eligible for award of a City contract upon a finding by OCC that the Bidder has engaged in, and provided with its bid submission documentation of, efforts to ensure that its process of soliciting, evaluating and awarding subcontracts, placing orders, and partnering with other companies has been non-discriminatory. To assist prime contractors in this effort, the Office of Contract Compliance has set forth in this solicitation document the M/FBEs goals within the relevant NAICS Codes, for this Project.

For subcontracting, the Subcontractor Project Plan must include all subcontractors to be utilized on the project, detail the services to be performed, the dollar value of the work to be performed by each subcontractor, and the City of Atlanta M/FBE certification number and supplier id number.

For Suppliers, the Subcontractor Project Plan must include all suppliers to be utilized on the project, the supplies to be provided, including the dollar value of the supplies being provided and the City of Atlanta M/FBE certification number and supplier id number.

Determination of Non-discrimination During Bid Process

No Bidder shall be awarded a contract on an Eligible Project unless the Office of Contract Compliance determines that the Bidder has satisfied the non-discrimination requirements of section 2-1448 on such Eligible Project. Accordingly, each Bidder shall submit with each Bid the following

1. Covenant of Non Discrimination. Each Bidder shall submit with her/his Bid a Covenant of Non-Discrimination which is set forth herein as Exhibit EBO1.
2. Outreach efforts documentation. Each bidder shall submit with her/his bid written documentation demonstrating the bidder's outreach efforts to identify, contact, contract with, or utilize businesses, including certified MFBEs and SBEs, as subcontractors or suppliers on the contract. This information shall be set forth on Exhibit EBO2, which is included herein.
3. Subcontractor project plan. Each bidder shall submit with her/his bid a completed and signed subcontractor project plan, in a form approved and provided by the office of contract compliance, which lists the name, address, telephone number and contact person of each subcontractor or other business to be used in the contract, the NAICS Code and the type of work or service each business will perform, the dollar value of the work and the scope of work, the ownership of each business by race and gender, if applicable the AABE, APABE, FBE, or HABE certification number of each business, and any other information requested by the office of contract compliance. In order for the office of contract compliance to officially consider a firm to be an MFBE, the MFBE firm must be certified by or have a certification application pending with the office of contract compliance prior to the bidder's submission of the bid. The subcontractor project plan shall not be changed or altered after approval of the plan and award of the contract without the written approval of the director of the office of contract compliance. A written letter to the director of the office of contract compliance requesting approval to

change the subcontractor project plan must be submitted prior to any change in the plan or termination of an MFBE's contract.

OCC Review of Bidder Submissions

The Office of Contract Compliance shall determine whether a Bidder has satisfied the non-discrimination requirements of section 2-1448 based on its review of the Covenant of Non Discrimination, the Outreach Efforts Documentation, the Subcontractor Project Plan, and its review of other relevant facts and circumstances, including complaints received as part of the bid process. In reviewing the documents submitted by a Bidder to determine whether the Bidder has satisfied the non-discriminatory practices requirement of this section, the Office of Contract Compliance will consider, among other things, the total project dollars subcontracted to or expended for services performed by other businesses, including certified MFBEs, whether such businesses perform Commercially Useful Functions in the work of the contract based upon standard industry trade practices, whether any amounts paid to Supplier businesses are for goods customarily and ordinarily used based upon standard industry trade practices, and the availability of certified MFBEs within the relevant NAICS Codes for such Eligible Project.

(a) Receipt of Complaint of Discrimination in the Bid Process

The Office of Contract Compliance shall accept complaints of alleged discrimination during the bid process regarding any participant in the bid process. Where the complaint of discrimination is specific to the procurement which is under consideration by the city, the office of contract compliance may investigate said complaint, determine its validity, and determine whether the actions complained of impact the bidder's responsiveness on the specific procurement. Allegations of discrimination based on events, incidents or occurrences which are unrelated to the specific procurement will be placed in the bidder's file maintained in the vendor relations database and handled in accordance with the procedure established in the city's vendor relations subdivision, section 2-1465, et seq.

(b) Determination of Violation of EBO Process

Determination of violation of EBO process. Where the office of contract compliance investigates a complaint of discrimination that is related to the specific bid process, the details of that investigation, including findings, shall be recorded and maintained in the vendor relations database, pursuant to section 2-1471.

(c) Office of Contract Compliance Determination of Non-Compliance

Office of contract compliance determination of non-compliance. When, based upon the totality of the circumstances, the office of contract compliance determines that a bidder fails to satisfy the requirements of section 2-1448(a) of a city bid solicitation, the director of the office of contract compliance shall present a written determination of non-compliance to the Chief Procurement Officer which states the determination and lists the

reasons for the determination. A bid that does not comply with the requirements set forth in section 2-1448(a) shall be deemed non-responsive and rejected.

Equal Business Opportunity Program Bid/RFP Submittals

The Office of Contract Compliance will make any determinations of non-responsiveness. The covenant of non-discrimination, the outreach efforts documentation, the subcontractor project plan, and any other information required by OCC in the solicitation document pursuant to section 2-1448(b) must be completed in their entirety by each bidder and submitted with the other required bid documents in order for the bid to be considered as a responsive bid. Failure to timely submit these forms, fully completed, will result in the bid being considered as a non-responsive bid, and therefore, excluded from consideration.

Monitoring Of EBO Policy

Upon execution of a contract with the City of Atlanta, the successful bidder's Subcontractor Project Plan will become a part of the contract between the bidder and the City of Atlanta. The Subcontractor Project Plan will be monitored by the City of Atlanta's Office of Contract Compliance for adherence with the plan. The successful bidder will be required to provide specific EBO information on a monthly basis that demonstrates the use of subcontractors and suppliers as indicated on the Subcontractor Project Plan. The failure of the successful bidder to provide the specific EBO information by the specified date each month shall be sufficient cause for the City to withhold approval of the successful bidder's invoices for progress payments, increase the amount of the successful bidder's retainage, or evoke any other penalties as set forth in the City of Atlanta Code of Ordinances, Section 2-1452.

Implementation of EEO Policy

The City effectuates its EEO policy by adopting racial and gender work force availability for every contractor performing work for the City of Atlanta. These percentages are derived from the work force demographics set forth in the 2000 Census EEO file prepared by the United States Department of Commerce for the applicable labor pool normally utilized for the contract.

Monitoring of EEO Policy

Upon award of a contract with the City of Atlanta, the successful bidder must submit a Contract Employment Report (CER), describing the racial and gender make-up of the firm's work force. If the CER indicates that the firm's demographic composition does not meet the adopted EEO goals, the firm will be required to submit an affirmative action plan setting forth the steps to be taken to reach the adopted goals. The CER and the affirmative action plan, if necessary, will become a part of the contract between the successful bidder and the City of Atlanta. Compliance with the EEO requirements will be monitored by the Office of Contract Compliance.

First Source Jobs Program Policy Statement

It is the policy of the City of Atlanta to provide job opportunities to the residents of the City of Atlanta, whenever possible. Every contract with the City of Atlanta creates a potential pool of new employment opportunities. The prime contractor is expected to work with the First Source Jobs Program to fill at least 50% of all new entry-level jobs, which arise from this project, with residents of the City of Atlanta. For more specific information about the First Source Jobs Program contact:

**Deborah Lum
Executive Director
First Source Jobs Program
Atlanta Workforce Development Agency
818 Pollard Boulevard
Atlanta, GA 30315
(404) 546-3001**

Joint Venture Participation on City of Atlanta EBO Projects

The City of Atlanta encourages, where economically feasible, the establishment of joint ventures to ensure prime contracting opportunities for all businesses, including non-discriminatory outreach efforts to utilize certified minority and female business enterprises on Eligible Projects. On selected projects valued at five million dollars and over, the Office of Contract Compliance shall determine on a project-by-project basis whether non-discriminatory outreach efforts to enter into a joint venture shall be required. On such Eligible Projects, joint venture member businesses must have different race ownership, different gender ownership or both. The minority and female business enterprise members of the joint venture on projects on which a Joint Venture is required must be certified as such by the Office of Contract Compliance, and the joint venture team shall include in its bid submittal the M/FBE certification number of each M/FBE joint venture member.

A joint venture may submit its agreement to the Office of Contract Compliance for pre-approval no later than fourteen (14) calendar days prior to the date set for receipt of bids on an Eligible Project. Otherwise, agreements must be submitted on or before the date set for receipt of bids on an Eligible Project.

Components of a Joint Venture Agreement

The Joint Venture agreement should include at a minimum:

- The initial capital investment of each venture partner.
- The proportional allocation of profits and losses to each venture partner.
- The sharing of the right to control the ownership and management of the joint venture.
- A detailed description of the discrete portion of work or tasks that will be performed by each of the venture partners.
- The method of, and responsibility for, accounting.
- The methods by which disputes are resolved.
- All other pertinent factors of the joint venture.

Equal Business Opportunity M/FBE Goals for this Project

Project No.: FC-6260, Peachtree Creek and South Fork Relief Storage and Pumping Stations

Part 1: All proponents must ensure that non-discriminatory practices are utilized to enter into a Joint Venture Agreement in accordance with the City of Atlanta's EBO Ordinance. The Joint Venture Agreement, at the very least, should reflect details of the member company's/companies' involvement in the Peachtree Creek and South Fork Relief Storage and Pumping Stations Project throughout the life of the contract (See Page 6).

Part 2: All proponents must ensure that non-discriminatory practices are utilized during efforts to engage minority and female subcontractors and suppliers throughout the life of the contract. All outreach efforts must be documented and included with this bid submittal.

The availability of certified minority and female firms for the procurement categories listed in this project are:

17.5% AABE and 13% FBE

Please be reminded that no Bidder shall be awarded a contract on an Eligible Project unless the Office of Contract Compliance determines that the Bidder has satisfied the non-discrimination requirements of section 2-1448 on such Eligible Project. Details of the O.C.C. review process for determination of non-discrimination are outlined on page 2 of this document.

Equal Business Opportunity Program Reminders

1. Joint Venture Agreements. The Joint Venture member businesses must have different race ownership, different gender ownership, or both. MFBE members of the Joint Venture must be certified as such by the Office of Contract Compliance. The Joint Venture team shall include in its submittal the MFBE certification number of each MFBE Joint Venture member.
2. Subcontractor Certification. It is the prime contractor's responsibility to verify that MFBEs included on the Subcontractor Project Plan are certified by the City of Atlanta's Office of Contract Compliance, or have a certification application pending with the City of Atlanta's Office of Contract Compliance at the time that the bid is submitted.
3. Reporting. The successful bidder must submit monthly EBO participation reports to the Office of Contract Compliance.
4. Subcontractor Contact Form. It is required that bidders list and submit information on all subcontractors they solicit for quotes, all subcontractors who contact them with regard to the project, and all subcontractors they have discussions with regarding the project. Failure to provide complete information on this form will result in your bid being declared non-responsive.
5. EBO Ordinance. The EBO Program is governed by the provisions of the EBO Ordinance set forth in the City of Atlanta Code Division 12, section 2 - 1441 through 2 -1464. The ordinance can be obtained from the City of Atlanta Clerk's Office at (404) 330-6032.
6. Supplier Participation. In order to receive full M/FBE credit, suppliers must manufacture or warehouse the materials, supplies, or equipment being supplied for use on the Eligible Project.

COVENANT OF NON-DISCRIMINATION

The undersigned understands that it is the policy of the City of Atlanta to promote full and equal business opportunity for all persons doing business with the City of Atlanta. The undersigned covenants that we have not discriminated, on the basis of race, gender or ethnicity, with regard to prime contracting, subcontracting or partnering opportunities. The undersigned further covenants that we have completed truthfully and fully the required forms EBO-2 and EBO-3. Set forth below is the signature of an officer of the bidding entity with the authority to bind the entity.

Signature of Attesting Party

Title of Attesting Party

On this ____ day of _____, 20 __, before me appeared _____, the person who signed the above covenant in my presence.

Notary Public

Seal

FORM EBO-1



**OFFICE OF CONTRACT COMPLIANCE
SUBCONTRACTOR CONTACT FORM**

List all subcontractors or suppliers (Majority & Minority Owned) that were contacted regarding this project

Name of Sub-Contractor/Supplier	City of Atlanta Supplier ID Number	Company Name, Contact Name, Address and Phone Number	City Of Atlanta Business License? (Yes or No)	Type of Work Solicited for	Business Ownership (See Code below)	Certification No. and Expiration Date	Results of Contact

Name of Sub-contractor/supplier	City of Atlanta Supplier ID Number	Company Name, Contact Name, Address and Phone Number	City Of Atlanta Business License? (Yes or No)	Type of Work Solicited for	Business Ownership (see code below)	Certification No. and Expiration Date	Results of Contact

Business Ownership Code: AABE - African American Business Enterprise, HBE - Hispanic Business Enterprise, FBE - Female Business Enterprise, ABE - Asian Business Enterprise, NABE - Native American Business Enterprise

Proponent's Name: _____ Project Name: _____ FC#: _____

Signature: _____ Contact No: _____ Date: _____

**EQUAL BUSINESS OPPORTUNITY SUBCONTRACTOR PROJECT PLAN
SUBCONTRACTOR/SUPPLIER UTILIZATION**

List all Majority, Minority and Female Business Enterprise subcontractors/suppliers, including lower tiers, to be used on this project.

Name of Sub-contractor/Supplier	City of Atlanta Supplier ID Number	Company Name, Address and Phone Number	City Of Atlanta Business License? (yes or no)	NAICS Code(s)	Type of Work to be Performed	Ownership of Business (see code below)	Certification No. and Expiration Date	Dollar (\$) Value of Work & Scope of Work	Percentage of Total Bid Amount

Total MBE% _____
Total FBE% _____

Code: AABE - African American Business Enterprise, HABE - Hispanic American Business Enterprise, FBE - Female Business Enterprise.
APABE - Asian (Pacific Islander) American Business Enterprise

Proponent's Co. Name: _____ Date: _____ FC#: _____
Proponent's Contact Number: _____ Project Name: _____
Signature: _____

First Source Job Information

Company Name: _____

FC No.: _____

Project Name: _____

The following entry level positions will become available as a result of the above referenced contract with the City of Atlanta.

- 1.
- 2.
- 3.
- 4.
- 5.

Include a job description and all required qualifications for each position listed above.

Identify a company representative and contact phone number who will be responsible for coordinating with the First Source Jobs Program.

Company Representative: _____

Phone Number: _____

First Source Jobs Agreement

THIS AGREEMENT REGARDING THE USE OF THE FIRST SOURCE JOBS PROGRAM BY CONTRACTORS WITH THE CITY OF ATLANTA TO FILL ENTRY LEVEL JOBS is made and entered into by _____

This _____ day of _____, 201__.

The City of Atlanta requires the immediate beneficiary or primary contractor for every eligible project to enter into a First Source Jobs employment agreement. The contractor agrees to the following terms and conditions:

- The first source for finding employees to fill all entry level jobs Created by the eligible project will be the First Source Program.
- The contractor will make every effort to fill 50% of the entry level jobs created by this eligible project with applicants from the First Source Program.
- The contractor shall make good faith effort to reach the goal of this employment agreement.
- Details as to the number and description of each entry level job must me provided with the bid.
- The contractor shall comply with the spirit of the First Source Jobs Policy beyond the duration of this agreement and continue to make good faith attempts to hire employees of similar backgrounds to those participating in the First Source Program.
- The contractor as a condition of transfer, assignment or otherwise shall require the transferee to agree in writing to the terms of the employment Agreement.

Upon a determination that a beneficiary or contractor has failed to comply with the terms of this Agreement, the City may impose the following penalties based on the severity of the non-compliance:

- The City of Atlanta may withhold payment from the contractor.
- The City of Atlanta may withhold 10 percent of all future payments on the contract until the contractor is in compliance
- The City of Atlanta may refuse all future bids on city projects or applications for financials assistance in any form from the City until the contractor demonstrated that the First Source requirements have been met, or cancellation of the eligible project.
- The City of Atlanta may cancel the eligible project.

All terms stated herein can be found in the City of Atlanta Code of Ordinances Sections 5-8002 through 5-8005.

The undersigned hereby agrees to the terms and conditions set forth in this agreement.

Contractor

APPENDIX B
INSURANCE/BONDING REQUIREMENTS



**APPENDIX B
INSURANCE & BONDING REQUIREMENTS
FC-6260 Peachtree Creek South Fork Relief Storage and Pumping Stations**

A. Preamble

The following requirements apply to all work under the agreement. Compliance is required by all Contractors/Consultants. **To the extent permitted by applicable law, the City of Atlanta ("City") reserves the right to adjust or waive any insurance or bonding requirements contained in this Appendix B and applicable to the agreement.**

1. Evidence of Insurance Required Before Work Begins

No work under the agreement may be commenced until all insurance and bonding requirements contained in this Appendix B, or required by applicable law, have been complied with and evidence of such compliance satisfactory to City as to form and content has been filed with City. Contractor/Consultant must provide City with a Certificate of Insurance that clearly and unconditionally indicates that Contractor/Consultant has complied with all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement. If the Contractor/Consultant is a joint venture, the insurance certificate should name the joint venture, rather than the joint venture partners individually, as the primary insured. In accordance with the solicitation documents applicable to the agreement at the time Contractor/Consultant submits to City its executed agreement, Contractor/Consultant must satisfy all insurance and bonding requirements required by this Appendix B and applicable by law, and provide the required written documentation to City evidencing such compliance. In the event that Contractor/Consultant does not comply with such submittal requirements within the time period established by the solicitation documents applicable to the agreement, City may, in addition to any other rights City may have under the solicitation documents applicable to the agreement or under applicable law, make a claim against any bid security provided by Contractor/Consultant.

2. Minimum Financial Security Requirements

All companies providing insurance required by this Appendix B must meet certain minimum financial security requirements. These requirements must conform to the ratings published by A.M. Best & Co. in the current Best's Key Rating Guide - Property-Casualty. The ratings for each company must be indicated on the documentation provided by Contractor/Consultant to City certifying that all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement have been unconditionally satisfied.

For all agreements, regardless of size, companies providing insurance or bonds under the agreement must meet the following requirements:

- i) Best's Rating not less than A-,
- ii) Best's Financial Size Category not less than Class IX, and
- iii) Companies must be authorized to conduct and transact insurance contracts by the Insurance Commissioner, State of Georgia.
- iv) All bid, performance and payment bonds must be underwritten by a U.S. Treasury Circular 570 listed company.

If the issuing company does not meet these minimum requirements, or for any other reason is or becomes unsatisfactory to City, City will notify Contractor/Consultant in writing. Contractor/Consultant must promptly obtain a new policy or bond issued by an insurer acceptable to City and submit to City evidence of its compliance with these conditions.

Contractor/Consultant's failure to comply with all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement will not relieve Contractor/Consultant from any liability under the agreement. Contractor/Consultant's obligations to comply with all insurance and bonding requirements set forth in Appendix B and applicable to the agreement will not be construed to conflict with or limit Contractor/Consultant's/Consultant's indemnification obligations under the agreement.

3. Insurance Required for Duration of Contract

All insurance and bonds required by this Appendix B must be maintained during the entire term of the agreement, including any renewal or extension terms, and until all work has been completed to the satisfaction of City.

4. Notices of Cancellation & Renewal

Contractor/Consultant must, notify the City of Atlanta in writing at the address listed below by mail, hand-delivery or facsimile transmission, within 2 days of any notices received from any insurance carriers providing insurance coverage under this Agreement and Appendix B that concern the proposed cancellation, or termination of coverage.

Enterprise Risk Management
68 Mitchell St. Suite 9100
Atlanta, GA 30303
Facsimile No. (404) 658-7450

Confirmation of any mailed notices must be evidenced by return receipts of registered or certified mail.

Contractor/Consultant shall provide the City with evidence of required insurance prior to the commencement of this agreement, and, thereafter, with a certificate evidencing renewals or changes to required policies of insurance at least fifteen (15) days prior to the expiration of previously provided certificates.

5. Agent Acting as Authorized Representative

Each and every agent acting as Authorized Representative on behalf of a company affording coverage under this contract shall warrant when signing the Acord Certificate of Insurance that specific authorization has been granted by the Companies for the Agent to bind coverage as required and to execute the Acord Certificates of Insurance as evidence of such coverage. City of Atlanta coverage requirements may be broader than the original policies; these requirements have been conveyed to the Companies for these terms and conditions.

In addition, each and every agent shall warrant when signing the Acord Certificate of Insurance that the Agent is licensed to do business in the State of Georgia and that the Company or Companies are currently in good standing in the State of Georgia.

6. Certificate Holder

The **City of Atlanta** must be named as certificate holder. All notices must be mailed to the attention of **Enterprise Risk Management at 68 Mitchell Street, Suite, 9100, Atlanta, Georgia 30303.**

7. Project Number & Name

The project number and name must be referenced in the description section of the insurance certificate.

8. Additional Insured Endorsements Form CG 20 26 07 04 or equivalent

The City must be covered as Additional Insured under all insurance (except worker's compensation and professional liability) required by this Appendix B and such insurance must be primary with respect to the Additional Insured. **Contractor/Consultant must submit to City an Additional Insured Endorsement evidencing City's rights as an Additional Insured for each policy of insurance under which it is required to be an additional insured pursuant to this Appendix B. Endorsement must not exclude the Additional Insured from Products - Completed Operations coverage. The City shall not have liability for any premiums charged for such coverage.**

9. Mandatory Sub-Contractor/Consultant Compliance

Contractor/Consultant must require and ensure that all subContractor/Consultants/subconsultants at all tiers to be sufficiently insured/bonded based on the scope of work performed under this agreement.

10. Self Insured Retentions, Deductibles or Similar Obligations

Any self insured retention, deductible or similar obligation will be the sole responsibility of the contractor.

11. Task Order

Evidence of compliance with insurance requirements must be provided on a Task Order basis prior to the issuance of any Notice to Proceed.

B. Workers' Compensation and Employer's Liability Insurance

Contractor/Consultant must procure and maintain Workers' Compensation and Employer's Liability Insurance in the following limits to cover each employee who is or may be engaged in work under the agreement. :

Workers' Compensation. **Statutory**

Employer's Liability:

- Bodily Injury by Accident/Disease **\$1,000,000 each accident**
- Bodily Injury by Accident/Disease **\$1,000,000 each employee**
- Bodily Injury by Accident/Disease **\$1,000,000 policy limit**

C. Commercial General Liability Insurance

Contractor/Consultant must procure and maintain Commercial General Liability Insurance on form (CG 00 00 01 or equivalent) in an amount not less than **\$1,000,000 per occurrence subject to a \$2,000,000 aggregate**. The following indicated extensions of coverage must be provided:

- Contractual Liability
- Broad Form Property Damage
- Premises Operations
- Fire Legal Liability
- Medical Expense
- Independent Contractor/Consultants/SubContractor/Consultants
- Products – Completed Operations
- Explosion, Collapse and Underground (XCU) Liability
- Additional Insured Endorsement* (primary& non-contributing in favor of the City of Atlanta)
- Waiver of Subrogation in favor of the City of Atlanta

D. Commercial Automobile Liability Insurance

Contractor/Consultant must procure and maintain Automobile Liability Insurance in an amount not less than **\$1,000,000** Bodily Injury and Property Damage combined single limit. The following indicated extensions of coverage must be provided:

- Owned, Non-owned & Hired Vehicles
- Waiver of Subrogation in favor of the City of Atlanta

If Contractor/Consultant does not own any automobiles in the corporate name, non-owned vehicle coverage will apply and must be endorsed on either Contractor/Consultant's personal automobile policy or the Commercial General Liability coverage required under this Appendix B.

F. Excess or Umbrella Liability Insurance

Contractor/Consultant shall procure and maintain a policy providing Excess or Umbrella Liability Insurance which is at least as broad as the underlying policy. This insurance, which shall be maintained throughout the life of the contract, shall be in an amount of not less than **\$3,000,000 per occurrence**.

- Coverage must follow form with primary policy
- May be used to achieve minimum liability limits
- Coverage must be as broad as primary policy

G. Installation Floater

Contractor/Consultant shall procure and maintain policy for Builders Risk/ Installation Floater with all risk coverage to cover damage or destruction to renovations, repairs or equipment being installed or otherwise being handled or stored by the Contractor, including off-site storage, transit and installation. The coverage must be in an amount equal to **100 percent of the value of the contract**. The following indicated extensions of coverage must be provided:

- All Risk Coverage
- Operational Testing Coverage included
- Loss Payee Endorsement

H. Property Coverage/Inland Marine

Contractor/Consultant shall procure and maintain all risk property coverage in an amount equal to replacement value for all equipment, furniture, fixtures, machinery and/ or personal property.

K. Pollution Liability

Contractor/Consultant must procure and maintain Pollution Liability Insurance in an amount not less than **\$5,000,000** each occurrence/aggregate. Completed operations coverage shall remain in effect for no less than three (3) years after final completion. This coverage can also be satisfied with an endorsement to the General Liability policy.

L. Asbestos Abatement Liability

The Contractor shall procure and maintain project specific Asbestos Abatement Liability Insurance in an amount not less than **\$500,000 each occurrence/aggregate**.

M. Performance Bond and Payment Bond

Contractor/Consultant shall furnish a Payment Bond and a Performance Bond to the City in an amount equal to **100 percent of the total contract value** and for the duration of the entire term.

The person executing the Bonds on behalf of the surety shall file with the Bonds a general power of attorney unlimited as to amount and type of bonds covered by such power of attorney, and certified by an official of said surety.

- Spousal Extension Endorsement
- Compliance with Applicable Trade Sanction Laws

Payment Bond

INSTRUCTIONS

1. This form is required for use in connection with the Agreement identified on its face. There shall be no deviation from this form without approval by the City.
2. The full legal name and business address of the Principal shall be inserted in the space designated "Principal" on the face of the form. The bond shall be signed by an authorized person. Where such person is signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership, or joint venture, or an office of the corporation involved, evidence of this authority must be furnished.
3. Corporation executing the bond as surety must be among those appearing on the U.S. Treasury Department's most current list of approved sureties and must be acting within the amounts and limitations set forth therein.
4. Corporate surety shall be duly authorized by the Commissioner of Insurance of the State of Georgia to transact surety business in the State of Georgia.
5. Do not date this bond. The City will date this bond the same date or later than the date of the Agreement.
6. The Surety shall attach a duly authorized power-of-attorney authorizing signature on its behalf of any attorney-in-fact.
7. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Seal."
8. The name of each person signing this bond shall be typed or printed in the space provided.

Payment Bond

"City" City of Atlanta, Georgia

"Project" Peachtree Creek South Fork Relief Storage and Pumping Stations

"FC No." 6260

"Principal" (Legal Name and Business Address)

Type of Organization ("X" one):
 Individual
 Partnership
 Joint Venture
 Corporation

"Surety:" (Name and Business Address)

duly authorized by the Commissioner of Insurance of the State of Georgia to transact surety business in the State of Georgia.

"Agreement:" Agreement between Principal and City, dated _____ day of _____, 20__, regarding performance of Work relative to the Project.

"Penal Sum:" _____ Dollars (\$.00).

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal and Surety hereto, as named above, are held and firmly bound to the City in the above Penal Sum for the payment of which well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, jointly and severally.

WHEREAS, the Principal and the City entered into the Agreement identified above;

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall make payment of all Subcontractors and all persons supplying labor, Materials, machinery and Equipment for the performance of said work, this obligation shall be void; otherwise of full force and effect.

And the Surety to this bond, for value received, agrees that no modification, change, extension of time, alteration or addition to the terms of the Agreement or to the Work to be performed thereunder shall in any wise affect its obligation on this bond, and it does hereby waive notice of any such modification, change, extension of time, alteration or addition to the terms of the Agreement or the Work.

It is agreed that this bond is executed pursuant to and in accordance with the provisions of Section 13-10-1 and 36-82-101 *et seq.* and is intended to be and shall be construed to be a bond in compliance with the requirements thereof, though not restricted thereto.

IN WITNESS WHEREOF, the Principal and the Surety have caused these presents to be duly signed and sealed this _____ day of _____, 20_____.

PRINCIPAL: _____

President/Vice President (Sign)

President/Vice President (Type or Print)

Attested to by:

Secretary/Assistant Secretary (Seal)

SURETY: _____

By: _____
Attorney-in-Fact (Sign)

Attorney-in-Fact (Type or Print)

APPROVED AS TO FORM

Associate/Assistant City Attorney

APPROVED

City's Chief Financial Officer

Performance Bond

INSTRUCTIONS

1. This form is required for use in connection with the Agreement identified on its face. There shall be no deviation from this form without approval by the City.
2. The full legal name and business address of the Principal shall be inserted in the space designated "Principal" on the face of the form. The bond shall be signed by an authorized person. Where such person is signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership, or joint venture, or an office of the corporation involved, evidence of this authority must be furnished.
3. Corporation executing the bond as surety must be among those appearing on the U.S. Treasury Department's most current list of approved sureties and must be acting within the amounts and limitations set forth therein.
4. Corporate surety shall be duly authorized by the Commissioner of Insurance of the State of Georgia to transact surety business in the State of Georgia.
5. Do not date this bond. The City will date this bond the same date or later than the date of the Agreement.
6. The Surety shall attach a duly authorized power-of-attorney authorizing signature on its behalf of any attorney-in-fact.
7. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Seal."
8. The name of each person signing this bond shall be typed or printed in the space provided.

Performance Bond

"City" City of Atlanta, Georgia

"Project" Peachtree Creek South Fork Relief Storage and Pumping Stations

"FC No." 6260

"Principal" (Legal Name and Business Address)

Type of Organization ("X" one): Individual
 Partnership
 Joint Venture
 Corporation

"Surety:" (Name and Business Address)

duly authorized by the Commissioner of Insurance of the State of Georgia to transact surety business in the State of Georgia.

"Agreement:" Agreement between Principal and City, dated _____ day of _____, 20__, regarding performance of Work relative to the Project.

"Penal Sum:" _____ Dollars (\$ _____ .00).

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal and Surety hereto, as named above, are held and firmly bound to the City in the above Penal Sum for the payment of which well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, jointly and severally.

WHEREAS, the Principal and the City entered into the Agreement identified above;

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully and fully comply with, perform and fulfill all of the undertakings, covenants, conditions and all other of the terms and conditions of said Agreement, including any and all duly authorized modifications of such Agreement, within the original term of such Agreement and any extensions thereof, which shall include, but not be limited to any obligations created by way of warranties and/or guarantees for workmanship and materials which warranty and/or guarantee may extend for a period of time beyond completion of said Agreement, this obligation shall be void; otherwise, of full force and effect.

And the Surety to this bond, for value received, agrees that no modification, change, extension of time, alteration or addition to the terms of the Agreement or to the Work to be performed thereunder shall in any

wise affect its obligation on this bond, and it does hereby waive notice of any such modification, change, extension of time, alteration or addition to the terms of the Agreement or the Work.

It is agreed that this bond is executed pursuant to and in accordance with the provision of O.C.G.A. Sections 13-10-1 and 36-82-101, *et seq.* and is intended to be and shall be construed to be a bond in compliance with the requirements thereof, though not restricted thereto.

IN WITNESS WHEREOF, the Principal and the Surety have caused these presents to be duly signed and sealed this _____ day of _____, 20_____.

PRINCIPAL: _____

President/Vice President (Sign)

President/Vice President (Type or Print)

Attested to by:

Secretary/Assistant Secretary (Seal)

SURETY: _____

By: _____
Attorney-in-Fact (Sign)

Attorney-in-Fact (Type or Print)

APPROVED AS TO FORM

Associate/Assistant City Attorney

APPROVED

City's Chief Financial Officer

APPENDIX C
CONTRACTOR'S DISCLOSURE FORM
AND QUESTIONNAIRE



CONTRACTOR'S DISCLOSURE FORM AND QUESTIONNAIRE

1. Please provide the names and business addresses of each of the Contractor's officers, director's, affiliates and other employees, agents or representative of this form, the subject project, **FC-6260, Peachtree Creek South Fork Relief Storage and Pumping Stations**

For the purposes of this form, the term "affiliate" of any Contractor shall mean any person or entity which directly or indirectly controls or is controlled by, or is under common control with such Contractor. "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person or entity, whether through ownership of voting securities, by entreat, or otherwise.

Describe accurately, fully and completely, their respective relationships with said Contractor, including their ownership interests and their anticipated role in the management and operations of said Contractor.

2. Please describe the general development of said Contractor's business during the past five (5) years, or such shorter period of time that said Contractor has been in business.
3. Please state whether any of the following events have occurred in the last five (5) years with respect to said Contractor. If any answer is yes, explain fully the following:
 - (a) Whether a petition under the federal bankruptcy laws or state insolvency laws was filed by or against said Contractor, or a receiver fiscal agent or similar officer was appointed by a court for the business or property of said Contractor;
 - (b) Whether Contractor was subject of any order, judgment, or decree not subsequently reversed, suspended or vacated by any court of competent jurisdiction, permanently enjoining said Contractor from engaging in any type of business practice, or otherwise eliminating any type of business practice; and
 - (c) Whether said Contractor's business was the subject of any civil or criminal proceeding in which there was a final adjudication adverse to said Contractor which directly arose from activities conducted by the business unit or corporate division of said Contractor which submitted a bid or proposal for the subject project, if so please explain.
4. Please state whether any employee, agent or representative of said Contractor who is or will be directly involved in the subject project has or had within the last five (5) years; (i) directly or indirectly had a business relationship with the City of Atlanta (the "**City**"), (ii) directly or indirectly received revenues from the City or (iii) directly or indirectly receives revenues from the result of conducting business on City property or pursuant to any contract with the City. Please describe any such relationship.
5. Please state whether any employee, agent or representative of said Contractor who is or will be directly involved in the subject project has or had within the last five (5) years a direct or indirect business relationship (to the best of your knowledge and belief) with any elected or appointed City official or with any City employee, and fully describe such business relationship.

NOTE: If any response to any question set forth in this questionnaire has been disclosed in any other document, a response may be made by attaching a copy of such disclosure. (For example, said Contractor's most recent filings with the Securities and Exchange Commission (SEC) may be provided if they are responsive to certain items within the questionnaire). However, for purposes of clarity, Contractor should correlate its responses with the exhibits by identifying the exhibit and its relevant text.

Disclosures must specifically address, completely respond and comply with all information requested and fully answer all questions requested by the City. Such disclosure must be submitted at the time of the bid or proposal submission and included as a part of the bid/proposal submitted for this project. Disclosure is required for Contractors, joint venture partners and first-tier Subcontractors and/or Sub-consultants.

Failure to provide required disclosure, submit officially signed and notarized documents or respond to any and all information requested/required by the City can result in the bid/proposal declared as non-responsive. This document must be completed and included as a part of the bid/proposal package along with other required documents.

Under penalty or perjury, I declare that I have examined this questionnaire and all attachments hereto, if applicable, to the best of my knowledge and belief, and all statements contained hereto are true, correct, and complete.

On this day of _____, 20__.

(Legal Name of Proponent)

(Signature of Authorized Representative)

(Title)

(Date)

Sworn to and subscribed before me,

This ____ day of _____, 20__

(Notary Public)

(Seal)

Commission Expires _____

(Date)

APPENDIX D
ILLEGAL IMMIGRATION REFORM AND
ENFORCEMENT ACT FORMS



Appendix D: Illegal Immigration Reform and Enforcement Act Forms

INSTRUCTIONS TO PROPONENTS/BIDDERS:

All Proponents/Bidders must comply with the Illegal Immigration Reform and Enforcement Act, O.G.G.A § 13-10-90, et seq. (IIREA). IIREA was formerly known as the Georgia Security and Immigration Compliance Act or GSICA. Proponents/Bidders must familiarize themselves with IIREA and are solely responsible for ensuring compliance. Proponents/Bidders must not rely on these instructions for that purpose. They are offered only as a convenience to assist Proponents/Bidders in complying with the requirements of the City's procurement process and the terms of this RFP.

1. The attached Contractor Affidavit must be filled out COMPLETELY and submitted with the proposal/bid prior to proposal due date.
2. The Contractor Affidavit must contain an active Federal Work Authorization Program (E-Verify) User ID Number and Date of Registration.
3. Where the business structure of a Proponent/Bidder is such that Proponent/Bidder is required to obtain an Employer Identification Number (EIN) from the Internal Revenue Service, Proponent/Bidder must complete the Contractor Affidavit on behalf of, and provide a Federal Work Authorization User ID Number issued to, the Proponent itself. Where the business structure of a Proponent/Bidder does not require it to obtain an EIN, each entity comprising Proponent/Bidder must submit a separate Contractor Affidavit.

Example 1, ABC, Inc. and XYZ, Inc. form and submit a proposal/bid as Acme Construction, LLC. Acme Construction, LLC must enroll in the E-verify program and submit a single Contractor Affidavit in the name of Acme Construction, LLC which includes the Federal Work Authorization User ID Number issued to Acme Construction, LLC.

Example 2, ABC, Inc. and XYZ, Inc. execute a joint venture agreement and submit a proposal/bid under the name Acme Construction, JV. If, based on the nature of the JV agreement, Acme Construction, JV is not required to obtain an Employer Identification Number from the IRS. The Proposal/Bid submitted by Acme Construction, JV must include both a Contractor Affidavit for ABC, Inc. and a Contractor Affidavit for XYZ, Inc.

4. All Contractor Affidavits must be executed by an authorized representative of the entity named in the Affidavit.
5. All Contractor Affidavits must be duly notarized.
6. All Contractor Affidavits must be submitted with proposal/bid package.
7. Subcontractor and sub-subcontractor affidavits are not required at the time of proposal/bid submission, but will be required at contract execution or in accordance with the timelines set forth in IIREA.

Contractor Affidavit under O.C.G.A. § 13-10-91(b)(1)

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of the City of Atlanta has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization

Name of Contractor: _____

Name of Project: _____

Name of Public Employer: City of Atlanta

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

Executed on _____, _____, 20__ in _____ (city), _____ (state)

Signature of Authorized Officer or Agent

Printed name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE
ME ON THIS THE ____, DAY OF _____, 201____

NOTARY PUBLIC
My Commission Expires: _____

Sub-subcontractor Affidavit under O.C.G.A. § 13-10-91(b)(4)

By executing this affidavit, the undersigned sub-subcontractor verifies its compliance with O.C.G.A. §13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract for _____ (name of subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract)) and _____ (name of contractor)) on behalf of the City of Atlanta has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. §13-10-91. Furthermore, the undersigned sub-subcontractor will continue to use the federal work authorization program throughout the contract period and the undersigned sub-subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the sub-subcontractor with the information required by O.C.G.A. §13-10-91(b). The undersigned sub-subcontractor shall submit, at the time of such contract, this affidavit to _____ (name of subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract)). Additionally, the undersigned sub-subcontractor will forward notice of the receipt of any affidavit from a sub-subcontractor to _____ (name of subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract)). Sub-subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number Date of Authorization

Name of Contractor: _____

Name of Project: _____

Name of Public Employer: City of Atlanta

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

Executed on _____, _____, 20__ in _____ (city), _____ (state)

Signature of Authorized Officer or Agent

Printed name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE
ME ON THIS THE ____, DAY OF _____, 201__

NOTARY PUBLIC



**CITY OF ATLANTA AFFIDAVIT
VERIFYING STATUS FOR RECEIPT OF PUBLIC BENEFIT
SUBMITTED TO DEPARTMENT OF PROCUREMENT**

SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS (S.A.V.E.)

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

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

1) _____ I am a United States Citizen

OR

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

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

Signature of Applicant: _____ Date: _____

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

_____ DAY OF _____, 20____

Printed Name: _____

NOTARY PUBLIC

My commission expires: _____

* _____
Alien Registration number for non-citizens

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

EXHIBIT A
BID FORM



BID SCHEDULE
Peachtree Creek South Fork Relief Storage and Pumping Stations
PROJECT No. FC-6260

Item No.	Description	Estimated Quantity	Unit	Unit Price	Total Price
1	Furnishing all products and equipment and performing all labor necessary to complete and put into operation the Peachtree Creek South Fork Relief Storage and Pumping Stations, including all work shown on the Drawings and/or specified and not included in Items 2 through 4 below, the amount of:	1	Lump Sum		
2	Haul and dispose of excavated waste material to Subtitle D (Nonhazardous) landfill	32,400	Ton		
3	Haul and dispose of excavated waste material to Subtitle C (Hazardous Waste) landfill	1,000	Ton		
4	Allowances				
4a	Partnering	1	ALLOW	10,000	10,000
4b	Additional Paving	1	ALLOW	200,000	200,000
4c	Unforeseen Utility Conflicts	1	ALLOW	850,000	850,000
4d	Owner Directed Specialty Services	1	ALLOW	150,000	150,000
4e	Additional Work Elements	1	ALLOW	925,000	925,000
4f	Additional Site Landscaping	1	ALLOW	100,000	100,000
4g	Generators	1	ALLOW	500,000	500,000
4h	Additional Testing	1	ALLOW	100,000	100,000
4i	Downstream Remote Monitoring	1	ALLOW	75,000	75,000
4j	Trailer Relocation	1	ALLOW	500,000	500,000

BID TOTAL, ITEMS 1 THROUGH 8K, INCLUDING, THE AMOUNT OF:

DOLLARS (\$)

EXHIBIT B
REQUIRED SUBMITTALS



AUTHORIZATION TO TRANSACT BUSINESS

If the successful Bidder is a corporation before the Agreement is executed, the corporation shall submit documentary evidence from the Secretary of State that the corporation is in good standing and that the corporation is authorized to transact business in the State of Georgia.

BID BOND

STATE OF GEORGIA
COUNTY OF FULTON

KNOW ALL MEN BY THESE PRESENTS, that we,
_____, as Principal, and
_____, as Surety, are
held and firmly bound unto the City of Atlanta, Georgia in the sum of
_____ Dollars (\$_____) lawful
money of the United States of America, for the payment of which sum will and truly to be
made, we bind ourselves, our heirs, personal representatives, successors and assigns,
jointly and severally, firmly by these presents.

WHEREAS, the Principal was submitted to the Owner a Bid for **FC-6260 Peachtree
Creek South Fork Relief Storage and Pumping Stations**

NOW, THEREFORE, the conditions of this obligation are such that if the Bid be
accepted, the Principal shall, within five (5) days after receipt of conformed Agreement
Documents, execute a Agreement in accordance with the Bid upon the terms, conditions
and prices set forth therein, and in the form and manner required by the Agreement
Documents and execute sufficient and satisfactory separate Performance and Payment
Bonds payable to the Owner, then this amount of five percent (5%) of the total bid
amount in form satisfactory to the Owner, then this obligation shall be void; otherwise, it
shall be and remain in full force and effect in law; and the Surety shall, upon failure of
the Principal to comply with any or all of the foregoing requirements within the time
specified above, immediately pay to the aforesaid Owner, upon demand, the amount
hereof in good and lawful money of the United States of America, not as a penalty, but
as liquidated damages.

This bond is given pursuant to and in accordance with the provision of O.C.G.A. Section
13-10-1 and 36-82-101 et. Seq. And all the provisions of the law referring to this
character of bond as set forth in said Sections or as many be hereinafter enacted and
these are hereby made a part hereof to the same extent as if set out herein in full.

IN WITNESS WHEREOF, the said Principal has hereunder affixed its signature and
seal, and said Surety has hereunto caused to be affixed its corporate signature and seal,
by its duly authorized officers, on this _____ day of
_____, 20_____.

Resident agent in state in which Work is to be performed:

Name:

Address:

Phone:

Fax:

BID GUARANTEE

BID BOND OF INSURER MAY BE USED

SUBMIT POWER OF ATTORNEY FROM AGENT

BID DOCUMENTATION

--Certification--

THE UNDERSIGNED HEREBY CERTIFIES THAT THE BID DOCUMENTATION CONTAINED HERIN CONSTITUTES ALL THE INFORMATION USED IN PREPARATION OF THE BID AND THAT I HAVE PERSONALLY EXAMINED THESE CONTENTS AND HAVE FOUND THAT THIS BID DOCUMENTATION IS COMPLETE.

BY: _____

TITLE: _____

FIRM: _____

ADDRESS: _____

TELEPHONE NO. _____

FAX NO. _____

DATE: _____

BID FORM

FC-6260 Peachtree Creek South Fork Relief Storage and Pumping Stations

TO: The City of Atlanta, Georgia Submitted: _____, 2011

The undersigned, as Bidder, hereby declares that the only person or persons interested in this Bid, as principal or principals, is or are named herein and that no other person, than herein mentioned has any interest in this Bid or in the Agreement to be entered into, that this Bid is made without connection with any other person, company or parties making a Bid or proposal; and that it is in all respects fair and in good faith without collusion or fraud.

The Bidder further declares that he has examined the Site of Work and informed himself full in regard to all conditions pertaining to the place where the Work is to be done; that he has examined the Agreement Documents for the Work furnished prior to the opening of Bids; and that he has satisfied himself relative to the Work to be performed.

The Bidder proposes and agrees, if this Bid is accepted, to contract with the City, in the form of Agreement specified, to furnish all necessary Materials, Equipment, means of transportation and labor necessary, and to complete this Project in full and complete accordance with the shown, noted, described and reasonably intended requirements of the Agreement Document to the full and entire satisfaction of the City, and with a definite understanding that no money will be allowed for extra work except as set forth in the Agreement Document.

Bidder hereby agrees to commence Work under this Agreement on or before a date to be specified in the written "Notice to Proceed" from the City.

The undersigned acknowledges receipt of addenda numbered _____ through _____.

In accordance with the above understanding, the undersigned proposes to do all of the Work, furnish all of the Materials, and complete the Work in accordance with the Agreement Documents for the Total Bid.

EXHIBIT B

**GEORGIA UTILITY CONTRACTOR'S
LICENSE CERTIFICATION**

NOTE: **The Utility Contractor's License Number is also required on the Bid Envelope.**

Contractor's Name: _____

Utility Contractor's License Number: _____

Expiration Date of License: _____

FC Number and Project Name: FC- 6260 Peachtree Creek South Fork Relief and Pumping Stations

STATEMENT OF BIDDER'S QUALIFICATIONS

This Statement is to accompany bids submitted for the following project: **FC-6260 Peachtree Creek South Fork Relief Storage and Pumping Stations**

1. NAME OF BIDDER: _____
2. BUSINESS ADDRESS: _____

3. TELEPHONE NUMBER: _____
4. OFFICIAL REPRESENTATIVE AND TITLE: _____

5. Using the forms provided in this Section, list previously completed or current projects which are similar in scope and complexity to this project which were completed or assigned to your firm or joint venture, including: Name of project, location of project, owner's name, address and phone number, description of work performed, initial contract amount, final contract amount, start date, scheduled completion date and actual completion date. (If a joint venture, list separately for each joint venture partner.) Limit to 5.
 - a. Contractors must have successfully completed at least three (3) contracts of similar complexity with a construction value of not less than \$10,000,000.
6. Provide the following information for the organization proposed for this project:
 - a. Organizational chart.
 - b. Indicate the participation by the various members in the organization, as shown on the organizational chart; in the management; and in the division of work (If a joint venture, indicate percent of man hours and percent of project cost to be performed by each joint venture member).
7. Using the forms provided in this Section (or other documentation providing equivalent information, e.g., resumes), provide information for key project personnel, Project Manager, Project Superintendent, Estimator, Project Engineer, Safety Engineer and QA/QC Manager.
 - a. Project Manager must have successfully completed at least two (2) contracts

of similar complexity involving construction of wastewater pumping stations or wastewater pumping station modifications with a construction value of not less than \$10,000,000. Project Manager shall have experience with rock removal methods and blast monitoring of similar complexity.

- b. Project Superintendent must have successfully completed at least two (2) contracts involving construction of wastewater pumping stations or wastewater pumping station modifications with a construction value of not less than \$10,000,000. Project Superintendent shall have experience with rock removal methods and blast monitoring of similar complexity.
 - c. Project Engineer, Safety Engineer and QA/QC Manager must have worked on at least two (2) contracts of similar size and complexity as this project.
8. The Contractor must have an established Safety Program that as a minimum includes those items as listed on the attachment entitled "*CONTRACTOR SAFETY RECORD FORM*".
9. The Contractor's Workman's Compensation Ratings (EMR-Experience Modification Rate) must not exceed an average of 1.0 over the last three (3) years.
- a. Contractor's Workman's Compensation Ratings (EMR-Experience Modification Rate) _____
10. The Contractor's OSHA Incidence Rates must not exceed the Industry Standard published by the U.S. Department of Labor(2002) (i.e.-Recordable Incidence Rates of 6.2 and Loss Time Incidence Rates of 2.4 per OSHA definition and calculation) for the last three (3) years.
- a. Contractor's Recordable Incidence Rates _____
 - b. Contractor's Lost Time Incidence Rates _____
11. If there have been any fatalities during the last five (5) years on any projects performed by the Contractor or on any work performed under the direct supervision of a proposed Project Manager and the Contractor or proposed Project Manager was cited by OSHA for "Willful", in performing the work in which the fatality occurred, the Contractor will be disqualified based on the City's review. The Contractor may also be disqualified in the event that a Recordable Incident occurred due to the same condition that existed when a previous fatality occurred and resulted in an OSHA citation or failure to implement a corrective action plan.
- a. Fatalities during the last five years where Contractor was cited by OSHA for "Willful" Violation _____
 - b. Fatalities during the last five years where the proposed Project Manager was cited by OSHA for "Willful" Violation.
-

12. If there have been any incidents during the last five (5) years on the wastewater or water treatment facility projects performed by the Contractor or on any work performed under the direct supervision of a proposed Project Manager that resulted in the wastewater or water treatment facility failing to meet NPDES Discharge Permit requirements due to the actions of the Contractor or Project Manager or failure of the Contractor or Project Manager to perform work on schedule, then the Contractor will be disqualified based on the City's review.

The previous statements and attachments are true, correct, and complete to the best of my knowledge.

Date: _____

Firm Name: _____

By: _____

Title: _____

Sworn to and subscribed before me

this ____ day of _____, 2012

Notary Public County: _____
(Secretary)

My Commission Expires:

STATEMENT OF BIDDER'S QUALIFICATIONS
COMPANY PROJECT EXPERIENCE
 (Complete Form Only For Projects That Meet Minimum Criteria)

Project Name	
Project Location	
Contractor's Project Manager	
Contractor's Project Superintendent	
Owners Representative & Phone Number	
Design Engineer Representative Name & Phone Number	
Sanitary, Size & LF	
Bore & Jack, Size &, LF	
Initial Contract Amount	\$
Final Contract Amount	\$
Project Duration	Date Started: Date Completed: Time Extensions:
Was Project Completed on Time?	
Description of Major Project Components	

*Bidder may provide documentation showing equivalent information substantiating minimum qualifications required for this Project.

STATEMENT OF BIDDER'S QUALIFICATIONS
PROJECT MANAGER'S EXPERIENCE

(Complete Form Only For Projects That Meet Minimum Criteria)

Project Name	
Project Location	
Contractor's Project Manager	
Owners Representative & Phone Number	
Design Engineer Representative Name & Phone Number	
Sanitary Sewer, Size & LF	
Jack & Bore, Size & LF	
Initial Contract Amount	\$
Final Contract Amount	\$
Project Duration	Date Started: Date Completed: Time Extensions:
Was Project Completed on Time?	
Description of Major Project Components	

*Bidder may provide documentation showing equivalent information substantiating minimum qualifications required for this Project.

STATEMENT OF BIDDER'S QUALIFICATIONS
PROJECT SUPERINTENDENT'S EXPERIENCE
 (Complete Form Only For Projects That Meet Minimum Criteria)

Project Name	
Project Location	
Contractor's Project Superintendent	
Owners Representative & Phone Number	
Design Engineer Representative Name & Phone Number	
Sanitary Sewer, Size & LF	
Jack & Bore, Size & LF	
Initial Contract Amount	\$
Final Contract Amount	\$
Project Duration	Date Started: Date Completed: Time Extensions:
Was Project Completed on Time?	
Description of Major Project Components	

*Bidder may provide documentation showing equivalent information substantiating minimum qualifications required for this Project.

STATEMENT OF BIDDER'S QUALIFICATIONS
PROJECT ESTIMATOR EXPERIENCE

(Complete Form Only For Projects That Meet Minimum Criteria)

Project Name	
Project Location	
Contractor's QA/QC Manager	
Owners Representative & Phone Number	
Design Engineer Representative Name & Phone Number	
Sanitary Sewer, Size & LF	
Jack & Bore, Size & LF	
Initial Contract Amount	\$
Final Contract Amount	\$
Project Duration	Date Started: Date Completed: Time Extensions:
Was Project Completed on Time?	
Description of Major Project Components	

*Bidder may provide documentation showing equivalent information substantiating minimum qualifications required for this Project.

STATEMENT OF BIDDER'S QUALIFICATIONS
PROJECT KEY STAFF EXPERIENCE

(Complete Form Only For Projects That Meet Minimum Criteria)

Project Name	
Project Location	
Contractor's Safety Engineer	
Owners Representative & Phone Number	
Design Engineer Representative Name & Phone Number	
Sanitary Sewer, Size & LF	
Jack & Bore, Size & LF	
Initial Contract Amount	\$
Final Contract Amount	\$
Project Duration	Date Started: Date Completed: Time Extensions:
Was Project Completed on Time?	
Description of Major Project Components	

*Bidder may provide documentation showing equivalent information substantiating minimum qualifications required for this Project.

STATEMENT OF BIDDER'S QUALIFICATIONS

PROJECT ENGINEER EXPERIENCE

(Complete Form Only For Projects That Meet Minimum Criteria)

Project Name	
Project Location	
Contractor's Project Engineer	
Owners Representative & Phone Number	
Design Engineer Representative Name & Phone Number	
Sanitary Sewer, Size & LF	
Jack & Bore, Size & LF	
Initial Contract Amount	\$
Final Contract Amount	\$
Project Duration	Date Started: Date Completed: Time Extensions:
Was Project Completed on Time?	
Description of Major Project Components	

*Bidder may provide documentation showing equivalent information substantiating minimum qualifications required for this Project.

STATEMENT OF BIDDER'S QUALIFICATIONS
PROJECT SAFETY MANAGER EXPERIENCE
 (Complete Form Only For Projects That Meet Minimum Criteria)

Project Name	
Project Location	
Contractor's Project Engineer	
Owners Representative & Phone Number	
Design Engineer Representative Name & Phone Number	
Sanitary Sewer, Size & LF	
Jack & Bore, Size & LF	
Initial Contract Amount	\$
Final Contract Amount	\$
Project Duration	Date Started: Date Completed: Time Extensions:
Was Project Completed on Time?	
Description of Major Project Components	

*Bidder may provide documentation showing equivalent information substantiating minimum qualifications required for this Project.

STATEMENT OF BIDDER'S QUALIFICATIONS
PROJECT QA/QC MANAGER EXPERIENCE
 (Complete Form Only For Projects That Meet Minimum Criteria)

Project Name	
Project Location	
Contractor's Project Engineer	
Owners Representative & Phone Number	
Design Engineer Representative Name & Phone Number	
Sanitary Sewer, Size & LF	
Jack & Bore, Size & LF	
Initial Contract Amount	\$
Final Contract Amount	\$
Project Duration	Date Started: Date Completed: Time Extensions:
Was Project Completed on Time?	
Description of Major Project Components	

*Bidder may provide documentation showing equivalent information substantiating minimum qualifications required for this Project.

Contractor Safety Record Form

I. Safety Program Information

A. Do you have a written safety program?

Yes (If yes, attach outline) No

B. Which of the following does your safety program contain:

1. Health and safety training of its subcontractors?

Yes No

2. Documentation of health and safety training required?

Yes No

3. Hazard Communication Program (29 CFR 1910.1200, CCR Title 8 Section 5194)?

Yes No

4. Confined Space Entry and Rescue Program (29 CFR 1910.146, CCR Title 8 Section 5156-5159)?

Yes No (If yes, attach explanation)

5. "Hot Work" permit program (29 CFR 1910.146, CCR Title 8 5156-5159)?

Yes No (If yes, attach explanation)

6. "Lock-Out/Tag-Out" program (29 CFR 1910.417)?

Yes No (If yes, attach explanation)

C. Equipment Maintenance Program for the following:

1. Miscellaneous construction tools and equipment Yes No

2. Ladders Yes No

3. Scaffolds Yes No

4. Heavy Equipment Yes No

5. Vehicles Yes No

D. Do you have a new employee safety orientation program?

Yes No

1. If yes, does it include instruction in the following:

(a) Company Safety Policy Yes No

(b) Company Safety Rules Yes No

(c) Safety Meeting Attendance Yes No

(d) Company Safety Record Yes No

Exhibit B, Required Submittals

FC-6260 Peachtree Creek South Fork Relief Storage and Pumping Stations.

- (e) Hazard Recognition Yes No
- (f) Hazard Reporting Yes No
- (g) Injury Reporting Yes No
- (h) Non-Injury Accident Reporting Yes No
- (i) Personal Protective Equipment Yes No
- (j) Respiratory Protection Yes No
- (k) Fire Protection Yes No
- (l) Housekeeping Yes No
- (m) Toxic Substance Yes No
- (n) Electrical Safety Yes No
- (o) Fall Protection Yes No
- (p) First-Aid/CPR Yes No
- (q) Driving Safety Yes No
- (r) Hearing Conservation Yes No
- (s) Lock-Out/Tag-Out Yes No
- (t) Bloodborne Pathogens Yes No
- (u) Asbestos Yes No
- (v) Confined Spaces Yes No
- (w) Hazard Communication Yes No

E. Do you conduct safety meetings for your employees? Yes No

1. If yes, how often:

Daily Weekly Bi-weekly Monthly As Needed

F. Do you conduct health and safety audits of work in progress?

Yes No

1. If yes, who conducts the audits?

2. How often are the audits conducted?

G. Do you notify all employees of accidents and precautions related to accidents and near misses?

Yes No

1. If yes, how is this notification accomplished?

- (a) Safety meetings Yes No
- (b) Post notification in office Yes No
- (c) Post notification at the site where the incident occurred Yes No
- (d) Other _____

H. Is safety a criteria in evaluating the performance of:

- 1. Employees Yes No
- 2. Supervisors Yes No
- 3. Management Yes No

I. Does your firm hold "tailgate" safety meetings? Yes No

1. If yes, how often:

Daily Weekly Bi-weekly Monthly As Needed

J. *Does your company have a drug and alcohol testing policy?*

Yes No

K. *Does your company require that subcontractors participate in a drug surveillance/testing program?*

Yes No

L. *Does your company have a method of disseminating safety information?*

Yes No

AFFIDAVIT

STATE OF GEORGIA
COUNTY OF FULTON

Personally appeared before the undersigned, _____
who on oath, says that he/she is _____
and, in such capacity, is authorized to sign this Affidavit, and says on oath that,
has submitted to the City of Atlanta Bid or offer to do the following Work under
Agreement, to-wit:

**FC-6260, PEACHTREE CREEK SOUTH FORK RELIEF STORAGE AND
PUMPING STATIONS**

Affiant states upon oath that _____, has
not, by itself or with others, directly or indirectly, entered into any combination,
arrangement or scheme, whatsoever, with any other Bidder to increase the price
of said Work, or to offer a different sum from its Bids; and Affiant further states
that _____, has entered into no
arrangement, expressed or implied, to induce others not to bid, or to do any by-
bidding.

Affiant further states that the said Bid of _____
is bona fide, and that has gone to any furnisher or supplies and attempted to get
such person or company to furnish the materials to _____ only,
or if furnished any other Bidder, that the material shall be at a higher price.

(COMPANY NAME)

(PRESIDENT/VICE PRESIDENT)

Sworn to and subscribed before me,

this ___ day of _____, 2011

Notary Public County: _____
(Secretary)

My Commission expires:

_____.

Proof of Insurance Coverage and Bonding Capacity

PROJECT: FC-6260, Peachtree Creek South Fork Relief Storage and Pumping Stations

INSURANCE COVERAGE AND BONDING CAPACITY

CITY OF ATLANTA, GEORGIA

Bidder shall provide the CITY with satisfactory evidence of the Proponent's ability to obtain the required insurance and bonds from (a) company(ies) satisfactory to the CITY and licensed by the Insurance Commissioner of the State of Georgia to transact Surety business in the State of Georgia. Bidder shall submit this form with its Bid.

SURETY:

COMPANY NAME: _____

COMPANY ADDRESS: _____

CONTACT NAME AND PHONE: _____

BONDING CAPACITY IS: _____

AVAILABLE (uncommitted) BONDING CAPACITY IS: _____

INSURER:

COMPANY NAME: _____

COMPANY ADDRESS: _____

CONTACT NAME AND PHONE: _____

Bidder is required to submit a letter from the Company providing insurance and bonds for this project certifying that the Company will provide insurance and bonds in accordance with the terms set forth in Appendix B.

Date: _____, 2012

Corporate Bidder:
[Insert Corporate Name]

By: _____
Name: _____
Title: _____

**Corporate Secretary/Assistant
Secretary (Seal)**

Non-Corporate Bidder:
[Insert Bidder Name]

By: _____
Name: _____
Title: _____

Notary Public (Seal)

My Commission Expires: _____

Non-Corporate Proponent's:
[Insert Bidder Name]

By: _____
Name: _____
Title: _____

Notary Public (Seal)
My Commission Expires: _____

EXHIBIT C
DRAFT CITY CONTRACT AGREEMENT



Draft Agreement for FC-6260, Peachtree Creek South Fork Relief Storage and Pumping Station

Contractor: _____

Contract No.: FC-6260, Peachtree Creek South Fork Relief Storage and Pumping Station

Address: _____

(T) _____
(F) _____

Contact: _____

This Agreement is entered into the ____ day of _____, 201 , between the City of Atlanta, (the "City") and _____ ("Contractor")(the City and the Contractor may be referred to herein as the "Parties").

WHEREAS, Contractor has the necessary personnel and facilities to perform the Work; and

WHEREAS, the Department of Watershed Management has recommended Agreement award to Contractor; and

WHEREAS, the Georgia Security and Immigration Compliance Act of 2006 pursuant to O.C.G.A. § 13-10-91 and Georgia Department of Labor Rule 300-10-1-02 is effective as of July 1, 2007, and applies to contracts for services which are physically performed with a public entity. The Contractor is required to submit the attached Georgia Security and Immigration Compliance Act of 2006 Required Submittal, the Contractor Affidavit and the Subcontractor Affidavits as shown in Exhibit "C". Contractor's failure to comply with this requirement shall constitute a material default in the contract, which may result in termination of this Contract Agreement.

NOW, THEREFORE, for and in consideration ten dollars (\$10.00) and for other good and valuable consideration defined herein, the sufficiency of which is acknowledged by the Parties, the Parties agree as follows:

1.

The City hereby engages Contractor to perform, and Contractor agrees to perform for the City, all Work required by the Agreement Documents relative to the Project. Contractor

shall commence the Work within thirty (30) calendar days after receipt of Notice to Proceed and shall substantially complete within the time stated in the Bid Solicitation.

2.

- a) Contractor represents that it has, or will secure at its own expenses, all personnel required to perform all Work to be completed under this Agreement;
- b) All the Work required hereunder will be performed by Contractor or under the direct supervision of Contractor. All personnel engaged in the Work by Contractor shall be fully qualified and shall be authorized or permitted under applicable State and local law to perform such Work;
- c) None of the Work or services covered by this Agreement shall be transferred, assigned, or subcontracted by Contractor without the prior written consent of the City.

3.

The Agreement Documents relative to this Agreement consist of:

This City-Contractor Agreement;
General Conditions
Special Conditions
Scope of Services
Equal Business Opportunity Program (Appendix A)
Insurance and Bonding Requirements (Appendix B)
Local Bidder Preference Program (Appendix C)
Georgia Security Immigration Compliance Documents (Appendix D)
Bid Schedule (Exhibit A)
Required Submittals (Exhibit B)
Addenda (Exhibit C)
Legislation (Exhibit D)
Performance and Payment Bond and Insurance Certificate (Exhibit E)
Plans and Drawings

These collectively form the Agreement, and are all as fully a part of the Agreement as if attached to this Agreement or repeated herein.

4.

All reports, information, data, or other documents, given to, prepared by or assembled by Contractor under this Agreement shall be kept confidential and shall not be made available to any individual or organization by Contractor without the prior written approval of the City.

5.

[Intentionally Omitted]

6.

Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working for Contractor to solicit or secure this Agreement; and that it has not paid or agreed to pay any person, company, association, corporation, individual or firm, other than a bona fide employee working for Contractor any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of the above warranty and upon a finding after notice and hearing, the City shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

7.

During the performance of this Agreement, Contractor agrees to comply with all provisions of Part 2, Chapter 2, Article X, Division 11, including Section 2-1414 of the Code of Ordinances ("**Ordinance**"), City of Atlanta, and to warrant the following:

- a) The Contractor shall not discriminate against any employee, or applicant for employment because of race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, age, disability, or political affiliation. As used here, the words "shall not discriminate" shall mean and include, without limitation, the following:

Recruited whether by advertising or other means; compensated, whether in the form of rates of pay, or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; demoted; downgraded; transferred; laid off; and terminated.

The Contractor agrees to and shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of the non-discrimination clause.

- b) The Contractor shall, in all solicitation or advertisement for employees, placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for the employment without regard to race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, age, disability, or political affiliation.

- c) The Contractor shall send to each labor union or representative of workers with which the Contractor has a collective bargaining agreement or other contract or understanding a notice advising the labor union or worker's representative of the Contractor commitments under the Equal Employment Opportunity Program of the City and under the Code of Ordinances and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor shall register all workers in the skilled trades, who are below the journeyman level, with the U.S. Bureau of Apprenticeship and Training.
- d) The Contractor shall furnish all information and reports required by the Contract Compliance Officer pursuant to the Code of Ordinances, and shall permit access to the books, records and accounts of the Contractor during the normal business hours by the contracting agency and the Contract Compliance Officer for the purpose of investigation so as to ascertain compliance with the program.
- e) The Contractor shall take such reasonable action with respect to any Subcontractor as the City may direct, as a means of enforcing the provisions of paragraphs (a) through (h) herein, including penalties and sanctions for non-compliance; provided, however, that in the event the Contractor becomes involved in or is threatened with litigation as may be necessary to protect the interest of the City and to effectuate the Equal Employment Opportunity Program of the City; and, in the case of contracts receiving federal assistance, the Contractor or the City may request the United States to enter into such litigation to protect the interest of the United States.
- f) The Contractor and its Subcontractors, if any, shall file compliance reports at reasonable times and intervals with the City in the form and to the extent prescribed by the Contract Compliance Officer of the City. Compliance reports filed at such time directed shall contain information as to employment practices, policies, programs and statistics of the Contractor and its Subcontractors.
- g) The Contractor shall include the provisions of paragraphs (a) through (h) of this Equal Employment Opportunity Clause in every subcontract or purchase order which materially affects the Project so that such provisions will be binding upon each such Subcontractor or vendor.
- h) A finding, as hereinafter provided, that a refusal by the Contractor or subcontractor to comply with any portion of this program, as herein provided and described, may subject the offending party to any or all of the following penalties:
 - (1) Withholding from the Contractor in violation all future payments under the involved public contract until it is

determined that the Contractor or Subcontractor is in compliance with the provisions of the Agreement.

- (2) Refusal of all future bids for any public contract with the City or any of its departments or divisions until such time as the Contractor or Subcontractor demonstrates that there has been established and there shall be carried out all of the provisions of the program as provided in this article.
- (3) Cancellation of the public Agreement.
- (4) In a case in which there is substantial or material violation, or the threat of substantial or material violation, of the compliance procedure therein set forth or as may be provided for by this Agreement, an appropriate proceeding may be brought to enforce these provisions, including the enjoining of Contractor, Subcontractor, or other organizations, individuals or groups who prevent or seek to prevent directly or indirectly compliance with the policy as herein provided.

8.

During the performance of this Agreement, Contractor agrees to comply with Part 2, Chapter 2, Article X, Division 12, including Sections 2-1441 through 2-1460 of the Code of Ordinances of the City of Atlanta, the Equal Business Opportunity (“EBO”) Program and to warrant the following:

“The Contractor agrees to engage non-discriminatory practices in all efforts to meet the M/FBE availability sited in this Agreement by making available opportunities for Minority Business Enterprises (“MBE”), African American Business Enterprises (“AABE”), Hispanic Business Enterprises (“HBE”), Asian Business Enterprises (“ABE”) and Native American Business Enterprises (“NABE”) and Female Business Enterprises (“FBE”) for utilization in the work set forth within this Agreement and shall take the following action as part of their good faith efforts:

1. Notification to M/FBEs that the Contractor has subcontracting opportunities available and maintenance of records of the M/FBE responses.
2. Maintenance by the Contractor of a file of the names and addresses of each Subcontractor contracted and action taken with respect to each such contract.
3. Dissemination of the Contractor EBO policy externally by informing and discussing it with all management and technical assistance sources; by

advertising in news media and by notifying and discussing it with Subcontractor and Supplier.

4. Specific and continuing written and oral recruitment efforts directed at M/FBE Contractor organizations, M/FBE assistance organizations.
5. Sub-divisions for the contract economically feasible segments as practical to allow the greatest opportunity for participation by M/FBEs.
6. Increasing where possible the number of aggregate purchase items so as to eliminate the requirement of front-end purchases material for as many M/FBE Subcontractors as possible.
7. Adoption of the EBO Plan submitted in its response to the Invitation for Bids or Requests for Proposals obligations under this Agreement, as approved by the Office of Contract Compliance.
8. Submission of monthly reports on the forms and to the extent required by the Director of the Office of Contract Compliance, to be due on or before the 5th day of each month following the award of the Work set forth in this Agreement.
9. The Contractor further agrees that breach of the EBO provisions contained herein shall subject them to any or all of the following penalties:
 - a). Withholding of ten percent (10%) of all future payments under the involved eligible project until it is determined that the Contractor is in compliance.
 - b). Withholding of all future payments under the involved Project until it is determined that the Contractor is in compliance.
 - c). Refusal of all future bids or offers for any eligible project with the City of Atlanta or any of its department or divisions until such time as the Contractor demonstrates that there has been established and there shall be carried out all of the EBO provisions contained herein.
 - d). Cancellation of the eligible project.

9.

The City agrees to pay Contractor for the Work performed pursuant to this Agreement on an as needed basis per the unit price as stated in the Bid Schedule, hereinafter attached

as Exhibit B, for amount not to exceed _____ Dollars
(\$ _____).

10.

Contractor commence Work under this Agreement within ten (10) Days of issuance of the Notice to Proceed ("NTP") and shall achieve Substantial Completion of the Project within four hundred forty days from the date of NTP and shall achieve Final Completion, as defined in the General Conditions and Agreement Documents.

11.

Contractor, by the execution of this Agreement, acknowledges that it is possessed of that degree of care, learning, skill, and ability which is ordinarily possessed by other members of its profession and further contracts that in the performance of the duties herein set forth, it will exercise such degree of care, learning, skill and ability as is ordinarily employed by Contractor under similar conditions and like circumstances and shall perform such duties without neglect.

12.

Contractor agrees to obtain and maintain during the entire term of this Agreement all of the insurance called for in the Agreement Documents, with the City as an additional insured in each policy of public liability and property damage insurance, and shall furnish to the City a certificate of insurance showing required coverage. The cancellation of any policy of insurance required by this Agreement shall meet the requirements of notice under the laws of the State of Georgia as presently set forth in the Georgia Code.

13.

In addition to its agreement to obtain and maintain the insurance as set forth herein above, the Contractor agrees that 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 Designer, the Engineer, and their agents and employees from and against all claims, damages, actions, judgments, costs, penalties, liabilities, losses and expenses, including, but not limited to, attorneys' 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 of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in Appendix B, Insurance and Bonding Requirements, Paragraph F.

In any and all claims against the City, the Engineer or any of their agents or employees by any employee of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation in Appendix B, Insurance and Bonding Requirements, Paragraph F, shall not be limited in any way, including, but not limited by, the limits of the liability insurance required under this Agreement and the Agreement Documents, nor limited by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workers' or workmens' compensation acts, disability benefit acts or other employee benefit acts.

14.

The Contractor shall obtain, at its own expense, all permits and licenses required by all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the performance of the work called for by this Agreement. The Agreement Documents, including this Agreement, constitute the entire and integrated Agreement between the City and the Contractor and may be amended only by written instrument approved by both parties. The parties agree that this Agreement shall not become binding on the City, and the City shall incur no liability upon the same, until this Agreement has been executed by the Mayor, officially sealed by the Municipal Clerk and delivered to Contractor.

15.

The Georgia Security and Immigration Compliance Act of 2006 pursuant to O.C.G.A. § 13-10-91 and Georgia Department of Labor Rule 300-10-1-02 is effective as of July 1, 2007, and applies to contracts for services which are physically performed with a public entity. The Contractor is required to submit the attached Georgia Security and Immigration Compliance Act of 2006 Required Contractor Submittal, the Contractor Affidavit and the Subcontractor Affidavits as shown in Exhibit "C". Contractor's failure to comply with this requirement shall constitute a material default in the contract, which may result in termination of this Original Agreement.

IN WITNESS WHEREOF, the City and Contractor have executed this Agreement by their duly authorized officers, as of the date first above written.

CITY OF ATLANTA:

CONTRACTOR:

[TO BE INSERTED POST AWARD]

Mayor

ATTEST:

Municipal Clerk (SEAL)

RECOMMENDED:

Commissioner, Department of
Watershed Management

APPROVED:

Chief Procurement Officer

APPROVED AS TO FORM:

City Attorney

